ABSTRACT.

With the emergence of an empire, many of the devices and instruments adopted for the governance of England, were extended beyond the seas to the colonies. One such device was royal commissions of inquiry. Royal commissions, the origins of which in England have been traced as far back as the time of the Norman Conquest, were utilised by the administration in England from time to time to investigate particular problems in colonies and suggest ways and means of solving them. In the first empire, the American settlements received bodies of somewhat similiar nature on some occasions, but their true value was displayed only when the second empire was being founded. During the turbulent years of the French and Napoleonic wars the empire was continuously extended, but only after peace was established did it become possible for the ministers in England to take stock of the empire which had been acquired. What were the purposes of the empire, what were the nature and the conditions of the colonies conquered, in what manner should this new empire of a diverse and amorphous character be governed, were some of the numerous questions which faced them through the following years. These clearly emphasised above all the need to obtain information about the colonies. The information provided by their Governors did not prove to be adequate, and there was no possibility of officials at home acquiring the much needed information. To resolve the problem, they fell back upon the age old method: royal commissions of inquiry.

It has been the aim of the present study to examine the role royal commissions of inquiry played in the colonial developments of this important era of colonial history. The examination has been undertaken in the form of an assessment of a particular royal commission of inquiry

in relation to a colony that came under its investigation. For this the Commission of Eastern Enquiry proposed for Ceylon in 1822 has been chosen, a commission truly representative of the commissions of inquiry appointed in the early decades of the nineteenth century by the imperial government. It was originally meant only for Cape of Good Hope and Mauritius, where complex problems were facing the imperial government, but was extended to Ceylon mainly for the purpose of investigating the manner in which its resources were managed, thus underlying the need of the time to obtain information about colonies. During the following years, however, its complexion changed from that of a fact-finding mission: it became in effect the body which virtually chartered the future course of the colony. Again this reflected the nature of the commissions of inquiry of the period under consideration, for they too underwent such a transformation. Thus, it has been found necessary not only to examine the methods by which the commission of inquiry acquired information about the colony on behalf of the imperial government, but also to consider the measures it recommended for the colony, and further, to assess to what extent the measures themselves were accepted by the officials at home in their policy-making.

The methods of inquiry adopted by the Commission of Eastern Enquiry revealed that its impact upon the mass of the population of the colony was of a very limited nature. Considering the nature of the government and society, and the avenues that lay open to it for communicating with the people, this could be termed inevitable. However, a number of factors of importance from the point of view of the future political development of the colony too becomes revealed. The emergence of the English educated, the nucleus of the class which began to dominate the political scene in

the years to come, can be observed. On the other hand, it became very clear that the traditional elements in society were still wielding a considerable influence, notwithstanding the efforts of the colonial government to reduce their powers. The role the Governor and his officials could play in either facilitating or obstructing the work of a body like a commission of inquiry was a question to which attention has been paid. Having to depend entirely upon official channels to obtain information, a cordial relationship with the Governor became necessary for the commission of inquiry, but it failed to achieve this position mainly because of the antoganism displayed by the Governor. Despite this and other limitations, however, the commission of inquiry viewed purely as a fact-finding mission could be said to have been a success. The mass of information it collected about Ceylon was to remain unrivalled in the nineteenth century.

The measures the commission proposed for the colony on the basis of its investigation have been examined in detail. The work of the two commissioners who formed the commission of inquiry in Ceylon has been considered separately and individually. It has clearly emerged that the influences they were subjected to were of a radically different nature, and consequently their work, though complementary to each other in several respects, bore distinct features. Charles Hay Cameron, who inquired into the judicial branch of the administration, was a doctrinaire Benthamite, and his measures were an outstanding example of a judicial organisation constructed strictly according to Benthamite thinking. William Macbean George Colebrooke, his colleague and the senior member of the commission who was in charge of the investigation into the other branches of the administratio

formed a study in contrast. Although he was susceptible to doctrinaire influence, especially in his measures for economic reform, pragmatism characterised his work. While Cameron was looking for innovation, Colebrooke applied measures which were more akin to the needs and the conditions of the colony. Even when he was subjected to influence of a doctrinaire nature, Colebrooke revealed a pragmatic sense , for only rarely did he faithfully follow the original doctrines. He displayed a remarkable capacity to work along lines perfected by himself. Thus, the recommendations proposed by the two commissioners held their own distinct markings, but beneath these fundamental similiarities in their thinking can be noted. Both commissioners were intent on widening the scope of individualism in a country where the system of government lay heavily upon the people. In this respect they were truly representative of their age. They called for the removal or modification of the monopolistic control of the government over the economic field, the abolition of all discriminatory legislation on or behalf of different communities in judicial and civil administration, and the establishment of a broader based system of government and administration for the colony.

To what extent these measures of the commission of inquiry were accepted by the Colonial Department, the policy-making body at home, has been examined. The changes the commission of inquiry underwent in its form was best revealed here, for it was entrusted with the task of formulating such legal instruments as were necessary for the execution of their measures. This was not an absolute power, for the ultimate decision still rested with the Colonial Department, but it marked an important change. Due to lack of evidence, the manner in which the decision-making was under-

taken has been examined in detail only in the judicial field. Here, with the sympathetic understanding of James Stephen, who then was playing an increasingly important role in the office, Cameron was able to see through to success the majority of his recommendations. The foundation of the modern judicature of Ceylon was thus laid by Cameron.

Colebrooke's task proved more difficult. Covering a much wider field of the administration and touching the sensitive question of power and privilege, Colebrooke's recommendations faced much opposition. Not only the Governor of the colony, but also bodies in Britain including the Lords of the Treasury opposed his measures, for they clearly marked a deviation from the pattern of administration which to them seemed successful. Ultimately, the deciding factor seemed to have been an essential quality embodied in his proposals, measures for economy, and he too had the satisfaction of seeing his proposals being accepted.

Although it was the commission of inquiry which proposed, and the Colonial Department which formulated policy, it was the colonial government which implemented the measures. An attempt has been made to discover to what extent the attitude of the colonial government affected what was actually done to carry out the recommendations. The period covered, however, has been of a limited nature, and consequently a study in depth has not emerged. The present study has concentrated on the decade or so immediately following the introduction of the reforms, and this has clearly shown to what extent the favourable disposition of the 'man on the spot' was necessary for the success of the policies decided upon by the imperial government. An examination of the implementation of the measures, which perhaps may be profitably undertaken as a separate study, would reveal the impact they had upon the colony and its peoples at length.

THE COMMISSION OF EASTERN ENQUIRY IN CEYLON 1822-1837.

A Study of a Royal Commission of Colonial Inquiry.

Thesis submitted for the degree of Doctor of Philosophy at the University of Oxford.

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ABBREVIATIONS.

The reports of the Commission of Eastern Enquiry on Ceylon have been abbreviated as follows:

The Report upon the Administration of the Government of Ceylon - Report upon the Admn.

The Report upon the Revenues of Ceylon- Report upon the Revenues.

The Report upon the Compulsory Services to Which the Natives of Ceylon are Subject - Report upon the Compulsory Services.

Report upon the Establishments and Expenditure of Ceylon - Report upon the Estabs.

The Report upon the Judicial Establishments and Procedure in Ceylon - Report upon the Judiciary.

The footnotes refer, wherever necessary, to both the written - denoted:W.R.- and the printed - P.R. - reports.

Other abbreviations:

A.J.- Asiatic Journal and Monthly Register for British India and its Dependencies.

Bull.Inst.Hist.Res.- Bulletin of the Institute of Historical Research.

CEJ- Ceylon Economist Journal.

C.G.G.- Ceylon Government Gazette.

CHBE- Cambridge History of the British Empire.

CHR- Canadian Historical Review.

CJHSS- Ceylon Journal of Historical and Social Studies.

C.O.- call sign for Colonial Office records,Public Record Office,London.

DNB- Dictionary of National Biography.

Hansard- Hansard's Parliamentary Debates.

IND.- call sign for indexes of records,Public Record Office,London.

I.O.- call sign for India Office records,India Office Library,London.

JRAS- Journal of the Royal Asiatic Society of Great Britain and Ireland.

JRASCB- Journal of the Royal Asiatic Society,Ceylon Branch.

LQR- Law Quarterly Review.

NLI.- National Library of Ireland,Dublin.

Parl.Papers.- Parliamentary Papers,England.

RAI.- Royal Artillery Institution,Woolwich.

TRHS - Transactions of the Royal Historical Society.

UBHJ- University of Birmingham Historical Journal.

UCR- University of Ceylon Review.

W.O.- call sign for War Office records,Public Records Office,London.

Chapter:1.

INTRODUCTION.

The end of the Napoleonic wars in 1815 brought peace to the British empire at last. After a continuous struggle lasting over two decades, the British statesmen found an opportunity to take stock of the new empire. Various segments of the Dutch, Spanish and the French colonial empires had been added to it by this time, giving it a truly diverse and amorphous character. Security, which preocoupied them through the early years of the century, was no longer a pressing problem; the acquisition of several strategic colonies - 'the keys of every great military position' wrote Lord Castlereagh - had ensured a reasonably secure empire[1]. Their attention was now drawn to the task of understanding the nature and purpose of the empire, and its governance. Hitherto, they acted on the assumption that 'the still waters of colonial administration, no matter what pestilence they might be breeding for the future, were better left absolutely undisturbed'[2]. Acting upon this policy through the years no significant changes were introduced to disturb the habits, customs and institutions of the numerous peoples added to the empire. Considerable inertia had reigned in the administration of colonies; Earl Bathurst, the Secretary of State in charge of the colonies during the later years of the wars, was said to have parted with newly appointed Governors of colonies with the words 'joy be with you and let us hear as little of you as possible'[3]. The initiative in colonial administration had passed from

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1. see, W.C.B.Tunstall, Imperial Defence 1815-1870, CHBE, II, pp.806-841.
2. H.T.Manning, British Colonial Government After the American Revolution, (New Haven, 1933), pp.12-13.
3. D.J.Murray, The West Indies and the Development of Colonial Government (Oxford, 1965), p.38.

those at the centre to those in the colonies. Control and direction from the centre had been almost absent: 'colonial despatches went unanswered, colonial governors reported of crises,complained of their wrongs, and even died, without the minister seeming to be aware of the fact'[1]. Gradually, all this was to change. Colonies were still suspect in the eyes of many Englishmen, but the government was not disposed to give up an empire. Henry Goulburn, the Undersecretary attached to the Third Secretary's office, spoke:

> 'To those who thought that the colonies were only an incumbrance on the country,it might be that these reasons would carry no great weight; but with those who,like himself,considered them one of the great sources of our glory,and one of the great supports of our power,affording resources in war and increasing our commerce in peace,.....it would not be doubted that they had a right to due attention'.[2]

The change in the direction of colonial affairs was best reflected in the growth of a central organisation to administer colonial possessions. The Colonial Department[3] had been in existence for some years now, but until it found a more lasting head in Earl Bathurst after frequent changes, a true central organisation did not come into being. Bathurst,who has been rightly called the 'real founder' of the office[4],was not a creative administrator, but under him the department displayed a capacity to develop at least an adequate organisation for colonial administration . It could no longer postpone decision-making on the host of the colonies acquired during the wars of the early nineteenth century,and problems

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1. H.T.Manning,op.cit.,p.475.
2. Hansard,XXXVI,1817,pp.68-69.
3. This term will be used throughout the present study due to the uncertainty that prevails about the exact date of the introduction of the term Colonial Office.
4. D.M.Young,The Colonial Office in the Early Nineteenth Century(London, 1961),p.18.

which began to crop up from time to time in the older colonies were clearly beginning to deserve attention. Issues and movements at home and in the colonies, over which the officials of the Colonial Department had little control, prompted the taking of decisive action, sometimes even at the peril of disrupting what were now established traditions in imperial-colonial relations. Correspondingly, the department itself underwent changes. This was best exemplified in the movement for slave amelioration that began to dominate the imperial scene after the wars[1]. The burden of the department greatly increased during this period of time. The volume of correspondence alone rapidly expanded,necessitating the employment of more officials, and the introduction of specialization within the department[2]. James Stephen, Henry Taylor and Viscount Howick, who were to leave a deep mark in colonial affairs, joined the department during this time. Gradually it lost its image as a neglected, half-forgotten office of the administration. It came under the spotlight of public and parliamentary attention. The decision of the British government to hold the reins of the slave melioration policy, made the department 'an instrument for explaining and justifying the Government's policy', bringing in developments within it[3]. Colonial affairs which hardly came within the purview of the cabinet in the early part of the century, now began to be a subject worthy of lengthy discussions by the ministers[4]. The movement for economy in England and the consequent interest in the

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1. see particularly, D.J.Murray, op.cit., p.89ff.
2. D.M.Young, op.cit., pp.47-83.
3. D.J.Murray, op.cit., pp.132-133.
4. see, H.T.Manning, Colonial Crises Before the Cabinet 1829-1835, Bull.Inst. Hist.Res., XXX, 1957, pp.41-61.

administrative departments among members of Parliament too had their effects on the making of a better equipped Colonial Department. Parliamentary pressure in particular was significant in the re-organization of the department in the early 1820's.[1] The movement for efficiency and economy spearheaded by the Treasury left lasting impressions in the department[2]. This alone shows that changes in it were a 'part of the wider and interrelated process, the growth and reform of the whole public service in England'[3]. The part played by the officials of the department cannot be ignored. The work of the men who headed the office in the early decades of the century[4] is important,but more emphasis has been placed on that of their assistants. Goulburn,Bathurst's first Undersecretary, who in effect inaugerated the transformation of the department,possessed what has been called 'excellent qualities in an Undersecretary'[5]. Subsequent officials,both parliamentary and permanent, carried on his work. The role James Stephen was to play in the office led to the sobriequet 'Mr.Mothercountry'[6]; Henry Taylor, his colleague, remarked later, 'I have been employed, not in the business of a clerk, but in that of a statesman'[7]. Accident and design thus played their part,

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1. D.J.Murray,op.cit.,p.118.
2. D.M.Young,op.cit.,p.39ff.
3. J.C.Beaglehole,The Colonial Office 1782-1854,Historical Studies Australia & New Zealand,I,1941,p.171.
4. Secretaries of State,1822-1837:

Earl Bathurst:	June 1812-Apr.1827.	Lord Stanley:	Mar.1833-June 1834.
Lord Goderich:	Apr.1827-Sept.1827.	T.S.Rice :	June 1834-Nov.1834.
W.Huskisson :	Sept.1827-May 1828.	Duke of Wellington:	Nov.1834.
Sir G.Murray :	May 1828-Nov.1830.	Earl of Aberdeen :	Dec.1834-Apr.1835.
Goderich :	Nov.1830-Mar.1833.	Lord Glenelg:	Apr.1835-1839.

5. H.T.Manning,op.cit.,p.483.
6. see,C.Buller's Responsible Government for Colonies written in 1840 in E.M.Wrong,Charles Buller and Responsible Government(Oxford,1926),pp. 137-150. The criticisms of Stephen have been examined in P.Knaplund, Mr.Oversecretary Stephen,JMH,I,1929,pp.40-66.
7. H.Taylor,Autobiography(privately printed,London,1877),1,84.

and the years following the Napoleonic wars saw the true emergence of what was later to be called the Colonial Office.

This emergence of a central organisation resulted in a more closer and a better supervision of the empire. The Secretary of State, who headed the administration, now divested of the responsibilities relating to the conduct of war, was able to devote a greater attention to colonies, especially to the newly conquered colonies where he possessed a greater authority. The powers were utilised to emphasise a better regulated empire. The direction in which the Colonial Department was moving was well illustrated in several measures. In 1814 a bill was brought before the Parliament to strenthen Shelburn's act against absentee office holding in colonies[1]. A more elaborate machinery was erected for the accounting and auditing of the colonial expenditure of several colonies. The Colonial Audit Office was born[2]. Further attempts to rationalize colonial finances led to the annual Blue Books, and the bi-annual Brown Books[3]. Attempts were made to establish a more uniform system of currency to the empire by introducing British silver coins throughout the empire in 1825[4]. Such steps could be taken without much effort. But, soon the officials of the Colonial Department saw that a greater degree of knowledge was required of the conditions in the colonies to inaugurate other changes, changes which became necessary owing to their disposition to consider the question to what extent should the new colonies retain their own systems of law and government, and to what extent should they be subjected to English

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1. 54 Geo.III,c.61.
2. C.O.416/19-D61.
3. D.J.Murray, op.cit., p.152.
4. R.Chalmers, A History of Currency in the British Colonies (London, 1893), pp.23-24 & 417-425. see also below, p.259.

precedents. Such fundamental questions could not be tackled without a proper understanding of each of the colonies. A demanding Parliament necessitated more and fuller information about the empire. Its complex and intricate character could not be grasped without adequate investigations. In the field of law, for example, the diversity of the new empire was of immense proportions. Lower Canada and St.Lucia had old French criminal law and in other respects Code Napoléan, Trinidad the law of Spain, Malta preserved its own code, Mauritius possessed the Code Napoléan, and in British Guiana, Cape of Good Hope and Ceylon Roman-Dutch law prevailed[1]. Efforts were made to obtain information about such diverse systems by directing each Governor to submit a full report on the political, economic and social conditions of the colony, but the Colonial Department had to confess that this method did not bring forth the required information. In 1817 Bathurst wrote that its efforts to prepare a new charter of justice for Mauritius were nullified due to the 'imperfect and inadequate information to be obtained in this Country as to the Mode in which Justice is at present administered and as to the Precise powers under the French law of the various Courts already established'[2]. Clearly, no official at home possessed the capacity to obtain information about colonies thousands of miles away, and it was realized that there was a need for fact-finding missions.

The need to obtain accurate and unbiased information about colonies was thrown into bold relief by the stimulus provided by another source: the movement to reduce expenditure. Through the long years of the empire,

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1.C.Clark,A Summary of Colonial Laws(London,1834),pp.23-24.
2.cited,H.T.Manning,op.cit.,p.471.

movements and issues within the colonies and at home often interacted on each other with significant effects on colonial activities; as it has been observed, 'from the begining of overseas settlement in the 17th Century English history ceased to be insular history'[1]. Going back into the age of the first empire,it can be pointed out that the controversy over taxation between the American colonists and the Mother Country had an important influence on the cause of parliamentary reform in England,for it hinged on the question of representation and thereby attracted attention to the unrepresentative character of the Parliament[2]. Conversly,during the period under discussion such significant movements like Humanitarianism and the free trade movement,and such changes like the French and the industrial revolutions, had an important bearing on the empire. Such issues and movements of varying impact formed a backdrop to colonial developments. Of more immediate importance from the point of view of the present study,was the movement which began in England for reduction of expenditure of the government. The economic depression after the Napoleonic wars threw into relief the heavy expenditure incurred by the government during the wars. From 1816 onwards there were eleven years in which the government was unable to govern the country without a deficit. The national debt greatly increased. Fresh and greater borrowing by the government led to increased taxation,and soon 'every class was clamouring against what they considered to be excessive weight of an intolerable burden'[3]. The overburdened could no

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1.V.T.Harlow,The Founding of the Second British Empire(London,1952),i,2.
2.see,G.S.Veitch,The Genesis of Parliamentary Reform(2nd ed.,London,1965), p.52ff.
3.L.C.A.Knowles,The Economic Development of the Overseas Empire(London, 1924),i,96.

longer be placated by pleading the cause of expenditure for the maintenance of the empire. 'Economy' became the cry of the times: the Parliament the battleground. Heroes arose. Joseph Hume and Henry Parnell, for example, became well known figures in the movement. Hume, a trenchant critic, became the self-appointed 'watch-dog' of the Treasury in Parliament[1]. He repeatedly attacked what he believed to be excessive expenditure in colonies.

> 'From the peculiar manner in which accounts respecting the colonies were kept, it was almost impossible for any individual to know what they cost. Large bills were drawn from the colonies on the government here, and these bills were not submitted to the House till a year or two after they were drawn.....This state of things ought not to have continued so long. During the war, when we were in a state of uncertainty whether these colonies would be retained by us, some justification might have been afforded for this system; but in the fifth year of peace, surely it was the duty of that House to see what was the real state of colonies we had acquired, what was the expense incurred for them by this country, and if found too large, to consider what way it might be reduced'.
>
> [2]

Developments within the country had already pointed the way to consider such questions: royal commissions of inquiry. Through the years a tradition of inquiry by royal commissions for purposes of legislation, for inquiring into administrative departments and other organs, and for inquiring into social conditions had been built up in England[3]. Beginning from the Doomesday Survey, which has been called the first royal commission of inquiry[4], successive rulers of England had used this device to enable them to govern the country. Out of some royal commissions appointed by Henry II, the system of itinerent justices developed. The reign of

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1. R.L.Schuyler, The Fall of the Old Colonial System (London, 1945), p.75.
2. Hansard, XL, 1819, p.1078.
3. H.M.Clokie & J.W.Robinson, Royal Commissions of Inquiry (London, 1937), pp. 1-2 & A.Todd, Parliamentary Government (London, 1892), ii, 93.
4. ibid., p.28.

Edward I saw the famous quo warrento inquiries. James I appointed royal commissions to inquire into statutes of England. The need for such varying royal commissions of inquiry was to some extent reduced by the development of the Parliament - 'the Grand Inquest of the Nation' - but, they continued to be used by rulers, sometimes with and sometimes without Parliamentary sanction[1]. Numerous legal and constitutional questions arose through these years, and in some ways legal decisions made by judges constrained their use - the most celebrated being the decision of Justice Coke in the seventeenth century that it was unlawful to appoint royal commissions into offences determinable at common law - yet, they continued to serve governments. Even the Long Parliament, which sought to remove prerogative royal commissions, did not desist in appointing a commission 'under the Great Seal of England' to inquire into forests[2].

In the eighteenth century, the number of royal commissions drastically fell with the rise of another form of inquiry: by select committees of one or both Houses of Parliament[3]. In the following century too this new form of inquiry held a significant place in administrative affairs[4]. But, gradually it became to be realized that of the two forms of inquiry - by select committees of Parliament and by royal commissions - a greater service could be made by royal commissions. Even at its best the Parliament

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1. see, W.S.Holdsworth, The Movement for Reform in Law 1793-1832, LQR, LVI, 1940, pp.45-46.
2. ibid.
3. H.M.Clokie & J.W.Robinson, op.cit., pp.50-51.
4. Their value was placed on record in 1825: 'In these Reports there is scarcely a subject connected with the Laws, Institutions, Commerce, and Morals of the Country, but what will be foundon: the Administration of Justice, the Privileges of Parliament, the National Church, Arts and Manufacture, Agriculture and Trade, Criminal Law, Police and Education - all have their place'. see, Parl.Papers, 1825, V(496), p.29.

was too preoccupied with political questions, and proved to be too inexpert to undertake the task of serious and intensive study of questions which demanded often the services of men who could devote their full-time in an unbiased way[1]. Moreover, by this time the system of cabinet government and of ministerial reponsibility had removed some of the deep-seated constitutional objections to royal commissions as devices of monarchical despotism[2]. The often reiterated seventeenth century objections based on Justice Coke's Institutes were no longer held as valid.[3] Thus,royal commissions which had been thrust into the background, came back into favour. They did not supplant the work of select committees of Parliament, but they began to dominate the field. Both Tory and Whig governments began to use them. In the first three decades of the nineteenth century, over sixty royal commissions were appointed in England to investigate and propose measures on subjects ranging from Irish bogs to courts of law[4]. In the next two decades, their numbers increased to over one hundred and fifty. In the period 1807-1829 alone, no less than £956,885 was incurred as expenditure on royal commissions[5]. The filip they gave to the cause of reform in England was immeasurable. They

> 'collected and published information as to the courts and some of the other institutions of government,and so enabled reformers to get a clear view of the abuses and anamolies which needed abolition or reform,and made it possible for them to make informed and intelligent suggestions for legislative change'.
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> 6

1.J.Redlich,The Procedure of the House of Commons(London,1908),ii,193.
2.A.H.Cole,A Finding-List of Royal Commission Reports in the British Dominions(Cambridge,Mass.,1939),introductory essay The Place of Royal Commissions of Inquiry in the British Dominions by H.M.Clokie,p.9.
3.H.M.Clokie & J.W.Robinson,op.cit.,pp.80-81.
4.For a complete list see,Parl.Papers,1825,V(45-62).
5.Hansard,3rd s.,XXV,1834,p.495.
6.W.S.Holdsworth,LQR,LVI,1940,p.34.

The growth of the civil service in England in the first half of the century was 'dominated by the ideas brought forward by various commissioners who inquired into public offices towards the end of the eighteenth century'[1]. In the early 1820's important reforms were undertaken in revenue departments in consequence of the royal commission appointed to inquire into revenue matters[2]. The investigations of the royal commission on the poor laws formed the basis of the Poor Law Amendment Act of 1834; Spring Rice, the Secretary of State, remarked in the House of Commons that the members 'never could have discussed the Poor Law Amendment Bill without having the reports of the Commissioners before them'[3]. The Municipal Corporations Act of 1835 was another legislative enactment which was founded on the work of a royal commission[4]. The royal commission appointed as a result of the agitation led by Lord Brougham in the House of Commons on the reform of the law,led to reforms on a scale which was never attempted before[5]. And, there were also commissions, like that on ecclesiastical courts appointed in 1830, which did great service for the cause of reform in more limited spheres[6].

These royal commissions at home pointed the way to a course of action in colonial administration. Select committees of Parliament played their part in investigations about colonies too, and continued to play an important role, but it soon became clear that there were shortcomings in this method of inquiry. There were men in Parliament who could claim that they were knowlegeable about colonies - the Nabobs and West

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1.E.W.Cohen,The Growth of the British Civil Service(London,1941),p.21.
2.see,C.R.Fay,Huskisson and His Age(London,1951),pp.113-114 & 286-290.
3.Hansard,3rd s.,XXV,1834,p.495.
4.W.H.Moore,Executive Commissions of Inquiry,Columbia Law Review,XIII,1913, p.503.
5.W.S.Holdsworth,LQR,LVI,1940,p.228.
6.ibid.,p.47.

India interest, for example - but, they were never men who could be considered as of 'trained minds, impartial judgement and disinterested study'[1]. It was difficult to make a thorough study of conditions in colonies from a distance of thousands of miles. They often required lengthy investigations, investigations which were not limited by any specific period of time as the select committees were by parliamentary sessions[2]. The investigations themselves needed to be comprehensive, unlike the limited nature of inquiries conducted by select committees. All these factors pointed to the use that could be made of royal commissions in colonies. Beginnings were made early in the century with the appointment of a royal commission to investigate into the colony of Trinidad in 1802. Commissions to other colonies soon followed: to Malta in 1812, to New South Wales in 1819, to West Indies and British North America in 1821, extended inquiries to West Indies in 1822, to Cape of Good Hope, Mauritius, and Ceylon in 1823, and to Sierra Leone in 1825. There were also commissions of inquiry to investigate more general questions pertaining to colonial affairs. 1830 saw the appointment of a commission to inquire into colonial accounts, and 1831 a commission on colonial emmigration facilities[3].

The appointment of these commissions of inquiry displayed the underlying need to obtain accurate and unbiased information about colonies at this time. Some of the commissions, however, were prompted by more specific and immediate reasons. In New South Wales, which was being subjected to the glare of publicity at home with attacks on its Governor,

1. H.M.Clokie & J.W.Robinson, op.cit., p.3.
2. J.Redlich, op.cit., ii, 193.
3. This list has been compiled from the following Parl.Papers: 1826/27, XX(301); 1829, XXI(212); & 1831/32, XXVI(512).

there was the need to consider the question what changes ought to be made in a colony where the system of government served a penal settlement, but which was now attracting a new population of free settlers[1]. In the case of Cape of Good Hope, the appointment of a commission was primarily moved by the criticisms made in England of the high-handed rule of its Governor,Lord Charles Somerset[2]. In Mauritius, the overriding consideration was the need to solve the vexatious problem of illicit trade in slaves[3].

The role such commissions of inquiry played in contemporary colonial developments can be best illustrated by examining the work of a single royal commission in relation to a colony. In the present study attention will be drawn to the commission of inquiry sent to Ceylon, a commission which in many respects can be termed truly representative of the royal commissions of the times. Unlike the colonies New South Wales, Cape of Good Hope and Mauritius, there were no complex problems facing the imperial authorities in Ceylon. Indeed, the Colonial Department even confessed that a commission of inquiry was less necessary in Ceylon than in other colonies, but it was decided to appoint one 'in order to satisfy the public regarding the manner in which its resources were managed'[4]. There certainly was a need to investigate this question,especially in view of the recurrent deficits faced by the Ceylon government. At one time Ceylon was considered to be a well-governed colony - ' I believe it to be unquestionable', wrote the Earl of Liverpool in 1811,'that the

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1. A.C.V.Melbourne,Early Constitutional Development in Australia(London, 1934),p.47ff.
2. I.E.Edwards,The 1820 Settlers in South Africa(London,1934),pp.103-104.
3. J.Jeremie,Recent Events at Mauritius(London,1835),p.8.
4. Hansard,n.s.,VII,p.1802.

best administered of all the King's Colonies in any quarter of the globe is the island of Ceylon' - indeed, a colony worthy as a model for others - Liverpool determined to establish the administration of Mauritius on the pattern of Ceylon[1] - but, in the wake of the movement for economy in colonial expenditure, Ceylon was destined to be subjected to much criticism. Early in the years of British rule in Ceylon, at the time it was placed under the Crown in 1802, the Secretary of State, Henry Dundas, expressed the fear that if the expenditure of the colony exceeded its income, opinions prejudicial to it would be formed at home.

> 'You will entirely and cordially concur with me', wrote Dundas to the Governor Fredrick North,'in laying down and enforcing such a system of Economy as cannot fail to produce to their full extent the desirable effects stated in the former part of this Despatch and of preventing any opinion prejudicial to the value and importance of Ceylon or to the advantages of the present arrangements being in the meantime formed at home,which will certainly be the case if the resources of this Country are, even for a short time,called upon to any material extent,to aid those which the public have been induced to believe were to be derived from the possession of that Island'.
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Dundas' words proved to be prophetic. Through the years, with few exceptions, the colonial government was not able to manage the colony without depending upon aid from the Mother Country to cover its expenditure. The Colonial Department continually admonished colonial officials about the state of affairs, and demanded steps be taken to reduce expenditure in the island. In 1813 Bathurst was writing to the Governor Robert Brownrigg about 'the necessity of strictly limiting the expense of Civil Establishment to that which had then been approved', and expressly stated that he should 'refrain

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1.D.J.Murray,op.cit.,p.81.
2.C.O.55/61:Dundas to North,13 Mar.1801.

creating any new or augmenting any existing salary until he should ... received special authority for that purpose'[1]. The Governors too ...e concerned with this question - Brownrigg, for example, took great ...ins to show that the wars of 1815 which led to the conquest of the ...ndyan Kingdom, but which resulted in an increased expenditure, did not exceed the bounds of absolute necessity'[2] - and devoted much attention to solve the problem[3], but success evaded them. With the rising tide of the cause for economy, pressure was being borne upon the Colonial Department to take firm steps to resolve the problem, within and without the administration. 1822 was a year remarkably quiet in the field of foreign affairs, and a great deal of attention was paid by members of Parliament to colonies.[4] Joseph Hume, much concerned about colonial expenditure, repeatedly drew the attention of the ministers to what he termed 'Profuse and Lavish' expenditure in Ceylon[5]. Within the administration, such bodies as the Colonial Audit Office and Lords Commissioners of the Treasury became critical. In numerous instances, the Colonial Audit Office suggested ways and means of reducing expenditure[6]. The Treasury Lords complained that the 'Treasury has been uninformed not only of the measures which have from time to time led to occasional expenses', but also of 'the state of ordinary revenue and the permanent charges' upon Ceylon[7]. They emphatically called for an urgent alteration

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1. C.O.416/11: Bathurst to Brownrigg, 23 June 1813.
2. C.O.54/55: Brownrigg to Bathurst, 8 June 1815.
3. see below, pp.87-88.
4. see, The Annual Register.....for the Year 1822 (London, 1823), p.157.
5. Hansard, n.s., VII, 1822, p.1805. see also below, p.95.
6. see, C.O.416/11: Edwards & others to Lords of Treasury, 29 July 1816 & 9 July 1817.
7. Parl.Papers, 1830, XXI(212), p.174.

of the financial system of the colony. The government too saw that Ceylon merited an examination. Bathurst was forced to agree with the views of the Lords of the Treasury.[1] 'It is I think', wrote Goulburn in 1821, 'material to put on record our economical determination as to Ceylon'[2].

The role of Ceylon as a colony was undergoing changes by this time. Initially, it attracted the attention of the British as a valuable strategic station. During the French Revolutionary wars, the acquisition of Ceylon, then in the hands of the Dutch but being threatened by the French, was considered to be of paramount importance to safeguard the interests of the Eastern empire of the British. After its conquest in 1796, William Pitt stated in the Parliament that it was 'to us the most valuable colonial possession on the globe, as giving to our Indian empire a security which it had not enjoyed from its first establishment', a view which was echoed through the following years[3]. In the early years of British rule, the main concern of the Governors of the colony was not so much economic development - indeed, in devising a form of government for Ceylon in 1802, Dundas' "strong reaction against the West Indian 'plantation' system had led him to place Ceylon in an economic isolation which threatened to be suffocating"[4] - but, the improvement of its security[5]. Repeated attempts were made to conquer the independent kingdom in the interior, and much time and energy was

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1. ibid., 1830, XXI(352), p.169.
2. Historical Manuscripts Commission, The Report on the Manuscripts of Earl Bathurst (London, 1923), p.504.
3. see, C.R.de Silva, Ceylon under British Occupation (Colombo, 1941), i, 19-20.
4. V.T.Harlow, The New Imperial System 1783-1815, CHBE, II, p.171.
5. C.W.Guillebaud, The Development of the Crown Colonies 1815-1845, CHBE, II, p.521.

devoted to fortification and communications[1]. These years, however, saw the effects on the pattern of government of the economic and social changes which had begun even before the arrival of the British in Ceylon[2]. The conquest of Kandy in 1815, and the crushing of the revolt of the Kandyans in 1818, made the colony reasonably secure[3]. From this period onwards, the attention of the Governors was more actively drawn towards the economic development of the colony, and determined efforts were made to break away from the narrow policy of Dundas[4]. Many writers profusely described the potential that lay within the colony to become an economically powerful unit of the empire[5]. It became gradually realized that a revision of the system of government was necessary, particularly in view of the conquest of the interior. From the beginning, the form of government established in the Kandyan Provinces was considered to be temporary - the Board of Commissioners for Kandyan Affairs, the ruling body, was entrusted with the task of collecting adequate information about the customs and manners of the people to make a decision on the permanent form of government[6] - and, it was soon apparent that a permanent government could not be established in that area without a proper appraisel of it in relation to the rest of the colony.[7] In keeping

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1. For details see the study of C.R.de Silva, op.cit.
2. see below, pp.185-188.
3. Between 1815 and 1848, when again British rule was seriously threatened by a rebellion, there were conspiracies to overthrow them in 1823, 1824, 1834 & 1843, but they were of no consequence, and later it was reported that 'no expense was incurred apparently on these intermediate occassions', C.O.882/1.
4. see below, pp.200-201.
5. see, for e.g., Philalethes, The History of Ceylon (London, 1817) & A.Bertolacci, A View of the Agricultural, Commercial and Financial Interests of Ceylon (London, 1817). Bertolacci in particular was quoted often by the Colonial Office and the Governors about potentialities of Ceylon.
6. see, C.O.55/63: Bathurst to Brownrigg, 10 Nov.1819.
7. see below, p.135.

with the policy of the times, the declared policy of early British rule in Ceylon was the maintenance of the customs, habits and institutions of its peoples[1], and the experience during the following years pointed to the validity of the conclusion of one of the early Governors that 'no innovation should be hastily attempted'[2]. The Madras government, which administered the colony from its conquest until 1802 on behalf of the East India Company, and later the first Governor, North, had attempted radically to alter the system of government that prevailed - the first by the importation of Madras officials to replace indigenous officials, and the second by a complete change in the tenurial system, a system which was closely bound up in a feudal manner to the form of government[3] - but, both attempts resulted in upheavels, and it was considered politic to revert to the traditional system. The disposition of the administration in England to consider the question to what extent English precedents should be introduced to colonies in which traditional elements were safeguarded, too necessitated a clear study of the conditions of Ceylon. Bathurst, who was now the Secretary of State, was not trained in the tradition of Indian experience which coloured the policy of Dundas and his successors, Lord Hobart and Castlereagh[4], and was prepared to consider the problems of Ceylon separately, and in their entirety.

Thus, though the recurrent deficit of the colony pointed the way to a commission of inquiry, it was decided by the Colonial Department to

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1. see below, p. 81.
2. C.O.416/22-H3: Brownrigg to Barnes, 27 Jan. 1820.
3. For the Madras reforms see, C.R. de Silva, op.cit., i, 189-230; & for North's reforms, C.R. de Silva, Ceylon Under British Occupation (Colombo, 1942), ii, 340-351.
4. H.T. Manning, op.cit., p. 446.

institute an investigation into the 'whole state' of the colony[1]. It is true that the Colonial Department was prompted by outside pressure to appoint the commission to Ceylon, but there is no doubt that the initiative completely lay within the department. Clearly, if it was so inclined, it could have easily resisted an investigation upon Ceylon, for in Ceylon the Secretary of State's authority was complete and exclusive at this time[2]. It is not clear who mooted the idea of the commission within the department. It may have been Robert Wilmot[3], who was then playing an important role in the re-organisation of the Colonial Department[4]. As the Parliamentary Undersecretary he held the dominent role in the House of Commons representing the Secretary of State who was in the upper House. It is Wilmot who moved the address for the appointment of the commission, and he seemed to have been inclined to take the credit for it publicly[5]. The decision to appoint a commission of inquiry seemsto have caught the Governor unawares. Wrote Sir Edward Barnes then the Governor:

> 'I am not aware of the circumstances that led to this inquiry as I do not know of any points at issue - nor of any subjects under discussion - nor of any information sought for by His Majesty's Government at Home which has been deemed unsatisfactory or inconclusive - nor have I heard of any complaints either in or out of Parliament - nor am I aware that any individual representation of dissatisfaction either openly or anonymously have been made to Your Lordship'. [6]

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1. see below, pp.30-31.
2. C.O.325/16: returns of all colonial appointments, Ceylon, 1817.
3. In 1823 he added the name Horton by a deed-poll in accordance to the will of his father-in-law. Later he was knighted and sent to Ceylon as the Governor in 1831. For biographical details see, E.G.Jones, Sir Robert Wilmot Horton, Bart., Politician and Pamphleteer (Bristol Univ. M.A. thesis, 1936).
4. D.J.Murray, op.cit., pp.119-126 & D.M.Young, op.cit., pp.53-58.
5. His speech in the House of Commons on the appointment of the commission of inquiry was later printed in the form of a pamphlet: Substance of the Proceedings in the House of Commons on Thursday 25 July 1822..... (London, 1822).
6. C.O.54/89: Barnes to Bathurst, 2 Oct. 1825.

Barnes' misgivings were understandable, but, as Lord Nugent pointed out in the Parliament, representation from the inhabitants of colonies was not necessarily required as the foundation for a motion for a commission of inquiry[1].

The task of investigating upon the conditions in Ceylon was entrusted to the Commission of Eastern Enquiry. This commission was primarily proposed for the investigation of the two Eastern colonies, Cape of Good Hope and Mauritius, but the administration seized the opportunity of extending it to Ceylon. On 25 July 1822 Robart Wilmot moved in the House of Commons that "a humble address be presented to his majesty 'That he would be graciously pleased to issue a Commission under the great seal to inquire into the state of the settlements of the Cape of Good Hope, the Mauritius and Ceylon'"[2]. Like Ceylon, both Cape of Good Hope and Mauritius had faced the problem of extra expenditure, but the reasons that prompted the appointment of the commission to them were different[3]. All these colonies were acquired during the wars that began after the French Revolution, but they displayed immense diversities. Their forms of government were not uniform - though the Colonial Department at one time decided to follow the Ceylon pattern in Mauritius, in effect it followed Trinidad and not Ceylon[4] - their conditions were radically different, and their problems deserved separate and special studies. The burden of the commission of inquiry was heavy indeed. In view of this, much depended upon the members of the commission; their selection should have been considered a heavy responsibility. As William Wilberforce

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1. Hansard, n.s., VII, 1822, p.1842.
2. ibid., p.1801.
3. see above, p.13.
4. H.T. Manning, op.cit., pp.467-468.

pointed out in the Parliament, 'if the appointments were judiciously made, great good would result from the commission'[1].

Initially, John Thomas Bigge and William Macbean George Colebrooke were chosen as Commissioners of Eastern Enquiry on 18 January 1823. In 1825 another member, William Blair, was appointed in addition, but both Blair and Bigge relinquished their positions in 1828 owing to ill-health. Henceforth, the commission was to comprise of only two members. The position as the second member of the commission was offered to F.Dwarris, and on his refusal, to Campbell Drummond Riddell, who accepted the appointment on 4 May 1829. Subsequently, Riddell was appointed the Treasurer of New South Wales, and his place was taken by Charles Hay Cameron on 23 August 1829[2]. It was written in 1892, when royal commissions were established on a more regulated footing, that

> 'the persons appointed to serve on royal or statutory commissions are selected without reference to their political opinions as supporters or opponents of the existing administration, and generally on account of their familiarity with the subject-matter of the proposed investigations or because they possess special qualification for the task'.
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This was far from the truth at the beginning of the century. It is true that what attracted greater attention to royal commissions in contrast to select committees of Parliament for purposes of inquiry was precisely those criteria that determined the membership of royal commissions at the end of the century[4], but it is doubtful whether they carried much weight with those concerned with the selection of members of royal commissions at this time. Of the members of the Commission of Eastern

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1. Hansard, n.s., VII, 1822, p.1803.
2. C.O.168/12.
3. A.Todd, op.cit., ii, 97.
4. see above, pp.9-10 & 11-12.

Enquiry, the only man with any substantial experience in both colonial affairs and in commissions of inquiry was Bigge. He had inquired into New South Wales in 1819, and previous to that had held several responsible positions in the West Indies, including that of Chief Justice of Trinidad. Dwarris too had some experience, for he acted as a member of the commission of inquiry appointed in 1822 to investigate into the state of laws in the West Indies. The others were comparatively new to the colonial field, with the exception of Colebrooke who had served with the British army in the East during the first two decades of the century. Inevitably, in the selection of these men the determinable factor was patronage. Offering the membership of the commission to Dwarris, Harold Twiss, the Undersecretary, wrote apologetically, 'it is not the service on which I should have most wished to see you employed, but it is the only thing which Government has in its power to offer you'[1]. The members of the commission chosen, reflected a tendency seen during this time, the emergence of lawyers as a dominant group favoured by patronage. By this time lawyers had established themselves as a powerful group in the country. They formed the second largest group of professional members of Parliament, comprising about one seventh of the total representation of the country[2]. Often they were chosen as members of royal commissions, both in England and for colonies. The Reverend Sydney Smith, the Whig reformer, called them the 'favourite human animal' of governments[3]. In the Parliament, Henry Goulburn accused governments of indulging in patronage to conciliate lawyers:

1.C.O.168/12:Twiss to Dwarris,4 Apr.1829.
2.G.P.Judd,Members of Parliament 1734-1832(New Haven,1955),p.51.
3.S.Smith,Second Letter to Archdeacon Singleton(London,1838),p.34.

> 'Among the persons whom it must be the desire of every Government to conciliate were those connected with the legal profession. They were a class of persons whom it was important for Government to conciliate - they were well educated - they had the power of explaining and diffusing their opinions - they were in the custom of advocating causes of all descriptions.....' [1]

At the time he spoke, in 1834, he estimated that there were over one hundred and five barristers holding positions as members of commissions of inquiry. The Times too found lawyers most guilty of 'commission jobbing'[2]. If not other commissions of inquiry, certainly the Commission of Eastern Enquiry pointed to the validity of these accusations, for Bigge, Dwarris,Riddell, and Cameron were all lawyers. The appointment of Colebrooke, on the other hand, instanced the role many army officers of rank were playing in colonial administration after the Napoleonic wars[3].

Of the commissioners appointed, attention will be drawn in this study only to Colebrooke and Cameron, the two commissioners who reported upon Ceylon. The appointment of Colebrooke, who of thetwo was the senior member of the commission, seemed to have been the result of an exercise of patronage. Evidence is not clear, but Lord Edward Somerset and Duke of Wellington, both men of influence, seemed to have moved on behalf of Colebrooke to obtain position as a member of the commission[4]. If the patronage factor is discounted, it is difficult to state what qualifications Colebrooke possessed to be selected as a commissioner of

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1. Hansard, 3rd s., XXV, 1834, pp.485-488.
2. see, Times, 28 July 1834.
3. H.T.Manning, op.cit., p.102.
4. see, C.O.54/83:Colebrooke to Wilmot, n.d.(1822) & C.O.54/139:Office of Ordinance to Wilmot, 2 Aug.1822. Not surprisingly both Somerset and Wellington were military men. Lord Edward Somerset(1796-1842) devoted his career to the army, but from the beginning of the century until 1829 he also held a seat in the Parliament, DNB, XVIII, pp.654-655. Wellington (1769-1852), the better known of the two, had a distinguished military record, and by the 1820's was playing an increasingly important role in government affairs, DNB, XX, pp.1081-1134.

inquiry. His education was limited. Like the others of his age who were educated for a military career at the Royal Military Academy at Woolwich, Colebrooke's education centred on 'military and arts of warfare', with some attention paid to the study of classics and French[1]. Prior to his appointment, Colebrooke had acted solely as a military officer, with occassional incursions into the political field in the negotiations of the British with rulers of some Asian countries. His military career though not outstanding, was noteworthy. The Commander-in-Chief of India, under whom Colebrooke functioned at the time of his appointment, spoke of him as 'an officer of distinguished gallantry and proved intelligence' with a 'valueble service for a long period in India'[2]. The fact that he had hitherto served entirely in the East may have been considered a qualification to be selected as a commissioner to inquire into what were termed as Eastern colonies. As a young military officer, Colebrooke displayed a great capacity for observation and investigation of the countries he served[3], but it is doubtful whether the officials of the Colonial Department were aware of this for he acted solely in a private capacity. Clearly,like many of the colonial appointments made at this time, indeed even at home, qualification was of less consequence than influence in Colebrooke's selection, but he quickly proved that he was not an ill-judged choice.

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1. Records of the Royal Military Academy(Woolwich,1851),p.58.
2. C.O.54/121:Doyle to Lt.-Gen.Macleod,14 Jan.1822.
3. In 1811 he explored the Prince of Wales Island to obtain information 'far more interesting to us Commen Men who are neither Politicians or Merchants', RAI,MS/20:Colebrooke to James Taylor,9 June 1811. He continuously made detailed observations about the conditions of the peoples of the various lands he visited in communications to friends in England. see,for e.g.,ibid.: description of the native inhabitants of Java,their language,local customs and manners,encl.in Colebrooke to Watson,22 Mar.1813.

A glance at Colebrooke's life is necessary, for it would give some indications of his character. He was born to a family with a strong military tradition on 9 November 1787. His father was a Colonel in the Royal Regiment of Artillery, and his mother a daughter of a Major-General. Following family tradition, Colebrooke entered the Royal Military Academy, where he studied at his own expense. After successfully completing his course of studies, he joined the Royal Artillery at the age of fifteen, receiving his commission as a Second Lieutenant on 17 August 1803. Like his father, he served throughout with the Royal Artillery. Made a Lieutenant on 12 September 1803, he left for the East on military duty. His first station of duty was Ceylon, where he served, except for a short absence in 1806, between 1805 and 1809. The records do not show in what capacity he served in the island, but there is no doubt that this early experience was of much value in his later work as a commissioner of inquiry. From Ceylon he was transferred to India, where he served with the field army in several campaigns between 1809 and 1810, of which the Madras disturbances were noteworthy. He was promoted as a Second Captain on 27 September 1810. In 1811 he accompanied the British expedition to Java with the Bengal and Madras armies, and took part in several actions against the Dutch. In 1812, as Captain of Artillery, he served under General Gillespie in the capture of Jokjakorta. While discharging duties subsequently as the Deputy Quarter Master-General, he was promoted a Major on 1 June 1813. Later he became a member of the expedition sent to depose the Sultan of Palembang. Except for a short absence on a mission to the Supreme Government at Bengal regarding the transfer of Dutch settlements, he served in the East Indies until the restoration of Java to the Dutch. Though he never served directly under

Sir Stamford Raffles,the Governor, but under Raffles' rival Gillespie,it is in these years in Java that he became acquainted with Raffles' administrative methods which had an important bearing on his later work in Ceylon[1]. After returning to India from Java, he served in the campaigns of the Bengal army against the Marathas and the Pindaris. During these years he was again employed in several negotiations with local rulers. Between 1818 and 1819 he served under Sir William Keir in South India. In the following two years, as the Deputy Quarter Master-General to the forces, he was in the Persian Gulf reducing the fortresses of pirates, and later in suppressing piracy and the slave trade carried on by the Arabs. His return to England in 1820 marked an important change in his career. He was appointed a member of the Commission of Eastern Enquiry, and then onwards he served as a colonial administrator for several years. After his work as a commissioner of inquiry was over, in 1834 he was appointed the Lieutenant-Governor of the Bahamas. In 1837 he was made the Governor-General of Leeward Islands, in 1841 the Lieutenant-Governor of New Brunswick, in 1848 the Governor and Commander-in-Chief of British Guiana, and was transferred in the same capacity to Barbados in August 1848. Having returned to England in 1856, once more he served as an army officer becoming a General in 1865. He was knighted in 1834 mainly for his work as a commissioner of inquiry. Throughout these years he kept his interests in Eastern affairs alive through his association with the Royal Asiatic Society. He played an active role in its work, first as a member of the council, and subsequently as a member of the committees for correspondence and oriental translations. Three of his communications

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1.see below,pp.115-118.

addressed to the society, significantly all relating to Ceylon, were published in its journal[1]. He died on 6 February 1870, at the age of eighty three.[2]

Cameron too, like Colebrooke, seemed to have been favoured by patronage. He was a lawyer, from which professional body many commissioners of inquiry were chosen during this period of time, and had the advantage of Sir Nicholas Tindal, the Chief Justice of England, interceding on his behalf in his appointment as a Commissioner of Eastern Enquiry.[3] The background and the career of Cameron were entirely different to that of his colleague, and this to a great extent explains the dissimiliar views they held whilst conducting their investigations upon Ceylon. A direct descendant of the ancient Scottish clan of Cameron, Charles Hay belonged to a family with considerable colonial connections. His father was successively the Civil Commissioner of Malta and the Governor of the Bahamas, and a number of members of his family served as colonial

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1. see, The Lamentations of the Natives of Ceylon over the Bodies of their Deceased Relations, JRAS, II, 1835, pp.63-64; Process of Making Crystellised Sugar from Toddy or the Juice of the Coco-nut Palm on the Island Of Ceylon, ibid., III, 1836, p.243; Translation of a Proclamation of the Governor in Council of Ceylon dated 11th August 1686, ibid., V, 1839, pp.102-103.
2. Details of Colebrooke's life has been compiled from the following: C.O.54/83: Colebrooke to Wilmot, n.d. (1822); C.O.54/121: Colebrooke to Goderich, 28 Jan. 1832, encl.; C.O.54/139: Office of the Ordinance to Wilmot, 22 Aug. 1822; W.O.44/65; W.O.76/361: officers records, Royal Artillery, II; List Of Officers of the Royal Regiment of Artillery (4th ed., London, 1900); The Colonial Office List for 1863 (London, 1863); M.E.S. Laws, Battery Records of the Royal Artillery (Woolwich, 1952); DNB, II, pp.42-43; & Times, 10 Feb. 1870.
3. The present writer has been unable to trace the original communication of Tindal, but an entry in IND.8451, no.2718, suggests this. Tindal (1776-1846), probably became acquainted with Cameron in his early days as a lawyer of the Northern circuit. After an outstanding career as a lawyer, he became associated with the government as the Soliciter General in 1826, and later in 1829 was appointed the Chief Justice, a position he held until his death. DNB, XIX, pp.886-887.

administrators. His chosen career was law, and in 1815 at the age of twenty he entered Lincoln's Inn, and was called to the bar in 1820. While practising as a lawyer he was appointed a member of the Commission of Eastern Enquiry. After his return from Ceylon, whilst still associated with the work of the commission relating to Ceylon, he was selected on 22 December 1832 to be a member of the commission which inquired into the charities of England and Wales. Later he was appointed by Lord Melbourne as an assistant commissioner to the commission of inquiry on the poor laws. Together with John Wrottesley[1], another assistant commissioner, he reported upon the county of Buckinghamshire. Perhaps, the most active part of his career then began when he assumed duties in 1835 as a member of the Law Commission of India. He played an important role in the formulation of the modern legal systems of India as the chief adviser to Lord Macaulay - Macaulay wrote,'Mr.Cameron, of the importance of whose assistance I need not speak of'[2] - and devoted considerable energy to the spread of education in India as a member of the council of education for Bengal, and later as its president. From the beginning of 1843 until his return to England in 1848, he also held the position as the fourth member of the Supreme Council of Bengal. The role he played in the administration in these years is best described in the words of Cameron himself: 'I found myself.....in the last five years of my Indian career, with one hand upon the lever of legislation, and the other upon the lever of public instruction'[3]. After his return to England, he

1.Wrottesley(1798-1867) was a lawyer with active interests in the sciences; he also served in several royal commissions of scientific nature. DNB, XXI,pp.1082-1083.
2.C.D.Dharker(ed.),Lord Macaulay's Legislative Minutes(Oxford,1946),p.252.
3.C.H.Cameron,An Address to Parliament on the Duties of Great Britain in Respect of the Education of the Natives and their Official Employment (London,1853),p.6.

took no active role in politics, but lived quietly with his family. In 1853, he again became associated with Indian affairs as a member of the revived Law Commission of India under the Charter Act of 1853. Through all these years, he maintained his friendship with the group of Utilitarians he first he became acquainted with in his early days as a lawyer[1]. It is also significant to note the deep feelings Cameron held for Ceylon. In the words of his friend Sir Henry Taylor, 'he had a passionate love for the island'[2]. Throughout his later life he never lost the deep yearning he held to go back to Ceylon. Once he was considered by Duke of Newcastle for the Governorship of Ceylon, but his age - he was seventy years of age at this time - negated any serious offer. While serving in India, Cameron purchased two coffee estates in Ceylon, and to these he retired, according to Taylor, 'with a strange joy' at the ripe old age of eighty one. His love for the island was best reflected in his final letter to Taylor before his journey to Ceylon in 1875:

> 'I have long contemplated Ceylon as my final resting-place and fixed on the site of my tomb. The site, I believe, has passed out of my possession; but my intention may still be accomplished cy-près, as the lawyers express it'.[3]

He died on 3 May 1880.[4]

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1. see below, pp.125-126.
2. H.Taylor, op.cit., ii, 35.
3. ibid.
4. On Cameron the following have been consulted: C.H.Cameron, An Address to Parliament; A.Mackenzie, History of the Camerons (Inverness, 1884); The Records of the Honourable Society of Lincoln's Inn (London, 1884), ii; H.Taylor, op.cit., ii, 48-55; G.O.Trevelyan, Life and Times of Lord Macaulay (London, 1876), i, 427, 443 & 463; E.Stokes, The English Utilitarians and India (2nd ed., Oxford, 1963), pp.257-258; Parl.Papers, 1833, XXXI(47); ibid., 1834, XXVII(44); ibid., XXVIII(44); & DNB, VIII, pp.288-289.

Chapter:2.

THE COMMISSION AT WORK.

I.INSTRUCTIONS.

The Commission of Eastern Enquiry received its instructions from Earl Bathurst, the Secretary of State, on 18 January 1823[1]. The main body of these instructions referred in a very general manner to the task that lay ahead of the commissioners of inquiry. As Horton stated in the House of Commons, they were required to 'inquire into the whole state of each colony' that came within their purview[2]. The 'leading subjects' of such an inquiry was laid down in the instructions as,

> 'the General Administration of Government,and the immediate controul exercised by the Governor himself,or in conjunction with a Council,in several Departments. The Local Institutions,Establishments and Regulations,Civil and Military,and more especially those of a Judicial and Financial character'.

Understandably, much attention was to be paid to the Governor's role in the administration of the colonies. Although the pattern of government differed from each other widely, in all the colonies that were to be investigated, Cape of Good Hope, Mauritius and Ceylon, the Governor held the paramount position in the administration. With the attacks made on the autocratic rule of the Governor of the Cape[3], the administration in England was particularly concerned with this branch of the government of colonies, and the commission of inquiry was specifically directed to investigate the civil, military and financial powers of the Governor. Further, it was to consider what was accepted as the more

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1.C.O.49/8:Bathurst to Bigge & Colebrooke,18 Jan,1823. Parl.Papers,XXVI (332),pp.355-357.
2.Hansard,n.s.,VII,1822,p.1802.
3.see above,p.13.

advanced form of government in these colonies, that of Ceylon where the Governor was assisted by an advisory council, and to report how far it had been effective and useful as an organ of government, and advise whether similiar councils should be introduced into the other two colonies, Cape of Good Hope and Mauritius. Another important aspect of the inquiry was to be centred on the public offices of the colonies. Their sources of pay, emoluments and pensions, together with the question to what extent they might be diminished, both in numbers and salaries - a question of importance at a time when the emphasis was on economy - were to be investigated. The inquiry into the judicatures was to embrace the whole system and administration of civil and criminal justice, the conduct and regulation of police forces, and the introduction of the English language to courts of law. Emphasising the need to obtain accurate information about the colonies, the commissioners were required also to describe their existing sources of revenue and expenditure. The causes of financial embarrassment produced by their circumstances and commercial relations, and from their systems of finance, too were to come under investigation, and they were to recommend means of augmentation of revenue and reduction of expenditure. Clearly, 'the means of bringing the expenditure within the revenue'[1], a matter of urgent importance to the Colonial Department, was to occupy a central position in the work of the commissioners. In addition to these wide-ranging subjects, they were also to report upon the state of religion and education[2] - thus, the 'whole state' of the colonies was to come within the compass of the Commission of Eastern Enquiry.

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1. Parl. Papers, 1830, XXI(352), p.170.
2. C.O.49/8: Bathurst to Bigge & Colebrooke, 18 Jan. 1823.

Aware of the differences that prevailed in the colonies, the Colonial Department considered it necessary to issue special instructions regarding each colony separately, in addition to these instructions which were applicable to all. In the case of Ceylon, the commissioners of inquiry were to particularly investigate all subjects pertaining to agriculture, which perhaps exemplified the interest which at this time was being taken in the economic development of the colony. Thus, they were to direct their attention to the conditions of agriculture, the encouragement of agriculture by loans to cultivators and by the introduction of machinery, and the systems of land tenure and land tax. They were to concern themselves with rājakāriya or the compulsory services system, and slavery. In the judicial field, the working of the charter of justice, and the judicial administration of the interior, were to be of special interest. Finally, the civil service of the colony was to be examined, with special investigations devoted to the subject of its pension scheme and its revision. These instructions relating to Ceylon, certainly covered a much wider ground than those issued for the Cape and Mauritius. At Cape of Good Hope, the inquiry was to centre on slave-native-European and slave-native-government relations, and at Mauritius the task concerned mainly the slave population and judicial administration[1]. The differences in the instructions perhaps reflected the very events that led to the appointment of a commission of inquiry for these colonies, for both at the Cape and Mauritius the inquiry stemmed from particular reasons, whereas it was extended to Ceylon on general reasons[2].

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1. ibid.
2. see above, p. 13 & 20.

Although detailed instructions were thus laid down for the conduct of investigations, they did not impose a limitation on the actions of the commission.

> 'It is not meant that you should be precluded from pursuing any other object of Enquiry,which tho[ugh] less important than those which I have enumerated, may usefully contribute to the stock of information which it is the desire of His Majesty's Government to collect,in order that they may be enabled to decide upon such measures as are best calculated to promote the immediate improvement and secure the lasting welfare of the valuable possessions to which you are about to proceed'. 1

Clearly, there was no intention on the part of the Colonial Department to lay down a precise course of action. As Bathurst once wrote when drafting instructions for the commission of inquiry sent to Sierra Leone in 1825,

> 'it would be said that the very last thing which we should wish to infuse into the commissioners is any system whatever. We want from them an accurate report of the facts,and there is nothing so fatal to investagation of truth as the having of a preconceived System'. 2

II.POWERS.

A commission of inquiry was defined by the Crown law officers as,

> 'a Commission issued by the Crown for the purpose of obtaining information on a matter of public concern, without the assumption of any compulsory powers,and whose sole authority is derived from the respect with which it may be expected that a Royal Commission will be treated by Her Majesty's subjects,more especially by public bodies and constituted authorities'. 3

The instructions issued were designed for such a fact-finding mission. The

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1.C.O.49/8:Bathurst to Bigge & Colebrooke,18 Jan.1823.
2.cited,D.M.Young,op.cit.,p.72.
3.cited,H.M.Clokie & J.W.Robinson,op.cit.,p.86.

commission was not granted compulsory powers by any special statute, and such powers it held over witnesses and to examine public documents, were implicit and rested on its Warrent of Commission[1]. The commissioners, however, found the lack of compulsory powers an inhibition to their investigations on numerous occassions. As much of their authority depended upon the disposition of the governments of the colonies they were visiting, where they faced the hostility of the local officials, much difficulties arose. While conducting investigations in Mauritius, they called for explicit powers to administer oaths to witnesses who came before them, a step which they considered necessary owing to the controversies that reigned in that colony during this time[2]. In Ceylon, they were hindered by the non-cooperation of its Governor, Sir Edward Barnes. At their request, instructions were issued by the Secretary of State to the Governors of the colonies that they should furnish all documents required by the commission[3], but Barnes refused to comply with this directive, and repeated complaints were made by the commissioners about Barnes' actions[4]. As to methods and procedure to be followed in investigations, the commissioners could, within the limits of their prescribed functions, follow their own rules as they possessed absolute power of regulating their own proceedings[5].

At the beginning, the commission remained strictly one of inquiry. As the Colonial Department once reiterated, when Colebrooke requested

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1.C.O.168/12:warrent issued to Colebrooke & Cameron,2 Sept.1829.
2.C.O.415/1:letter-book,Colebrooke & Blair to Goderich,13 Sept.1827.
3.C.O.168/12:Murray to commissioners,5 Nov.1829.
4.C.O.54/121:minute by W.Short on Colebrooke & Cameron to Murray,30 Apr. 1830.
5.A.Todd,op.cit.,ii,100.

that certain executive steps be taken in Ceylon even before the formulation of general arrangements for the colony, its duties were limited to the collection of useful and accurate information to enable His Majesty's Government to judge what the real defects of the existing system of government were, what material improvements were practicable, and to what extent they would be desirable to be carried into effect. It emphatically stated that if any action beyond this was to be taken by the commission of inquiry, ' a character would be given to the Commission which neither Parliament nor the Government intend it should assume'[1]. Thus, the commission was to be essentially negative in character, and ad-hoc in its form . But, soon its complexion was to change, for it was entrusted with certain well-defined executive functions. It was empowered to transmit the drafts of such despatches and other instruments as were required to carry their reports into execution[2]. Acting under these instructions, the commissioners formulated the original forms of some of the most important documents sent to Ceylon by the imperial government. The drafts of the despatch sent to the Governor on the release of Vilbāvē [3], the Order-in-Council abolishing compulsory labour[4], and the charter of justice[5], were all prepared by the commission of inquiry.

It should also be noted, that while in Ceylon the original scope of

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1. C.O.54/121:minute on Colebrooke to Hay,11 May 1829.
2. ibid:minute by Stephen on Howick to Stephen,6 Sept.1831 & Colebrooke to Hay,30 Jan.1832.
3. ibid.:Colebrooke & Cameron to Howick,12 Sept.1831,encl. Vilbāvē,one of the alleged conspirators of the Rebellion of 1818,was tried for high treason before the court of the Judicial Commissioner at Kandy in July 1830,and was found guilty. For the rebellion see,C.R.de Silva,op.cit.,i, 158-188.
4. ibid.:Colebrooke & Cameron to Hay,16 Mar.1832.
5. see below,p.284ff.

the commissioners' investigations was considerably widened by the Colonial Department, by additional instructions made from time to time. All matters brought before the Secretary of State which were considered to be relevent to the work of the commissioners, were referred to them[1]. They were asked to report on such questions like the expediency of establishing an Instance Court of Admiralty[2], and to what extent the strength of the troops in the colony ought to be reduced[3]. Perhaps, the most important of the additional tasks entrusted to them was the investigation into the charges made against the Governor, Barnes, by an ex-Ceylon civil servant, J.W.Bennett[4]. The original instructions to the commissioners specifically ordered them not to enter into any examination of the accusations made against local officials[5], but with mounting complaints being made against the Governors of the colonies, the Colonial Department decided to withdraw the directive. Indeed, not only in Ceylon, but also in the other two colonies, the commissioners were subsequently invited to investigate such accusations[6].

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1. For e.g., a memorial praying for an increase in salary submitted by V.W. Vanderstraaten, the Registrar of the Supreme Court, was communicated to the commissioners, C.O.416/15-F33.
2. C.O.416/18: Wilmot to commissioners, 7 Oct.1822, encl.
3. C.O.55/73; Lefevre to Colebrooke, 8 May 1834. It may also be noted that Colebrooke was also asked by Duke of Wellington to report upon the colonial ordinance stores - an additional duty for which he did not receive extra remuneration. C.O.48/100: Colebrooke to Bathurst, 18 Jan.1823.
4. For correspondence relating to this subject see particularly, C.O.54/110. In general, the commissioners found the charges baseless, and were satisfied with the explanations provided by the Governor. see, C.O.54/121: commissioners to Murray, 14 Feb.1830.
5. C.O.49/8: Bathurst to Bigge & Colebrooke, 18 Jan.1823.
6. At the Cape they investigated the land grants made by Sir R.Donkin during his temporary Governorship, ibid.: Bathurst to commissioners, 23 Jan.1823. They, of course, investigated into the conduct of the Governor, Lord Charles Somerset. At Mauritius, they investigated the charges made by Buxton against the colonial government and its officials, Report on the Manuscripts of Earl Bathurst, pp.610-611.

III.PROCEDURE AND METHODS OF INQUIRY.

After the completion of the inquiries at Cape of Good Hope and Mauritius, the commission of inquiry, now comprising of commissioner Colebrooke and its secretary Gregory, arrived in Ceylon on 11 April 1829. On 4 September 1829 Colebrooke was joined by Riddell as the second commissioner, and with his departure to New South Wales, by Cameron on 26 March 1830. The legal basis of the commission being the warrent, its original and the revised versions were publicly read and promulgated, both in the Maritime and the Kandyan Provinces, for they were still regarded as constitutionally separate territories, and the commissioners took the usual oaths in the presence of the Governor[1]. The legal formalities thus completed, the commissioners proceeded to conduct their investigations.

The office of the commission was established in the house of the Collector of Colombo in King Street. This office was open to the general public between 11 a.m. and 4 p.m. every day other than Sundays for the conduct of official business. Members of the public who were unable to attend the office, were permitted to communicate with the commissioners at their residences[2]. When they conducted proceedings in the Kandyan Provinces, an additional office was established in Trincomalee Street, and the same facilities were provided to the public to meet the commissioners. The usual government channels were utilised to give publicity to the commission. Its legal documents and notices pertaining to the inquiry were published in English together with their Sinhalese and Tamil

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1.C.O.54/121:Colebrooke to May,23 Apr.1829 & C.G.G.,18 Apr.1829.
2.C.G.G.,25 Apr.1829. Colebrooke lived in Pettah & Mutuwal; Riddell & Cameron in Kollupitiya.

translations in the Ceylon Government Gazette. In addition, the Collectors of the Maritime Provinces and the Agents of Government of the Kandyan Provinces, were entrusted with the duty of ensuring that all information respecting the commission of inquiry was brought to the attention of the inhabitants of their respective areas[1]. Thus, much depended upon the government machinery. With the difficulties faced from an uncooperative Governor, the commissioners perhaps may have been aware of the limitations of such a dependence, but with the 'great deficiency..... .....in the means of diffusing information through the medium of the press'[2], they were forced to have recourse to this only avenue open to them. In a country with only the basic system of communications established, with many areas still inaccessible, it is doubtful whether these forms of publicity succeeded in informing the majority of the population about the commission and its work.

The burden of planning the inquiry fell upon Colebrooke. Indeed, from the beginning, due to the ill-health of his colleagues, Colebrooke was forced to bear the brunt of the inquiry both at Cape of Good Hope and Mauritius - as he stated, 'some laborious branches of the Enquiry..... .....entirely devolved on me'[3]. Although he felt the absence of 'the assistance of a professional colleague in entering on the Enquiry at Ceylon'[4], Colebrooke not only planned the inquiry, but also conducted a great deal of the investigations before the arrival of a professional colleague. His task was made all the more difficult because he still

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1.C.O.416/1:letter-book,Colebrooke to Board of Commissioners,10 Sept. 1829,encl. & Gregory to Eden,25 Sept.1829.
2.Report upon the Admn.:W.R.,pp.254-255;P.R.,p.32.
3.C.O.54/121:Colebrooke to Goderich,28 Jan.1832.
4.C.O.167/118:Colebrooke to Hay,27 Dec.1828.

had to consider the unfinished branches of the inquiry at Mauritius[1]. By now he had gained considerable experience as a commissioner of inquiry. Of the original appointees, he was the only member of the commission to investigate upon all three Eastern colonies. He often had the occassion to recur to this experience, and more importantly, he was not blind to the limitations of his work. The fate of some of the earlier recommendations made together with Bigge and Blair[2], had made him conscious of the importance of being aware of the prevailing opinions of the officials at home. The need to judge the measures to be recommended in practical terms, was not lost on him. He wrote,

> 'as some progress has been made in the changes which we had occassion to recommend at the Cape,it will [be] of consequence to ascertain by Enquiry a[nd] observations, the practical Effects of these changes and of the limitations to which they have been subjected under the peculiar relations of society'. [3]

By the time Colebrooke arrived in Ceylon, he had been 'made aware of the leading points for investigation at Ceylon.....from authentic communications'[4]. From these, and from the information obtained from the representations submitted to him by the inhabitants of the colony after the publication of the Warrant of the commission, Colebrooke found it convenient to divide the inquiry into two main branches: the one comprehending the civil government and institutions of the colony, its revenues, and all general and statistical information relating to these subjects; the other specifically referring to the laws and judicial establishments[5]. Though such a distinction was made, he realized that

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1.C.O.54/121:Colebrooke to Hay,20 July 1829,encl.
2.see below,p.150.
3.C.O.167/118:Colebrooke to Hay,27 Dec.1828.
4.ibid. Sir Hardinge Giffard(1771-1827), who was the Chief Justice of Ceylon from 1819,for e.g.,sent a memorandum on the judicature to Colebrooke at Mauritius. see,C.O.416/14-F23.
5.Report upon the Adam.:W.R.,p.5;P.R.,p.3.

'from the frequent reference to the same persons on these subjects of inquiry, and from their practical connection in many instances, it has been impossible to keep them entirely distinct from each other'. By the time Cameron arrived, Colebrooke had accumulated much of the material necessary for reporting upon the colony, but the branch of inquiry concerning the judicature was handed over to Cameron[1]. Initially, Colebrooke's intention was to conduct the investigation methodically by collecting information respecting the Maritime Provinces first before devoting attention to the Kandyan Provinces[2]. Events soon made this impossible. Disturbances in the interior resulting from the refusal of certain inhabitants to abide by the government's call for rājakāriya, necessitated an immediate investigation into the subject of compulsory services[3]. The trial of Vilbāvē, 'important in its relation to the political state of the country'[4], was another matter which made investigation according to a plan impossible. So was the controversy that emanated from the enactment of the Regulation of Government no.1 of 1824[5].

The commission of inquiry devoted considerable attention to obtain information from the inhabitants of the colony. At a time when the form as well as the means of expression of public opinion had yet to develop, the most informative source of information became the petitions of the people. To the credit of the commission, it well realised their importance, and made every attempt to facilitate their submission. A well regularised form of addressing petitions to the commission of inquiry was laid down[6].

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1. ibid.:W.R.,pp.6-7;P.R.,p.3.
2. C.O.54/121:Colebrooke to Hay,13 July 1829.
3. marginal note,Report upon the Admn.:W.R.,p.175. also,C.O.416/21-G45.
4. C.O.54/121:Colebrooke & Cameron to Twiss,31 July 1830.
5. see below,pp.62-63.
6. C.C.G.,9 Nov.1829.

All correspondence to and from the commission of inquiry was exempted from the usual stamp duties[1]. Having discovered that unnecessary expenditure was being incurred by the people in obtaining translations of their original statements into English, and as the translations themselves were of an imperfect nature, the commissioners granted them the right of submitting petitions in their own languages[2]. This doubtless was a boon to the people, but the problem of imperfect translations could not be overcome, for, as the commissioners were forced to confess, their own translators often failed to provide proper interpretations of the original communications[3]. Clearly, as the commission of inquiry wrote at the Cape of Good Hope, one of the

> 'distinct causes of obstruction in the way of our gaining information.....[was] our want of acquaintance with the language in which a great majority of the communications,verbal and written,have been made to us,and the constant necessity that we felt of requiring the assistance of translators and interpretors'. 4

Such shortcomings were there, but there is no doubt that petitions formed a very useful source of information. Colebrooke wrote:

> 'Their statements are often overcharged,but they contain many facts of importance,which have been confirmed on inquiry,and they are deserving of attention,as well from the nature of the grievances complained of,as from the intelligent manner in which the effects of the regulations are frequently explained'. 5

Inevitably, in majority of the instances the petitions concerned matters of purely personal nature - often accusations against officials or complaints against decisions of the government or courts of law.

1.Regulation of Government no.1 of 1829.
2.C.C.C.,4 July 1829.
3.C.O.416/1:letter-book,Colebrooke & Riddell to Barnes,9 Oct.1829.
4.Parl.Papers,1826/27,XXI(282),pp.205-206.
5.Report upon the Admn.:W.R.,p.154;P.R.,p.21.

Petitions being the most important means of submitting grievances to the government[1], it is no surprise that a major portion of those received by the commission of inquiry was of this character[2]. This tendency was not peculiar to Ceylon. At the Cape the commissioners observed that the representations of its inhabitants 'originated in a sense or recollection of some recent and personal injury or inconvenience'[3], an observation which could have been equally applied to Mauritius too[4]. Every evidence indicated that the commission of inquiry was viewed by the peoples of these colonies as a body concerned with the redressing of their grievances. Thus, in Ceylon as well as in the other colonies, the commissioners often found it necessary to inform petitioners that their communications concerned matters beyond the scope of the commission's inquiry[5]. Although this was the declared policy, they also deemed it fit in several instances to make thorough investigations into complaints which clearly showed that there were obvious miscarriages of justice[6] - as Colebrooke stated, 'the inhabitants were entitled to attention on subjects deemed of importance to their own interests'[7].

According to Colebrooke, the commission of inquiry received 'the representations of all classes,.....which explain their views

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1. Colombo Journal, 2 Jan. 1833, letter to the editor by 'No Quack'.
2. see, for e.g., petitions nos. 2, 3, 4, 5, 10, 22, 51 & 63 in C.O.416/29.
3. Parl. Papers, 1826/27, XXI(282), p.205.
4. see, C.O.415/1: journal of proceedings.
5. see, C.O.416/1: letter-book, Gregory to Swaminaden, 16 May 1829; Gregory to Sikera, 28 July 1829; & Gregory to Nikappoo, 9 Oct. 1829. The original spellings of the names have been maintained throughout the present work.
6. The results of one such investigation, the case of a minor named Isabella Perera whose estate was mismanaged, was embodied in the Report upon the Judiciary: W.R., pp.68-75; P.R., pp.63-64. At the Cape, the commissioners particularly investigated the complaints made by the Hottentots and the slave population. see, Parl. Papers, 1826/27, XXI(282), p.206.
7. Report upon the Admn.: W.R., p.3; P.R., p.3.

and interests intelligently and convey a perfect knowledge of their habits, circumstances and condition'[1] . These numbering over seven hundred and fifty[2], were mainly submitted by the local inhabitants of the colony. The opinions and views of the European community, both official and unofficial, were obtained by direct interrogations. A perusal of the representations clearly reveals the impact of the government in publicising the work of the commission of inquiry. The great majority of them originated from the already established principal stations of the colonial government: Colombo, Kandy, Jaffna, Galle, Matara, Tangalle, Ratnapura, Negambo, Trincomalee and Mannar[3]. There are instances of petitions being submitted from regions beyond these, but they are few and isolated. Remarkably, a fair proportion of the petitions were submitted from the Kandyan Provinces. Perhaps, the explanation for this may be found in the fact that as a recently conquered territory, its inhabitants had yet to adjust themselves completely to the new form of government. Though Colebrooke stated that submissions were received from all classes, it can by no means be concluded that all classes or castes made representations.[4] The petitions cannot be considered fully representative of the different classes and castes, either. It is worthy of note that at a time when there was an estimated population of nine million, the petitions submitted formed only several hundreds. It is true that most of these contained

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1. Parl.Papers,1831/32,XI(732-III),p.249.
2. The classified list of petitions gives the total as 758,C.O.416/29:register of petitions received & register of Kandyan petitions. In addition, there were several petitions which were not classified. The numbered petitions are found in C.O.416/29-31;the unnumbered in C.O.416/32. Some petitions are also found in C.O.416/2-28.
3. see app.A,p.329.
4. It has been possible to draw this inference as the petitions themselves often revealed the castes of the petitioners.

more than one signatory[1], but nevertheless it can be fairly stated that only a very small proportion of the population of the colony participated in the investigations of the commission of inquiry directly.

From the information obtained from the petitions, Colebrooke formulated a series of 'most ably drawn up'[2] questionnaires which were addressed to individuals of standing in the colony[3]. They were of a very searching and comprehensive nature. The main body of the questions was formulated for the purpose of eliciting information about the colony. Colebrooke wrote to the Chief Justice, Sir Richard Ottley:

> 'My chief object in troubling you with so many particular questions under these heads has been that no material point should escape attention in the consideration of so extensive subject as the Laws and Judicial Institutions of the Island'. [4]

The answers submitted to these too were a valuable source of information, and the commissioners frequently referred to them in their reports[5]. Each questionnaire also included a number of questions which were designed to obtain the opinions of those who received them. The Provincial Judges, for example, were requested to

> 'state any general observations which your experience may suggest as well with regard to the

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1. For e.g., the petition of the Protestants of Negambo praying for the permanent appointment of a minister contained 255 signatures, C.O.416/6-C3.
2. Colombo Journal, 8 Feb. 1832, letter to the editor by 'Timon'.
3. Cameron too formulated questionnaires, but the questions 'for the most part were addressed to them by my colleague', Report upon the Judiciary: W.R., p.9; P.R., p.56. Cameron thus acknowledged the part played by Colebrooke in the investigations.
4. C.O.416/1: letter-book, Colebrooke to Ottley, 3 July 1829. Ottley succeeded Gifford as the Chief Justice in 1826.
5. 'The replies of the several collectors and agents of government, which contain a particular account of the seasons, productions, and peculiarities of their respective provinces, will afford further information on these subjects', wrote Colebrooke in Report upon the Admn.: W.R., p.48; P.R., p.8. see also, Report upon the Judiciary: W.R., p.9; P.R., p56. The questionnaires and the answers are found in C.O.416/1-28. see also, app.B, below pp.330-331.

> effect of the laws as to the means by which the administration of Justice may be facilitated and rendered less expensive to the suitors'. [1]

The commissioners personally examined witnesses too. These examinations, held at Colombo, Kandy and Jaffna, however, were of a limited nature. The non-officials who gave evidence were few in number, and, it is worthy of emphasis, were mainly those who were summoned by the commissioners. They were examined on matters connected with their professions and interests. The commissioners also found an opportunity of personally communicating with the Kandyan chiefs as a body when they assembled at Kandy for the annual perahära.[2] These personal meetings - 'conferences' and 'conversations', as the commissioners termed them[3] - no doubt assisted them to come to the conclusions they ultimately held about the interests and needs of the local population. The officials who came before them were examined on their respective offices and on the administration. One of the senior and more knowledgeable of the officials in service, George Turnour[4], for example, appeared before the commission for a total of fifteen days. The commissioners also inspected public documents relating to every aspect of the colonial government, and took it upon themselves to personally observe the working of the government machinery. Further, they undertook several journeys throughout the island to view the conditions of the people at first hand, and thus visited every part of the colony excepting Uva and the Eastern regions[5].

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1. C.O.416/1: letter-book, Colebrooke to Provincial Judges, 15 July 1829.
2. perahära: pageant of the Temple of Tooth (daladā māligāva) held in July.
3. Report upon the Admn.: W.R., p.171; P.R., p.23 & Report upon the Judiciary: W.R., p.127; P.R., p.70.
4. Turnour (1799-1843), a civil servant since 1817, was regarded as a 'native-welfare conscious official'. For his evidence see, C.O.416/20-G11 & C.O. 416/21-G43. Both Colebrooke & Cameron held high opinions of his 'talents a[nd] industry', C.O.54/121: Cameron to Hay, 1 May 1832.
5. see, C.O.416/1: journal of proceedings. The day to day business conducted by the commission was recorded in this .

The limitations of the investigations of the commission of inquiry thus undertaken, were essentially those imposed by the nature and form of the government and society of the colony. Inevitably, the inquiry centred on official circles. Its impact upon the mass of the population was only marginal - the 'staggering' consequences upon the people the Governor anticipated from what he believed to be an unwarrented inquiry[1], remained a figment of his imagination. Considering the fact that the commissioners had to depend upon the official channels offered by a not very cooperative government to communicate with the people, and also the fact that national consciousness was only beginning to emerge in the colony, such a result was perhaps understandable. Moreover, it is doubtful whether either the imperial government or the commissioners themselves expected, or even desired, a wide-spread participation in the affairs of the commission of inquiry. Of the local population, interest in the commission was mainly seen among the English-educated, and to a lesser degree among those who lived in close proximity to the principal stations of the administration. Of much importance was the role played by the chiefs, particularly those of the interior. Men of considerable influence in their own areas[2], and always active in politics, the chiefs taken as a body could be even termed a 'pressure group'. Perhaps, the representations made from the Kandyan Provinces may have been partly influenced by them. It could be argued that the limitations that resulted from the commission's lack of communication with the people was obliterated by the evidence submitted by such knowledgeable officials like Turnour.

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1. see below, p .79.
2. see below, p .111.

But, on the other hand, it is difficult to assess what value the commissioners placed on such evidence. Turnour was accepted as authoritative, but an equally knowledgeable Sir Alexander Johnston, the former Chief Justice, who, though out of the colony, still actively devoted his interests to its affairs[1], seemsto have been ignored. Such criticisms could be made of its methods of inquiry, but as a fact-finding mission there is no doubt that the Commission of Eastern Enquiry was a success. The verbal and documentary evidence it collected was formidable,[2] and was beyond doubt the most valuable collection of information made of the colony in the nineteenth century.

After the completion of its inquiries, the commission left the colony on 4 February 1831. The writing of the reports was to be undertaken in England. Following the pattern adopted at Cape of Good Hope and Mauritius, the Colonial Department wanted the submission of joint-reports, but as the commissioners had already divided their labours, they decided to submit individual reports.

> 'Col[onel] Colebrooke has directed his attention to the Gove[ernmen]t Finances and Establishments of Ceylon in pursuance of the observations which he had addressed on these subjects to Sir Edward Barnes, and Mr.Cameron has taken up the subject of the Laws and Judicial Institutions on which Col[onel]Colebrooke had reserved his opinions'.
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> [3]

No limitation was made upon the nature of the reports to be submitted. As Cameron pointed out, 'the length and number of my Reports must necessarily depend upon my own discretion, exercised with regard to the various

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1. Johnston(1775-1849), the Chief Justice between 1811-1819, continuously wrote to the Colonial Department suggesting improvements of the colony after he left Ceylon, and an important collection of documents was presented by him to the officials. see, C.O.54/123-126.
2. For the evidence see, C.O.416/1-32.
3. C.O.54/121: Colebrooke & Cameron to Goderich, 9 July 1831.

matters comprised in our instructions as they successively came before us'[1]. Of the major reports written by Colebrooke, the Report upon the Administration of the Government of Ceylon was handed over on 24 December 1831; the Report upon the Revenues of Ceylon on 31 January 1832; the confidential Report upon the Compulsory Services to Which the Natives of Ceylon are Subject and the Report upon the Establishments and Expenditure of Ceylon on 28 May 1832. Cameron's Report upon the Judicial Establishments and Procedure in Ceylon was submitted on 31 December 1832. Cameron had originally intended to write a report upon the compulsory services as well, but as his views coincided with those expressed by Colebrooke, he considered such a step unnecessary[2]. The major reports, excepting the reports upon the compulsory services and establishments, were printed in 1832 as a continuous Parliamentary Paper on the orders of the House of Commons[3]. Apart from these, the commissioners submitted from time to time reports on certain subjects they considered to be of urgent importance[4]. They officially ceased as the members of the commission of inquiry on 1 January 1832, but they continued to assist the Colonial Department in its work relating to Ceylon. The preparation of some of the legal documents on behalf of the Colonial Department[5], for example, was undertaken during this period of time.

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1. ibid.:Cameron to Hay,30 Jan.1832.
2. ibid.:Cameron to Goderich,16 Mar.1832.
3. see,Parl.Papers,1831/32,XXXII(274). The written reports are found in C.O.54/122. There are some differences in the printed and written reports. Where necessary,attention will be drawn to these in the footnotes. As differences are found in spellings too,it should be noted that citations made in the present study are from the printed version,unless otherwise stated. The reports together with the related documents are printed in G.C.Mendis(ed.),The Colebrooke-Cameron Papers(Oxford,1956),ii vols.
4. see,for e.g.,report upon the proposed coconut tax,encl.in C.O.54/121: Colebrooke to Goderich,25 Aug.1831. see also below,pp.251-252.
5. see above,p.35.

The commission of Eastern Enquiry proved to be the most expensive of the commissions of inquiry instituted in the first three decades of the nineteenth century[1]. It cost the imperial government about £8,000 per annum during its duration[2]. Initially, a sum of £5,500 was granted to the commission as outfit allowance, and each commissioner received a salary of £3,000 per annum, and their secretary £1,500 per annum[3]. Although commissioners of inquiry in England received only £1,200 per annum, this high salary was maintained even after Colebrooke and Cameron returned to England[4]. With such a high cost to be faced, it is no surprise that the economy-minded Lords of the Treasury attempted to impose a limitation on the expenditure of the commission. All expenditure, including contingent expenses, were subjected to closest scrutiny, and they even attempted to withhold payment of commissioners' salaries during the latter stages, in an endeavour to expedite the completion of the work of the commission[5].

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1. Parl. Papers, 1826/27, XX(301), pp.499-503.
2. The annual expenditure of the commission:

1823: £5,400.0.0.	1826: £14,367. 4.11.	1829: £9,184.13.5.
1824: 1,793.0.0.	1827: 9,896.17.3.	1830: 8,207.15.6.
1825: 13,684.1.10.	1828: 8,382. 8.2.	1831: 9,034. 2.11.

   These figures have been compiled from the following Parl. Papers: 1826/27, XX(301); 1829, XXI(212); 1830, XXIX(379); & 1831/32, XXVI(512).
3. C.O.54/139: Lusington to Wilmot, 22 Jan.1823 & Parl. Papers, 1830, XXIX(379), p.267.
4. ibid.: Stewart to Hay, 20 Jan.1832.
5. C.O.54/121: Colebrooke to Hay, 20 Jan.1832. On the refusal of the Secretary of State to sanction this step, it was abandoned, C.O.54/139: Stewart to Hay, 29 Feb.1832.

Chapter: 3.

THE RECOMMENDATIONS OF THE COMMISSION - I : POLITICAL AND ADMINISTRATIVE.

1. INTRODUCTION.

The major weakness of all previous studies on the Commission of Eastern Enquiry has been that they have narrowly limited their field to a consideration of its reports alone. Even in their own times the commissioners of inquiry were judged publicly only on their reports. This was perhaps understandable, for an important part of their work lay hidden from the public, but it was manifestly unfair to the commissioners themselves. As they continued to help the Colonial Department in its work relating to Ceylon[1], the opinions expressed as well as actions taken by them after they officially ceased functioning as commissioners of inquiry are as important as their reports. The explanations, required to overcome the objections brought forward by various officials and individuals, or to elucidate what was stated in the reports, are additional sources which indicate the ideas and views of the commissioners. These assume considerable significance in view of the fact that the commissioners themselves attached much importance to them : Cameron confessed, 'I have not always succeeded in my printed Reports in making my own meaning clear'[2]. A study limited to the reports would be unbalanced too, as they do not indicate

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1. see above, p.48. Colebrooke was consulted by the Colonial Department as late as 1840 on matters relating to Ceylon. see, K.M.de Silva, W.M.G. Colebrooke : Two Unpublished Memoranda, UCR, XXI, 1963, pp.153-185. see also below, pp.309-310.
2. C.O.54/145: Cameron to Hay, 7 Mar.1833.

the divergent opinions held by the commissioners. In certain instances their opinions merged,on compulsory services for example[1],but on a number of other subjects they expressed dissimiliar views. The submission of individual and separate reports did not preclude them from stating their opinions on matters covered in other reports,and they carried on a series of 'dialogues' on the subjects they differed,with the Colonial Department acting as the principal[2].

These dialogues were centred on certain distinctive subjects which came under their investigations,and rarely covered any general ground. In this respect they related to what was stated in specific reports,for the reports themselves were written under separate headings. The commissioners, however,well realized the interconnected nature of the reports as well as the dialogues. Any examination of the whole state of the colony could not have been conducted on mutually exclusive lines. Conscious of this, Colebrooke wrote in his Report upon the Revenues of Ceylon that 'the measures recommended in this Report have strict relation to others which have been proposed in my First Report,and they would require to be executed together'[3]. As C.C.Mendis has rightly pointed out,the proposals of the commission of inquiry were of a 'comprehensive nature.....and..... .....each set of recommendations was complementary to the others and formed an integral part of the whole'[4].

1.see above,p.48.

2.After the reports were written,Riddell,the ex-commissioner,wrote a memorandum arguing against certain proposals embodied in them. This related to the compulsory services,the cinnamon monopoly and the judicial administration of the Kandyan Provinces. see,C.O.54/118:Riddell to Horton,21 Mar.1832.

3. Report upon the Revenues:W.R.,p.158;P.R.,p.52. The first report he refers to is the Report upon the Admn. see above,pp.39-40.

4.Colebrooke-Cameron Papers,i,liv.

Each report submitted by the commissioners contained the recommendations of the commissioner who was responsible for its writing, together with a review of the conditions of the colony which led to the recommendations. Thus, we see in each report a résumé of the administration of the British up to the end of the commissioners' stay in Ceylon, and, as a contemporary observed, a mass of information collected together for the first time under British rule[1]. These, above all, indicate the way the commissioners judged the conditions prevailing in the colony, and the effects of British rule, and, of more importance, the way they grasped the problem facing them : that of formulating recommendations best suited to the future development of the colony and its peoples.

The publication of the reports on the orders of the House of Commons led to considerable discussion on the recommendations of the commission of inquiry. Certain newspapers and journals in England and in India[2], and the Colombo Journal in Ceylon, featured the reports in their columns. Considering the importance of the recommendations for the colony, it is not surprising that more attention was paid to the reports in Ceylon than either in India or England. Interest on the reports was seen in public as well as private circles[3]. The general feeling in Ceylon seemed to have been that the reports ought to be submitted to the judgement of the public[4]. Public discussion was mainly centred on the Colombo Journal, the only newspaper at this time in the colony. As this was a

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1. Colombo Journal, 2 Mar. 1833, letter to the editor by 'X'.
2. English journal were Asiatic Journal and Monthly Register, Morning Post, Times & United Kingdom: in India they were, Bengal Hurkaru, East India Magazine & Madras Gazette. Cameron's report was reprinted in pamphlet form in India, Report.....upon the Judicial Establishments and Procedure in Ceylon.....(Madras, 1833).
3. Colombo Journal, 10 Oct. 1832, letter to the editor by 'A'.
4. ibid., 13 Oct. 1832, letter to the editor by 'A.B.'.

government sponsored newspaper[1], it is important to consider to what extent it was willing to give publicity to those views which were in direct opposition to the points of view held by the colonial government. There is no doubt that it gave a hearing equally to those who were against the commission of inquiry as to those who were in favour, but the stand it took as a newspaper on the commission reflected the opinions of the colonial officials, in particular those of the Governor, Sir Robert Wilmot Horton. Although the journal editorially stated that it was not an organ of the government[2], and items critical of the administration published, it seemed to have been almost completely dominated by the Governor.[3] There is evidence to show that Horton, who wrote a series of letters to the editor of the journal under the pseudonyms 'Timon', 'Liber', and 'Pro Bono Publico'[4], was also the author of the several leading articles published in it critical of the commission[5]. As it was later observed, 'complaints were piteously uttered that the use of Government materials precluded the conductors of the paper from criticising the reports of the Commissioners.....in the manner they desired'[6]. So much was written 'systemati-

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1. It was established in 1832 by the Governor, Horton, with the hope of maintaining it until private enterprise would undertake the venture, W. Digby, Forty Years Of Official and Unofficial Life in an Oriental Crown Colony (Madras, 1879), i, 92. Digby worked as a journalist with the Observer, the successor to the Colombo Journal, for some time.
2. Colombo Journal, 18 Jan. 1832.
3. It was commonly asserted outside the colony that only the Governor's actions prevented the growth of independent newspapers. see, United Kingdom, 10 June 1832.
4. W. Digby, op. cit., i, 92 & C.O. 54/119: Horton to Howard, 20 July 1832.
5. see, C.O. 54/118: Horton to Goderich (private), 2 Oct. 1832, encl.
6. W. Digby, op. cit., i, 93. For evidence of such complaints see, Colombo Journal, 3 Oct. 1832: 'Can we employ the King's types to print', it asked, 'a leading article commenting upon the conduct and views of the Commissioners, when we know that the King's Ministers have adopted many of their suggestions, and that they may adopt more ?'

cally against the reports' in the only newspaper of the colony that there were even demands for an independent newspaper to discuss the work of the commission of inquiry in a proper manner[1].

Public discussion of the reports of the commission centred on a number of questions. To what extent the commissioners arrived in Ceylon with preconceived notions was a matter which was discussed at length. It was asserted that,

> 'the Commissioners,in the course of their enquiries, uniformly evinced the utmost prejudice,and appeared from their conduct to have come here for the purpose not of fair enquiry,but in order to make out a case against the Government'.
> [2]

A later writer,arguing further,expressed the opinion that changes had been resolved even before the Commission set foot in Ceylon,and that its labours were chiefly valuable in suggesting the mode in which they should be effected.

> 'It was a general opinion that the abolition of slavery in the West Indies would be attended with a falling off in the production of Coffee,Sugar and sundry other tropical supplies so indispensable to the comfort of the people of England and the support of revenue. It therefore appears highly probable that these considerations had much weight in Downing Street,and suggested the idea that,by means of free labour obtained from Hindostan,the twin islands,Mauritius and Ceylon,might supply every deficiency occassioned by the abolition of slavery and at the same time augment their resources'.
> [3]

Again,another writer gave the credit of these reforms to the Secretary of State,Lord Coderich,thus belittling the work of the commission[4]. Of these opinions expressed,the view that the commissioners conducted their

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1.Colombo Journal,7 Nov. 1832,letter to the editorby 'A.B.' & 22 Dec.1832, letter to the editor by 'Cimon'.
2.ibid.,29 Sept.1832,letter to the editor by 'An ex-Provincial Judge'.
3.J.Stewart,Notes on Ceylon and its Affairs(London,1862),p.12.
4.J.W.Bennett,Ceylon and its Capabilities(London,1843),p.41.

investigations with a preconceived aim of discrediting the colonial government,held strong sway among the contemporaries. Perhaps,the attacks made by the Colombo Journal with faint overtones of this accusation[1] may have strengthened the feelings of the public. There were,however,the defenders of the commission. Their views were summed up by a writer who,pointing out that Colebrooke began his military career in Ceylon,argued that the commissioner returned as 'an old friend..... with every disposition to view things in the most favourable light'[2].

The influences of several contemporary movements and personalities can certainly be traced in the work of the commissioners,but in none of the writings of either commissioner can one see any expressions of preconceived object of putting the colonial government on trial before the eyes of the officials at home. Colebrooke conveys the impression that, though he had past associations with Ceylon and know about its conditions from communications he received before his arrival,his recommendations were framed only after a review of conditions at first hand. He stated,

> 'the statements contained in my reports have been generally derived from the official records in Ceylon a[nd] in England,being the reports and correspondence of public officers - from the representations of the native inhabitants and the communications of other experienced and intelligent persons and also from my own observations'.[3]

The reports he wrote bear him out.

There was also a controversy as to whether the reports were based on evidence collected by the commissioners themselves. Apart from citing in his report the evidence collected by him,Colebrooke categorically declared that 'in these views I am supported by the opinions of some of

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1.Colombo Journal,10 Oct.1832.
2.ibid.,letter to the editor by 'A Judge of Facts'.
3.C.O.54/121:Colebrooke to May,23 May 1832.

the most intelligent and experienced members of the public service,and of other persons who have been long resident in the island'[1]. This 'proposition' of Colebrooke 'startled' many contemporaries[2]. A number of correspondents to the Colombo Journal emphatically stated that there was not a single recommendation which emanated from the evidence submitted by them to the commission of inquiry[3]. Such accusations were mostly made by correspondents who wrote under pseudonyms,and consequently it has not been possible to ascertain the truth of their statements. The only writer of importance in public life who wrote on these lines was H.A.Marshall,the Auditor and Accountant-General.In fairness to the commission it must be stated that the questions directed to Marshall in his evidence related only to his department,and the recommendations relavent to that branch of the administration occupied only a minor place in the reports of the commission.[4] It is difficult in any case to state precisely to what extent the commissioners based their recommendations on the evidence submitted,for unanimity in opinions expressed in evidence is found only rarely.

The Governor,Horton,too joined the foray,and made similiar accusations. Arguing that Colebrooke's assuarance that his recommendations received the backing of many individuals of standing in the colony would have 'produced no inconsiderable effect' on the judgement of the Secretary of State,who was to decide upon the reports,Horton proceeded to provide his own evidence 'in direct contradiction' to the assertations made by Colebrooke. In support,he submitted the opinions expressed by four senior

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1.Report upon the Admn.:W.R.,p.8;P.R.,p.4.
2.Colombo Journal,3 Oct.1832.
3.see,for e.g.,ibid.,20 Oct.1832,letter to the editor by 'J.J.' & 8 Dec. 1832,letter to the editor by H.A.Marshall.
4.For the evidence of Marshall see,C.O.416/7-D8 & C.O.416/25.

civil servants,H.A.Marshall,Forbes,the Collector of Colombo,Gisborne,the Collector of Customs at Colombo,and Leyard,the Postmaster-General. In addition,the views of Ackland,a partner of one of the leading mercantile firms in Colombo,Ackland and Boyd,and of the Reverend Gogerly of the Wesleyan mission were communicated to represent the un-official body of the colony[1]. Colebrooke in his reply to Horton stated that even if he was made more fully aware of the opinions of those mentioned by the Governor at the time of his inquiry,'I do not think they would have weighed with me against the objections applying to the system which I proposed to supersede'[2].

Such controversies indicate a very important pattern of the public opinion in Ceylon about the commission of inquiry. Effectivaly,it was limited to the readers of the Colombo Journal; Europeans and those inhabitants of the colony who had acquired a knowledge of the English language constituted this group. There was no organ or a platform for the rest of the people to voice their opinions,even if they were inclined to do so. The submission of petitions, their major form of representation,was by now tightly regulated[3]. To some degree they had participated in the investigations conducted by the commission of inquiry[4],but the interest did not seem to have been

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1.C.O.54/118:Horton to Goderich(private),13 Oct.1832.
2.C.O.54/121:Colebrooke's memo.on Horton's despatch of 13 Oct.1832,25 Feb. 1833.
3.From January 1832,petitions sent to the Governor were subjected to a rigid procedure. see,Government Notice dated 26 Jan.1832 in Colombo Journal,28 Jan.1832. Similiarly,representations to the Secretary of State were formalised in December 1832. see,Government Advertisement dated 31 December 1832 in ibid.,5 Jan.1833. It may also be noted that there is no evidence of either commissioner receiving petitions after they concluded their investigations.
4.see above,p.46.

sustained. Above all,this was due to the fact that the reports of the commission did not become available to them; no attempt was made to translate them into Sinhalese and Tamil,the languages of the great majority of the people. Of the two commissioners,more attention was paid to Cameron. In the columns of the Colombo Journal,greater space was devoted to his report than to any report of Colebrooke. Interest in the judicial branch of the inquiry was not limited to the readers of the journal,for of the petitions addressed to the commissioners at the time of their investigations, more referred to the judicature than to any other branch of the administration. These facts certainly bear out Cameron's belief that the highest benefit any European government could confer upon its Asiatic subjects was an effective judiciary[1]. Although Colebrooke attracted less attention, of the two he was the more criticised. This was perhaps understandable,for the recommendations embodied in his reports affected more fundamentally those in power and influence than the recommendations of Cameron. Much of the hostility of the officials in the colony to Colebrooke,emerged from this. This aspect of the reaction to the commission of inquiry was best exemplified in the attitudes of the Governors of Ceylon,Sir Edward Barnes and Wilmot Horton. In this respect,it could be argued that Colebrooke failed to establish a proper rapport with the officialdom. An explanation for this may be found in a despatch of Horton.

> 'The continued state of jealousy and misunderstanding with the chief authorities in which the commissioners lived in the island,made them,I fear,disposed to construe any sort of cordial understanding as a proof of unworthy compliance'.
>
> [2]

The accusation made by a contemporary that 'few persons will be found who had the pleasure of being acquainted with either of the Commissioners'[3],

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1.Report upon the Judiciary:W.R.,p.84;P.R.,p.65.
2.C.O.54/118:Horton to Goderich,1 Oct.1832.
3.Colombo Journal,10 Oct.1832,letter to the editor by 'A Judge of Facts'.

possessed an element of truth.

II.CENTRAL SUPERSTRUCTURE.

By the time the commission of inquiry arrived in Ceylon,the validity of gradual changes had been realized by administrators[1], Even during the early days of British rule it was declared that,of the two possible ways of changing 'the Habits and Prejudices of a nation',changes made 'gradually,by mildness and by a clear demonstration of the superior advantages they will derive from the proposed alteration' was preferable to changes made 'violently,by the compulsive effects of a superior force'[2]. The recommendations of Colebrooke relating to the government and administration of Ceylon,give the impression of a complete departure from this. But,a closer examination of his measures with the conditions of the colony in mind,show that they were not as radical or revolutionary as they are claimed to be[3]. A more realistic view would be that of accepting the recommendations as reflecting the changes needed at that time. However,Colebrooke did not completely adhere to the belief that reforms should only be those desired by the people. He stated that the institutions to which people were attached should not be superceded[4],but nevertheless felt that 'there is a difference between protecting a[nd]

1.see above,p.18.

2.B.M.,Wellesley Mss.,13864:minute by de Meuron. He made this observation after upheavals resulted from the changes made by the Madras administration. see above,p.18.

3.The thesis that the reforms were radical has been mainly advanced by G.C. Mendis. Colebrooke and Cameron,he argues,were 'impelled by a desire to change radically the conditions of the Island',Colebrooke-Cameron Papers, i,xxxv. In his critique of Mendis,K.M.de Silva contests this view,but falls into greater danger by assuming that the reforms were the 'commonplaces of Utilitarianism',The Colebrooke-Cameron Reforms,CJHSS,II,1959, p.247.

4.C.O.54/185:Colebrooke's recommendations on justice,24 Dec.1832.

compelling conformity'[1]. Thus,we see in Colebrooke,on the one hand,an attempt to recommend changes reflecting the desires and needs of the people, and,on the other,a genuine reformist spirit.

After reviewing the administration of the colony he stated 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'[2]. This unfavourable spirit and tendency was well described to Colebrooke by a contemporary.

> '.....the great mistakes which have been made.... .....to force the cultivation or production of articles already produced in other countries far beyond the demand.....,the madness of the public works whether roads,canals,tunnels or bridges,constructed in a scale suited to a densly populated country,.....the policy of looking to the distant,and of neglecting the home a[nd] near markets,the cruelty of impeding the cultivation of coconut under the impression that it is productive of idleness - and the folly and injustice combined in the cinnamon monopoly.....are best a part of its illjudged and unhappy circumstances which have tended to keep back the prosperity of an Island which I have no doubt may made one of the most valuable of the colonies of this kingdom'.[3]

Colebrooke agreed that 'some beneficial measures have from time to time been adopted',but the declared aims of the administration from the time it was made a crown colony,that of fostering the welfare of the people and the development of the resources,to him,seemed to have been neglected. In view of this Colebrooke declared that,'the administration of the Government must henceforth be provided for on a different principle'[4]. This assumed more significant overtones because of the importance attached to the colony

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1.C.O.416/22-H3:marginal comment by Colebrooke on Brownrigg to Barnes, 27 Jan.1820.
2.Report upon the Admn.:W.R.,pp.154-156;P.R.,p.21.
3.C.O.54/121:Capt.J.J.Chapman to Colebrooke,n.d.,encl.in Colebrooke to Hay Hay(private),4 June 1832.
4.C.O.54/145:Colebrooke's observations,17 July 1834.

by the commission of inquiry. 'The peculiar circumstances of Ceylon,both physical and moral',Wrote Cameron,'seems to point to the British Government as the fittest spot in our Eastern dominions in which to plant the germ of European civilization,whence we may not unreasonably hope that it will hereafter spread over the whole of these vast territories'[1]. Cameron was certainly bent on achieving this end[2],but Colebrooke found the scheme lessfeasible owing to 'the peculiar institutions of the colony, differing as they do from those of any other colonial possession of the Crown'[3]. To Colebrooke,Ceylon in relation to the colonial empire was valuable only because an analysis of its administration would be helpful in understanding the problems facing Indian administrators[4].

The administration in Ceylon was centred on the Governor,who held supreme legislative and executive,and a share of judicial powers. These powers were exercised by him from the time the colony was placed under the Crown by Dundas in 1802[5]. The rights granted by Dundas were in no way diminished during the course of time. Indeed,they increased with the capture of the independent kingdom in the interior in 1815. In the region that came to be known as the Kandyan Provinces,the Governor assumed complete legislative and executive authority,and in addition all control over the judicature. Checks and balances were imposed on the Governor in the form of a council and a partially independent judicature,but

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1.Report upon the Judiciary:W.R.,p.261;P.R.,p.85.
2.see below,p.133.
3.Report upon the Admn.:W.R.,p.1;P.R.p.3.
4.ibid.:W.R.,pp.9-11;P.R.,p.4.
5.C.O.55/61:Dundas to North,13 Mar.1801. These instructions were based on what were accepted as the model for conquered colonies,the instructions to the Governors of Santo Domingo and Martinique,1794. see,V.T.Harlow, The Foundation of the Second British Empire(London,1964),pp.779-780. The instructions to the other Governors of Ceylonwere based on those issued to North. Important changes took place only in 1831. see below,p.307.

Colebrooke found that

> 'no regular control has been exercised over the acts and proceedings of the Governor,nor has his recognised responsibility for the measures adopted by him on his own judgement 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 any measures of public improvement have originated. Without his cooperation no beneficial changes could be effected,and the inhabitants have been accustomed to regard his authority as absolute'. [1]

The Governor was able to act in an absolute manner mainly because no legal limit was imposed on his powers. He was placed beyond the jurisdiction of the courts of law by the Charter of Justice of 1801,and several Governors took advantage of this position to assume extra-judicial powers. This tendency was best seen during the time of the commission of inquiry in the controversy over the enactment of the Regulation of Government no.1 of 1824.

This regulation 'for removing all doubts respecting the rights of the Governor of the Island to arrest and detain any person or persons' was issued ex post facto by the acting Lieutenant-Governor,Sir James Campbell,on 10 January 1824 to invalidate the power of the Supreme Court to issue writs of habeus corpus[2]. The right of habeus corpus was not conferred upon the Supreme Court by any of the charters of justice issued to Ceylon,but it had exercised this power from the begining on mere usage. The passing of this regulation made the court completely powerless, and the commission of inquiry found that this regulation taken in conjunction with the fourth clause of the Regulation of Government no.12 of 1806, enabled the Governor to add hard labour to imprisonment,thereby

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1.Report upon the Admn.:W.R.,pp.155-156;P.R.,p.21.
2.Parl.Papers,1825,XXIV(513),pp.448-468.

constituting a 'threat to the personal liberty' of the inhabitants of the colony[1]. That in general there was a tendency among most Governors to gather powers into their hands,is seen by the course followed by Campbell's successor,Edward Barnes. Though orders were sent to the Governor to repeal the Regulation no.1 of 1824[2],Barnes continued it in the face of Supreme Court's opposition. Between 1825 and 1829,46 individuals were banished from the island without due recourse to a court of law[3].

At the Cape of Good Hope,the commission of inquiry considered the power of banishment entrusted to the Governor 'most important and formidable',and decided to recommend a limitation of it by closely defining its exercise[4]. In Ceylon,as the Governor had assumed more authority than the powers held by the Governor of the Cape,the commissioners found it all the more necessary to limit it. An immediate repeal of the fourth clause of the Regulation no.12 of 1806 and the whole of the Regulation no.1 of 1824 was advised,and to protect the liberty of the people,they recommended that the powers exercised by the Court of King's Bench in England be granted to the Supreme Court of Ceylon. They did not completely do away with the powers of the Governor in this respect,for to ensure the maintenance of peace and order in the colony sufficient emergency powers were retained[5]. Because of the reluctance of the Governor to relinquish the powers[6],at the suggestion of the commissioners

1.C.O.54/121:Colebrooke & Cameron to Murray,30 Apr.1830,encl.
2.Parl.Papers,1825,XXIV(513),p.468.
3.C.O.416/23-H27.
4.Parl.Papers,1826/27,XXI(282),pp.217-218.
5.C.O.54/121:Colebrooke & Cameron to Murray,30 Apr.1830.
6.When orders were received from the Secretary of State to alter the tone of the regulation,Barnes delayed their promulgation by pointing out technical mistakes in it,Hansard,n.s.,XXV,p.27. On his own,he later drafted 'a Regulation for the protection of the liberties of His Majesty's subjects in this Island by defining the authority of the Supreme Court of Judicature.....',C.O.54/121:Colebrooke & Cameron to Murray, 30 Apr.1830,encl.

an Order-in-Council was issued guaranteeing the subjects of the King in Ceylon 'the same protection against illegal arrests and imprisonment' enjoyed by his subjects in England[1]. This enactment referred only to the Regulation no.1 of 1824,and on the insistence of the commissioners,the fourth clause of the Regulation no.12 of 1806 was disallowed[2].

From the controversy over the Regulation no.1 of 1824,the commissioners clearly realized that relations between the Governor and the judiciary were strained. With the example of what occurred in Bombay in mind, they desired to prevent an open clash[3]. From the beginning of British rule in Ceylon,indeed in many other British colonies during the early decades of the nineteenth century,due to imperfect demarcation and definition of their respective powers,and from the competition that developed between them for power and status,recurrent clashes occasioned between the Governor and the members of the Supreme Court of Ceylon[4]. It was more than a clash of personalities. It has been interpreted as a conflict between two opposing forces: the pull in the direction of more liberal forms and institutions on the part of the Supreme Court on the one hand, and on the other,Governor's leanings towards authoritarianism[5]. This view cannot be accepted completely,as the Supreme Court itself can be accused of attempting to assume authoritarian powers. From the time of Alexander Johnston,it attempted not only to regulate its own practices and processes,but also to gain control over administrative departments

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1.C.O.55/72:Murray to Barnes,18 Nov.1830.
2.Regulation of Government no.3 of 1832.
3.At Bombay,in the late 1820's there were frequent ugly clashes between the Chief Justice and the Governor,which ultimately even led to a threat of a duel between the two. see,F.D.Drewitt,Bombay in the Days of George IV (New York,1907).
4.P.D.Kannangara,The History of the Ceylon Civil Service(Dehiwala,1966),pp. 12-13.
5.ibid.,p.16,17,19 & 22.

associated with the preservation of law and order,especially the police department[1]. These actions led to a Governor's charge that the Supreme Court 'assumed completely the character of political power'[2],and James Stephen,who was required to give decisions on these,found most actions of the judicature objectionable,for they covered the matters under the control of the Governor[3]. The Governors were certainly more blameworthy. Of them,Barnes is more important from the point of view of the present study,for his period of Governorship formed the background of the investigations of the commission of inquiry. He not only protested of the 'injudicious and illegal' manner in which the Supreme Court acted[4], but also took steps to 'preserve the attention of the natives to the Governor as the King's representative' by drafting an additional charter of justice for Ceylon[5]. His proposals in the nature of depriving the exclusive jurisdiction the Supreme Court possessed over Europeans,and the creation of the Governor and council as a 'General Court of Error' to act as a local appeal court from the Supreme Court,were clearly designed to completely subjugate the judicature to the executive. He also tried to exercise a control over the high court by limiting its powers to call for official papers of the government[6].

Such assumptions of extra-judicial powers by the Governor could be justified during the early days of British rule in Ceylon. As it has been argued,in colonies of strategic value like Ceylon,acquired and held under stress of war conditions,the policy of centralized authority,over-riding liberty,was applied[7]. By the time of the commissioners,such arguments

1.see,for e.g.,C.O.54/101:Barnes to Huskisson,24 July 1828.
2.C.O.54/66:Brownrigg to Bathurst,9 July 1817.
3.C.O.54/95:Stephen to Hay,3 June 1826.
4.C.O.54/89:Barnes to Bathurst,20 July 1825.
5.C.O.416/18.
6.C.O.54/79:Barnes to Bathurst,11 Mar.1821,encl.
7.see,V.T.Harlow,CMBE,II,p.136.

could not be held any longer in Ceylon. The recommendations they made clearly show that an internal or an external threat to British power was not a consideration in their minds. They did not hesitate to call for a reduction of troops in the colony[1]; the limitation of the Governor's discretionary powers,again illustrates this. The commission of inquiry certainly reflected a tendency towards liberalization - more particularly, a departure from the form of government with a strong executive established by Dundas.

The whole basis of the system of government itself was recommended for a drastic change by Colebrooke. Hitherto,separate and independent government establishments operated in the two regions the colony was divided into,the Maritime and the Kandyan Provinces,and the role the Governor,the supreme authority,played in each was distinct. Colebrooke found that due to this arrangement,the colony was divided into a greater number of districts than was required,and the bounderies of these units imperfectly regulated without due reference to the conveniences of the people and to the transaction of public business. The lower regions of the interior,he argued,had nearer and more natural connections with those of the coast,but due to political considerations,they were attached to the Kandyan Provinces. The maintenance of distinct administrative systems was impolitic,'in the check it has opposed to that assimilation which it is on every account desirable to promote between the various classes of whom the population is composed'. Moreover,there was a need to establish an administration with a broader base to check the influences of the Kandyan chiefs in the interior,who were still being viewed with suspicion even though their power was considerably removed after the Rebellion of 1818.

1.Report upon the Estabs.,p.432.

On these grounds,Colebrooke proposed to incorporate the Kandyan Provinces to the Maritime Provinces,and the division of the whole colony into five provinces,instead of the existing sixteen,with a Government Agent to head the administration of each[1]. The administration itself was to be placed under the Governor and council,thereby circumscribing the powers held by the Governor. He could no longer act on his own accord legislatively in the Kandyan Provinces,and all laws were to be promulgated as 'Ordinances of the Governor and Council'[2].

Colebrooke observed that the advisory council established under Dundas' instructions 'for the sake of more solemnity,and as affording means perhaps of giving more satisfaction in the Country'[3],was not an effectual check on the Governor. Convoked by the Governor,among its duties were the passing of legislative acts,consideration of all estimates and public expenditure above the value of £75.0.0.,and other matters of importance communicated by the Governor[4]. In legislation making,the members of the council participated depending upon their relationship with the Governor. Though not general,as no such inherent right was granted to them,instances have been recorded where the suggestions of the councillors were embodied in regulations placed before them[5]. Colebrooke did not find any instance where the Governor was opposed by a majority of the council. The nature of the discussions of the council,however,could not be observed,as only dissenting opinions were recorded in its

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1. Report upon the Admn.:W.R.,pp.159-161;P.R.,p.22 & Report upon the Estabs., pp.415-416. The principal stations were to be established at Colombo, Galle,Jaffna,Trincomalee,& at Kandy. see map in,p.347.
2. ibid.:W.R.,pp.161-162;P.R.,p.22.
3. C.O.55/61:Dundas to North,13 Mar.1801. similiar councils were established in Trinidad,Mauritius,St.Lucia & Sierra Leone.
4. C.O.416/18-D41:evidence of Eden,Secretary to the Council.
5. see,C.O.54/82:Paget to Bathurst,29 Mar.1822.

minutes[1]; only in such instances were the minutes sent to the Secretary of State. Although there were two Crown appointed members who could function independent of the Governor's goodwill, the two ex-officio members, the Commander of the Forces and the Chief Justice, the other members were appointed at the discretion of the Governor, resulting in the majority being subservient to the Governor. In executive matters, the reference to the council thus constituted was infrequent, and in legislation, the Governor was all powerful. The distinction between executive and legislative business, not intended in the instructions of Dundas, itself shows how the Governor manipulated the functions of the council to suit his own requirements. Consequently, the council 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'[2].

Colebrooke's proposals relating to the council were definitive, and were designed to reduce the powers of the Governor. Instead of being an advisory council, it was to be termed an Executive Council, with certain defined powers. All its members, the Secretary to the Government, the Treasurer, the Auditor-General, the Surveyor-General, the Collector of Customs at Colombo, and the Government Agent for Colombo, were to be ex-officio[3]. Thus, unlike the earlier council, the Governor had no discretionary powers

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1. Colebrooke noted that the majority of dissenting opinions were recorded by the Chief Justice.
2. P.D.Kannangara, op.cit., p.10.
3. Report upon the Admn.: W.R., p.165; P.R., p.22. In 1802, North nominated the Chief Justice, the Commander of the Forces, and the Chief Secretary to his council, 'the undisputed and indisputable Pre-eminence of these Three Great officers' making the choice inevitable, C.O.54/6: North to Hobart, 12 Mar.1802. When this selection is compared with that of Colebrooke, the changes the administration underwent in the intervening years can be well observed.

in the selection of members. The elimination of the Chief Justice from the council indicates an attempt to maintain the judiciary as a distinct branch of the administration,and threrby to prevent a recurrence of the clashes between him and the Governor,with the council as the battleground. With Sir Hardinge Giffard,a former Chief Justice,Colebrooke seemed to have believed that a 'political connection' between the Chief Justice and the government would lead only to a 'want of harmony'[1]. At the Cape of Good Hope, the commission of inquiry recommended the removal of the Chief Justice from its council too,but,as it desired the inclusion of a member with a professional knowledge of law-making,it proposed the inclusion of the Attorney General[2]. In Ceylon,Colebrooke envisaged purely an executive role for the Executive Council,and therefore did not find it necessary to take a similiar step. The council was to assist the Governor in all matters of revenue and disbursement. The Governor and council were to authorize all recurrent expenditure upto £500,and any new expenditure below£300; expenditure exceeding these amounts needed the prior approval of the Secretary of State. The council was given powers to call for information when required to conduct its business,and the opinions of its members were to be recorded. Unlike the earlier council,the minutes of the council were to be sent to the Secretary of State at every instance,thereby establishing an additional form of control[3]. From its composition as well as its duties,Colebrooke clearly intended the council to be a kind of finance committee[4].

1.C.O.416/14-F23:Giffard's observations,11 Apr.1829.
2.Parl.Papers,1826/27,XXI(282),pp.219-220.
3.Report upon the Estabs.,pp.425-426 & Report upon the Admn.:W.R.,pp.165-166;P.R.,p.22.
4.This was the contemporary interpretation too. see below,p.297.

In the course of his investigations,Colebrooke found out that measures were proposed and adopted by the government without due consultation with the public. When representations relating to legislation were made by the public,they were taken into consideration only according to the personal disposition of the Governor. They had no opportunity of objecting to the passing of legislative enactments injurious to their interests,and,consequently,when unpopular measures were enforced upon them, they answered in the only possible way open to them,by open resistence.[1] Undoubtedly,Colebrooke had in mind the resistence offered by the population of the Maritime Provinces against the changes made by the Madras administration in the early years of the British rule. Colebrooke believed that,

> '[on] questions of general importance,the people are entitled to expect that their interests and wishes may be attended to,and their rights protected; and although the ignorance and prejudice which still prevail generally throughout the country 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 of the effects of the legislative changes that may be proposed'.[2]

These views formed the basis for his proposal to establish a legislative council for the colony. The heads of departments at Colombo,the Attorny-General,and the Government Agent of Colombo,were to be the official members of this council,and 'provision [should be] at once made for the admission of any respectable inhabitants,European or native,whom His Majesty might hereafter be pleased to appoint'[3].

1.Report upon the Admn.:W.R.p.4 & 156-157;P.R.,p.3 & 21.
2.ibid.:W.R.,p.176;P.R.,p.23. For a treatise on the relationship between law-making and public opinion see,A.V.Dicey,Law and Public Opinion in England(London,1905).
3.ibid.:W.R.,pp.177-178;P.R.,p.24.

Much discussion has been seen on the motives of Colebrooke for recommending such a council. The writings of Colebrooke indicate that it was primarily mooted as a sounding board for fostering the administration. Although the Governor had decided to publish legislative enactments for general information one month before their formal adoption,Colebrooke did not share the belief of the Colombo Journal that it was an 'adequate security against prejudice or haste producing evil consequences in the course of legislation'[1]. Colebrooke never meant the council to be a representative body in the sense legislative councils were in the first empire,but to enable it to be a true sounding board he decided to include representatives of the people.

> 'Provision may be made by these arrangements',he wrote,'for the gradual amelioration of the colonial institutions,for that publicity in regard to the affairs of the island which will conciliate public confidence,and for such deliberation in regulating them as will protect the people from precipitate changes of the laws effecting their rights and interests'. [2]

In this sense,Colebrooke was a true product of the liberal outlook of his times. Contemporary thinking was directed towards the problem of giving representation to the voice of the people,both at home and in the colonies. In the wake of the movement for parliamentary reform in England,Joseph Hume brought forward a motion before the House of Commons to give representation to the colonies in the Parliament[3]. A great deal of attention was paid by pamphleteers to this question[4]. The prevailing tendency was best seen in the policy of the Colonial Deprtment. In the conquered colonies,

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1.Colombo Journal,29 Sept.1832.
2.Report upon the Admn.:W.R.,pp.184-185;P.R.,p.25.
3.Hansard,3rd s.,VI,pp.110-124. Ceylon,according to Hume,was to be represented by one member.
4,see,for e.g.,D.Chisholme,Observations on the Rights of the British Colonies to Representation in the Imperial Parliament(Three-Rivers,1832).

the advisory councils originally established after their conquest, gradually transformed into legislative organs under its guidance, rather than under the impact of internal forces[1].

At the time Colebrooke brought forward his proposal, there were no newspapers in the colony, the government supplying the deficiency, education was limited to about 12,000 of a population of 900,000, with only 800 being taught English, and apart from the government and military officials, Europeans numbered only a few, mainly those who functioned in the capacity of merchants[2]. However, this 'venture of faith'[3] can be justified by further analysing the conditions of the island. There were widespread initial signs of striking changes. Traces of nascent capitalism can be noted[4]. More importantly, awakening of public consciousness was seen, a phenomenon observed by many contemporaries.

> 'Many Europeans who cultivated an intercourse with the natives, are decidedly of opinion that the prejudices of caste are weakening, that a greater spirit of Inquiry is prevailing..... ....., that a greater interest is taken in the rising generation by securing the advantages of education'. 5

This spirit among the people was, perhaps, best seen in the communications addressed to the Colombo Journal by local citizens, among whom Simon Casie Chitty, later a member of the Legislative Council, was the most notable. In these, they subjected themselves to much self-criticism, and, a factor of much significance for the future political development of the colony, were not unwilling to criticise and pass judgements upon the colonial administration. The controversy which occurred between the Burghers and

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1. M. Wight, The Development of the Legislative Council (London, 1945), pp. 68-69.
2. W. J. F. Labrooy, The Development of the Legislative Council of Ceylon, CJ, III, 1956, p. 261 & J. P. Lewis, Ceylon in the Early British Times (2d ed, Colombo, 1916), p. 2.
3. ibid., p. 260.
4. see below, pp. 234-235, 243 & 254-255.
5. Colombo Journal, 23 June 1832, letter to the editor by 'No Theorist'.

other communities over the rights of each to obtain government employment[1], perhaps,was the first major political controversy which exemplified the public consciousness of the people of the colony. Such factors indicated an environment conducive to the success of Colebrooke's recommendation, but he can be accused of ignoring the fact that conditions were not the same in every part of the colony. The Colombo Journal noting that certain traditional customs and ideas have changed with the influence of British rule,also pointed out that these effects were seen only in the vicinity of large towns,the interior still being unchanged[2]. There was still a feeling that 'the natives of this island are cautious,prudent, wary race.....;averse to changes and novelties of all kinds, they are not apt to indulge in speculative predilections for either men or measures'[3]. Such views formed the basis for the argument of some contemporaries that Colebrooke's proposal was 'utopian'[4].

It should not be forgotten that Colebrooke had motives other than of utilising the council as a sounding board for legislation. There is no doubt that he visualised it as a check on the Governor. The need for a strong executive felt by Dundas in 1802,was no longer an important factor, and his role in legislative matters was considerably removed. His sole power of originating legislation was to be abolished. All measures whether submitted by the Governor or by other members,were to be subjected to 'deliberate investigation',and as the Governor was required to report of

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1. see,ibid.,18 Apr.1832.'Burgher' was a term used by the Dutch to distinguish the ordinary residents from the Company's servants;under the British,all Dutch residents who remained after the conquest were called Burghers. After they lost their initial antipathy,they gave their allegiance to the British, and joined the lower ranks of the government service,which soon became a tradition.
2. ibid.,30 May 1832.
3. ibid.,2 Jan.1833,letter to the editor by 'No Quack'.
4. ibid.,27 Oct.1832,letter to the editor by 'A.B.'. see also,J.Stewart,op.cit, p.16,18 & 19.

bills rejected by him,if the Colonial Department so desired,they too could be promulgated as the laws of the island. As at the Cape of Good Hope, all bills passed by the council were to be submitted to the Supreme Court, to be determined whether they were not repugnant to the laws of England and local provisions. And,more importantly,the Governor was to be removed from the deliberations of the legislature.[1] Like the Secretary of State,Colebrooke would have expected the Legislative Council to act as[2] a check upon public expenditure - with the means of bringingthe expenditure within the revenue in mind,such a consideration may have been important. Hitherto the only way the Secretary of State could obtain information about the colony was through the Governor,and henceforth this organ was to provide him 'with an alternative source of authentic information and a means of ascertaining local opinions on the nature of the Colony's problems,and the value of the Governor's projected remedies'[3]. From this point of view,the most important of Colebrooke's provisions were those which required the members of the council to make out an oath not to disclose the opinions of each other,the right granted to each councillor to propose measures,and the power of the council to call for public papers and to take evidence[4]. Colebrooke's main strength lay in his realization of the future potential of the organ he proposed for the colony.

> 'Such a council is not proposed as an institution calculated in itself to provide effectually for the legislation at a more advanced stage of its progress. It will tend,however, to remove some of the obstacles which have retarded the

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1. Report upon the Admn.:W.R.,pp.176-182;P.R.,pp.23-24.
2. see,Coderich to Grant,Governor of Trinidad,27 May 1831, in V.T.Harlow & F.Madden,British Colonial Developments(Oxford,1953),p.99.
3. W.J.F.Labrooy,CEJ,III,1956,p.247.
4. Report upon the Admn.:W.R.,pp.178-182;P.R.,p.24.

> improvement of a settlement possessed of great natural resources,and it would eventually constitute an essential part of any colonial legislature for which the island may be prepared at a future period. In the meantime the efficiency of the legislative council may be improved from time to time by the appointment of respectable and influential inhabitants of the island,who would give weight to its decisions,and support and stability to the government'.
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> [1]

Thus,it was hoped that the legislative council would develop on its own as a distinct branch of the administration.

How the representatives to the council were to be selected was not considered in the recommendations. It is clear from Colebrooke's writings that he intended to create a special class,an élite perhaps,in Ceylon to foster the government and administration. The conditions of the coloy were such that a truly representative selection of the members of the council would have been in any case difficult. An analysis would show that 'any respectable inhabitant,European or native',could not be a true representative of the majority of the people. As Douglas,the Agent of Government at Badulla,pointed out to the commission of inquiry[2], conditions,habits,customs,and tendencies among the people differed from area to area. The ties between the people and the local chiefs were weakening from the changes in the society[3] as well as from the deliberate policy adopted by the colonial government[4] ; they could no longer be considered as the representatives of the people. Even if close ties existed between the people and the chiefs,it would not have been consistent with the British policy to have given them a greater importance by selecting them as the representatives of the people.

1.ibid.:W.R.,pp.185-187;P.R.,pp.24-25.
2.C.O.416/2-A8:Douglas to commissioners,13 Jan.1830.
3.Colombo Journal,30 May 1832.
4.see,C.R.de Silva,op.cit.,i,183-184. also below,p.113.

Colebrooke himself realized this fact,and stated that 'from habit and prejudice as well as from interest,the headmen uphold the distinctions of caste,and counteract the attempts of the subordinate castes to improve their conditions'[1]. He well recognised the importance of weakening further the dependence of the people upon the chiefs,and,perhaps,in view of that desired the founding of a special class. From a close examination of all his recommendations,it can be fairly concluded that this intention was a theme running through all his proposals. The new class was to be based on a new social strata,instead of the traditional, 'without reference to caste or to qualifications than respectability and fitness',and he seemed to have hoped that this class would'constitute a more permanent bond of connexion with Great Britain than any which has hitherto subsisted in that remote dependency of the empire'[2]. With the weakening of an authoritarian executive,such a bond would have been all the more necessary - in effect,'collaborators'[3] were to be found. Thus, unlike the earlier Dutch rulers,who sought to base their power on the higher rungs of the society,[4] Colebrooke's recommendations reflected an intention of creating an entirely new class from the traditional ethos to form the basis of future British power in Ceylon.

Apart from establishing counterbalancing organs of government,Colebrooke made direct assaults on the Governor's powers to reduce his authoritarian stature. The administration was to be placed more under the control of the imperial government by stipulating that,'the ordinary transactions of the government should be conducted,as far as possible,through established

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1. Report upon the Admn.:W.R.,p.148;P.R.,p.20.
2. ibid.:W.R.,p.236 & 258;P.R.,p.31 & 33.
3. For this concept see,J.Gallagher,R.Robinson & A.Denny,Africa and the Victorians(London,1961).
4. S.Arasaratnam,The Administrative Organisation of the Dutch East India in Ceylon,CJHSS,VIII,1965,p.7.

and responsible departments,acting under instructions from,and subject to the control of the executive departments in England'. The advantages of this arrangement,according to Colebrooke,was well seen in the military department,where such a scheme was already in operation,and he believed that an extension of it to other branches of the administration would be attended with corresponding results[1]. The Commissariat Department was to be placed under the direct orders of the Lords of the Treasury, the Collector and Comptroller of Customs be subject to the regulations and control of the Board of Customs in London,and,following a recommendation made at the Cape of Good Hope[2],heads of all general departments were to be appointed from England,and were not removable by the Governor,except for misconduct. Hitherto,under the system established by Dundas,the Governor of Ceylon possessed more independence from imperial control than the Governors of other colonies. For example,it was usual for the Treasury Lords to appoint in the first instance the officials of revenue departments in the colonies abroad,but,Dundas deviated from this general rule[3],and,consequently,only in Ceylon did the Treasury,the Customs Commissioners,and the Post Office,not possess separate establishments of their own[4]. Colebrooke's proposals meant a complete reversal of this.

The construction of the judiciary as a distinct branch of the administration too was a step in the direction of reducing the powers of the Governor.Cameron,Colebrooke's fellow commissioner,found that 'the relation.... .....subsisting between the local judges and the executive government is incompatible with a proper degree of judicial independence'[5],and took

1.Report upon the Estab.,pp.426-427 & Report upon the Admn.:W.R.,pp.163-164; p.22.
2.see,Parl.Papers,1826/27,XXI(282),p.241.
3.C.O.55/61:Dundas to North,13 Mar.1801.
4.H.T.Manning,op.cit.,p.511.
5.Report upon the Judiciary:W.R.,p.17;P.R.,p.57.

steps to ensure the establishment of an independent judicature[1]. With the abolition of the several monopolies maintained by the colonial government, the Governor's control over the economic field was to be considerably reduced[2]. Rājakāriya was to be ended, thereby removing another source of the Governor's power[3].

The commission of inquiry went further, and severely curtailed the ceremonious aspects of the Governor's position. The Governor as well as the higher government officials had government-paid retainers, who attended them 'as a mark of honorary distinction in reference to their official position'[4]. Both Colebrooke and Cameron considered this body of retainers an unnecessary expenditure for the government, and recommended its abolition. They also suggested that the establishment of Ceylon Light Dragons, a corps formed of the Governor's personal attendents, should be reduced[5].

Any outsider with more powers than the head of a local government attempting to limit the powers of that head could expect to face difficulties. As in New South Wales, where the commissioner of inquiry J.T. Bigge's wide powers brought him into conflict with the Governor, Lachlan Macquarie[6], in Ceylon, the Commissioners of Eastern Enquiry had to face difficulties from a Governor who believed that it was not the intention of the imperial government to make the King's representative in the colony

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1. see below, pp. 139-140.
2. see below, pp. 253-254.
3. see below, p. 229. Thus, the interconnected nature of the reports of the commission of inquiry can be well observed.
4. C.G.G., 6 Oct. 1832.
5. C.O. 54/121: Colebrooke & Cameron to Howick, 7 July 1831 & Report upon the Estabs., p. 432.
6. V.T. Harlow & F. Madden, op. cit., p. 384.

subordinate to His Majesty's commissioners of inquiry[1]. Edward Barnes, the Governor, disliked the very idea of a commission of inquiry, and was convinced that the people of the colony were incapable of comprehending the nature of the inquiry proposed, and believed that the effects of a commission would be 'staggering' upon the people, and detrimental to his plans for the improvement of the island[2]. The commission's investigations into his conduct as the Governor - particularly, the inquiries into the charges made by Bennett against Barnes, and into Barnes' management of the Assessment Fund[3] - did not promote harmony between the Governor and the commission. Barnes initially wrote that 'I will have great satisfaction in giving every aid in my power for promoting and facilitating the objects of His Majesty's Government'[4], but the way he acted after the commission arrived in Ceylon did not conform to this undertaking. His lack of cooperation in facilitating the conduct of the investigations of the commission of inquiry, as observed earlier, led to several complaints from the commissioners to the Secretary of State[5]. Following the procedure adopted at the Cape of Good Hope, where the commissioners deemed it their duty to communicate their views and the conclusions of the investigations to the Governor and the Lieutenant-Governor[6], in Ceylon both Colebrooke and Cameron submitted their opinions

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1. C.O.54/112: Barnes to commissioners, 10 Sept. 1830.
2. C.O.54/89: Barnes to Bathurst, 2 Oct. 1825.
3. Bennett's charges, the commission concluded, were baseless. see above, p.49&4. But, the investigations into the Assessment Fund led to the accusation that Barnes utilised his position as the Governor to draw funds from the fund for his personal use. see, C.O.54/121: Cameron to Goderich, 8 July 1832.
4. C.O.416/25: Barnes to Colebrooke, 24 Apr. 1829.
5. see above, p.34.
6. C.O.54/112: Colebrooke to Barnes, 12 Jan. 1831. At Mauritius, this procedure could not be followed as the Governor, Sir Lawry Cole, left the colony before the commission itself left.

to Barnes to enable him to put forward his point of view. Barnes, who considered his duty as limited to helping the commission in its investigations, stated that submitting his opinions was beyond his proper duties[1]; although he subsequently communicated his views, his statements revealed an undertone of sarcasm, and his actions certainly betrayed a distrust and an animosity towards the commissioners of inquiry. To their credit, it must be stated, they adopted a very patient attitude towards the Governor.

These initial disagreements themselves were clear indications of the potential opposition to the proposals of the commission. The criticisms of the Governor and his officials are of more importance than those of the non-official community, for they possessed better channels to communicate their views to the authorities at home. The reactions of the non-official body are worthy of study too, but sources indicating their views, particularly those reflecting the attitudes of the local inhabitants, are rare, and consequently, it is difficult to reconstruct their reactions in a complete manner.

When considering the fact that for centuries there were distinct units of administration, the Sinhalese or Tamil areas, or the Maritime and the Kandyan regions, in the government of Ceylon, the opposition to the attempt at unifying the island under one system of government for the first time since the fifteenth century[2], was surprisingly mild. As to be expected, the Kandyan chiefs reacted against the proposal, for it meant a move contrary to the traditional system so close to their hearts[3]. It

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1. ibid.: Barnes to commissioners, 10 Sept, 1830.
2. The island was last under one system of government during the reign of King Parākramabāhu (1412-1467).
3. see, Memorial to His Majesty, May 1834 in The Trial of the Kandyan State Prisoners.....(Colombo, n.d.), pp. 100-105.

should be noted, however, that they were not against every step of the commission which could be interpreted as contrary to tradition. Colebrooke, for example, found that at Kandy, where the people still held strongly to their prejudices, no objection was brought forward by the chiefs to the adoption of a code of laws applicable to both the Kandyan and the Maritime Provinces[1]. Significantly, there is no evidence of the other prominent group in the interior, the Buddhist monks, objecting to the incorporation of the Kandyan Provinces to the littoral. Certain contemporaries, however, viewed this change as a breach of faith, as they believed that the British 'gave the chiefs every reason to expect that their institutions and customs would not be altered, or their power abated'[2]. Although an injunction was made by Dundas early in the British rule that the government should preserve 'inviolate to the Natives of the Island their local habits, their antient tenures, distinctions and religious observances'[3], it was never properly carried out by the colonial government[4]. On the other hand, the Convention of 1815, by which a settlement was made in the Kandyan Provinces after their conquest, was not meant to be binding either upon the imperial or colonial government[5] - indeed, changes were made soon after the convention[6]. Therefore, the contention that Colebrooke's proposal was contrary to the British policy cannot be applied. Colebrooke

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1. see, Report upon the Admn.: W.R., p.173; P.R., p.23.
2. H. Marshall, Ceylon (London, 1844), pp. 223-224.
3. C.O. 55/61: Dundas to North, 13 Mar. 1801.
4. G.C. Mendis in Colebrooke-Cameron Papers, i, xxiii-xxiv.
5. see particualrly, I. Jennings, Notes on the Constitutional Law of Colonial Ceylon, JRASCB, I, 1950, pp. 51-72.
6. The Convention itself was ratified by the Crown only subject to an amendment, which was proclaimed by the Governor on 31 May 1816. Major changes were introduced after the Rebellion of 1818 by the Proclamation of 21 Nov. 1818.

has been accused by later-day critics of imposing a superficial unity in the island by this proposal,and thereby ignoring the different developments in the Tamil regions,the Sinhalese littoral,and the interior[1]. At the Cape,the commission of inquiry found it necessary to recommend, on political and economic grounds,the separation of the colony into two divisions,Eastern and Western[2]. Such a policy,it could be argued, would have been followed in Ceylon too,if Colebrooke realized that there was a need to foster the threefold development of the colony[3]. He was much more aware,in consistent with accepted British policy,of the need to break down further the barriers that had developed among the different areas.

The validity of the establishment of an Executive Council was doubted by many contemporaries. The existing system requiring a discussion in the council of disbursements over £75.0.0. was,to most observers,an adequate control over the Governor's actions[4]. On the other hand,it was argued that the power of the members of the council to enter minutes of protests in its proceedings was a sufficient guarantee for the good government of the colony,for the minutes could be examined by the officials at home at will[5]. Mere enlargement of powers of members constituting a council of government,it was felt,would not remove the Governor's influence over them,and enable them to act independently.

> 'A governor destitute of that high sense of honour which would prevent his performing an act degrading to his own character,could easily obtain a great private control

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1. see,K.M.de Silva,CJHSS,II,1959,p.255.
2. Parl.Papers,1826/27,XXI(282),pp.212-213.
3. In this respect,it should be emphasised that Colebrooke was well aware of the differences between the Tamil and the Sinhalese communities,as well as the differences between the Kandyans and the Sinhalese of the low country. see,RAI,MS/20:Colebrooke to Watson,22 Mar.1813.
4. C.O.54/118:Gisborne to Horton,11 Oct.1832. also,Colombo Journal,8 Dec.1832, letter to the editor by H.A.Marshall.
5. Colombo Journal,11 Jan.1832.

> over the Members of the Council than he could over the gentlemen who constitute the present Council'. [1]

There is no doubt that the proposal for a Legislative Council overshadowed all other proposals in the interest it created among the contemporaries. The favourable response of the local inhabitants [2], well indicates that they were not unaware of the advantages that could be derived from the proposed alteration of the system of government. There was some support from official quarters, but even those who welcomed the idea of a legislature, were opposed to some measures suggested by Colebrooke[3]. Others totally opposed the idea, and considered the proposal impractical, and based on a distrust of the Governor. The attitude of this group was best exemplified in the Reverend D.J.Gogerly.

> 'The proposal relative to a legislative council mixed up of Civilians, Military, Europeans and Natives is so extraordinary that I am astonished to find it seriously brought forward. The Military Members I suppose must be freed from the Control of the Commander in Chief, else in the midst of their deliberations they might be ordered to march to another part of the island. It does not appear what advantages can possibly result to the public from this measure, for the members are to be sworn to secrecy. In all modern arrangements for legislation, publicity is regarded as of the first importance, and the Council has in several places been required to debate with open doors, but here is to be secret : in fact the legislature of the island is to be entrusted to a Cabal ; and it will be of no importance to the interests of the island whether the Governor be a man of enlightened and a liberal mind or a bigot and a fool as he will neither possess the power to do good or ill'. [4]

Such writings not only show a basic difference in the attitude of Colebrooke

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1. C.O.54/118: Gogerly to Horton, 3 Oct. 1832.
2. see, C.O.54/150: address of natives, 1836.
3. see, for e.g., letter to the editor by H.A.Marshall, Colombo Journal, 8 Dec. 1832. He did not object to the creation of the council, but argued against the removal of the Governor from its deliberations. As the Governor was responsible for the welfare of the people, he stated, the Governor should be included in the council.
4. C.O.54/118: Gogerly to Horton, 3 Oct. 1832.

and those opposed to him,towards the form of government,but also a lack of understanding of Colebrooke's proposals. Every recommendation that emanted from him seemed to have been viewed with suspicion,only as a move to make the Governor a puppet,possessed of a name but destitute of authority[1].

Considering the initial reaction of Barnes to the commission of inquiry, a strenuous opposition to the creation of a legislative council from him was to be expected. As G.C.Mendis points out,he was 'a conservative by temperament,if not by training and experience',and the problems of the time were considered by him 'each singly from the point of view of a ruler concerned with immediate issues of day-to-day administration'[2]. Such an attitude precluded him from accepting the proposal of a legislative council in good faith as a step in the direction of a better government of the colony. He was most reluctant to renounce his powers,and,as such a council would result in a loss of his authority,he totally opposed it. He rejected the view that there should be popular participation in the conduct of the administration. He singled out for his condemnation the suggestion that the local inhabitants should be included in the legislative council:

> 'A popular Government or one wherein the people have a share appears to me quite out of the question. Whatever Utopian ideas Theorists may cherish of universal fraternity without regard to Colour,Religion or Civilization,or whatever notions Levellers may wish to see adopted I am decidedly of opinion that this people cannotnor ought to have under existing circumstances any greater share in the Government than they have at present. I am not one of those persons who think that black and white people can ever be amalgated in the situations of society,so as to do away with those distinctions which at present exist all over the world'.
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> [3]

1.ibid.
2.Colebrooke-Cameron Papers,i,xlviii.
3.C.O.54/112:Barnes to commissioners,10 Sept.1830.

An unequivocal statement indeed ! As for Europeans,he pointed out that they were small in number,and were without any permanent interests in the colony. Therefore,the council would have to be composed only of officials. But,he argued further,discussion and dissension amongst officials and between them and the Governor,would bring about want of harmony and union,and would result in the Governor and the government being held in contempt by the public. 'A maxim of Government',Barnes concluded,' is that the Executive authority should never be engaged in personal discussion'.[1]

It is difficult to assess to what extent such criticisms carried weight with the authorities concerned with formulating a policy for Ceylon. If not the views of the non-officials and the officials,if we are to accept the pronouncements made by officials of the Colonial Department,at least the opinions expressed by the Governor should have been subjected to a close consideration. James Stephen wrote to his colleague Horace Twiss with reference to the formulation of policy towards British Guiana,

> 'much surely should be left on a question.....to the decision and management of your agents on the spot. Though not perhaps men of very large capacity, their proximity to the scene of action is an advatage which.....would more than compensate for every other incompetency. Had I the understanding of Jeremy Bentham himself,I should distrust my own judgement as to what is really practicable in such remote and anomalous societies'.[2]

An attempt will be made at a later stage of this work to assess to what extent 'the decision and management of .....agents on the spot' was effective in the decision-making on the reports of the Commission of Eastern Enquiry by officials at home[3].

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1. ibid.
2. Stephen to Twiss,25 Aug.1830 in V.T.Harlow & F.Madden,op.cit.,p.105.
3. see below,pp.261-263 & 294-295.

III.CIVIL ESTABLISHMENT.

Underlying all the recommendations of Colebrooke was the consideration of economy, the need to make reductions in expenditure with a view of removing the annual deficit of the colony. The annual deficit, a perennial feature in the finances of the colony since the inception of British rule, was the primary factor in the extension of the Commission of Eastern Enquiry to Ceylon in 1822[1]. Until the year 1829 the deficit remained[2], and although an increase of revenue over expenditure resulted in 1829 with the rise in the price of cinnamon and from the returns of a successful pearl fishery[3], the need to reduce expenditure was still felt. At the same time, the cry against colonial expenditure was relentlessly being pursued by the radicals in England. The vehement demands made for the reduction of colonial expenditure after the Napoleonic wars[4] were temporarily abated in the early years of the 1820's with the reforms of William Huskisson, but the economic crisis of 1825 and the increased expenditure that resulted from George Canning's pursuit of a vigerous foreign policy, led to a renewed cry for economy[5]. These developments in England, and the task originally assigned to him, were not overlooked by Colebrooke. Indeed, he has been accused of 'cheeseparing' without due consideration for the needs of the colony[6]. His much abused work of economising and retrenchment merits reconsideration.

The civil establishment of the colony was put on an organised footing only with the reorganisation of the system of government following Dundas'

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1. see above, pp. 13-16.
2. For detailed figures of revenue & expenditure see, C.O.416/7-D1 to D6.
3. C.O.54/119: Treasury minute, 18 Sept, 1832.
4. see above, pp. 7-8.
5. see, P. Burroughs, Parliamentary Radicals and the Reduction of Imperial Expenditure in British North America, Historical Journal, XI, 1968, p. 447ff.
6. see particularly, S.M. Hardy, Wilmot-Horton's Government of Ceylon, UBHJ, VII, 1960, pp. 180-199.

directions, By 1803 the reorganisation received official approval[1], and, apart from the major modifications made necessary by the acquisition of the Kandyan kingdom in 1815, this structure prevailed throughout with only minor modifications made from time to time, until the recommendations of the commission of inquiry were implemented. Although the importance of maintaining the expenditure within the revenue was repeatedly stressed by imperial officials, and efforts were made to reduce expenditure, from the beginning 'the establishment of Ceylon continued to be on a more elaborate and expensive scale than that of any other colony'[2]. As the Colonial Department once observed, 'the number of persons employed in the several Departments of the Government, whose Salaries, though small in abstract, Swell the Establishment to an extent unprecedented in any of the other colonial possessions of the Crown'[3]. Unlike the Portuguese or the Dutch, the earlier European rulers of the island, the British from the beginning tended towards establishing their own administrative apparatus, retaining the indigenous only when it was consistent with economy or good politics ; as official duties were gradually taken over by Europeans with original powers, the administrative machinery continuously grew, and became more and more expensive.

The attempts of the early Governors of the colony to reduce expenditure in the administration was mainly directed towards retrenchment. By the time of Barnes, the subject of retrenchment had 'undergone such frequent and constant consideration that he could not hold out hopes of much future saving from this source ; what should be looked to as a means of permanent benefit is a considerable improvement in the Revenues of the country and further diminution of Expenditure'[4]. However, Barnes too attempted to reduce

1. For the establishment constituted see, C.R.de Silva, op.cit., i, 235-237.
2. H.T.Manning, op.cit., p.449.
3. C.O.54/89: draft despatch to the Governor, n.d.,
4. C.O.54/88: Barnes to Bathurst, 17 Jan.1825.

expenditure in the manner adopted by his predecessors. He abolished the office of Deputy Secretary to the Maritime Provinces,combined offices of Commissioner of Stamps and Comptroller of Customs,amalgamated Colombo and Kalutara,and Matara and Tangalle to form single Collectorships,and proposed to leave the vacancies occurring in certain lower offices unfilled[1]. It should be noted that,at the same time he found it necessary to create new offices too[2]. Though Barnes later viewed these changes as sufficient to make radical changes by the commission of inquiry unnecessary[3],at that time the Colonial Audit Office came to the conclusion that,'on the whole a proportionate decrease in the Civil Branch is not to any material advantage and.....the various alterations made by Sir.E.Barnes are unimportant in their nature'[4]. Thus,essentially the task of finding a solution to the problem of balancing the colonial budget,still remained. The task was assigned to the Commission of Eastern Enquiry.

> 'One of the chief objects which Commissioners have been appointed to proceed to Ceylon is for the purpose of ascertaining what Reductions or Retrenchments can be effected a[nd] how far the existing Establishments may be maintained in a state of equal efficiency under any reduction of present expenditure'.[5]

Colebrooke considered the solution to this problem from two angles : the collection of an adequate revenue with greater economy,and introducing considerable reductions in the existing government establishment[6] - the immediate emphasis was to be on the latter,for he realized that augmentation of revenue under the prevailing order was limited.

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1. ibid.& C.O.54/101:Barnes to Huskisson,5 Aug.1828.
2. In 1825,Barnes created a new office of Master of Equity,two assistenships in the Cinnamon Department,& an assistant Chaplin's post at Kandy,ibid.
3. G.C.Mendis in Colebrooke-Cameron Papers,i,xlvii.
4. A.O.8-vol.84.
5. C.O.54/89:draft despatch to the Governor,n.d.
6. Report upon the Estabs.,p.415.

> 'After a careful consideration of the state of the colonial finances,and of the changes which are required for the relief of the island from the effects of a system which has checked the industry of the people and the prosperity of the settlement,I cannot hold out the present expectation of an increase of the general resources of the government,and with a view to the most indispensable and urgent reforms, my attention has been directed to the means of reducing the expence of the existing establishments'. [1]

In directing his attention to the 'most indispensable and urgent' task of curtailing the establishment,the major difficulty faced by Colebrooke was 'to guard against any reduction which might essentially impair their efficiency'[2]. At the same time,he had to take into consideration the fact that much of the deficiency was due to expenditure on public services[3]; it was clear that any curtailment of such services would not be acceptable to the officials at home. Colebrooke felt that he could avoid these problems,and effect reductions in expenditure by carefully making retrenchments and lowering the salaries of most officials.

The changes proposed by Colebrooke in the civil establishment,clearly shows the interconnected nature of the reports of the commission of inquiry. With the implementation of recommendations respecting other spheres, reduction and curtailment of considerable number of offices became possible. The number of heads of administrative units,for example,were to be reduced with the incorporation of the Kandyan Provinces to the Maritime Provinces,[4] and this in effect meant a curtailment of the principal posts in the civil establishment. The chief authority in each province was to be vested in these heads - to be called,Government Agents - but,the changes proposed in the other reports - 'a simplification of the system of Revenue,the abolition of compulsory services,and the appointment of a responsible

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1.Report upon the Revenues:W.R.,pp.156-157;P.R.,p.52.
2.C.O.54/121:Colebrooke to Hay,10 May 1832.
3.Parl.Papers,1830,XXI(212),p.173.
4.see below,p.67.

Department for the direction of all public works' - would diminish their duties, and consequently a reduction in their salaries would be made possible.[1] With the abolition of the cinnamon monopoly, much of the duties of the Cinnamon Department were lost, and those remaining were to be handed over to the Government Agents and the Collectors of Customs, thereby effecting a saving of £15,014.0.0. per annum, the annual expenditure of the department[2]. With the existing Commissariat Department coming under the Lords of the Treasury, it was hoped to make reductions in that department too. Commissariat duties were henceforth to be conducted as a branch of the general commissariat, and as provisions could be obtained at a cheaper rate in Ceylon, Colebrooke proposed that troops in Ceylon should be supplied locally. Colonial and civil stores applicable to public works were to be placed under the charge of the Civil Engineer[3]. The posts of Commissioner and Paymaster General were to be abolished, and their duties entrusted to the Auditor General and Vice Treasurer respectively; the saving from this source was estimated at £7,291.0.0.[4]. Colebrooke found that the duties of the Chief Secretary had entirely devolved upon his deputy, and recommended that duties of the Secretary's office be performed by the Principal of Schools' Department, and the functions of the clerk to the council, performed by the Deputy Secretary, be handed over to an assistant secretary, thereby effecting a further saving of £2,852.0.0. per annum[5].

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1. Report upon the Estabs., p.417 & 419.
2. ibid., p.416 & 431.
3. ibid., p.416 & 427-428.
4. ibid., p.416 & 430.
5. ibid., p.421 & 430.

Apart from retrenchments, Colebrooke also proposed to reduce expenditure by putting certain establishments on a more efficient footing. Public works were henceforth to be executed more efficiently by a new department under the Civil Engineer and Surveyor General. The existing establishment of the Colonial Engineer and the Surveyor General together with the Pioneers and Artificers employed under the Royal Engineer and the Deputy Quarter Master-General,were to be brought under this department. As it was proposed that the government should execute general public works by contract,the number of Pioneers and Artificers were to be reduced,and employed exclusively in repairs of public works and buildings,and in opening and repairs of roads[1]. Considering the unregulated manner in which public works were executed under compulsory services,without any accurate account of either labour or material employed in each project,Colebrooke thought it very necessary that 'strictest control' should be exercised over all public works,whether undertaken by the Civil Engineer's Department or by private contractors[2]. Colebrooke anticipated a saving of £6,469.0.0. per annum from this source. Considering the importance attached to the future economic development of the colony,it is not surprising that of all the government departments he devoted most attention to the Civil Engineer's Department.

Colebrooke proposed to reduce considerably the number of lower offices,generally held by local chiefs,by not filling the vacancies occurring in them. Titular and honorary appointment,however,were not to be prejudiced[3]. These honorary titles were highly prized,and it is

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1. ibid.,p.416 & 422.
2. ibid.,pp.422-425.
3. ibid.,p.419 & 431 & Report upon the Admn.:W.R.,p.235;P.R.,p.30.

conceivable that while attempting to diminish the influences of the chiefs,he consciously strove not to antagonize them completely by abolishing these positions too,for "they supplied 'a very cheap means' of sustaining British influence"[1]. The reduction in the number of lower posts did not affect the prospects of those local inhabitants who wished to join the government service,for Colebrooke proposed to open avenues for them to be recruited to the civil service.

> 'As the union of the Maritime and the Kandyan Provinces will lead to an assimilation of the various classes of Functionaries now employed in them,the distinctions at present recognised between Europeans of the Civil Service, and other Officers employed in the Civil duties of the island ought to be abolished,and those subsisting among the Native functionaries should be gradually superseded'.[2]

The annual fixed and contingent charges of the civil establishment of the colony until the arrival of the commission of inquiry had been an average of £341,572.0.0. per annum. With the implementation of these proposals,Colebrooke anticipated its reduction to £227,532.0.0.[3] The significance of this figure is revealed only when the annual deficit of the colony is taken into consideration. Despite the excess revenue in the years between 1829 and 1833,by 1834 the nett excess expenditure over nett revenue during the period 1821 to 1833 was £263,737.0.0.[4] Apart from other considerations,a reduction in the expenditure of the government became inevitable with the changes proposed by Colebrooke himself,in the revenue system of the island - abolition of taxes and a number of monopolies maintained by the government reduced the revenue, and a parallel reduction in the expenditure became essential.

1.C.R.de Silva,_op.cit._,i,272.
2._Report upon the Estabs._,p.419.
3._ibid._,p.436.
4.see,_The Ceylon Almanac for 1835_(Colombo,1835),p.54.

Although some new posts were created to replace the ones abolished, Colebrooke's proposals resulted in a decrease of the principal posts in the civil establishment of the colony. These posts,numbering twenty five[1],were exclusively held by civil servants[2]. Thus,any reduction in the civil establishment,in effect meant some form of curtailment of the civil service. Such a step,in fact had become necessary by the policy followed by the officials at home. Utilising the powers of patronage granted to them,the Secretaries of State followed a policy of indiscriminately appointing Writers,the raw recruits to the civil service,without due consideration to the number of vacancies that existed in the service. This resulted in considerable difficulties for the Governors of the colony. Horton,for example,reported in 1832 that three Writers were without employment,two others held only temporary positions in place of civil servants on leave,and he recommended that further additions of Writers should not be made[3]. Such factors clearly indicated that collaterally with the retrenchments in the civil establishment,there was a need to review the whole structure of the civil service itself.

IV.CIVIL SERVICE.

Though the civil establishment of the colony was placed on an organised footing by 1803,the structure and the regulations governing the civil service remained on an unsystematic basis until the Governor,Sir Thomas Maitland,completed his reorganisation of it in 1808. His scheme of

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1.For a list of these positions see, Report upon the Admn.:W.R.,p.229;P.R., p.29.
2.ibid. As Barnes stated,'all offices of trust are exclusively engrossed by the gentlemen of the civil service who are appointed by the Secretary of State',C.O.54/110:Barnes to commissioners,14 Feb.1830.
3.C.O.54/117:Horton to Goderich,16 Jan.1832.

classification and scale of salaries,and the regulations he drew up for the conduct of the administrators,remained without substantial changes until the recommendations of the commission of inquiry were implemented[1]. By the time the commission arrived in Ceylon,a re-examination of the civil service in its entirety had become necessary,and it was specifically directed to this subject in its instructions. Again,the primary consideration was economy - despite the perennial deficit,the salary structure of the civil service had remained unchanged. The exclusive nature of the service - the limitation of entry to Europeans based upon the notion that a maintenance of the superiority of Europeans over the local inhabitants was necessary - and the recruitment system - nomination from England - had not provided the efficiency or the competency that was required from it[2]. Horton found in 1831 that of the thirty six civil servants,eleven were 'decidedly incompetent',nine 'just within the pale of competency',fourteen 'decidedly competent',and two whose 'merits and demerits are yet not known'[3]. Despite the zealous efforts of the civil servants to safeguard their rights and privileges, a factor which had led to the continuance of the civil service without drastic change through the years,by the end of the 1820's a situation had arisen where reforms could no longer be put off. With reforms contemplated in the administration with a new spirit,a re-examination of the civil service in the same spirit by Colebrooke became inevitable. It became all the more necessary with the proposed changes in the financial system of the colony; the basis upon which the civil service operated was to be overhauled,and the civil service itself had to undergo changes accordingly.

1.J.R.Toussaint,The Annals of the Ceylon Civil Service(Colombo,1935),p.6.
2.P.D.Kannangara,op.cit.,p.189.
3.C.O.54/114:Horton to Goderich,22 Nov.1831.

Though initially fixed 'on a supposedly moderate basis consistent with the resources of the Island'[1],civil servants received high salaries, and they were maintained intact without due consideration to the financial position of the colony,on the grounds that high salaries were necessary to attract capable men from England. There is no doubt that this salary structure was the highest in the colonial empire[2],and,as Joseph Hume,the crusader for economy,pointed out in the House of Commons,the Ceylon civil servants were even better paid than their counterparts at home[3]. The colonial officials,however,not only consistently refused to share such views,but also considered the existing structure as inadequate. As early as 1806,Maitland expressed the opinion that civil servants were underpaid, and recommended substantial increases[4],and Thomas Eden,on behalf of his colleagues in the civil service,argued on similiar lines in his evidence before the commission of inquiry[5]. Colebrooke,who was greatly moved by the need to economize,did not accept these arguments,and recommended a considerable reduction of the salaries of the civil servants. Not only the civil servants,but also other administrators in the colony were subjected to the same directive of Colebrooke. The judicial officers of the high court,and the members of the colonial church establishment too were henceforth to function on lower salaries[6]. Even the Governor came under Colebrooke's call for economy. The reductions made in his salary,perhaps best reflected Colebrocke's attempts to effect savings in expenditure by

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1.C.R.de Silva,op.cit.,i,236-237.
2.see above,p.87.
3.see,Hansard,2nd s.,XXIV,1830,pp.1166-1170.
4.see,Maitland to Castlereagh,28 Feb. 1806 in V.T.Harlow & F.Madden,op.cit., p.143.
5.C.O.416/8-D41.
6.see,app.C for the new salary structure proposed by Colebrooke. see below, pp.332-336.

reforming the salary structure of the administrators. The Governor's pay and allowances were to be reduced from £10,000 per annum to £7,000, but with the appointment of the new Governor,Horton,in mind,Colebrooke recommended that the suggested reductions should be made only with the appointment of Horton's successor.[1] Later,when the anticipated saving in expenditure was not forthcoming,he went to the extent of suggesting that a further reduction of £2000 from the Governor's salary should be made[2].

The reform of the salary structure clearly indicated that Colebrooke did not consider retrenchments as adequate to effect the necessary reductions in the expenditure of the colony. Unlike the earlier sporadic attempts at economising,which did not touch the basic structure of the civil service,Colebrooke's recommendations covered every aspect of the service, and were of a very comprehensive nature. The importance of such a wide outlook in reforms was seen in the reductions of the salaries themselves. The diminuition of the duties of some officials,for example,enabled Colebrooke to propose that they be held at lower salaries[3],and the changes in the recruitment system of the civil service removed the need to maintain a high remuneration to attract men from England . Hitherto, though economy in expenditure was repeatedly urged by the Colonial Department,the salaries of the civil servants did not come within the periodical reviews of the civil and military expenditure made by the Governors. 'In recommending.....a review of the civil establishments',wrote Bathurst to Paget in 1821,'it is not my object to suggest to you any general reduction of the salaries enjoyed by the Civil Servants of the Colony'[4]. Thus,the earlier attempts at economising

1.C.O.54/121:Colebrooke to Hay,6 June 1832.
2.C.O.54/145:Colebrooke to Lefevre,17 July 1834.
3.Report upon the Estabs.,p.419. see also above,pp.89-90.
4.C.O.55/66:Bathurst to Paget,21 Aug.1821.

did not affect the salary structure,and every conceivable attempt was made in other directions to reduce expenditure in the civil establishment. Once these avenues were exhausted or no longer possible without drastically cutting down public services or the efficiency of the administration,further savings were feasible only by way of reductions in salaries. A consideration of Colebrooke's reform of the salary structure in isolation,without the preceding facts in mind,would lead to a conclusion of 'cheeseparing' by Colebrooke. Such a conclusion ignores the essential task of Colebrooke,that of curtailing expenditure,as well as the limited ways and means open to him to effect this. Such a conclusion also ignores the collateral recommendation of Colebrooke,by which he hoped to provide for the loss of the remuneration of the civil servants by permitting them to engage in commercial activities.

'The attempt to provide for the public service exclusively by means of a stipendiary Establishment',Colebrooke argued,'unavoidably involves the employment of a body of European functionaries who expect a high remuneration'[1]. The burden on the financial system of the colony, he felt,could be considerably reduced if the remunerations of the public servants were to be derived,in addition to their salaries,from private enterprise. The manner in which he chose to introduce this,was to revive in a modified manner the traditional Kandyan system where the officials were remunerated with grants of land as perquists of office. Unlike the traditional system,land grants were not to supersede or to be in lieu of the salaries paid as reward for service,but were only to be means of supplementing the fixed cash remuneration of the officials. In addition,he proposed to facilitate

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1.C.O.54/145:Colebrooke's observations,17 July 1834.

the purchase of land by civil servants. For this,he recommended that a part of the purchase money on land should be refunded to them in proportion to their years of government service,and according to the offices held by them. Further,

> 'the salaries attached to all Offices,whether held by Europeans or by Natives should be fixed,and the amount of the tax due upon any lands held by the person appointed to them might be remitted as an equivalent for such Salaries when of the same amount or deducted from them when less'. [1]

This scheme,apart from enabling the government to reduce its stipendiary establishment,would also,Colebrooke hoped,make the civil servants less dependent upon the government as retired annuitants[2]. With the abolition of the pension fund of the civil servants in mind,such a consideration would have been of considerable importance to Colebrooke. It is perhaps this reason that prompted him to recommend the extension of the privileges in land holding - the remission of purchase money and the exemption from taxes or rents - to the retired civil servants too[3]. It should also be noted that this scheme was closely connected with his plans for improving the colony materially by encouraging agriculture,and by promoting European colonization. He believed that the civil servants possessed the capital and intelligence,and the drive to improve their conditions,and desired their energy to be directed towards the improvement of agriculture. How these ideas merged werewell seen in some of his writings.

> 'If encouragement is held out to European Colonization, a equivalent will be afforded to these persons who will completely discharge their functions on reduced salaries - and in course of time the consequence atta-

1.Report upon the Estabs.,p.423 & 436.
2.C.O.54/145:Colebrooke to Lefevre,17 July 1831.
3.Report upon the Estabs.,p.436.

> ching to their employment in the civil duties of the country will be sufficient encouragement to qualified persons settled on it to engage in them. A gradual reduction of the stipendiary establishments must be effected simultaneously with encouragement to an opulent a[nd] intelligent class of settlers, European a[nd] Asiatic'.[1]

This proposal of Colebrooke meant a departure from the declared policy of the British rule in Ceylon. Although the Dutch government had followed a policy of remunerating its officials by land grants known as accommodessen, and the Kandyan kings had bestowed lands known as nindagam as perquists of office upon their subjects[2], when the British inherited both systems they attempted to institute instead a scheme whereby officials received fixed salaries in cash. In addition, officials were prohibited from engaging in commercial pursuits. As Dundas wrote, the Ceylon civil servants were 'not to go out with the ideas of pecuniary prospects such as too often instilled into the minds of those who at an early period of life are sent out to pursue their fortunes in India'[3]. However, permission for the civil servants to concern themselves in economic activities was tacitly given soon after[4], and by the 1820's important officials, led by the Governor Barnes, were engaged in commercial activities, especially in coffee production[5]. The removal in 1810 of the regulation of Dundas which forbade Europeans from acquiring land except within the district of Colombo, enabled these civil servants as well as others to establish plantations in the interior. However, the number of civil servants

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1. C.O.54/145: Colebrooke to Lefevre, 17 July 1834.
2. For the Kandyan system see, R. Pieris, Sinhalese Social Organisation (Colombo, 1956), p.60 & 115-116 ; for the Dutch, E. Reimers (trans.), Memoir of J. Schreuder (Colombo, 1946), pp.50-52.
3. C.O.55/61; Dundas to North, 13 Mar. 1801.
4. By 1806 it was discovered that nearly all the civil servants were engaged in trade in some form or another. see, C.O.54/22: Maitland to Cook, 10 Mar. 1806.
5. see below, p.201.

active in such plantation agriculture was relatively small, and even at the height of economic activity among them,such pursuits were not considered as a part of their official remuneration; they were purely private enterprise. Colebrooke's proposal was a marked change from the policy followed by the Commission of Eastern Enquiry at the Cape of Good Hope too. The civil servants at the Cape were not granted exemptions from the colony's taxes on account of land holding,and certain officials were even 'prohibited from possessing or cultivating farms on their own accord'[1]. Unlike in Ceylon,encouragement of European settlement or improvement of agriculture by providing incentives to civil servants was not necessary at the Cape,for it was free from the type of restrictions imposed in Ceylon.

The civil service,as observed earlier,was to be thrown open to the admittance of the local citizens,and consequently the exclusive principle under which recruitment was closely limited to appointees from home,was to be abolished[2]. Colebrooke believed that the maintenance of two distinct classes of public servants,the Europeans and others,'had an injurious effect upon the people,and has retarded the improvement of the country'[3], thoughts which were perhaps very representative of the times he lived. During this period of time,officials concerned with the management of colonies were looking more towards the participation of the colonial peoples in the administrative machinery of the respective colonies[4]. At the Cape of Good Hope,for example,the commission of inquiry recommended that local born youth should not be debarred from holding office[5],and in

1.Parl.Papers,1826/27(281),p.248 & 279.
2.Report upon the Admn.:W.R.,pp.227-228;P.R.,p.29.
3.C.O.54/112:Colebrooke to Barnes,12 Jan.1831.
4.J.S.Furnivall,Colonial Theory and Practice(Cambridge,1948),p.283.
5.Parl.Papers,1826/27,XXI(281),p.215.

India,on the renewal of the charter of the East India Company,it was laid down that no Indian should be disallowed from holding office 'by reason of his religion,place of birth,descent,colour,or any of them'[1]. These declarations were essentially negative in character. The directors of the East India Company interpreted the stipulation embodied in the 1833 Act of India as 'not to ascertain qualification,but to remove disqualification'. 'It does not',they emphatically stated,'break down or derange the scheme of our government as conducted principally through the instrumentality of our regular servants'[2]. Colebrooke,however,went further than these,for his recommendation specifically called for the recruitment of the local citizens to the civil service. In this,Colebrooke was perhaps moved by the demands made by the people of the colony. Turnour stated in his evidence before the commission of inquiry that there was 'a strong competition for offices amongst natives'[3],and the controversy between the Burghers and the other communities respecting the rights of each to hold government positions[4],shows that these demands were made in public too.

In appointing local inhabitants to government positions,Colebrooke recommended that caste should not be a criterion[5]. Clearly,this proposal was designed to encourage the people to give up their traditional customs and prejudices.

> 'The prospect of future advancement to situations now exclusively held by Europeans will constitute a most powerful inducement with the natives of high caste to relinquish many absurd prejudices,and to qualify them-

1.H.Dodwell,Imperial Legislation and the Superior Governments,CHBE,V,p.10.
2.ibid.
3.C.O.416/20-G11.
4.see above,pp.72-73.
5.Report upon the Estabs.,p.417.

selves for general employment'.[1]

It was also directed towards the introduction of a more consistent policy of government. Hitherto, government policy on caste was dictated by expediency. Where it suited the requirements of the administration, the policy abided by the distinctions of caste. Thus, Chaliyās were destined to serve in the Cinnamon Department, without any possibility of relinquishing their positions as members of that particular caste[2]. Certain appointments at lower level were regulated to a great extent by custom and caste[3]. The result of such a policy was the use of state authority to maintain the traditional social structure. Thus, the judicature was given special powers to decide on caste issues in accordance to the traditionally accepted system. For example, the Judicial Commissioner at Kandy decided that a Vellala woman who married a Moor lost her caste, and thereby became incapable of inheriting the estate of her parents[4]. At the same time, where it was expedient, the government was not only less disposed to maintain social laws and customs, but also deliberately acted contrary to them. Colebrooke found that the government in making appointments favoured the Vellalas, numerically the largest caste group and by tradition the holders of more important official positions, and thereby possessors of great influence; but, where it was considered politic, individuals belonging to inferior castes were selected for office[5]. Thus, the implementation of Colebrooke's recommendation would have meant the dissociation of the government from the traditional society, in particular from its strong connec-

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1. Report upon the Admn.: W.R., p.236; P.R., p.30.
2. see below, p.244.
3. Report upon the Admn.: W.R., pp.145-146; P.R., p.20.
4. C.O.416/20-G23: Ekenegedera Dingiri Menika v. Udagedera late Korale Atchchi, 19 Dec. 1829.
5. Report upon the Admn.: W.R., p.148; P.R., p.20.

tions with the Vellalas,and the formation of a new group of government officials selected solely on efficiency and ability. As with the un-official members of the Legislative Council,it is arguable that Colebrooke hoped that this new group,would constitute the basis of a new bond of attachment between the British Government and the people. ' The employment of the natives in every department connected with the administration of the districts',wrote Colebrooke,' would enable them to acquire a degree of influence which,under liberal encouragement,might be exerted in support of the views of government for the improvement of the country'[1]. Colebrooke went further,and his writings even bore hints of a threat.

> 'The future appointment of Natives to the Service of Government should depend upon their having availed themselves of those opportunities of instruction which would be open to them; and upon their disposition to discountenance the prejudices of the people,and to cooperate with the Government in its views for the ultimate abolition of all unnecessary and invidious distinctions'.
> 2

It is interesting to speculate to what extent Cameron agreed with such views of Colebrooke. The Colombo Journal,in its analysis of the reports of the commission of inquiry,found a vital difference of opinion between Colebrooke and Cameron in their assessments of the chracter of the people of the colony. Colebrooke's writings,the journal argued,expressed a 'sanguine confidence' in the people,while Cameron's reflected a 'contemptuous distrust'[3]. Cameron's views,according to the journal,was well seen in the following extract from his report.

> 'My anxiety for the improvement of the natives of India does not render me blind to the marked distinctions which exist between them in their present moral condition and their European governors,and I think it highly important that such distinctions

1.ibid.:W.R.,pp.230-231;P.R.,p.30.
2.Report upon the Estabs.,p.420.
3.Colombo Journal,29 Sept.1832.

> should not be neglected in constructing institutions for our Eastern possessions. I would not,for example, trust a native with power over his countrymen in any case in which pecuniary considerations do not prevent the employment of an European. Their general contempt for the rights of inferiors,and the abominable spirit of caste,render them very unsafe depositories of such a trust'. [1]

Although Cameron adopted a realistic view when he stated that European institutions were not necessarily suitable for Asiatics,in devising a new judicature for Ceylon,he acted in a radically different manner[2]. His assessment of the character of the people of the colony was certainly more sceptical than that of Colebrooke,but despite his misgivings,it should be remembered,he went on to recommend that local citizens should be appointed to the 'ardous and responsible office of Judge of original jurisdiction'[3].

While relaxing the rules of recruitment,Colebrooke made the regulations governing the work of civil servants more stringent. For the principal offices in the new establishment proposed by him,Colebrooke recommended that the most intelligent and experienced officials ought in the first place be selected,but without any exclusive claim to such appointment. In place of the practice of selection on the basis of seniority,which prevailed despite Maitland's efforts,and which led to the neglect of merit as a criterion,Colebrooke suggested that promotions among the civil servants should be strictly according to qualifications. While all local citizens holding any government post were required to possess a competent knowledge of English,the Europeans who were selected to fill civil offices in the provinces were directed to obtain an adequate knowledge of the

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1.Report upon the Judiciary:W.R.,pp.59-60;P.R.,p.62.
2.see below,p.133.
3.C.O.54/145:Cameron to Goderich,10 Aug.1832.

languages of the people,Sinhalese or Tamil,as the case may be. Colebrooke also recommended that the civil servants should have a grasp of the general principles of law,and of the subjects of trade and finance[1]. Further, in order to provide full information about the colony to the Governor and council at all times,he proposed that the 1808 regulation of Maitland requiring the Collectors to go on regular circuits in their respective districts,be revived[2]. In addition to these requirements,Colebrooke stipulated that officials responsible to the government for the receipt and expenditure of public money,should deposit adequate security[3]. Barnes considered subscriptions to the pension fund as adequate for security[4],but Colebrooke could not accept this condition because he proposed to abolish the pension fund,and he was conscious of the need to prevent the considerable defalcation that occurred from time to time among the civil servants[5]. With this in mind,he also laid down rules that should govern the collection and disbursement of revenue. Noting that certain revenues were not brought within the public accounts of the colony,he recommended that the whole of the revenue collected from both local and government taxes, should be entered in the public accounts maintained by the Treasurer,and all disbursement should be made by that officer. The Auditor-General was to check and supervise all receipts and expenditure[6]. Thus, Colebrooke made an attempt to overhaul the machinery which was then

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1. Report upon the Admn.:W.R.,pp.236-237;P.R.,pp.30-31 & Report upon the Estabs.,pp.417-418.
2. ibid.:W.R.,p.180;P.R.,p.24.
3. C.O.54/121;Colebrooke to Goderich,3 June 1832,encl.
4. Ibid.:Colebrooke to Hay,15 June 1832.
5. Maitland,for e.g.,found that 'corruption and peculation had crept in everywhere',C.R.de Silva,op.cit.,i,245-246.
6. Report upon the Estabs.,pp.429-430.

functioning under rules devised by the Lords of the Treasury in 1816. Colebrooke,however,did not lay down precise and detailed norms for the guidence of the civil servants in the manner adopted in contemporary India - indeed,his proposals were even devoid of the preciseness and comprehensiveness that characterised Maitland's regulations of 1808.

Colebrooke made a radical change in the conditions governing the service of civil servants by proposing the abolition of the pension fund. This fund was established in 1803,and its capital was obtained by deductions of ten percent from the salaries of civil servants,with an equal contribution from the colonial government; officials were entitled to receive pensions after subscribing for a period of twelve years,and the amount payable depended upon the rate of the salary attached to the office held at the time of retirement. The regulations respecting the fund were revised from time to time to enable the civil servants to gain more advantages from the scheme,and the capital of the fund,originally, in the hands of appointed trustees,was handed over to the colonial treasury[1]. In Bertolacci's opinion,the fund 'afforded a comfortable retirement to a body of civilians'[2],but,as the Colonial Audit Office pointed out, 'the fund distinctly a[nd] separately considered did not produce Income by any means adequate to the charge'[3],and the government incurred considerable losses. Consequently,in the interest of economy Colebrooke recommended its abolition,after providing for the contributors[4]. As Bathurst,the Secretary of State,had earlier requested the commission of

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1.see,Parl.Papers,1821,XIV(622),pp.244-245.
2.C.O.416/7-D24.
3.C.O.54/106:Colonial Audit Office report,16 Apr.1829.
4.Report upon the Estabs.,pp.434-435.

inquiry to report upon the feasibility of establishing a pension fund on the lines of the Ceylon scheme in Mauritius[1], it is possible that this recommendation of Colebrooke was not anticipated by the officials at the Colonial Department. It may also be noted that while Colebrooke was proposing the abolition of the Ceylon pension fund, these officials at home were receiving the benefits of a new superannuation scheme[2].

Of these wide-ranging recommendations of Colebrooke, two proposals attracted the particular attention of his contemporaries in Ceylon. The proposal to recruit local inhabitants to the civil service, understandably was much debated. The proposal was greeted with much appreciation by the people of the colony[3], but a number of reservations were expressed. Even those who were in favour of Colebrooke, found the existing caste prejudices an insurmountable obstacle. The Colombo Journal wrote that,

> 'youths who at this moment have attained the highest degree of perfection in the attainment of knowledge, are of inferior caste, and as such disqualified from holding important situations with public advantage, until these deeply-rooted prejudice of caste pass away'. [4]

Such opinions were reflected in the writings of many individuals, including those of the Governor, Barnes[5]. These opinions do not seem to have been based on a realistic view of the conditions of the colony. There was indeed a reluctance on the part of certain higher castes, the Vellalas in particular, to agree to changes that would affect their position in the social strata, and certain other castes, the Chaliyās especially, zealously attempted to safeguard the rights and the privileges granted to them in

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1. C.O.49/8: Bathurst to the commissioners, 30 Sept. 1823.
2. see, D.M. Young, op.cit., p.164.
3. see, Memorial to His Majesty, May 1834 in The Trial of the Kandyan State Prisoners....., pp.100-105. also, Colombo Journal, 29 Feb., 1832, letter to the editor by 'Native' (Simon Casie Chitty).
4. Colombo Journal, 29 Sept. 1832.
5. C.O.54/112: Barnes to Colebrooke, 10 Sept. 1830.

consequence of their special importance in the revenue system of the colony. However,the assumption of some contemporaries that the caste system was rigid and unchangeable was wrong[1]. Indeed,contemporary evidence itself shows that the traditional structure had become unhinged. The petitions to the commission of inquiry often complained of lower castes assuming the privileges of higher castes[2],and the correspondence to the Colombo Journal testify to what exetent caste prejudices had become loosened[3]. Colebrooke himself found that there was much rivalry between the higher and lower castes as well as among lower castes themselves,and wrote of a contest for status between the barber and washer castes[4]. Clearly,the arguments like those of the Colombo Journal indicated an attempt to put forward the issue of caste to strengthen the objections to reforms that seemed too liberal.

To most local inhabitants,as Simon Casie Chitty observed[5],the real basis of objection to Colebrooke's prposal was not caste,but racial prejudice. Barnes,perhaps,was the only individual to argue on such lines openly. His prejudices based on race,which were clearly revealed in his objections to the formation of a Legislative Council with local represen-

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1. According to Ralph Pieris,"the 'caste system' was far from .....a clearly defined heirachy in which the various castes were graded in an immutable order of precedence". He points out historical changes in the status and role of various castes. Navandannō (artificers caste) which was rated as the principal low caste in the mid-seventeenth century,lost its position to the Karavē (fisher caste) within a century and half. Even certain immigrants were accepted into the system,which well illustrated its flexibility. Chaliyas,who were attached to the Cinnamon Department, were originally an immigrant group from India. see,R.Pieris,Sinha.Social Organ.,p.100 & 176.
2. see in particular petitions nos.,101,116,125,126 & 145 in C.O.416/29.
3. see,for e.g.,letter of 'No Theorist',Colombo Journal,23 June 1832.
4. marginal note in Report upon the Admn.:W.R.,p.148. see also,C.O.416/17-F46.
5. Colombo Journal,29 Feb.1832. also,ibid.,21 Nov.1832,letter to the editor by Don Andreas Appuhamy.

tation,were again reflected when he wrote that,

> 'as to the propriety of gradually introducing Natives into those situations at present held by Europeans,I should be glad to know where you would propose to draw the line; admitted to one situation they would have an equal claim to another,so that unless you contemplate the supercession of all European Authorities,not excepting the Governor,I do not see when 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'. [1]

Colebrooke's proposal to provide incentives to civil servants to engage in commercial pursuits,the second proposal which was much discussed, seemed to have appealed to those who already held an active interest in private enterprise[2]. The Colombo Journal too welcomed the proposal mainly because it believed that it would lead to the influx of capital,but cautioned that, the civil servants should 'have no influence by their official situations over the Commerce in which they take a share'[3]. Those who opposed the proposal argued that the use of their official position by the civil servants in the pursuance of their economic activities would be inevitable. This would,they added,enable them to gain advantages over the non-officials,and an unhealthy competition would develop,which would be detrimental to the interests of the colony[4].

The civil service involved the interests of too many individuals for Colebrooke's recommendations to pass unopposed[5]. The criticisms of the non-officials on the whole lacked the incisiveness and the coherence to carry much weight with the officials at home,and the burden of proving Colebrooke wrong fell mainly upon the Governor and his officials. Barnes, the Governor,however,was a devastating and an uncompromising critic, a fact

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1.C.O.54/112:Barnes to Colebrooke,10 Sept.1830.
2.see,for e.g.,Colombo Journal,20 Mar.1833,letter to the editor by 'A Jack of All Trades'.
3.ibid.,22 May 1832.
4.ibid.,letter to the editor by 'S'.
5.P.D.Kannangara,op.cit.,p.241.

which perhaps did not make him endearing at the Colonial Department. In view of this,the role of his successor,Horton,as a critic may have become more important[1].

V.NATIVE OFFICIALDOM.

One of the main consequences of Colebrooke's decision to throw open the civil service was to be the ending of the hitherto existing rigid division of administrative personnel into Europeans and others. The superimposition of an European machinery on the indigenous system,its maintenance as an exclusive body composed of Europeans,and the continuance of the separate administrative systems in the interior and the littoral, resulted in a variegated administrative apparatus. Due to lack of integration,the local officials - collectively called headmen - who formed the lowest strata in this apparatus,remained considerably removed from the others. Colebrooke did not propose a complete assimilation of these personnel into the superimposed superstructure. The civil service was to remain as the superior body,though no longer as an exclusive body far removed from other personnel,and the headmen,though diminished in number in accordance with the requirements of economy,were to be the lesser body, the auxiliary personnel. Unlike the existing system,however,under the new proposals,there was to be closer communication between the two,not only because local inhabitants were to be members of both,but also because there was to be mobility from one to another with the opening of the civil service[2] - the connecting link being the acquirement of a knowledge of English. Thus,instead of an administrative machinery composed of

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1.For Horton's views see below,pp.302-303.
2.Report upon the Admn.:W.R.,pp.235-236;P.R.,p.30.

disconnected branches,the new machinery was to be of a pyramidial formation,with the Governor at its apex - the unified system of government provided its base.

Although from the beginning the British administrators attempted to weaken the position of headmen, to a great extent they remained powerful figures in their respective areas. Their power,according to Maitland, 'approximates so much to a perfect Imperium in Imperio that in truth the real Government of the Island is more that of the Moodeliars than of the British Government'[1]. Later in 1830, the Reverend B.Clough wrote that 'the wealth of the country is chiefly among the headmen - and they possess not only the positive riches of the country,but they exercised an influence over the labours,time and little gettings of the lower classes'[2]. Because of their reliance on the traditional ethos for their influence as well as remuneration,the headmen were a major group interested in preserving the old order. The failure of numerous attempts of the earlier administrators to change certain facets of the old order, was often due to the reluctance on the part of the headmen to accept them. Barnes' partial abolition of the use of rājakāriya in the Cinnamon Department, though acclaimed in public by headmen,was secretly opposed by them[3]. The failure of the several attempts to institute a fish tax,Colebrooke found,was due to the opposition of the headmen[4]. Headmen not only attempted to preserve the old order which enabled them to enjoy power and influence,but were also grossly abusing their authority for personal ends. These abuses,which engaged the attention of Colebrooke especially in his Report

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1.C.O.54/18:Maitland to Camden,19 Oct.1805.
2.quoted,E.F.C.Ludowyk,The Modern History of Ceylon(London,1966),p.115.
3.C.O.54/113:Barnes to Goderich,11 Oct.1831.
4.Report upon the Revenues:W.R.,p.87;P.R.,p.43.

upon the Compulsory Services,received the unanimous condemnation of the Collectors of the Maritime Provinces in their evidence before the commission of inquiry[1]. From Colebrooke's point of view,clearly a change in the role of the headmen was necessary,both to prevent the continuance of abuses and for the successful implementation of the changes proposed. The failure of the earlier attempts at change pointed to the fact that for a successful and an effective change or reform,the cooperation of the headmen was required. Early in the history of British rule in Ceylon,an administrator wrote thus of the changes which ultimately led to disasterous consequences.

> 'The Moodeliars and headmen are likely to lose many advantages and to suffer in their consequence by the change: they may therefore be expected to make some struggle to oppose arrangements which will operate so powerfully against their individual interests,and they will most probably have sufficient influence to excite the inhabitants to revolt,while the latter remain ignorant that their advantage will be promoted by the new system.'
> [2]

Colebrooke well realized the importance of winning the support of the headmen, and wrote that 'the co-operation of the Headmen in effecting any change of system can however only be expected where advantages are held out to them equivalent to the loss of influence or profit they may sustain'[3]. Perhaps,it is this realization which made Colebrooke act with circumspection. The attempt to provide other avenues of employment by opening the civil service,and the continuance of the honorary and titular appointments[4], can be interpreted as measures taken to placate those headmen who were to lose from the changes proposed.

1.see,their answers to Q.62-65 in C.O.416/26-28. see also below,pp.225-226.
2.Col.James Stuart,the sole military and civil authority in the Maritime Provinces after their conquest in 1796,wrote these lines about the proposed changes of the Madras administration. see,C.R.de Silva,op.cit.,i,192.
3.C.O.54/112:Colebrooke to Barnes,12 Jan.1831.
4.see above,pp.91-92.

Colebrooke had the advantage of being able to reap the benefits of the steps taken earlier to weaken the position of the headmen. From the beginning of European rule in Ceylon, though it varied in its intensity and effectiveness, a consistent policy of all governments had been the attempt to closely regulate the power and influence possessed by local officials. Despite these efforts, they still exercised a considerable power and influence at the time of Colebrooke's arrival in Ceylon, and Colebrooke himself found it necessary to pursue the same policy[1]. But, the close dependence of the people upon their chiefs had deteriorated to a great extent. Their willingness to submit a large number of petitions complaining of the abuses of headmen, notwithstanding possible repurcussions from the headmen, clearly illustrates this[2]. Thus, although in 1833 a number of headmen resigned on the grounds that 'the abolition of forced services had deprived them of the advantages of working the people for their own emolument'[3], the disasterous consequences which followed the removal of headmen from positions of authority in 1796, did not arise. The success of Colebrooke's measures relating to headmen was due not only to the cautious nature of his proposals, but also to the fact that the society was more prepared for such changes proposed.

Colebrooke desired to change radically the role of headmen in the administration. With the abolition of rājakāriya, 'the headmen of korles and districts would cease to be employed in pressing the people and superintending their labour on public works'; but, they were to be retained in the exercise of civil authority, as subordinate magistrates, and as officers of the local militia. The offices were to be adequately remunerated to

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1. see above, p. 66.
2. see in particular, petitions nos., 10, 11, 14, 25, 102 & 138 in C.O.416/29.
3. C.O.54/145: Colebrooke's observations, 17 July 1834.

prevent bribery and corruption,and to enable them to function more effectively in an administration carried out entirely in English,all principal functionaries were required to posses a competent knowledge of English[1]. While declaring that caste or other such qualifications were to be abolished as criteria for employment,he put forward a bold plan of an entirely new system of selecting these officials. Noting that no reduction in the number of headmen can take place to an extent that would enable the government to provide an adequate salary for those retained,and instead of attempting to sustain the charges of an European establishment and to provide for a body of stipendiary local officials,'the obvious policy of the Government will be the return to those economical arrangements by which the inhabitants of each village or community elected their own municipal officers'[2]. Thus,the headmen were to be elected by the majority of each village community; voting in the elections conducted by Government Agents or their assistants,was to be limited to owners of land and dwellings; and,only those who possessed property in the village above a stipulated value were entitled to be nominated for office. Colebrooke suggested the preparation of regulations to govern the qualifications of the voters and their nominees on these lines[3],and recommended that the office of headmen of a village should be subject to renewal every three years[4]. This scheme,he believed,would be attended with many beneficial results. The internal revenue,for example,would be collected with less expense to the government,and with greater satisfaction to the people,

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1.Report upon the Admn.:W.R.,p.232 & 236;P.R.,p.30.
2.C.O.54/145:Colebrooke's observations,17 July 1834.
3.Report upon the Admn.:W.R.,pp.233-235;P.R.,p.30.
4.ibid.,marginal note in W.R.,p.235.

than by an appointed agency. It would be appealing to the people in general, for it would enable them to manage their own affairs in conformity with their customs. It would also 'reduce the functions of the European Establishment to the exercise of that of general control'. The stipendiary establishment would be limited to the officials at the principal stations of the colony,and 'as the details of their duties will be much reduced, their number may be limited in a manner to provide for them adequate remuneration'. Further,this scheme would also strengthen the attachment of the people to their government,the often expressed hope of Colebrooke in proposing changes[1]. Together with this step,Colebrooke proposed the revival of Gansabhā or the village councils,which,with the headmen presiding,were to be utilised for 'the police of the country and the adjustment of petty disputes'[2].

In formulating an elective principle for the selection of local officials,Colebrooke's mentor was Sir Thomas Raffles[3],the ruler of Java during his stay in the East Indies. As his guiding rules,he adopted the three main clauses relating to village headmen,contained in Raffles' 'Regulation.....for the More Effectual Administration of Justice in the Provincial Courts of Java' of 11 February 1814[4]. The clause VII of the regulation laid down that the headmen were to be 'freely elected by the Inhabitants of the village itself from among themselves; the only

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1.C.O.54/145:Colebrooke's observations,17 July 1834.
2.ibid. As Colebrooke was motivated by a desire of re-establishing Gansabhā more as judicial organs,his proposal will be discussed below,p. 177.
3.On Raffles' life see,Lady S.Raffles,Memoir of the Life and Public Services of Sir Thomas Stamford Raffles.....(London,1830).
4.The regulation in full is printed in Raffles',Substance of a Minute on the Introduction of an Improved System of Internal Management and the Establishment of a Land Rental on the Island of Java(London,1814),pp.217-249.

requisite on the part of the Government being that they actually render and hold land in it'. If the official was found to be incompetent or otherwise incapable of holding office by the Resident, the superior officer in charge of the district administration, on his representation to the villagers, they were to elect another in place. Under clause VIII, the headmen were accepted as the representatives of the villages, and they were to be held 'responsible for all such acts committed within them, as fall justly under that controlling preventive power vested in them by their fellow inhabitants'. The clause IX pointed out the mode of election, which had subsisted from time immemorial, and declared that the Javanese well understood its nature[1].

Although Raffles' scheme was based on 'the ancient usage and institutions of the Javanese'[2], Colebrooke felt that it could be applied to Ceylon as similiar institutions had prevailed in the colony[3]. Indeed, he even claimed that the elective principle was an institution common to all civilized countries of the East until abondoned by their European rulers. Thus, according to Colebrooke, what was needed in Ceylon was simply a revival in the manner followed by Raffles in Java[4]. However, it is doubtful whether Colebrooke intended to adopt the regulation in the spirit laid down by Raffles. In Raffles' view the duty of the headmen was 'in short, to contribute all in their power to the establishment and preservation of a good state of police', and their ' rewards for this will

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1. ibid., p.219. Colebrooke quoted these clauses of the regulation in full in his communication of 17 July 1834 to the Colonial Department. see, C.O.54/145.
2. ibid., p.217.
3. It is worth noting that soon after his first visit to Java in 1811, Colebrooke began to draw comparisons between Java and Ceylon, where he started his military career in the East. see, for e.g., RAI, MS/20: Colebrooke to James Colebrooke, 30 Nov. 1811.
4. C.O.54/145: Colebrooke's observations, 17 July 1834.

be a certain portion of land in each village,and the favouring eye and protection of Government'[1]. Colebrooke,however,did not envisage a judicial or police role for the headmen; such duties were to be the concern of the revived Gensabhā,and those of the headmen were to be purely administrative. Unlike the Javanese,the Ceylon headmen were to receive fixed salaries,and lands were to be held by them only as a supplementary mode of income.

Colebrooke,it can be argued,viewed this scheme as a step to weaken further the position of the headmen - in a manner,perhaps,not contemplated by Raffles. Hitherto,the headmen had derived their greatest strength from their role in the social and economic order rather than from the legal and political position assigned to them by the government. Casting of the headmen in a purely administrative capacity may be interpreted as an attempt by Colebrooke to isolate them from this power base. The use of the elective principle was a another step in the same direction. In addition to the direct management and supervision of the superior officials,which,hitherto,had failed to effectually suppress the abuses of the headmen,the elective method was to provide a form of control over the actions of the headmen at local level. The last remnants of autonomy possessed by these officials were,thus, to be ended.

Like Raffles in Java[2],Colebrooke did not consider the granting of elective privileges as an act towards self-government. It is more likely to have been an attempt to re-vitalize the local popular governmental institutions which lay dormant. The British pattern of rule,with its emphasis on European personnel,centralization,and the introduction of English system of law and order,led to the decay of popular organs. This

1.clauses XXIII & XXIV of regulation of 11 Feb.1814 in T.S.Raffles,op.cit.,p.222.
2.J.Bastin.The Native Policies of Sir Stamford Raffles(Oxford,1957),p.43.

was perhaps best reflected in the deterioration of Gansabhā [1]. Through the years, the elective principle in the selection of certain officials in the traditional system underwent a process of neglect and decay similiar to that of Gansabhā, and by the 1830's there remained only the remnants in operation - in certain Tamil regions, the Collector summoned the people whenever a headman's post fell vacant to obtain their opinion before making his recommendation[2]. Colebrooke's measures were in effect an attempt to resurrect these traditional institutions. It is, of course, idle to discuss Colebrooke's proposals in the terms of later native administrative methods. They were not conceived in the grandeur terms of a Gordon or a Lugard[3], but in view of the pattern of British rule in Ceylon, they can be considered an unique departure. Colebrooke derived inspiration from Raffles, but, as the introduction of the elective principle clearly shows, he did not follow he mentor closely, but perfected his own maxims. Indeed, his ability to draw inspirations from contemporary movements and personalities, and to formulate his own conclusions and actions, was a marked feature in Colebrooke's work as a commissioner of inquiry.

VI. EDUCATION.

As a postscript to Colebrooke's proposed administrative reforms, his recommendations on the subject of education merit a study. They were closely related to his proposal of opening the civil service to the local inhabitants. The British administration was entirely carried on in English,

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1. see below, pp. 163-164.
2. see, C.O.416/7-D20: evidence of Boyd.
3. For the work of Sir Arthur Gordon in Fiji see, J.D.Legge, Britain in Fiji 1858-1880 (London, 1958). For Lugard see his, The Dual Mandate in Tropical Africa (London, 1922).

and even the promotion of subordinate officials were latterly regulated on the basis of their knowledge of English. Though certain local officials, those at the principal stations of the colony in particular, were acquainted with the English language, Colebrooke found that the majority of them were ignorant of it, which had effectively blocked their advancement[1]. That there was much enthusiasm for English education, there was never any doubt. The few schools, particularly those established by Christian missionary societies, attracted eager students[2], and, as Brownrigg observed in 1816, there was a noticeable desire on the part of heads of families to educate their children, and to 'have them thus qualified for public employ[ment]'[3]. Colebrooke, however, found that the means available to them were limited. Barnes had written in 1824 that,

> 'a great deficiency.....is felt in this place from the want of any person competent to afford to the children of the middle class of Inhabitants a tolerable education, such as will qualify them for the duties of Clerks and Accountants, either in public or private employ[ment]'.
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There were the government schools, but they were few in number, and lacked efficiency, mainly because their teachers were entrusted also with such additional duties as the maintenance of thombos, the registers. The missionary schools fared better, and Colebrooke wrote that,

> 'the proficiency of the young men who have been educated in the seminaries formed in Ceylon by the Christian societies, attest the superior advantages to be derived from local instruction, the expences of which are inconsiderable'.
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1. Report upon the Admn.: W.R., p.147; P.R., p.20.
2. Colombo Journal, 29 Sept. 1832.
3. C.O.537/146.
4. C.O.54/86: Barnes to Bathurst, 2 Sept. 1824.
5. Report upon the Admn.: W.R., p.239; P.R., p.31. The missionaries estimated the cost of education at £5.0.0. per student. see, Plan for the Literary and Religious Instruction of Tamil and other Youth (Colombo, 1823).

In education there was much emphasis on moral and religious instruction during this period of time. Many early British writers on Ceylon saw the ends of education as moral ends, that of 'planting British institutions and values in Ceylon in the interest of the moral and intellectual improvement of man'[1]. On the other hand, the missionary schools were primarily conceived as vehicles of propagation of Christianity[2]. Bishops Middleton and Heber, wrote Barnes in 1830, wished schools to be 'exclusively Christian Establishments, whilst I am desirous of giving them a wider scope without at the same time putting the propagation of Christianity out of View'[3]. Barnes, perhaps, came closest to the views held by Colebrooke. The moral and religious aspects of education were certainly valued by Colebrooke[4], but he did not view education as a panacea for social evils, as was widely held in contemporary India - the absence of the outlook of a C.E.Trevalyan or a Mountstuart Elphinstone in Colebrooke's writings can thus be explained. Colebrooke's emphasis was more on pragmatic aims, that of providing a knowledge of English to those who wished to enter the government service[5]. Clearly, education became all the more important in view of his proposal to open the civil service to the people of the colony.

With these considerations in mind, Colebrooke proposed a complete re-organization of the educational structure of the colony. A commission, composed of the Archdeacon, clergy, the Agents of Government, and certain

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1. E.F.C.Ludowyk, The Eighteenth Century Background of Some Early English Writers on Ceylon, CHJ, III, 1954, pp. 270-274.
2. see, Statement Concerning a Mission College for Tamil and other Youth in Jaffna (Colombo, n.d.) & J.Forbes, Eleven Years in Ceylon (London, 1840), i, 4 & 65.
3. C.O.416/6-C15: Barnes to commissioners, 20 July 1830. Middleton, and his successor Heber, were Bishops of Calcutta. Ceylon was made a part of the see of Calcutta in 1817.
4. see, Report upon the Admn.: W.R., p.105; P.R., p.15.
5. Report upon the Estabs., pp.418-419.

principal civil and judicial officials at the seat of government,was to be established to control and supervise the work of the department of education. Schoolmasters,appointed on the recommendations of the commission, were required to possess a competent knowledge of English to enable them to give instruction in that language. Further,a government college was to be established in Colombo,with a professor from England as its head, to 'afford to native youth a means of qualifying themselves for different branches of the public service'[1].

At a time when in England 'there were deep-seated prejudices against educational reform',and where 'every form of governmental interference was open to doubt'[2],Colebrooke's decision to effect important changes in the educational structure,and to employ the government in a more active manner in educational affairs,is noteworthy. However,it could be argued that his proposals reflected developments in other parts of the empire, particularly the developments in contemporary India. In India,the Presidency Governments were taking a more and more active role in the field of education in their respective regions. The Court of Directors of the East India Company decided in 1834 to follow a policy of utilising the provision of educational facilities among Indians to recruit men for the administration - the basis of the educational policy which took shape[3]. Lord Macaulay,the president of the Committee of Public Instruction, had a wider and a deeper outlook than Colebrooke,but his object of raising a class of people 'Indian in blood and colour but English in

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1. Ibid.,pp.419-420 & Report upon the Admn.:W.R.,pp.246-253;P.R.,pp.31-32.
2. L.Woodward,The Age of Reform(2nd ed.,Oxford,1964),p.474 & 477.
3. see,H.H.Dodwell,CHBE,V,pp.10-11.

tastes,in opinion,in morals and in intellect' by English education[1],was close to the goals set by Colebrooke.

Main criticisms of Colebrooke's educational proposals have been based on his entire neglect of the traditional system of education maintained by the Buddhist institutions of the island. In a manner reminiscence of Indian administrators,other than sensitive men like Elphinstone[2], Colebrooke wrote that 'the education afforded by the native priesthood in their temples and colleges scarcely merits any notice'[3]. The educational structure which catered to the needs of Buddhist monks as well as laymen for centuries before Colebrooke's arrival,and which continued in its service after his departure,certainly deserved Colebrooke's attention. However,considering the fact that Colebrooke's interest in education was mainly to serve the needs of the administration,such an attitude is not altogether surprising. At a time when Britain was considered to be the leader of a civilization,with a mission of giving more to colonial peoples than of receiving from them[4],Colebrooke's critical outlook towards most traditional facets of the society in Ceylon is,perhaps, pardonable.

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1. H.V.Lovett,Education and Missions to 1858,CHBE,V,p.111. North,in Ceylon, expressed the same view more succintly when he stated that a class should be established ' attached to their country by birth,and to England by education',C.O.54/5:North to Dundas,13 Mar.1801.
2. On Elphinstone see,K.Ballhatchet,Social Policy and Social Change in Western India(London,1961).
3. Report upon the Admn.:W.R.,p.254;P.R.,p.32.
4. R.Ayer,Utilitarianism and All That,ST.Anthony's Papers,VIII,1960,p.10.

Chapter:4.

THE RECOMMENDATIONS OF THE COMMISSION - II : JUDICIAL.

I.INTRODUCTION.

Although the report upon the judicature was written by Cameron,much of the preliminary work had been completed by Colebrooke by the time Cameron arrived in the colony. Considering the contemporary scene,it is not surprising that Colebrooke's immediate attention was drawn towards the judiciary. Uncertainty prevailed about its independence,and clashes between the judiciary and the executive,a recurrent theme in the early history of British rule in Ceylon,continued even after Colebrooke's arrival[1]. At the same time there was much discussion on judicial reforms. In 1822 and again in 1827 reforms were considered.In 1822 discussions were held in London with a view to amending the existing charter of justice[2]. In 1827,the judges of the Supreme Court of Ceylon,the Chief Justice Richard Ottley and the Puisne Justice Charles Marshall,even submitted separate drafts of charters which embodied the alterations each regarded as necessary,and lengthy correspondence ensued among officials concerned.[3] Neither in 1822 nor in 1827 was any concrete action taken. As James Stephen wrote later,'the expectation of the Commissioners visiting the Island has hitherto had the effect of postponing all measures upon the subject'[4].

Unlike both Riddell and Cameron,Colebrooke lacked a training in law, but conducted investigations upon the judiciary (successfully as it

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1.see above,pp.64-65.
2.C.O.54/121:Colebrooke to Hay,11 May 1829.
3.see,C.O.416/16-F37 for correspondence relating to Ottley's charter,& C.O.416/16-F38 for Marshall's charter.
4.C.O.54/95:Stephen to Hay,18 Nov.1826.

proved to be,for Cameron did not find it necessary to conduct fresh investigations) by using his earlier experience as a guide-line. A participant in the discussions held in 1822 relative to reform,Colebrooke acted also as a member of the commission which inquired into the judiciary of the Cape of Good Hope and Mauritius,and had studied the documents relating to the reforms contemplated in 1822 and 1827[1]. He withdrew from investigations upon the judiciary with the arrival of Cameron,but there is no doubt that,as Cameron himself admitted[2],the bulk of the material necessary for the writing of the report was collected by him. However, such was the genius of Cameron,he gave a distinct stamp of his own to the report upon the judiciary;the outcome of the investigations were certainly far different to what it would have been had it been completed by Colebrooke himself.

Cameron's use of the material collected by Colebrooke was not understood by contemporaries in Ceylon.This resulted in criticism of Cameron for the lack of personal observation of the judicial machinery in operation, and for the short period of time taken in investigation[3]. Only a few observed that Colebrooke's preliminary work had made certain investigations by Cameron unnecessary.But,to some,this alone was a reason for the condemnation of Cameron's report[4].It is interesting to note that though Cameron's report attracted more attention[5], stronger words of criticism were directed towards Colebrooke.The fact that the changes proposed by Cameron did not fundamentally affect those in power and influence as

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1.C.O.54/121:Colebrooke to Hay,11 May 1829 & C.O.54/122:Colebrooke's memo., 24 Sept.1832.

2. see above,p.44 fn3.

3.see,for e.g.,letters to the editor of Colombo Journal,29 Sept.1832 by 'An Ex-Provincial Judge' & 5 Oct.1833 by ' One Concerned'.

4.ibid.,3 Oct.1832,letter to the editor by 'Censor'.

5.see above,p.58.

Colebrooke's proposals did,may be attributed as a reason for this. However, to those who viewed Cameron as a member of a commission of inquiry which came out to penalize the colonial government,Cameron in his own right deserved to be castigated[1]. To Cameron none of these criticisms were valid.He rightly pointed out that while these critics devoted their attention to many and varied subjects,'it has been my duty,for a considera-ble time,to devote my whole attention to this one subject'[2].

Like Colebrooke,Cameron too was not bent on making out a case against the colonial government and thereby condemning it in the eyes of the officials at home. However,unlike Colebrooke,who was greatly moved by observations and investigations made at first hand rather than by influential movements and personalities[3],Cameron was grounded in that powerful contemporary movement - Benthamism - and the theoretical knowledge thus acquired coloured his recommendations.Cameron's social and intellectual life was closely associated with the Utilitarian society,Ricardo, Charles Buller,John and John Stuart Mill,and MacCulloch being his frequent companions[4],and he maintained an intimate friendship with George Grote,a close disciple of Jeremy Bentham[5].Cameron's place among the Benthamites was best exemplified when James Mill,the foremost of Bentham's followers, nominated him for the philosophy chair at the University College founded by the Utilitarians in 1828[6].The contributions to the Westminister Review,

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1.'[Cameron] speaks as if he had been retained by the Plaintiff in a suit between the English and Colonial Governments',Colombo Journal,10 Oct. 1832,letter to the editor by 'Censor'.
2.C.O.54/145:Cameron to Hay,7 Mar.1833.
3.see above,p.118.
4.Mrs.Grote(ed.),The Personal Life of George Grote(London,1873),p.42.
5.ibid.& A.Bain,James Mill(London,1882),p.263.
6.As Cameron's orthodoxy was doubted,the Protestant Dissenters within the movement opposed his nomination,and succeeded in turning aside his candidature,A.Bain,op.cit.,pp.263-264.

which,in the words of John Stuart Mill,'gave a recognised status,in the arena of opinion and discussion,to the Benthamite type of Radicalism'[1], too hints at Cameron's Benthamite associations.In 1833 assisting the commissioners appointed to inquire into the poor laws in England,Cameron produced together with John Wrottesly a report which was remarkably Utilitarian in its outlook[2]. Later in India,in the company of Lord Macaulay, a follower of Bentham in matters of jurisprudence,Cameron again displayed his early Benthamite training[3]. Sir Henry Taylor,who was well acquainted with the Benthamites,wrote of Cameron as 'a Benthamite Jurist and Philosopher of great learning and ability'[4]. Thus,it is no surprise to find Cameron being described by Leslie Stephen,the historian of the Utilitarian movement,as 'a disciple,and ultimately perhaps the last surviving disciple of Jeremy Bentham'[5].

Cameron's report upon the judicature of Ceylon was 'a brilliant summary of Benthamist legal thinking'[6].With great clarity and vigour, Cameron reviewed in his report the judicial systems in operation,their defects with reference to what he set down as the principal objects to be attained in the judicial system,and the means of attaining them. The recommendations themselves were made in the 'form of series',and to each or to several taken together were subjoined 'the reasons which explain and justify them'.In arguing for his recommendations,Cameron brought forward 'theoretical view of [their] merits',and these he backed with the

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1.J.S.Mill,Autobiography(London,1963 ed.),p.82.
2.Their aim was to change a system under which 'the greatest number of people [lived] with the least amount of enjoyment' to one 'by which all measures of general utility' inherent in the poor laws would predominate. see,Parl.Papers,1834,XXVIII(44),pp.151-164.On the Poor Law Commission see,S.& B.Webb,English Poor Law Policy(London,1910).
3.see below,p.156.
4.H.Taylor,op.cit.,ii,33.
5.D.N.B.,VIII,p.289.Stephen's The English Utilitarians(London,1900),3 vols., is the standard English work on the movement.
6.K.M.de Silva,CJHSS,II,1959,p.251.

opinions of those engaged in the practical operation of the judiciary. It is interesting to note the same method being followed later in the report he wrote jointly with John Wrottesly. Although the task assigned to them was purely fact-finding, they 'sketch[ed] out a plan which has suggested itself to us, and illustrat[ed] it, where that was possible, by selections from the evidence we have collected, than.....merely drawing up a Report upon that evidence'[1]. Structurally this later report seemed to have been closely modelled on the earlier, and by far the more important, report. The scientific method, which permeated the writings of the Benthamists, is thus clearly seen in Cameron's writings. Colebrooke, though himself an acute observer of the conditions of the colony, suffers by comparison, and his reports cannot but be described as a mere commentary on the conditions of the colony.

Cameron's greatest virtue was the realization of the importance of an effectual judiciary for the good government of the country. In the course of their investigations the commissioners found themselves 'innundated' with petitions declaiming against the judiciary[2], and, as noted earlier, a greater attention was paid to Cameron's report than to any report of Colebrooke. As Riddell observed[3], it is true that a majority of the petitions were sent by those who had failed to achieve their ends in courts of law. Others who addressed complaints may have been those who lost special privileges held by virtue of caste or official position under the old order; as in India, to quote the words of Elphinstone, the English courts of law acted with 'a sternness and indifference to rank and circumstances very grating to the feelings of the natives'[4]. Henry

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1. Parl. Papers, 1834, XXVIII(44), p.151.
2. C.O.54/118: Riddell to Horton, 21 Mar. 1832. see, for e.g., petitions nos. 4, 17, 26, 32, 33, 40, 52, 63 & 67 in C.O.416/29.
3. ibid.
4. cited, K. Ballhatchet, op. cit., p.115.

Marshall,writing of the modifications made in the Kandyan judicial system, noted that the 'change being abrupt,the population in general did not appreciate the alleged advantages'[1]. Another observer,Major J.Forbes, stated that though justice was impartially administered,'the rich man was disgusted by the impartial conduct of the judges,while the poor suitor did not benefit by it for the rich litigant could bribe influential natives in office'[2]. These factors,perhaps,formed the basis of the complaints to the commissioners. Instead of condemning the remonstrances as those solely motivated by selfishness, Cameron rightly came to the conclusion that the existing judicial machinery failed to give satisfaction to the people in general. To Cameron[3], as well as to some contemporaries,the highest benefit any European government could confer upon its Asiatic subjects was an effective judiciary. It was argued that 'the evils incident to a foreign yoke,we are bound to mitigate by affording the conquered the best possible administration of justice'[4]. The history of the judicature under the British in Ceylon itself is an illustration of the realization of the importance of an effective judiciary in the administration of the colony. No branch of the administration underwent such frequent adjustments and changes as the judicature;though not always led by a single-minded purpose,constant endeavours were made to provide better judicial facilities to the governed. During the course of the first three decades of the nineteenth century,six distinct changes were introduced in the Maritime Provinces alone: the Proclamation of 9 March 1796 which established a temporary system for one year after the

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1. H.Marshall,*op.cit.*,p.175.
2. J.Forbes,*op.cit.*,i,57-58. see also,C.Pridham,*An Historical,Political and Statistical Account of Ceylon*(London,1849),p.209.
3. see above,p.58.
4. *Colombo Journal*,11 Jan.1832,letter to the editor by 'Timon'.

Conquest,the Act of Authorization of 1 June 1796 which continued the Dutch judicial system,North's Proclamations of 23 September and of 14 October 1799 by which certain English forms were introduced,the Charter of Justice of 1801 which completed the reorganisation of North,the Charter of Justice of 1810 introduced as a result of the representations made by Alexander Johnston,and the Charter of Justice of 1811 which revived the earlier charter and established the system under which judicial administration was carried out until Cameron's recommendations were implemented. Meanwhile,the judicial arrangements for the Kandyan Provinces under the Convention of 1815 were changed by the Proclamation of 21 November 1818[1]. At the same time there was discussion on reforms,and reformers were publicly active,foremost among whom was Alexander Johnston. Cameron's work can be interpreted as the culmination of this long drawn out effort to find a happy medium for the judiciary for Ceylon.

Cameron's work was not an isolated instance in contemporary colonial developments. Indeed,it was a clear example of the wider movement for judicial reform undertaken contemporaneously. The empire,constituted after the Napoleonic wars,contained colonies with diverse forms of law and judicature,and commissions of inquiry were sent out during the period following to undertake detailed investigations prior to reform[2]. These investigations led,as in Ceylon,to the promulgation of new charters of justice embodying important reforms[3]. At the same time there was a movement for law reform in England too. Although the first years of the nineteenth century were difficult years for law reformers in England due to the adverse effects of the wars with France,the cause of reform was

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1.For details of the measures taken see,C.R.de Silva,op.cit.,i,270-320.
2.see above,p .12.
3.see below,p .290.

never wholly abandoned,and in the years following reformers such as Romilly,Mackintosh,and Brougham gained ascendency[1],and prompted by Benthamism,effectual steps were taken to reform both the law and the judicial machinery.[2]

Cameron's judicial system was constructed on certain fundamental assumptions. Like a true Benthamite,he determined,in the first place,the principles upon which reforms were to be initiated,and,in the second place,the method by which reform should be put into effect.Thus,his fundamental assumptions,which he called the 'special objects of Judicial Establishments and Procedure in Ceylon'[3],are as important as the recommendations themselves. To Cameron,those 'restraints upon the bad passions of mankind which pass under the general name of morality' were lacking in Ceylon,resulting in each individual owing nearly all the security he enjoys to the protection of the law. This in itself meant that a good judicature was more necessary in Ceylon than in countries where higher moral outlooks prevailed. This judicature should not only be for 'the relief of those who have suffered injury,and the punishment of those who have inflicted it',but also for 'guarding with peculiar anxiety against the danger that the judicatures themselves should be employed as a means of perpertrating that injustice which is the object of institutions to prevent'. Such a system should be easily and cheaply available to the population. To gain these ends,it must be granted gratuitously:the expenses incurred for obtaining judicial redress must not be imposed upon any individual until it is apparent that he was not entitled to it. All

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1.W.S.Holdsworth,LQR,LVI,1940,p.33,220 & 228.
2.For the influence of Bentham on law reform see,A.V.Dicey,op.cit.,pp.126-210;for reforms undertaken see,ibid.& E.L.Woodward,op.cit.,pp.444-473.
3.Report upon the Judiciary:W.R.,p.1;P.R.,p.55.

obstacles to the attainment of justice should be removed. Fees and stamp duties,which from their small amount do not act as a barrier to the attainment of justice by the poor in England,would frequently operate as a complete denial in Ceylon because even the smallest amounts were of great importance not only on account of poverty,but also due to the high value of money. At the same time,such a system should not operate in favour of those who pervert justice for purposes of vexation and oppression. Therefore,before any man is permitted to initiate procedure of justice against another,every possible means must be adopted to ascertain that he has good grounds for doing so[1]. Thus,according to Cameron,the judicial system to be recommended should have two principal objects in view,and for the attainment of each of these objects,two distinct sets of means seemed essential.

'The first object is-

I.To render it as easy as possible for any man to enforce his rights through the medium of a court of justice.The two sets of means for its attainment are -

1st.The establishment of a sufficient number of courts to which the suitor may apply with the least possible expense and delay.

2d.Such a constitution of the courts as will insure, in the highest possible degree,correctness of decision.

II.To render it as difficult as possible for any man to inflict injury upon another through the medium of such courts as have been indicated above.The two sets of means of attainment are -

1st.A rigorous investigation into the truth of every allegation upon which a court of justice is required to lend its aid to a suitor.

2d.The infliction of punishment upon every suitor who willfully attempts to mislead the court '. [2]

Cameron's syllogisticism,which is found iterated and reiterated throughout his report,was derived fundamentally from Benthamite thinking.

1.ibid.:W.R.,pp.1-6;P.R.,p.55.
2.ibid.:W.R.,pp.6-8;P.R.,p.55.

With the end of 'the greatest happiness of the greatest number' in view, Bentham stated that 'justice must be executed with as little expense,as few delays and as few vexations as possible'[1]. The labours of the Benthamites were

> 'incessantly directed towards securing for every person the power to enforce his rights - that is,towards the amendment of everything which can be brought under the head of legal procedure,if that term be used in its very widest sense,so as to cover everything connected with the actual enforcement of a citizan's rights,and thus to include the regulation of judicial evidence,the constitution and jurisdiction of the courts,and all steps in an action which English lawyers call practice,the reduction of the cost of legal proceedings,and a lot of other topics as dull and technical as any part of the law'. [2]

Bentham looked towards the establishment of the 'natural system' as opposed to the 'technical system' which prevailed in England during his time. Although 'a minimum of expense,of delay and of vexations for the parties concerned' was the professed objective,the procedure laid down under the technical system led only to an increase in judicial formalities, 'which made procedure obscure,long and costly for the parties,and automatic for the lawyers and judges'. This system of 'absurdity,of incoherence and of injustice in all its forms' could be removed only by the 'abolition pure and simple of all existing rules and formalities',and not by a definition of new rules[3].

Cameron seemed to have approximated the judicature of Ceylon to this 'technical system'. What Bentham found abhorring in the technical system, Cameron found in Ceylon. Less an idealist than Bentham,Cameron did not believe that a mere abolition of all the rules which caused vexations would lead to any system better. While realizing the need for rules and

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1. E.Halévy,The Growth of Philosophic Radicalism(London,1928),p.376.
2. A.V.Dicey,op.cit.,p.205.
3. E.Halévy,op.cit.,p.377 & 379.

regulations,particularly in a distant society like Ceylon,Cameron strived to establish a new order which was simple in its operation,and rational in its organisation,with the principle of utility as its basis. The thinking and the application of the thinking was clearly European. Although he once stated that the moral conditions of the inhabitants were markedly different from their European governors[1],Cameron did not hesitate to adopt European forms and methods in the construction of a judicial system for Ceylon. Perhaps,the explanation for this apparent contradiction can be found in his Benthamite training;his instinct in this instance seemed to have been overshadowed by his Benthamite training. Benthamite assessment of human nature was,as James Mill put it,'as plain as the road from Charing Cross to St.Paul's '[2];they,'too easily supposed that the ideas of happiness prevailing at a given time throughout the civilized countries of Europe were entirely uniform',and assumed that 'the same notion of happiness prevails in all countries,and has more or less prevailed in all ages'[3]. Cameron was no exception to this thinking.

To Cameron 'a fairer field than the island of Ceylon can never be presented to a legislator for the establishment of a system of judicature and procedure,of which the sole end is the attainment of cheap and expeditious justice'[4]. Although by the time these words were written avenues were open for the implementation of its programme,Benthamism in its pure form was never established in its birth place. Through the years, Benthamism increasingly became distinct and isolated and often even estranged from the broader body of liberal opinion in England[5]. Bentham's belief in the single judge,his disparagement of juries,and his glorifi-

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1.see above,pp.103-104.
2.cited,E.Halévy,op.cit.,p.451.
3.A.V.Dicey,op.cit.,p.141.
4.Report upon the Judiciary:W.R.,p.183;P.R.,p.77.
5.E.Stokes,op.cit.,p.52 & 58.

cation of the summary mode of procedure,were all 'suspiciously un-English, and made his ideas difficult of entire acceptance even to those who counted themselves as advanced Radicals'[1]. The legislators and those who guided the course of legislation were not always complete adherents of Benthamism, so that,when Benthamism was introduced to legislation,they were not carried out to their fullest extent[2]. Considerable success and popularity was achieved in Europe before Bentham reached any notable position at home[3]. Bentham himself had doubts about success at home. 'In my country, of course',he wrote,'less [is] said of me than in any other'. These doubts were reflected in the disappointment he faced during Robert Peel's tenure as the Home Secretary. Though Peel,who did much to reform the criminal law in England,initially came under the influence of Bentham,during the later period of his Secretaryship tended to scorn Bentham[4]. It was even contemporaneously questioned whether Bentham was not on the way to becoming a prophet in far-off lands than at home[5]. Prominent Utilitarians were looking towards India,which now loomed large in the eyes of the liberals,for the successful implementation of their policies;as Bentham stated,'the golden age of British India' lay before him[6]. Some of the most distinguished Utilitarians made their mark as administators in India,and the association of James Mill in Indian affairs,which best exemplified this aspect of Utilitarianism,placed his character as 'a practical statesman fully on a level with his eminence as a speculative writer'[7].As one

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1. ibid.,p.63.
2. A.V.Dicey,op.cit.,pp.169-170.
3. E.Halévy,op.cit.,p.296ff.
4. see,J.A.Gulland,The History of the Criminal Law Reforms of the Period of Peel's Home Secretaryship,Bull.Inst.Hist.Res.,VIII,1931,pp.183-185.
5. "Mr.Bentham",wrote William Hazlitt,"is one of those persons who verify the old adage that 'A prophet has more honour out of his country'",W.Hazlitt,The Spirit of the Age or Contemporary Portraits(London,1964ed.),p.171
6. cited,E.Stokes,op.cit.,p.18.
7. J.S.Mill,op.cit.,p.23.

writer has pointed out,with their genius for compromise and conciliation overseas,Englishmen were nevertheless prepared to 'experiment in the Colonies with theories that were distrusted in practice in [their] country'[1]. In these circumstances,Cameron's attempt at utilising the opportunity of implanting Benthamite legal thinking in the fair field of Ceylon is not only explicable,but also forseeable.

II.ORIGINAL COURTS OF LAW.

The foundation of the new legal system was uniformity. This was a corollary to the unified administration created by Colebrooke,which in turn was a necessary preliminary for the establishment of uniformity in any other branch of government of the colony. As Bathurst wrote to Barnes in 1821,changes in the judiciary were 'postponed to the period when the union of the new with the old Provinces shall be complete as to admit of the adoption throughout the Island of one uniform system of judicial administration'[2]. Hitherto,as in other branches of government,separate judicial systems operated in the Maritime and the Kandyan Provinces[3].These, according to Cameron,were not tenaciously held by the people on reasons of 'sanctity of religion or of antiquity' - he believed that they were the creations of the British - and,therefore,declared that there were no grounds for any valid objection to the introduction of 'complete uniformity' throughout the island in both forms and procedure of the judiciary[4]. Although some contemporaries in Ceylon considered this proposal 'truly capable of rendering CEYLONESE one people,owning one authority,and ruled by one system of laws'[5],it is doubtful whether Cameron viewed it from a political

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1.R.Ayer,St.Anthony's Papers,VIII,1960,p.17.
2.C.O.55/66:Bathurst to Barnes,8 Mar.1821.
3.For an analysis of these see,Report upon the Judiciary:W.R.,pp.19-179; P.R.,pp.57-76.
4.recommendation 1,ibid.:W.R.,p.181:P.R.,p.76.
5.Colombo Journal,5 Dec.1832,letter to the editor by 'Penn'.

point of view. For a Benthamist,uniformity in both form and procedure was a necessary foundation for a judicial system,and only upon such a foundation was it possible to construct the complete structure of a judicial system. Even in India,where problems facing those desiring uniformity was of the highest magnitude,Benthamite inspired administrators were striving to establish uniformity in judicial administration[1].

Cameron recommended that courts of original jurisdiction, which were to be established in an uniform manner throughout the island,should possess 'exclusive jurisdiction over all causes,civil and criminal,and all questions of whatever kind,in which the intervention of judicial authorities is necessary,which arise within the limits of its district'[2]. Judicial business was at this time divided among several judicial officials according to their nature as civil or criminal,legal or equitable,which appeared to Cameron to be in all respects much less expedient than the division into integral portions according to districts. As the judicial system was greatly divided,a greater number of officials were required, and as such divisions were unequal,business handled by the various officials were never of equal proportion,resulting in some officials being overburdened. Due to the impossibility of marking out 'the bounderies of contiguous subjects of judicature as precisely as the bounderies of contiguous districts',many complicated questions of jurisdiction arose by which 'time and money of the suitors are fruitlessly consumed'. This he found to be a great deterrent to the proper distribution of justice, for legal technicalities were not properly understood by the mass of the people;and,as there were no legal practitioners other than in the capital,

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1.see,for e.g.,the proposals of Alexander Ross,a member of the Calcutta Sadr Court in E.Stokes,op.cit.,pp.156-159.
2.recommendation 2,Report upon the Judiciary:W.R.,p.184;P.R.,p.77.

the majority of the people were unable to seek legal advice. The prevailing systems resulted in a greater number of suits being instituted,with a greater judicial machinery in operation in order to attain the same ends, and not infrequently,Cameron observed,one part of the machinery was employed to impede the operation of another[1]. Thus,one of the main aims of Cameron was to make law courts 'cooperate whenever the ends of justice would be served by their cooperation' instead of ' thwarting each other and strangling to encroach upon each other's jurisdiction'[2]. The new courts of law were designed with this aim in view. They were to be established only according to Bentham's local or geographical principle, were to operate recognising 'neither the value of the cause (Bentham's pecuniary principle) nor the type of cause (Bentham's metaphysical principle)'[3],and were to be the 'local omnicompetent courts' Bentham and his followers looked for. To safeguard their omnicompetency,he recommended that no judge or court should be empowered to hear motions for injunctions to prevent suitors from seeking or pursuing a course of action in any original court of law[4]. A ruling which covered even the Supreme Court was made according to Cameron on the grounds that,

> 'every court of original jurisdiction should have,by law,the power of doing justice in every case,and consequently that,so long as the proceedings of such a court are free from error or malversation,there should be no power in any other court to thwart or control them,either directly by interference with the court,or indirectly by interference with the suitor'. [5]

Each original court of law was to consist of one judge and three assessors[6].Much attention was devoted at this time to the role of presiding

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1.ibid.:W.R.,pp.185-189;P.R.,p.77.
2.C.O.54/145:Cameron's memo.,16 Oct.1834.
3.K.M.de Silva,CJHSS,II,1959,p.252.
4.recommendation 24,Report upon the Judiciary:W.R.,pp.281-282;P.R.,p.87.
5.ibid.:W.R.,pp.282-283;P.R.,pp.87-88.
6.recommendation 3,ibid.:W.R.,p.193;P.R.,p.78.

officials of courts of law. Though the local officials proposed professional judges,when an organised judicature was established in Ceylon in 1801,Dundas,the Secretary of State,insisted upon civil service judges,who, he said,had been extremely successful in India[1]. The civil servants acted mainly in the capacity of Provincial Judges,and Burghers were recruited to fill the lower positions of Sitting Magistrates;they were the only local inhabitants admitted to the judicature[2]. Like in other colonies where judicial positions were held by local citizens,the West Indies for example[3],no formal legal training was required of those citizens appointed as judges. Neither were the civil servants trained in law. Most contemporaries would have agreed with Charles Marshall when he stated that while a legal training would be advantageous,judges should also possess a knowledge of languages and ' a general acquaintence with the habits a[nd] customs of the natives'[4]. Much of the opposition to the recruitment of lawyers from England as well as the general acceptance of civil servants as judges stemmed from such beliefs[5]. Although he criticised the lack of training in law in the judges,Cameron did not explicitly state that only those trained in law should be recruited as judges.

At this time there was no clear division between the judiciary and the executive at local level in Ceylon. The civil servants not only acted as judges,but also often held judicial and executive offices at the same

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1. As Cameron wrote later,civil servants were 'practically acknowledged to be equally fit for the discharge of any other functions',ibid.:W.R., pp.10-11;P.R.,p.56.
2. S.Casie Chitty,The Ceylon Gazetteer(Cotte,1834),p.50.
3. The Legal Commissioners in the West Indies noted that 'no other qualification than integrity,common sense and local experience' was required of those who joined the judiciary,D.J.Murray,op.cit.,27.
4. C.O.54/121:Marshall's memo.,19 Apr.1830.
5. see,for e.g.,Colombo Journal,11 Jan.1832,letter to the editor by 'Timon'.

time. This enabled many of them to act without due recourse to law. The Collectors,for example,enforcedly detained persons indebted to the government even without the intervention of a warrant from the Governor[1]. As in India,in Ceylon 'the crucial question was the union or seperation of revenue and judicial powers'[2];the weight of the opinion was for a separation[3]. Clearly,at this time there was no need to combine or even maintain an ambigious distinction between civil and judicial powers in the hands of one official. In the frontier areas of many British colonies, civilian authority was united with military command for reasons of security[4]. In Ceylon,after the conquest of Kandy the Agents of Government who were put in charge of the outlying provinces were entrusted not only with powers to 'give orders to collect revenue,perform public services, suspend and punish headmen for disobedience,and exercise general powers of government',but also judicial powers[5]. Security being the primary consideration,many Agentships were held by militarymen. Cameron was not preccoupied with such considerations,and proposed to establish a judicature suited to a stable society[6]. The attempt to provide for an independent judiciary was one major step in this direction.

In proposing an independent judiciary,Cameron felt that there was a need to remove the Governor's powers over judicial officials. They were 'entirely dependent upon the Governor's pleasure for their continuance

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1.C.O.54/79:Colebrooke & Cameron to Murray,30 Apr.1830.
2.E.Stokes,op.cit.,p.157.
3.see,C.O.416/8-D41:evidence of Eden & Colombo Journal,17 Oct.1832.
4.At the Cape of Good Hope,for instance,Chief Magistrates possessed direct civil & military authority to prevent the illicit introduction of slaves & fugitives from the outlying areas,Parl.Papers,1826/27,XXI(282), p.213.The most conspicuous examples were found in India.
5.C.R.de Silva,op.cit.,i,285.
6.Cameron's policy was a marked contrast to the policy of the Commission of Eastern Enquiry at the Cape,where they advised the continuance of the special powers of Chief Magistrates for reasons of security,Parl.Papers, 1826/27,XXI(282),p.213.

in office'. They could be dismissed for alleged misconduct,or removed to some other department by him without any responsibility to public opinion. Cameron also found the mode in which the judges obtained legal advice in cases of doubt,through the Advocate-Fiscal who was a government official, objectionable[1]. These views of Cameron were questioned by many contemporaries.Justice Marshall,for example,while agreeing that the judges were dependent upon the Governor for their office,argued that they may be 'virtually.....considered to hold their offices during good behaviour'[2],and it was pertinently questioned whether there was any instance where the Governor '<u>directly</u> or <u>indirectly influenced a decision?</u>'[3]. Cameron,however,was not prepared to accept an independent judicature which depended upon the goodwill of the Governor,and finding the answer in Benthamite thinking,proposed that 'all interference with or control over the local judges in the exercise of their judicial functions [be] transfered to the appellate jurisdiction'[4].

It was often argued at this time that many inhabitants other than the Burghers were capable and competent to discharge the duties of a judge[5]. In his report Cameron did not state his views on the subject,but in a memorandum submitted later he unquestionably came out in favour of these arguements. He believed that by throwing open the judicature,

> 'the honourable ambition of the upper classes of Natives will be safely gratified,and the great mass of the people will be bound by ties of affection to a Government which ceases to withhold offices of power and emolument from its Native subjects,as soon as they become qualified to fill them with advantage to the Native community'. [6]

Apart from moral considerations,such a step was viewed from purely an

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1.<u>Report upon the Judiciary</u>:W.R.,pp.15-18;P.R.,p.57.
2.C.O.416/17-F42.
3.<u>Colombo Journal</u>,10 Oct.1832,letter to the editor by 'Censor'.
4.<u>Report upon the Judiciary</u>:W.R.,p.18;P.R.,p.57.
5.see,for e.g.,S.Casie Chitty,<u>op.cit.</u>,p.50.
6.C.O.54/145:Cameron to Goderich,10 Aug.1832.

economic point of view too - an important consideration for a member of a commission of inquiry striving to reduce expenditure; recruits from the colony, he assessed, could be remunerated at four-fifths the salary of European judges. As it has been observed, the British often contrived to find in the nineteenth century that 'the demands of justice were in harmony with the precepts of economics'[1].

The three assessors who were to sit with the judge in original courts of law were to be chosen in the manner jurymen were chosen in the Maritime Provinces. After the parties before the court concluded their pleadings, evidence and arguments, the judge was required to sum up and state his opinion of the law to the assessors, who thereupon were required to give such verdict as any two could agree. All the verdicts were to be recorded by the Registrar of the court. Hitherto, Cameron asserted, every judge who 'goes through the process necessary for arriving at a just conclusion upon the matters submitted to him, or indeed who bestowes any painful attention upon them, does so from the sole motive of satisfying his own conscientious love of justice'. Assessors would be the 'only check and the only stimulus which can be applied to a judge placed in a situation remote from an European public, and necessarily almost insensible to the opinion of the native public, with whom he does not associate'[2]. This argument held certain validity for it was commonly accepted that the introduction of assessors to all courts of law would lessen complaints against presiding officials of the courts[3]. Cameron, however, did not give the binding powers possessed by juries in England in civil cases to

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1. K. Ballhatchet, op. cit., pp. 51-52.
2. Report upon the Judiciary: W.R., pp. 20-21 & 194-197; P.R., pp. 57-58 & 78.
3. see, for e.g., Colombo Journal, 2 June 1832, letter to the editor by 'A Magistrate'. For petitions against judges see, nos. 32, 33, 40, 63 & 67 in C.O. 416/29.

the assessors,for the judge was given the power to give decisions contrary to the verdict of the assessors. Indeed,he went as far as to declare that 'when a judge checked by the presence of a jury,differs from a jury,the presumption is very much in favour of the opinion of the judge',and,therefore,his opinion should govern the ultimate decision, subject to correction by the appellate[1].

Another major factor closely associated with these proposals was developed by Cameron later. With the purpose of 'giving to a class of Native functionaries the skill and integrity necessary to render them fit for becoming Judges of original jurisdiction',Cameron proposed that of the three assessors one should be made a permanent official of the court. As the power he wields is little,and as he would function under an European judge,an individual holding such a position,he argued,would have only minimal opportunities to sacrifice justice to his private interests.

> 'Here,then,will be a public servant,obliged by his office to revolve constantly in his mind the maxims of law and morality,and,to assist,by his opinion and advice,in the application of them to the real business of life,who will at the same time be removed,by his peculiar position,from all temptations to pervert those maxims to purposes of chicane,fraud or oppression'. [2]

There is no doubt that Cameron laid great emphasis on this proposal. Later in India he sought to introduce permanent assessors to courts of law, and stated that it was the most important step he had taken in his efforts of 'preparing Natives of the East for Judicial offices'[3].

There were from time to time protests and complaints against the jury system[4],the precursor of the assessors,but,in general there was much

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1.Report upon the Judiciary:W.R.,pp.197-198;P.R.,pp.77-79.
2.C.O.54/145:Cameron to Goderich,10 Aug.1832.
3.I.O.,P/W.388:India Law Commission,report dated 2 July 1842,minute by Cameron,Mar.1838.
4.see petitions nos.160,162,169 & 170 in C.O.416/30.

appreciation of the system,and,as the Chief Justice observed in 1820, 'this happy system [is] now (I may venture to say) deeply cherished in the affections of the people,and revered as much as any of their own oldest and dearest institutions'[1]. There was favourable response for a wider and more fuller application of the jury system,especially from the officials attached to the judicature[2],but questions were raised about Cameron's proposals. William Rough recommended that assessors should be consulted only on matters of fact,and not on matters of law[3]. 'One Concerned' writing to the Colombo Journal wondered whether the assessors would be mere puppets[4],while 'Censor',another correspondent, expressed the view that they would act in the 'character of inspectors of the Judge's conduct' [5].

For a man who professed egalitarian views,it is curious to find one important aspect of the jury system,as it then operated,being neglected by Cameron. In the Maritime Provinces not only caste distinctions,but also class distinctions were maintained in the seating of jurors,ostensibly because of the reluctance of the different castes to sit together[6], resulting in each caste having its own set of jurrors[7]. In the Kandyan Provinces,where the jury system was not in operation,but where local inhabitants assisted as assessors in courts of law,the privilage was limited to only higher officials by the Proclamations of 21 November 1818 and 2 November 1822. After having discovered that in certain areas they

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1. AJ,X,1820,p.289.
2. see the views of the Advocate-Fiscal & his deputy in,C.O.54/118:Norris & Perring to A nstruther,13 Oct.1832. Justice Marshall proposed the extension of juries to the interior in 1830,C.O.54/121:Marshall's memo., 19 Apr.1830.
3. ibid.:Rough to Horton,9 Oct.1832.
4. Colombo Journal,5 Oct.1833.
5. ibid.,17 Oct.1832.
6. C.O.416/17-F42:evidence of Marshall.
7. see,C.O.416/13-F9:lists of jurrors empanelled on caste lines,1820-1828.

were not available,a subsequent Proclamation dated 8 August 1829 laid down that other officials holding appointments from the Board of Commissioners at Kandy,and 'natives equal by family connexion to chiefs actually in office' were to be permitted to act as assessors. While at social level the caste system was loosing its rigidity [1],it being formalised and institutionalized by the judicial system was a great barrier to social progress. There were criticisms of this system[2],Cameron himself finding that the assessors were selected from 'too small a class and not from that class which is best adapted to the purpose'[3],and,as Charles Marshall argued,it was extremely unlikely that the people would have refused a positive order from a court of law ordering the seating of all castes together[4]. Although Cameron recommended that the assessors should be chosen from all 'respectable classes indiscriminately'[5],the fact that the procedure of the Maritime Provinces was to be followed meant in effect that selection according to castes would still continue. This failure to propose the total abolition of caste distictions in the judicature was one of the major oversights of Cameron.

With the establishment of new original courts of law,the special position held by Europeans in judicial matters was to be ended. Although they could try any case involving a local inhabitant,the Provincial Judges and the Sitting Magistrates had cognizance over Europeans only in causes in which the value in dispute did not exceed £7.10.0. Thus,a distinction was made between the causes of Europeans over the value of £7.10.0. and the causes which fell short of £7.10.0.,which were classed with all

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1. see above,p.108.
2. see,Colombo Journal,2 June 1832,letter to the editor by 'A Magistrate' & 17 Oct.1832,letter to the editor by 'Censor'.
3. Report upon the Judiciary:W.R.,p.123;P.R.,p.70.
4. C.O.416/17-F42.
5. Report upon the Judiciary:W.R.,p.128;P.R.,p.70.

disputes of the general public. This led,according to Cameron,to the inevitable inference that in the eyes of the government all causes of the people of the colony were as trifling as the causes of Europeans below the value of £7.10.0. Cameron questioned why such a distinction should be maintained,for both the Provincial Courts and the Sitting Magistrates administered the same law as the Supreme Court,which effectively held jurisdiction over Europeans[1]. The jurisdiction of the Supreme Court over Europeans was extended throughout the Maritime Provinces,whereas it was denied to others beyond the limits of the district of Colombo. On the one hand,this constituted an advantage to the former over the latter,for the judges of the Supreme Court were the only judicial officials trained in law. On the other hand,it meant an advantage to the latter,for as no other court held equitable jurisdiction an European had 'no remedy in equity against a native not residing at Colombo,but all natives have a remedy in equity against all Europeans'. Cameron argued that there was not in Ceylon the same ground for the maintenance of an 'unfair and invidious' distinction between Europeans and the local inhabitants as in India. Whereas in India separate codes of law were administered to the Europeans and to the Indians[2],in the Maritime Provinces of Ceylon the Roman-Dutch law was administered,with few exceptions,to both Europeans and others alike[3]. Cameron,who found that 'the administration of justice to natives is of far more importance than its administration to Europeans',emphatically stated that 'all men are equally entitled to protection from those who undertake to govern them,to protection from each other,as well as from external enemies',

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1. ibid.:W.R.,pp.59-64;P.R.,p.62.
2. see,H.H.Dodwell,CHBE,V,p.5.
3. Report upon the Judiciary:W.R.,pp.101-107;P.R.,p.67.

and recommended that under the new judicature law should be administered without exception to all[1].

The most crucial question in the light of this decision was,what law should be applied in these courts ? No clear answer was given by Cameron to this very important and complex question. After the conquest of the Maritime Provinces,the law of the area,Roman-Dutch law,continued to be effectual,and was also later accepted by the Charter of Justice of 1801[2]. By this time,particularly after the principle had been accepted in the case of the French Canadians,the retention of laws and institutions which existed in a conquered colony under a former sovereign was 'accepted almost as a matter of course' by the British[3]. The pertinent question as regards Ceylon is whether at this time Roman-Dutch law was an universally applied,well established system. There is no doubt about its introduction by the Dutch,but considerable doubts have been expressed as to whether this system of law was enforced upon all people living under their rule. This law seems to have been applied only to the Dutch residents and the converts to Protestanism. If we accept the pronouncements of the later-day writers,not only the Sinhalese and Tamils but also the Muslims of the Maritime Provinces enjoyed their own laws and customs,and the enforcement of the Roman-Dutch law was only marginal;but,there may still be room for doubt of this[4]. Initially, after the conquest,the Dutch law system was accepted only as a temporary

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1. ibid.:W.R.,pp.60-63;P.R,p.62.
2. C.O.416/14-F23:Giffard's observations,11 Apr.1829.
3. H.T.Manning,op.cit.,p.295.
4. G.Obeysekere,Land Tenure in Village Ceylon(Cambridge,1967),p.130 & F.N.Hayley,A Treatise on the Laws and Customs of the Sinhalese(Colombo, 1923),p.23 & 27. It may be noted that the original records of the Dutch maintained in Ceylon as well as at the Hague have yet to be studied by historians.

measure[1], but it was gradually applied to all inhabitants, either on the assumption that the articles of capitulation preserved it, or because the Dutch Landraads were restored it was assumed that the Roman-Dutch law should be automatically applied[2], so that by the time of the commission of inquiry it was accepted as the common law of the area[3]. There were however, remarkable modifications in the system due to the introduction of English forms of procedure which were hardly compatible with the Dutch system.

> 'Although the laws of the Roman-Dutch code still prevail, yet in application of those laws we are much influenced by English precedents and modes of reasoning. First, the English law of evidence has been introduced; secondly, trial by jury has been introduced; thirdly, all trials are proceeded upon in open court, and no appeal is allowed in criminal cases, and points of law are argued nearly in the same manner as in England.'[4]

Coupled with these innovations, the fact that the Dutch laws were enforced by those who were not well versed in it, would have effected a considerable change from the system that operated under the Dutch.

In the Kandyan Provinces too the pattern of development was the same. As in the Maritims Provinces, laws repugnant to laws of England were abolished, but the traditional laws and customs of the Kandyans were guaranteed to them both by the Convention and by the Proclamation of 31 May 1816. Unlike the Roman-Dutch law, however, these laws and customs were not found in a recorded form. Indeed, there were variances in their operation from area to area. In 1826 for example, Turnour discovered that the laws in respect of widows in Sabaragamuva differed widely from those of other areas.[5] Thus, in issuing verdicts in courts of law, it was found necessary

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1. C.O.416/14-F23: Giffard's observations, 11 Apr. 1829.
2. G. Obeyesekere, op. cit., p. 131.
3. J.C.W. Pereira, The Laws of Ceylon (Colombo, 1904), ii, 1.
4. C.O.416/16-F41: evidence of Ottley.
5. C.O.416/20-G16.

to employ assessors to assist the judges. This in itself was no solution to the problem,for those appointed as assessors were not necessarily conversant with the customs of the people,and not infrequently,as Colebrooke found out,those who were most knowledgeable about customs and laws were kept out because of the strict limitation of assessorships to higher officials[1]. Some customs were acknowledged and certain,and therefore there was little opportunity for perversion to suit the needs of the assessors. The Judicial Commissioner,to whom suits were referred in instances of disagreement between the Agents and the assessors,was in a position to consult more authoritative officials,and from time to time the Governor assembled the leading Kandyans to ascertain their collective opinions[2]. But,the path to be followed by judges was not always clear. Marshall well expressed the dilemma facing them: 'Whenever a judge felt himself bound to decide against a custom,as one which would not be legally supported,the loser and perhaps the audience generally might be inclined to refer the decision to the contempt in which local customs generally were held by the court'[3]. Thus,it is not surprising that the administrators found themselves giving traditional laws and customs a more systematic rigour and a form of legal rules which were inflexible in application. This resulted,for example,in judgements based upon the interpretation of the rules per se,whereas the traditional Kandyan courts of law based their decisions upon a 'combination of legal principles with the situational aspect of any particular case'[4]. At the same time,certain English norms were introduced to the law. Prescription rights,for instance,which were undefined,and which were vitally important

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1.Report upon the Admn.:W.R.,pp.173-174;P.R.,p.23.
2.C.O.416/19-64:evidence of Downing,Judicial Commissioner.
3.C.O.54/121:Marshall's memo.,19 Apr.1830.
4.G.Obeyesekere,op.cit.,pp.48-49.

from the point of view of revenue of the government as well as from the point of view of private enterprise,were fixed for thirty years upto September 1819 and thereafter to ten years by the Proclamation of 18 September 1829. Further,a stricter mode of transfering property by deed was introduced,unless reduced to writing liabilities of third parties to debts were abolished,and the right of pre-emption for three years was enforced in place of the traditional custom entitling a seller or a heir to repurchase property sold[1]. Changes were seen in the traditional system due to the introduction of English procedure too. The confusion that resulted from a mixture of the traditional and English procedure was best illustrated at the trial of Vilbävē,who was charged for high treason before the court of the Judicial Commissioner in July 1830. The Commissioners of Eastern Enquiry,who followed the proceedings very closely, observed that,

> 'the indictment seems to have been based,and the proceedings on the trial would appear to have been conducted with the reference to the English law of High Treason,but even assuming that laws to have been in force in the Kandyan territory (which is a very large assumption),it is plain that many of the essential provisions were disregarded [2].....It was intended that the Trial should be conducted according to English rules of procedure and evidence,yet the substantive law administered was professedly Kandyan'. [3]

Although they thus delivered a severe indictment,neither Colebrooke nor Cameron made any attempt to formulate a complete code of law and procedure from the prevailing systems for the new judicature. Neither did they attempt to introduce more fully the English forms. An explanation for the latter can be found in the earlier work of the Commission of

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1.C.O.416/20-G11:evidence of Turnour.
2.For e.g.,in the absence of a public prosecutor the judge,the Judicial Commissioner,led the evidence against the accused. see the detail analysis in,C.O.54/121:Colebrooke & Cameron to Murray,23 Nov.1830.
3.ibid.:Colebrooke & Cameron to Murray,23 Nov.1830,& to Howick,12 Sept.1831.

Eastern Enquiry. At the Cape of Good Hope, the commissioners recommended the 'early adoption' of the English language as well as the 'practice and principles of British jurisprudence'[1], but their advice was not accepted in the face of the strenuous opposition of James Stephen, who argued that such a step would be 'productive of confusion and uncertainty almost inextricable'[2]. Perhaps, this reversal made the commissioners very reluctant to propose the same measure for Ceylon. It should also be noted that Cameron did not consider the unreformed English law and procedure as suitable for application overseas. Unlike many colonial administrators who 'suffered from the fatal national prejudice of esteeming the unreformed system of British system of justice to be the acme of perfection'[3], Cameron was critical of the British system, and stated that 'I do not propose to imitate indiscriminately the English form'[4]. It seems possible that if there was a demand for the introduction of English law in the manner seen in Trinidad in the first decades of the ninetteenth century[5], the commissioners may have recommended its introduction. About the year 1813 there certainly was a feeling among British residents in Ceylon that English law should be introduced in toto [6]. A comparable enthusiasm was absent at the time of the commission. Indeed, there was even strong opposition to changes in the Roman-Dutch law, particularly from important sections of the local population[7].

One of the well established methods of reducing the confusion and

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1. Parl. Papers, 1826/27, XXI(282), p.220.
2. see, C.O.54/139: Stephen to Hay, 14 May. 1827.
3. E. Stokes, op. cit., p.145.
4. Report upon the Judiciary: W.R., pp.203-204; P.R., p.79.
5. see, D.J. Murray, op. cit., p.79.
6. C.O.54/47: Brownrigg to Bathurst, 10 July 1813, encl.
7. see, the answers of Mudaliyars & land-holders in the Maritime Provinces to Q.15 in C.O.416/2-A6.

the resultant vexations from the lack of a proper system of law was codification. The predecessors of the British in the Maritime Provinces as rulers, the Dutch,had begun the task of codifying the customery laws of the people under their rule. Tamil customery law was codified during the Governorship of Jan Simons (1702-1706), and the code became known as the Tēsavalamai[1]. Steps were taken by the early British administrators to continue the work of the Dutch. The Tēsavalamai was reissued and accepted in British courts of law, and the Muslim law was promulgated in the form of a code[2]. In the Kandyan Provinces,John D'Oyly and Simon Sawers, both members of the Board of Commissioners to whom the task of collecting authentic information about the area was entrusted, collected and compiled information which was later considered authoritative, and was even cited by their successors against the opinions of the assessors in courts of law[3]. To Colebrooke it was represented by the people that 'to secure the due administration of justice,and to protect the rights of the people,a digest of the laws and customs of the island ought to be prepared for the guidence of the courts of justice'. Colebrooke himself observed that,

> 'the existence of particular customs recognised by different classes of people,the uncertainty that prevails with regard to them,and the spirit and effect of several regulations which have been enforced by the European governments on the alleged authority of custom,suggest the necessity of such a revision'.[4]

Even in Kandy,where the prejudices of the people were the strongest,there was a desire for revision of thelaws and the application of a common system of law to both Kandyan and Maritime Provinces. It was also submitted

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1.see,C.O.416/17-F48.
2.C.R.de Silva,op.cit.,i,296.
3.R.Pieris,Title to Land in Kandyan Law(Colombo,1956?),p.1fn.
4.Report upon the Admn.:W.R.,pp.171-172;P.R.,p.23.

that the people should be consulted beforehand,and the mode suggested was an assembly of 'the most intelligent inhabitants of every class'. The judicial officials,on the other hand,desired the promulgation of a code laying down a scale of crimes and punishments,especially in criminal matters. The absence of a clear guide to punishments resulted,the judges of the Supreme Court observed,in different punishments being meted out to persons convicted of the same crime[1]. Cameron's mentor Bentham himself argued that a rational and a simple code of laws would supply a complete mode of procedure for the government,and at the same time preserve the customary laws in a written and a consistent form[2]. Cameron, however,never displayed such enthusiasm in Ceylon. Considering the active role he later took in law reform and codification,this lack of interest is surprising. As a member of the Law Commission in India,he wrote that by codification of Indian customary and statutory law 'the present uncertainty,confusion,and groundless diversity will be entirely removed'[3],and devoted much attention to codification which constituted a major contribution to law reform in India.

In a truly Benthamite manner,Cameron directed his energies to simplify the system of procedure in courts of law in Ceylon. Bentham's influence over him was remarkably strong in this field. Bentham spoke strongly against the procedural methods followed in English courts of law,and advocated the adoption of the 'natural' or the 'simplification system' in place of the 'technical' or the 'formalist system' he found in operation. He desired to establish cheapness,speed and simplicity in courts of law,and was attracted to a procedural method which best

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1.C.O.54/120:Marshall to Hay,15 June 1832 & C.O.416/13-F1:Ottley & Marshall to Barnes,29 May 1829.
2.J.Plamenatz,The English Utilitarians(2d ed.,Oxford,1966),p.65.
3.C.H.Cameron,An Address to Parliament,pp.146-147.

exemplified these features. A summary,non-technical procedure,where the maxim would be 'every man his own lawyer',enabling suitors orally to state their plea before the judge and personally confront their defendent,was this system par excellance[1]. Like many an Indian administrator who was attracted to this method of simple intelligibility,Cameron too found it greatly appealing,and applied it in what can be termed a classic Benthamite way.

Cameron found that in causes tried before lower courts throughout the colony,there was no rational and methodical system of pleading,or causes being reduced to one or more disputable points of fact or law. In majority of the suits the judges were bound,by Proclamation of 22 January 1801,to receive and take down whatever a competent witness stated,whether relevant to the cause or not,resulting in a 'confused mass of statement and evidence'. Frequently,Cameron observed,this enabled 'a party to waste the time of the court below,and to embarrass the points for its decision to any extent'[2]. He hesitated to replace this by the procedural system that operated in England. Like Bentham, who described English methods of pleading as 'a sort of written correspondence between two attorneys'[3],Cameron was not attracted to what he called the 'very elaborate process of dressing' followed in matters of pleading and hearing in England. The moral and intellectual conditions of the people of Ceylon were such,a more suitable form was a system whereby the judge could exercise 'something like a paternal authority'.

> 'He must allow the parties themselves to come and relate their own story to him;he must be counsel

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1. E.Halévy,op.cit.,pp.380-394 & E.Stokes,op.cit.,p.71.
2. Report upon the Judiciary:W.R.,pp.11-15;P.R.,pp.56-57.
3. E.Halévy,op.cit.,p.380.

> for both parties,that is,he must be counsel for each so far as each appears to have truth and justice on his side;he must assist them in putting their statements into that form which will show whether there is really any question between them requiring for its decision the examination of witnesses or documents,or a more deliberate consideration of the law applicable to their case,and which will also show at any future time precisely what it was which upon that occassion, transivit in rem judicatum'. [1]

The underlying principles could hardly have been expressed better by Bentham himself.

In practical terms this meant that pleading would be in the nature of an 'oral altercation' between parties in an open court[2]. The term 'oral altercation',by his own admission,Cameron borrowed from the work on pleading by Henry John Stephen[3],and he seemed to have hoped by this method to bring back the simplicity that prevailed in ancient systems of justice. The method of oral altercation,according to Stephen,had compelled pleaders 'to manage their alternate allegations as at length to arrive at some specific point or matter affirmed on the one side,and denied on the other'[4]. The steps recommended together with oral pleading would, Cameron hoped,eliminate the undesirable features of litigation in Ceylon. With a total disregard for veracity,litigants not only contested true statements of the opposite party in the hope that his proofs may fail, but also brought forward false evidence,both documentary and personal testimony,with the deliberate purpose of imposing upon the court as truth. Thus,according to Cameron,a consultation between a suitor and his legal

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1,Report upon the Judiciary:W.R.,pp.214-217;P.R.,pp.80-81.
2.recommendation 4,ibid.:W.R.,pp.205-206;P.R.,p.79.
3.C.O.54/145:Cameron to Hay,7 Mar.1833. Cameron considered Stephen's work an 'excellent treatise on pleading'.
4.H.J.Stephen,A Treatise on the Principles of Pleading in Civil Action(2d ed.,London,1827),pp.30-32. In this work Stephen(1787-1864),according to A.V.Dicey,'exibited the whole theory in scientific form,arranged the principles in logical order,and expressed them in a series of unequalled clearness and brevity',D.N.B.,LIV,pp.160-161.

adviser assumed the nature of 'a conspiracy to commit every species of crime which may conduce to the object the party has in view'[1]. Altough he confessed that it would be impossible to prevent such actions completely,he believed that to a great extent evil effects of them could be reduced by

> 'bringing the whole suit,from the begining to end, before the European judge and the public,by never suffering the authority of the court for any purpose whatever,until the party who invokes it,has been personally examined in open court and thus satisfied the judge that the grounds of his application are true and sufficient'. [2]

With this in view he recommended that the parties in dispute should be examined by the judge,and cross-examined by each other[3]. The litigants could be assisted by lawyers,but,if it were necessary,the judge must assist the parties in putting their statements into a regular form . Following Bentham closely,the summary mode was more emphasised by stipulating that examination by oath was not necessary[4]. And,to prevent delays which occassioned in the examination of suits,delays resulting mainly from the absence of witnesses - 'one of the most serious impediments to the Despatch of business'[5] - he also laid down that at the time of pleading,each party should state the names of witnesses they intend to produce at the trial as well as the documents to be brought forward. Subpoenas to witnesses were to be issued only if the judge was satisfied by a viva voce examination of the party desiring

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1. Report upon the Judiciary:W.R.,pp.218-219:P.R.,p.81. Cameron obviously exaggerated,but by all accounts such attempts of litigants were widely prevalent,and were generally considered most obnoxious. see,for e.g., C.O.416/13:Ottley & Marshall to Barnes,29 May.1829.
2. ibid.:W.R.,pp.220-221;P.R.,p.81.
3. recommendation 6,ibid.:W.R.,p.207 & 225-226;P.R.,p.80 & 82.
4. recommendation 9,ibid.:W.R.,p.209;P.R.,p.80.
5. Colombo Journal,2 Jan.1833,letter to the editor by 'No Quack'.

their issue,and no motion of affidavit was to be granted by the court without following the same procedure[1]. To facilitate early despatch of business in courts of law,he also recommended that 'if irreparable consequences are likely to result from delay' judges may permit witnesses to be examined by commission outside the courts[2]. Clearly,such recommendations were Benthamite inspired,and to what extent Cameron was attached to them was well reflected in his later attempts to introduce similiar measures to Indian courts of law,measures which were described by Lord Macaulay as 'direct simple forms'[3].

One of the most controversial recommendations made by Cameron was the proposal to invest the judges with powers of imposing fines at the termination of suits on those who were found 'guilty of an attempt to pervert or obstruct the course of justice'[4]. Under the then existing system,Cameron observed,fines in the form of payment of costs were imposed indiscriminately upon both the honest and the dishonest suitor. When fines upon misuse of legal proceedings are imposed in the guise of costs they no longer bear the appearence of a punishment,and,further, they are not imposed,as they ought to be,according to the financial ability of the persons liable to the fine,and 'they do not bring upon him any of the obloquy which ought to be attached to his conduct'. He believed that under his proposal,'fines,instead of operating as they now do,to deter those who are seeking to protect their rights by legal proceedings,will operate only to deter those who use such means for purposes of fraud and oppression'. The judge was to decide without any

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1.recommendations 5,7 & 8,ibid.:W.R.,pp.200-209;P.R.,p.80.
2.recommendation 10,ibid.:W.R.,pp.210-211:P.R.,p.80.
3.C.P.Dharker,op.cit.,p.241.
4.recommendation 11,Report upon the Judiciary:W.R.,pp.211-212;P.R.,p.80.

limitation from the opinions of assessors,and the fines were to be imposed according to the 'delinquancy of the party' and his 'pecuniary ability'. Cameron admitted that a reduction in the revenue of the government would be a consequence of this step,particularly if the abuse of legal proceedings diminished,but was heartened by the fact that such an effect would be an ample compensation to the government and the community for their pecuniary loss[1]. There is no doubt that this proposal was closely akin to the thinking of Bentham. According to Bentham,punishments ought to be effected only in so far as it promises to exclude a greater evil. 'Punishments can seek to control the offender's future actions,in which case it is either reformatory or disabling;or else it can seek to control other people's future actions,in which case it is a deterrent. It usually seeks to do both'[2].

Of all the recommendations of Cameron,this proposal received the heaviest criticism from both the officials at home and in the colony[3], as well as from the non-official community. Of the non-officials,'Censor', who wrote a series of letters to the Colombo Journal analysing the reports of the Commission of Eastern Enquiry,was the most outspoken,and, perhaps,best saw the flaws in Cameron's proposal. Finding it difficult to reconcile this proposal with Cameron's own desire to facilitate just litigation he asked,'is not the liability to an arbitrary fine likely to deter as many persons from seeking justice,from a prudent calculation, as the present system is to encourage frivolous litigation ?' He believed that in any society there would be the 'sanguine and obstinate' as well as those who are 'morally' convinced of the justice of their

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1. ibid.:W.R.,pp.233-240;P.R.,pp.82-83.
2. J.Plamanetz,op.cit.,pp.79-80.
3. see below,p.289.

cause,and ably pointed out that in formulating his proposal Cameron had not taken into consideration people of such different habits and temperament[1]. If the un-Englishness of Bentham's views led to a hesitancy of their acceptance in England,the same un-Englishness of his disciple's proposals led to their rejection in Ceylon.

The other major controversial recommendation of Cameron was the 'total abolition of all stamps upon legal proceedings,and of all fees of court'[2]. This proposal was clearly linked with the former proposal,for Cameron wanted to encourage 'just' litigation as much as to discourage 'unjust' litigation. As he stated,

> 'the object to be aimed at is that the services of the tribunals should be afforded gratuitously to those who ask them bona fide,but that those who ask such services mala fide should not only receive them gratuitously,but should be made to pay a heavy penalty for the abusive exercise of an essential privilege'.[3]

For every step taken by a suitor in every court of law,he was obliged to pay a stamp duty,which,according to Cameron,though 'small and ineffectual for the beneficial purpose of raising a revenue,is large and powerful of indiscriminately repressing litigation'. Exemptions to the payment of stamp duties were provided by the Governor upon petitions to sue in forma pauperis. But,the government having discovered that the numbers to sue in forma pauperis had reached great proportions,severely curtailed the grant of this privilege[4]. In the circumstances it is not surprising that litigants attempted to avoid or reduce payment of stamp duties by collectively estimating the dispute at a lesser amount than

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1.Colombo Journal,3 Oct.1832.
2.recommendation 12,Report upon the Judiciary:W.R.,p.212;P.R.,p.80.
3.ibid.:W.R.,p.242 & 248;P.R.,p.83 & 84.
4.ibid.:W.R.,pp.23-26;P.R.,p.58.

the true value. Such attempts were so prevalent that in 1832 the government found it necessary to issue a proclamation declaring them unlawful[1]. Coupled with the generally high stamp duty, the fact that most litigants found it necessary to seek assistance of lawyers due to ignorance of the law, meant an increased cost in litigation. Although the Supreme Court attempted to regulate the fees of Proctors[2], there was an almost unanimous agreement among contemporaries that the fees charged by lawyers were unreasonable, and that they tended only to greatly increase the expenses of litigants[3]. The effects of these rules and regulations upon the people was thus ably summed up by Cameron.

> 'The community being divided into those who can afford to pay for justice and those who cannot, the inconvenience of the former class, as distinguished from that of 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. Those who cannot pay are plainly told that they have no right by law to the service of a court of justice, but that, by sufferance they may glean as much of them as if left after the true owners have taken all they have occassion for'.[4]

Not satisfied by facilitating means of judicial remedy by abolishing stamp duties, Cameron went further and recommended that expenses of witnesses should be paid by the public[5]. As safeguards were laid down to prevent the use of this proposal for perversion of justice, principally the recommendation that witnesses were to be summoned only if the court deems it fit, Cameron believed that this step would only help the poor and those who were unjustifiably restrained by the inflexible rules in operation. 'It is certainly the duty and the interest of govern-

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1. Proclamation of 24 Aug. 1832. For complaints against stamp duties see, petitions nos. 103, 126 & 145 in C.O.416/29.
2. see, table of fees approved in July 1823 in C.O.416/17-F42. This did not cover other courts of law.
3. see, for e.g., Colombo Journal, 11 & 18 May 1833.
4. Report upon the Judiciary: W.R., pp. 27-28; P.R., p. 58.
5. recommendation 13, ibid.: W.R., p. 212; P.R., p. 80.

ment',wrote Cameron,'to provide for the complete administration of justice at the public expense'[1]. Such statements clearly show that a coldly dispassionate analysis of a Benthamite was not always true of Cameron; a tinge of humanitarianism was mixed with his Benthamite views in considering the subject of judicature of Ceylon.

This proposal too,like the proposal to abolish stamp duties,was subjected to heavy criticism. Again the most outspoken and the best illustrative of the critics was 'Censor'. Noting Cameron's condemnation of the litigious spirit of the people,he questioned why Cameron should bring in these proposals as a remedy,when they would only 'hold out every possible encouragement to the vexatious litigant by withholding every check that at present exists'. The result would be,he argued, 'the whole population will be involved in lawsuits,and malicious and vexatious litigation will encrease beyond all bounds'[2]. The arguments were singularly related to the personal self. No attempts were made by such critics as 'Censor' to formulate theoretical or intellectualized arguments to a system proposed basically upon theoretical grounds. Significantly,this fact alone made such criticism less weighty,and consequently less influential with officials at home[3].

A close examination of Cameron's proposals shows that his recommendations were based upon contradictory suppositions. On the one hand,he found a great deal of unnecessary and unfair litigation,and took steps to prevent their occurrence [4]. On the other hand,he also believed that the judicature operated to prevent just litigation by rigid rules and regulations,and attempted to remove such restraints[5]. The answer

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1.ibid.:W.R.,p.249;P.R.,p.84.
2.Colombo Journal,3 Oct.1832.
3.see below,pp.261-262.
4.see above,recommendations 4,5,6,7,8,9,10 & 11.
5.recommendations 12 & 13.

to this apparent contradiction seems to rest on finding the answer to the question,how prevalent was and what were the reasons for litigation ? Most contemporaries agreed with Cameron,and their views can be summed by Bennett's conclusion that 'the Singhalese,taken collectively as a nation,may justly bedescribed as most litigious'[1]. The Colombo Journal noted that,'the losing party always appeals against the decision,and if as many courts existed and he was defeated in Ninety Nine instances,he would (with a perseverance that exceeds belief) still have recourse to the Hundreth'[2]. The exaggeration is obvious,but considering later times, indeed even the present times,there is justification in the conclusion that there was wide spread litigation. However,it is difficult to conclude with the same amount of certainty whether the spirit of litigation was a particular result of the British methods of administering justice. It has been argued that as there was 'no trace of the unusual trait' previous to the British,it must be considered 'a legacy of the British administration'[3]. The evidence is not clear regarding the Maritime Provinces,but there is ample evidence to show that there was considerable litigation in the Kandyan Provinces before their conquest[4]. The cause of the increase in litigation during the British rule lay in the disuse of the traditional institutions of the people. Institutions like the Gansabhā,which acted ad-hoc,without technicalities,and which attempted only at conciliation and not at punishment,would have been safety-valves which operated to prevent a great deal of litigation under the old order. Their popularity itself illustrated to what extent they

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1.J.W.Bennett,op.cit.,p.55 & 111.
2.Colombo Journal,21 Apr.1832.
3.R.K.W.Goonesekere,The Eclipse of the Village Court,CJHSS,I,1958,p.143fn.
4.J.Davy,An Account of the Interior of Ceylon and its Inhabitants(London, 1821),p.183 & U.A.Gunasekere,Land Tenure in the Kandyan Provinces of Ceylon(Oxford Univ.B.Litt.thesis,1959),pp.67-68.

were utilised within the traditional order[1]. Once they lost their importance under British rule,it seems quite likely that the business which would have been transacted in these organs was transferred to British courts of law,resulting in an increase of litigation. A similiar deterioration of traditional institutions in Burma under British rule led to an increase in litigation too : by 1886,the increase,which had even spread to the remote hill tracts of Arakan,was attributed to the 'disuse of the customs of referring disputes for arbitration to the local chiefs'[2]. Both in Ceylon and in Burma,every evidence points to an encouragement of the people to settle their disputes by the process of Western law. By contrast,in Java,where under the Dutch 'customary law and the practices of arbitration and settlement of disputes by reasonable compromise have survived',no marked increase in litigation was reported[3]. It is also worth noting that in Ceylon under the British,the break-up of the traditional order,a process which had been in operation for a considerable period of time[4],was reaching its zenith. The decay of the traditional order hastened litigation,and litigation in turn encouraged a further break-up of the old order[5],and under the recording system of Western law,the resultant increase in litigation became more visible.

In the light of the preceding facts,it is relevent to question why Cameron did not contemplate the resurrection of the traditicnal institutions,which,by bringing back the system of reconciliation, would

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1. see,C.O.54/145:Colebrooke's observations,17 July 1834.
2. J.S.Furnivall,op.cit.,p.136.
3. ibid.,p.267.
4. see below,pp.185-188.
5. This was particularly illustrative in land litigation. see below,pp.187-188.

have effectively reduced litigation. The question assumes greater importance in view of Cameron's attempts to formulate a simple and an easy process of justice. The foremost of the traditional institutions which operated at local level to settle disputes were the Gansabhāa. Although originally acted as an administrative organ, the Gansabhā developed into a judicial body[1]. As a judicial body it acted only as a court of arbitration, and, as it had no power to give a binding decision, settlements took place only if the disputants were willing to agree; in instances where compromise failed, recourse had to be taken into a higher court of law[2]. This system, which operated with great efficiency, if it is to be gauged by its popularity, was surprisingly neglected by the British. Although there is evidence of its continuance in the Maritime Provinces under the Portuguese and the Dutch[3], it is conceivable that it suffered at their hands, especially under the Dutch who were less concious than the Portuguese in maintaining traditional institutions. In the Maritime Provinces, therefore, it is possible to argue that the British inherited an enfeebled institution, but the same argument cannot be applied to the Gansabhā of the Kandyan Provinces for, by all accounts it was in a flourishing state at the time of the conquest[4]. Under the British, these institutions were superseded by English courts of law by the Proclamation of 21 November 1818. This proclamation did not abolish Gansabhā, and in certain regions they continued to function. But, generally they seemed to have been ignored and neglected by administrators, and the people seemed to have looked more and more towards British courts

1. H.W.Codrington, Ancient Land Tenure and Revenue in Ceylon (Colombo, 1938), p.3.
2. R.Pieris, Sinha. Social Organ., p.152ff & U.A.Gunesekere, op.cit., pp.69-70.
3. R.K.W.Goonesekere, CJHSS, 1, 1958, p.139.
4. see, C.O.54/145: Colebrooke's observations, 17 July 1834.

of law for redress of grievances[1]. The Judicial Commissioner,who possessed powers to refer suits made before his court to Gansabhā,reported that between 1827 and 1830 only three disputes were referred by him to the Gansabhā for their consideration[2]. The reports of the majority of the Agents of Government indicate that no suits were referred by them to the Gansabhā [3]. Despite this neglect,they possessed a 'dormant vitality'[4];and, Colebrooke was inspired by the regularity of the proceedings of Gansabhā that functioned during his time[5]. Contemporary observers were well aware of their virtues. Major J.Forbes wrote that 'Village Councils were indispensable in a country where landed property is so minutely divided, and consanguinity so estranged as in Ceylon'[6],and Simon Casie Chitty advocated the establishment of these institutions in areas removed from the seats of Provincial Courts[7]. In the Kandyan Provinces,Charles Marshall discovered,stronger feelings in favour of these institutions existed than in the Maritime Provinces,where 'the inhabitants have already become familiarized to a certain extent with the Supreme Court,and the English mode of administering justice'[8]. However,none of these observers wanted the establishment of traditional institutions in toto. Nor did they want a delay in enforcing more fully the English systems. Marshall,for example, while recognising the usefulness of indigenous bodies in the interior,did not hesitate to recommend the extension of the jurisdiction of the

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1.C.O.416/19-G4:evidence of Downing & C.O.416/19-G6:answers to Q.85 & 89 by Agents of Government.
2.C.O.416/17-F49:Wright to commissioners,25 Sept.1830.
3.ibid.:returns of cases referred to Gansabha. also,J.Forbes,op.cit.,i,71.
4.Berwick,District Judge of Colombo,who was later instrumental in reviving an interest in Gansabhā during Sir Hercules Robinson's Governorship (1865-1872),cited R.K.W.Goonesekere,CJHSS,I,1958,p.140.
5.Report upon the Admn.:W.R.,p.72fn.:P.R.,P.11.
6.J.Forbes,op.cit.,i,71.
7.Colombo Journal,29 Feb.1832.
8.C.O.54/121:Marshall's memo.,19 Apr.1830.

Supreme Court over the same area. No significant attempts were made,however to formulate a plan whereby traditional institutions of value could exist and function side by side with Western courts of law. While in Ceylon there was a conspicious lack of interest among the administrators, in India plans were formulated,and were even sucessfully implemented. Mountstuart Elphinstone,for example,utilised traditional organs to maintain law and order without imposing the burden fully upon English innovated institutions. Panchayats,the closest parallel to Gansabhā in India,were empowered by him in 1818 to handle all judicial causes with substantial success[1].

Cameron,like the Utilitarians in India,did not belong to the group of administrators who regarded themselves as 'inheritors rather than innovators,as the revivers of a decayed system and not the vanguard of the new'[2]. The Utilitarians bore no great respect or tolerance for tradition,but at the same time were no anglicisers. The critera of judgement were principles of utility,and if we are to accept the verdict of contemporaries,by Utilitarian standards alone the Gansabhā should have been revived and given a prominent place in his plan by Cameron. Here, there was an important and irreconcilable conflict between the utility of the institutions and the principles of judicial organisation formulated by Bentham. The Gansabhā could not fit in with Cameron's plan of multiple omnicompetent courts of law,and it is conceivable that by his close attention to simplicity,easiness and inexpensiveness in judicial procedure, he was attempting to replace the Gansabhā with courts which possessed the same virtues,but which were better organised within the Benthamite framework. While Cameron was so bound by his doctrinaire training,Colebroo-ke had ample opportunities of showing his pragmatic sense[3].

1.K.Ballhatchet,op.cit.,pp.106-109. 2.E.Stokes,op.cit.,p.1

III. APPELLATE JUDICATURE.

Above and over the myriad of omnicompetent original courts of law, Cameron proposed to establish 'an appellate jurisdiction of the most comprehensive kind' in the form of a Supreme Court. This court was to consist of three judges, a chief justice and two puisne justices, who, however, were not to sit together excepting when it was required of them to give decisions on points of law. When sitting alone the judges were to be assisted by three assessors, who were to be chosen and were to perform the same functions as the assessors of the courts of first instance[1]. Constituted in this manner, the Supreme Court did not hold any startlingly new features, but the powers handed over to it led to a remarkable and a radical change: it transformed from what Cameron called 'an excrescence upon the general system of the judicature' into that of primacy.

Through the years the Supreme Court had assumed the role of a bulwark against the encroachment of the executive upon the judicature. The Chief Justice was the highest ranking judge in the colony, but was not accorded the position of the head of the judiciary. Nominally, and, depending upon the personality, effectively, the head of the judiciary was the Governor. The judges of the Supreme Court possessed effective powers only over the establishment of the Supreme Court, but that too was gradually erroded away by the actions of the Governor[2]. Ultimately, the judges were reduced to a position whereby they were made even ignorant of the passing of enactments affecting their position as members of the high court, despite the fact that the Chief Justice held a seat in the

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1. recommendations 14 & 15, Report upon the Judiciary: W.R., pp.263-264: P.R., p.85.
2. see above, p p.62-65.

advisory council[1]. On the other hand,as observed earlier[2],the judges did not surrender without a struggle. Indeed,they carried on a struggle of their own to increase their powers and privileges. Alexander Johnston, for example,who was sent to England by the Governor to represent the views of the executive in the event of a change in the system of government,instead made representations which were wholly in favour of the judicature,and was successful in procuring an instrument which delegated powers to the judiciary at the expense of the executive[3]. The Supreme Court also attempted to enhance its powers at the expense of the courts which were under the Governor's powers. This was best exemplified in its ruling that the testamentary jurisdiction which the Provincial Courts exercised since 1806 was ultra vires[4]. Such conflicts, which occurred because of the absence of a clear delineation of powers between the judiciary and the executive,were determindly ended by the Commission of Eastern Enquiry by closely defining their respective fields of operation.

As Cameron pointed out,'in respect of its dignity,of the qualifications of its judges and the expense of its establishment' the Supreme Court should have held the foremost place among all courts of law,but it transacted only 'a very trifling portion of the business ' of the judicature,and its jurisdiction was circumscribed in more than one way. It possessed civil,equitable and testamentary jurisdiction in the

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1.Regulation no.1 of 1824,for e.g.,was enacted without the Chief Justice's knowledge. The Lieutenant-Governor declared at the time that 'precedent has sufficiently established that discussions on the subject of proposed laws at all affecting the Supreme Court,never led led but to a disagreeable correspondence,without any approximation or agreement',Parl.Papers, 1825,XXIV(513),p.456. see above,p.62.

2.see above,pp.64-65.

3.P.D.Kannangara,op.cit.,p.23.

4.For despatches relating to this subject see,C.O.54/94.

district of Colombo,in addition to which it had cognizance over all Europeans in the Maritime Provinces[1]. Although the Supreme Court desired to extend its matrimonial and criminal jurisdiction to the Kandyan Provinces under the provisions made by the Charter of Justice of 1811, it was refused on the advice of the law officers of the Crown.[2] Political considerations overrode considerations of justice,for there is no doubt that this limitation impeded the course of justice in the interior[3]. Thus restricted,the Supreme Court handled only a small number of judicial cases. Cameron found that between 1826 and 1828 it tried only 529 cases, whereas the Provincial Judge and the Sitting Magistrate of Colombo between them tried 18,145 cases during the same period of time.

> 'I doubt whether such a waste of judicial power is exibited in any other country in the world. Here are two judges sent from the English or Irish bar,invested with high rank,and remunerated by ample salaries,for the purpose of trying 176 causes,civil and criminal, in the course of a year,as judges of the supreme court, and 38 appeals in the same period,as judges of the high court of appeal'. [4]

The extension of the jurisdiction of the Supreme Court over the whole colony,as Cameron himself observed,had been recommended by every judge who was a member of it,and was one of the first steps decided by the Commissioners themselves in Ceylon[5]. Both Ottley and Marshall proposed this extension in their draft charters[6]. Ottely,however,proposed to extend the powers of the high court by abolishing and vesting the jurisdiction of the Provincial Courts in the Supreme Court. Cameron's plans

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1. Report upon the Judiciary:W.R.,pp.99-101;P.R.,pp.66-67.
2. According to them this step had to be precededby an annexation of the interior to the Maritime Provinces,C.O.55/63:Bathurst to Brownrigg, 13 Oct.1815.
3. see,C.O.416/13-F8:list of cases wherein the want of jurisdiction of the Supreme Court in the Kandyan Provinces impeded the course of justice.
4. Report upon the Judiciary:W.R.,pp.117-119;P.R.,p.69.
5. C.O.54/79:Colebrooke & Cameron to Hay,30 Apr.1830.
6. see,C.O.416/16-F37 & F38.

were completely different. The original jurisdiction of the Supreme Court, excepting the powers over higher criminal causes,was to be removed,and vested in the new original courts of law[1]. Criminal jurisdiction he proposed to retain because he felt that there was a 'propriety of distinguishing the trial of the graver crimes by some more solemn and impressive proceedings than is used in other cases'. Predictably,the judges of the Supreme Court objected to the loss of their original civil powers,particularly that of their exclusive cognizance over Europeans. Charles Marshall,writing admittedly on behalf of those who were under the special jurisdiction of the high court,questioned the 'expediency and justice of withdrawing an extensive and important branch of the population of Ceylon.....from a jurisdiction with which.....they are perfectly satisfied'[2].For reasons which are only too obvious,the judges at the same time expressed satisfaction over the extension of their powers to the Kandyan Provinces[3].

The reasons for the prominent place assigned to the Supreme Court in appellate functions can well be understood by studying the nature of the then existing appellate systems. There was no uniformity,and Cameron most emphatically declared that the 'proceedings of the local judges are very insufficiently controlled by appellate judicatures'. In the Maritime Provinces,there were two courts which exercised appellate functions. Of the two,the Minor Court of Appeal,as its very name suggests,held lesser powers,its cognizance being limited to civil causes under the value of £30.0.0. There was also a ceiling on the lowest value of disputes appealable,on the grounds that 'it is found by experience that the right

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1.recommendations 19 & 21,Report upon the Judiciary:W.R.,p.271 & 273;P.R., p.86.
2.cited,P.D.Kannangara,op.cit.,p.255.
3.see,for e.g.,C.O.54/118:Rough to Horton,9 Oct.1832.

of appealing to the minor courts of appeal in cases of trifling value, serves only to encourage petty litigation'[1]. As Cameron argued, petty litigation was certainly an evil, but by the nature of the society, particularly when considering the value attached to money at this time, suits of small value held some importance to the people. With the deterioration of the means of compromise and conciliation, disputants were forced to have recourse to Western courts of law. Instead of amicable settlement, these courts gave decisions in favour of one or another, resulting in such disputes being held at greater value than before. Therefore, it is not surprising that Cameron discovered that the average of the civil suits tried in the Maritime Provinces between 1826 and 1828 and during the first half of 1829 indicated a greater proportion of disputes less than the value of £22.10.0. (14,107) than those above the same figure (683)[2]. Cameron rightly came to the conclusion that petty disputes were as important as other disputes.

> 'Among all duties incumbent on the British rulers in the East, it is impossible to name one more imperative than that of providing for the effectual decision by public authority of the disputes arising among the poorer classes.....I can conceive no tie which will bind the lower people so strongly to their government, as a judicial establishment so contrived as that the very same attention and discrimination should be employed upon their causes as upon those of their affluent neighbours'.

There were four courts which exercised appellate jurisdiction of a minor nature at Colombo, Jaffna, Trincomalee, and at Galle. Although there were defenders of these courts[3], they were also much criticised, and, as Cameron observed, the very nature of their constitution attracted less attention

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1. Regulation of Government no.9 of 1814.
2. Report upon the Judiciary: W.R., pp.91-93; P.R., p.66. Cameron did not explain why he chose the figure £22.10.0.
3. see, for e.g., Colombo Journal, 10 Oct. 1832, letter to the editor by 'Censor'.

to them than to other courts of law,for they were composed of judges who held 'no education adapted to their functions' and they acted without the assistance of jurors[1].

The other appellate judicature in the Maritime Provinces was the High Court of Appeal,which consisted of the two judges of the Supreme Court,the Governor,the Chief Secretary,and the Commissioner of Revenue. Cameron believed that it was better constituted than the lower appeal court inasmuch as the two judges were members of it,but also observed that the other members were superfluous as regards any legitimate purposes of justice for they were non-legal personnel who ought to be occupied with other duties. Although 'ample powers for correcting the mistakes and abuses of the subordinate jurisdiction' was vested in it, the fact that it invariably sat at Colombo meant that their judgements were in general founded only upon the examination of court records,for few witnneses possessed the ability of incurring the expenditure of repairing to the capital for hearings. This court,as well as the lower court of appeal,heard only appeals in civil matters. There was no appeal in criminal matters. The Supreme Court,however,exercised a certain superintendence over the lower court's exercise of criminal jurisdiction by virtue of its mandates of writs[2].

The appellate system in the Kandyan Provinces was less satisfactory than that of the Maritime Provinces. There was appeal from the courts of Agents of Government to the Judicial Commissioner in land cases and in disputes over the value of £16.5.0.,and from the court of the Judicial

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1. Report upon the Judiciary:W.R.,pp.78-86;P.R.,pp.64-65. For complaints against the Minor Court of Appeal see,petitions nos.210,271,296 & 310 in C.O.416/30.
2. ibid.:W.R.,pp.86-96;P.R.,pp.65-66.

Commissioner to the Governor in suits of same description. Thus,the process of appeal was far different from that of the Maritime Provinces,and the judge of the last resort was the Governor,who was,according to Cameron, 'in no respect the proper officer to exercise appellate function'. Cameron found the Governor's role all the more objectionable because on his own declaration the Governor possessed equitable jurisdiction,and 'an equitable jurisdiction,when there are no positive rules of equity, means an unlimited discretionary power over the law'. There was no appeal in criminal cases,but by the Proclamation of 21 November 1818, grave sentences - such as conviction for murder or treason - could be meted out only with reference to the Governor[1].

Rejecting these bodies,Cameron proposed in keeping with the pattern of uniformity in the judicature that the only appellate body in the colony should be the Supreme Court. Although it still possessed features of a court of first instance,its main functions were to be appellate,which were absent in its earlier form. The appeals were to be held in circuits, the whole island being divided into three circuits,Northern,Eastern,and Southern. Each judge was required to go on cicuit twice every year subject to the proviso that a judge should be permanently stationed at Colombo[2]. The powers of the judges in appeal jurisdiction was thus enumerated by Cameron:

> 'I recommend that such judge shall hear in the circuit court of appeal all applications for redress against all decisions,whether interlocutory or final,of the courts of original jurisdiction,and shall,according to what the justice of the case may require,try the cause over again wholly or in part,or re-hear the arguments of the parties upon points of law,and shall do generally whatever may be necessary for the attainment of substan-

1. ibid.:W.R.,pp.153-154;P.R.,p.73.
2. recommendations 16 & 17,ibid.:W.R.,pp.264-265;P.R.,pp.85-86.

tial justice'.[1]

It is also worth noting that in the exercise of these powers by the judges, the proceedings were to be assisted by the Advocate-Fiscal, who was to be the prosecuting official for the crown[2].

Thus, the loss of the exclusive jurisdiction over Europeans was more than compensated by the delegation of extremely wide powers to the Supreme Court. Cameron recognised the need for an appellate judicature in the generally accepted sense, as a means of redressing grievances of suitors of original courts of law by personal hearings. He was attracted to the classical Benthamite conception of an appeal court too, for he considered the establishment of a resident appellate tribunal at Colombo 'to which the records of cases tried by the courts of original jurisdiction might be transmitted by the post'. He rejected this system only because he realized that an effectual and a closer degree of regulation over local courts were necessary in the colony. The circuit courts of appeal, he contended, would give 'the parties and their witnesses the same cheap and easy access to [the judge] as they had to the judge of original jurisdiction' by the fact that circuits would be held in places where the causes were originally tried. Thus, the two modes of justice within the reach of suitors, that of the local and itinerant judicatures, would operate with advantage to the benefit of the people[3].

The appeal court was to serve another purpose too: it was to be the 'means of preserving the unity of the law, which cannot fail to be impaired by the decisions of a number of judges, even though they should be animated

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1. recommendation 18, ibid.: W.R., p.266; P.R., p.86.
2. recommendation 20, ibid.: W.R., pp.272-273; P.R., p.86.
3. ibid.: W.R., pp.267-271; P.R., p.86.

solely by that public spirit which is kept alive by the substantial publicity of the tribunals'. Accordingly,the judges of the Supreme Court were empowered to receive applications from the judges of original courts of law for advice upon 'all matters of law and practice,and shall return answers in writing thereto'. They were also authorized to peruse the records of the lower courts,and where they find different practices being followed,were to consult together and agree upon 'a declaratory law',and submit the same to the Governor for legislative enactment[1]. Finally,the high court's position as the supreme judicature of the colony was emphasised by giving it the power of issuing mandates of writs[2].

The main features of the new judicature were thus formulated by Cameron. The details,however,were left to be worked out when the charter of justice was prepared. Considering the purpose for which the Commission of Eastern Enquiry was originally appointed,one major failing of Cameron can be noted at this stage itself. Unlike Colebrooke,who successfully completed the task of reducing expenditure,Cameron was unable to make any effective reduction in the expenditure of the judicial branch of the government. Although he attempted to formulate recommendations which would have reduced expenditure ,the appointment of local judges for example, a number of other recommendations acted only to increase the financial burden of the government. The abolition of stamp duties,the payment of witnesses by the public,the establishment of circuit courts of law,and the extension of the use of assessors,could only result in an increase of expenditure. Cameron,however,estimated that the cost of the administration of justice would not increase,but would be maintained at its present cost,

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1.recommendations 22 & 25,ibid.:W.R.pp.280-285;P.R.,pp.87-88.
2.recommendation 23,ibid.:W.R.,p.281;P.R.,p.87.

and declared that 'I cannot undertake to say that justice can be effectually administered to 800,000 people at a much cheaper rate'[1]. Perhaps,Cameron may have been comforted by the knowledge that any major reduction in the public services provided by the colonial government would not have been acceptable to the officials at home[2]. It is also significant to note that the periodic attempts made by the Governors of the colony to reduce expenditure rarely covered the judicial branch of the government. The only noteworthy instances of reductions in the expenditure of the judiciary were made by the Secretaries of State, Goderich and Murray[3].

By any yardstick of judgement,Cameron's plan for a new judicature was completely Benthamite,and closely follow the basic principles Cameron himself enunciated. A multitude of original courts of law were to be established within the easy access of any suitor. They were to act without institutions fees or stamp duties but gratuitously,without any technical procedure but with simplicity,and their omnicompetenceywas not to be circumscribed by any pecuniary or metaphysical principles. They were to be supervised by the public - publicity in proceedings was repeatedly stressed - and by a single appellate judicature,which was also entrusted with the task of maintaining a general uniformity in the interpretation of the law. Within this Benthamite framework, certain deviations were made by Cameron. Of Bentham's three grades of courts - the parish or canton court,the district court,and the provincial court - only two sets of courts of law were to be introduced,perhaps, governed by the size of the colony. He did not strictly adhere to the

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1. ibid.:W.R.,pp.285-286;P.R.,p.88.The annual expenditure of the judiciary at this time was £36,245.11.0.
2. see above,p.89.
3. see,C.R.de Silva,op.cit.,i,310.

doctrine of the single judge, and neither did he act with distrust towards the jury system. These features,however,did not fundamentally affect the Benthamite character of the judicature Cameron proposed for Ceylon.

IV.COLEBROOKE AND BARNES.

The withdrawal of Colebrooke from investigations upon the judicature after the arrival of Cameron did not lead to a complete severance of interest in that branch of the administration. His recommendations on the subject of reduction of expenditure of the colony,submitted before Cameron reported,covered the judicial establishment too. He further intended to prepare his own observations on the judicature,which were,however,postponed to a later date due to 'the necessity of urgency' in dealing with matters directly under his consideration[1]. After his own reports were handed over to the Colonial Department,he turned again to the judicature,and prepared two memoranda upon it. The first, dated 24 September 1832,was mainly concerned with the recruitment of local inhabitants to the judicature,and the second,dated 24 December 1832,related to the subject of summary mode of procedure. The first memorandum was submitted to the Colonial Department at the time it was written,but the second,recommendations 'for improving the Administration of Justice in Ceylon'[2],was not submitted until January 1840 for some unstated reason. Having at that time being asked by the Secretary of State to report upon a memorandum of Philip Anstruther,the Colonial Secretary of Ceylon[3],Colebrooke took the opportunity of communicating his earlier memorandum of December 1832 in support of the views he then

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1.C.O.54/122:Colebrooke's memo.,24 Sept.1832.
2.see,C.O.54/185.
3.see below, pp.309-310.

expressed upon the administration of justice in Ceylon. In the present study,attention will be drawn only to his communication of September 1832[1], for only it had a bearing upon the decision-making of the Colonial Department on the reports of the Commission of Eastern Enquiry.

Two major arguments put forward by Colebrooke in his memorandum were greatly at variance with the recommendations of Cameron. The first concerned the revival of the Gansabhā. Colebrooke's own analysis of the administration of justice in Ceylon,led him to come upon the same conclusions as Cameron,for he realized that above all what was necessary for the colony was a summary mode of procedure. Unlike Cameron,who was attracted to a summary procedure mainly on theoretical grounds, Colebrooke formed this conclusion on pragmatic considerations. He found the lack of a non-technical procedural method in the hearing of petty disputes led,particularly in regions where regular courts of law were not established,to great inconveniences to the people. To remove the inconveniences he did not look towards innovation,but to the restoration of an indigeneous institution of the colony,the Gansabhā. Unlike Cameron,Colebrooke personally observed the working of a Gansabhā near Kandy,and was much impressed with its proceedings upon a land dispute[2]. Evidence submitted to him indicated that the institution had been held with much respect and confidence by the people. Hence,he recommended that it should be preserved where it still existed,and restored where it was superseded by Western courts of law. As he stated later,'the village councils or Gansabhawa.....required but a very little regulation to render it an efficient means of providing for the police of the Country and the adjustment of petty disputes and cases'[3].

1.the memo.is found in C.O.54/122.
2.see,Report upon the Admn.:W.R.,p.72;P.R.,p.11,marginal note.
3.C.O.54/145:Colebrooke's observations,17 July 1834.

Colebrooke's other major point of departure from Cameron's recommendations is found in his estimation of the jury and the assessor systems. He was in complete agreement with Cameron in the appointment of local inhabitants to office. He concurred with Cameron in his recommendation that they should be initially appointed as assessors, but he was totally opposed to the proposal of permanent assessors. He believed that such a measure would be prejudicial to the right of the judge to reject any individual's nomination as an assessor,and further more,it would also tend to form 'a kind of permanent jury'. In place of Cameron's proposal,he recommended that the selection of assessors should be made widely so that 'they will not become a caste themselves or..... be liable to abuse the trust reposed in them',and that they should be remunerated only according to the number of days served in that capacity. Once trained in this manner,they should be appointed to the more responsible positions of judges. More importantly,he also recommended that either in the selection of assessors or judges,caste considerations should not operate. Criteria for selection should only be property,character and intelligence. Colebrooke thus drew attention to an important oversight of Cameron.

In his memorandum Colebrooke tended to agree with Cameron only on the subject of reduction of expenditure of the judicature. He pointed out that 'a considerable reduction of Expenses in all the Departments was considered necessary to Enable the Government to effect the most indispensable reform in the Revenue System of the Island'. Yet,he was as cautious as Cameron in proposing reductions. The reductions he recommended mainly affected the salary structure of the judges,and these he believed 'did not essentially militate against the plans of reform

recommended by Mr.Cameron',a view which was later accepted by the Colonial Department[1].

The proposals of Colebrooke mark him out as a man of different temperament than Cameron. The differences of the two commissioners were clearly fundamental,for their recommendations were based on different assumptions,but they cannot be in any way considered all-embracing. The writings of the two indicate much sympathy towards each other's proposals,which,perhaps,stemmed from their basic liberal outlook. Throughout the dialogues they carried on between them,there never was a break in the understanding of each other's motives. The stand each took as a critic to the other's proposals was not one of hostility,but of sympathy and understanding - an attitude quite at variance to that of the critics in the colony.

As in India,the opposition to the application of Utilitarianism in Ceylon mainly arose from the conservatism of the critics. There was, however,an essential difference in the nature,and consequently in the strength,of the resistance to Utilitarianism in India and in Ceylon. The resistance which Utilitarianism faced in India was 'not the ordinary inertia of the existing order, It encountered what in a more intellectualized political tradition would be called a rival political philosophy. It encountered the spirit of Burke'. Generations of administrators,who derived their inspiration from the work of Sir Thomas Munro, continued to resist the Utilitarian attempts to disseminate their ideas - a form of resistance which had much stronger hold over the shaping of Indian policy than any seen in England. In India,it was able 'to make strong head against the reforming tides'. 'It succeeded so far

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1.see,minute on Stewart to Hay,1 Mar.1833 in C.O.54/132.

as to shift the emphasis of liberalism,by drawing out the latent authoritarianism that resided in its doctrine'[1].

Utilitarianism never became a major force in Ceylon as in India, Cameron's proposals being the only outstanding example of its application in the colony. The opposition to Cameron was less subtle than the Indian resistance to Utilitarianism,and was more in the nature of a frontal attack. It lacked the intellectual or emotional roots of an effective opposition. There never was the Burkean spirit. Nor was there any administrator who could inspire his colleagues and successors with an emotional appeal for the preservation of the heritage of the past:there was in Ceylon,a disppointingly obvious dearth of men of Thomas Munro's calibre. The only administrator who measured upto men in India was Alexander Johnston,but by this time,despite his authoritative stature as a man knowledgeable of conditions in Ceylon,he was reduced to the position of a mere observer,devoid of any substantial influence. The resistance in Ceylon consequently was that of a mundane consideration - that of a man on the spot attempting to safeguard his power and privileges. The Governor at the time of the Commission of Eastern Enquiry, Sir Edward Barnes,best exemplified this. As was characteristic of him in other matters as well,Barnes' attitude towards judicial reforms was one of tenacious opposition,particularly where the reforms affected his position as the Governor.

Barnes opposed the establishment of uniformity in the judicial administration of the colony on the grounds that 'the multiplication of jurisdiction in one court' was 'highly injurious'.

'This is never done except in cases of absolute necessity

1.see particularly,E.Stokes,op.cit.,p.XVIff.

> - No person I presume would wish to see the Court of Chancery,Common Pleas,and Ecclesiastical Courts in England,all absorbed by the King's Bench,and the same judge deciding in law in one day the same case that he may next be called upon to decide in Equity'.

He opposed any change in the constitution of the Supreme Court too. Considering the small number of Europeans in the island,he felt that there was a justification in the maintenance of 'multifarious powers' in the Supreme Court. The removal of its exclusive cognizance over Europeans would necessitate the establishment of more courts of law than was necessary,with disastrous consequences upon the expenditure of the colony. As he stated,'an expenditure of forty thousand pounds a year for judicial establishment seems as much as the Island ought to be saddled with'. Opposing any change in the method of selection of judges,he argued in favour of the retention of the existing system of civil service judges. By their very training in other branches of the administration,he argued, the civil servants would have acquired a substantial knowledge of the laws and the customs of the colony by the time of their appointment as judges[1].

It is clear from these arguments that the range of Barnes' attacks upon the proposals of Cameron was very distinctly limited to spheres where it was important to safeguard his position as the Governor. Any change in the constitution of the judicial organs in operation could lead to the loss of the Governor's powers over certain courts of law,and consequently over the officials who were presiding in them. The only way he could have profited by a change was in the Supreme Court,the only court of law effectively beyond the Governor's grasp,but Cameron's proposals indicated an attempt to enhance its powers at the expense of the Governor. Thus,he

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1.C.O.54/112:Barnes to Commissioners,10 Sept.1830.

concentrated on those measures which would have effected a change in the existing judicial establishment rather than on the far more radical proposals relating to the changes affecting the procedure of these courts.

Chapter:5.

THE RECOMMENDATIONS OF THE COMMISSION - III: ECONOMIC.

I.INTRODUCTION.

The proposals for economic reforms form the key to the understanding of Colebrooke's measures for the colony. It has been truly said that 'the social scene grows out of economic conditions, to much the same extent that political events in their turn grow out of social conditions'[1]. An attempt to apply this dictum to Colebrooke's proposals may, however, prove to be an unsuccessful exercise. This is in the main due to the difficulty of showing such a causality in the formulation of the proposals. They were so interwoven that they seem almost inextricable from each other. Nevertheless, it is possible to discern a feeling that Colebrooke placed a high emphasis on economic reforms. This was, perhaps, due to reasoning that the solution of the formidable problem facing him - the perennial deficit in the budget - was possible only by way of economic reforms. At the conclusion of his investigations, Colebrooke found that he could not hold out the possibility of an increased revenue under the then prevailing system, and to effect 'most indispensable and urgent' reforms, directed his attention to reducing expenditure in the government establishments[2]. He did not solely rely on such short term steps to solve the problem, and was soon devoting his energies to a total evaluation of the economic structure. This led to proposals which almost totally eclipsed the economic basis upon which the government was then operating.

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1. Lord Hailey in his introduction to C.K.Meek, Land Law and Custom in the Colonies (2nd ed., London, 1949), p.xi.
2. see above, p.89.

An examination of Colebrooke's recommendations for economic reforms, therefore, should be made in the context of the task assigned to him. It is also necessary to view them in the light of the economic conditions of the times [redacted]. Placed in the setting of the economic background, they seem less startling and less radical than they are purported to be. An analysis of the contemporary economic conditions would show that the stage was almost perfectly set for reforms of the nature Colebrooke brought forward; the reforms seem to blend with the background. That there was a total absence of reformist spirit is, however, not argued. Colebrooke possessed the virtues of a reformer too[1]. The reforms, as K.M.de Silva has stated, 'for all their earthiness and practicality, possessed a tinge of genuine idealism'[2]. The 'genuine idealism' ultimately proved to be the weak-link in the reforms.

For a better understanding of the recommendations, they need to be placed in the context of the wider experience of their author too. In the previous discussions, it became abundantly clear that Colebrooke was working along lines and maxims perfected by himself. A man of action, he was attracted to vigerous personalities like Raffles. As in the field of local administration, Raffles exercised an influence over Colebrooke in his economic reforms too. Colebrooke seemed a complete anti-doctrinaire , but he was susceptible to theories in the economic frontier. But, significantly, these theories were not of those in prominence, but were of one almost obscure[3]. Considering the climate under which Colebrooke functioned, it has been too easily supposed that

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1. see above, pp. 59-60.
2. CJHSS, II, 1959, p. 246.
3. see below, p. 207ff.

he was a close follower of influential contemporary movements. The influences were there, but, as the present study attempts to show, they were not all-pervading, and were even at times completely subjugated to immediate needs arising out of the situation. Hence, by contrast to Cameron, no attempt has been made to analyse Colebrooke's recommendations from the vantage point of a theory or theories. The more profitable course of action has proved to be to examine the influences directly in relation to the proposals themselves.

II. LAND, AGRICULTURE AND LAND TAX.

The significant feature in the economic conditions of the times was its fluidity. The economic and social changes rampant in the first decades of the British rule in Ceylon have been often treated in isolation as consequences of the British administration, but a wider perspective of the changes has become necessary by the evidence brought forward in recent studies. Only a cursory glance has been made by historians at the economic and social changes which occurred under the foreign rule in the Maritime Provinces and under the kings at Kandy, but the few studies that have been made amply show the importance of looking at the changes of the first decades of the British rule as a part of a continuous trend. D.A.Kotelawelle, for example, in his monograph on the agrarian policies of the Dutch in the mid-eighteenth century, brings forward fresh evidence of important changes in the economic strata under the Dutch rule[1]. These changes continued well into the British period, and perhaps were accentuated by the type of administration adopted by the British. This was true of not only the Maritime Provinces, but also of the Kandyan regions. The

1. see, D.A.Kotelawelle, Agrarian Policies of the Dutch in South-West Ceylon, 1743-1767, A.A.G.Bijdragen, XIV, 1967, pp. 3-33.

development of a social organisation[1] belied a settled state at Kandy, but beneath the superstructure widening cracks were appearing which ultimately proved to be as significant as those of the Maritime Provinces.

A detailed analysis of the changes in the Maritime Provinces under the Dutch and in the Kandyan kingdom is beyond the scope of the present study. It is important, however, to look at some of the more significant developments in relation to the economic forces that were operating in the period under consideration. An examination of the land tenurial system under the Dutch, for example, points to important changes in the traditional order which were of much value in the context of the later developments. Admittedly, these changes were not occassioned by a deliberate policy of the Dutch[2], but their significance cannot nevertheless be doubted. Perhaps, the most striking development was the emergence of private ownership in land amidst conditions of land tenure which were wholly feudal in character.

> "The previous pattern had been dominated by service tenure holdings which were inalienable by the holders[3] and whose ultimate rights of disposition lay with the sovereign. A pattern emerges in which freehold lands with full rights of alienation to the owners begin to be predominant. The total number of land holdings in the Colombo disawany[4] was estimated at 30,000 of which an estimated 4,667 only were service tenure lands. This was no doubt caused by the expansion of the class of land termed 'land brought under cultivation with or without government permission'. The large scale increase in the number of private land transactions without proper legal formalities might well be an indication of the new phenomenon".[5]

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1. On this subject see, R. Pieris, Sinha. Social Organ.
2. see, D. A. Kotelawelle, A. A. G. Bijdragen, XIV, 1967, p. 26.
3. M. W. Roberts in his study doubts the generally accepted verdict that service tenure land was inalienable. He contends that lands could be alienated or transferred, but on condition that the new occupants perform the attached service. see, M. W. Roberts, Some Aspects of Economic and Social Policy in Ceylon 1840-1871 (Oxford Univ. D. Phil thesis, 1965), p. 52.
4. Dutch provincial unit, mainly based on the Sinhalese.
5. D. A. Kotelawelle, A. A. G. Bijdragen, XIV, 1967, p. 24. also, M. W. Roberts, op. cit, p. 53.

Although perhaps not belonging to a general pattern, similiar developments can be traced in the Kandyan Kingdom. The separate taxation system of field, garden and chēna [1] of the old order, almost disappeared. The service tenure registers revealed that the mulpamguva, the original share of land which formed the basis of service tenure, was in a 'confused medley'. At the same time, more significantly, there was a parallel development in the 'growing sense of individual rights in land and the gradual diminution of communal feelings'. From these features, H.W. Codrington concluded in his study that Kandyan land tenure was 'clearly in a state of disintegration and in many ways less representative of the older system than those in the vogue under the Kotte Kings (1412-1551) and the Portuguese'[2]. The emerging phenomenon in land tenure of both the Maritime and the Kandyan Provinces was private ownership. This tendency was perhaps best reflected in the increase of litigation over land. The Dutch practice of granting freeholds, a perceptive observer noted in 1797, produced among the inhabitants a habit of constant litigation[3]. In Colebrooke's opinion, the establishment of the Landraads by the Dutch 'doubtless was.....to decide with accuracy in all cases of dispute about land'[4]. In the Kandyan Provinces, the administrative machinery established by the British had to devote considerable energy to settle land disputes, most of which had originated in pre-British times[5]. By the end of the second decade of the British

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1. Sinhalese: hēna - shifting cultivation with rotation of land instead of crops.
2. H.W.Codrington, op.cit., p.25, 60 & 63. see also, M.W.Roberts, op.cit., p.52b. Ralph Pieris in his study excludes Nuvarakalaviya & Tamankaduva, the comparatively remoter provinces in the dry zone, from these developments. see, Title to Land in Kandyan Law, p.2.
3. Jos. Greenhill cited, R.Pieris, Society and Idelogy during a 'Time of Troubles' 1796-1850 - III, UCR, X, 1952, p.80fn.
4. C.O.54/185: Colebrooke's memo., 24 Dec. 1832.
5. see, R.Pieris, Title to Land in Kandyan Law.

rule in Ceylon, litigation had become so prevalent that it was even declared that 'land in Ceylon.....is a most fertile theme of litigation'[1], an observation confirmed by Colebrooke[2].

These pointed to a future trend, but numerous other factors operated in the nature of a hindrance to the development of more widespread individual land ownership. The 'gemeinschaft' social relations[3], and the inherent complexity of the land tenure, were biased against the development of individualism. The sociocentric features in the inheritance laws, the absence of primogeniture in particular, led to the creation of such 'salient features' as subdivision of land and fragmentation[4]. Consequently, it is no surprise to find 'ancestoral land [being] divided and subdivided until an individual's share may be 1/126th part of a coconut tree'[5]. There was too a great deal of reluctance to part with land to outsiders: 'all the great and petty headmen keep it as an ancient custom not to sell any of their lands to other castes, nor even to alienate out of their families'[6]. The concept of land sales, on the other hand, did not encourage permanent rights over land. Evidence indicates that land sales were redeemable during at least the life-time of the seller, which in effect meant that they assumed the nature of mortgages[7].

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1. Parl.Papers,1834,VI(570),p.167.
2. Colebrooke stated that land was 'often the subject of protracted law suits', Report upon the Admn.:W.R.,p.218;P.R.,p.28.
3. R.Pieris,UCR,IX,1951,p.266.
4. M.W.Roberts,op.cit.,p.51.
5. C.O.416/2. see also,Report upon the Admn.:W.R.,pp.217-218;P.R.,p.28.
6. Alexander Johnston cited,R.Pieris,Society and Ideology during a 'Time of Troubles'1796-1850-II,UCR,IX,1951,p.267.
7. M.W.Roberts,op.cit.,p.53.

The prescriptive rights were not well defined[1]. Moreover, the prevalent notions did not indicate that lands were free from feudal encumbrances; they were not 'necessarily akin to notions of freehold rights in the European sense'[2].

These features were viewed with disdain by the British. As the Colonial Department pointed out, 'the tenures of the Cinglese Districts are so complicated.....that the system would require to be revised before a just estimate could be found of the improvements of which they are susceptible'[3]. The improvements in mind were in the main the development of individual rights. Instances have been recorded where the actions of colonial administrators were directed away from English precedents[4], but as in the older colonies of the West Indies[5], the evolution of land policy in Ceylon was guided by the English experience of the Governors.

> 'Given _paraveny_[6] rights, the fact of the King's overlordship and certain superficial similarities to practices in feudal Europe, what more natural than that they should square local usages and terminology with those of feudal England; and they should apply the concept of ownership; that they would endeavour to have the rights cut and dried and classified'.[7]

Unlike in certain other colonies, Fiji for example where the Deed of

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1. D'oyly cited, H.W.Codrington, _op.cit._, p.11fn.
2. M.W.Roberts, _op.cit._, p.53.
3. see, C.O.59/28: minute on Bertolacci's Statistical Account of Ceylon, n.d. The tenurial system of the Tamil districts was less complicated being more or less based on freehold rights. see, C.R.de Silva, _op.cit._, ii, 330.
4. In New Zealand, for e.g., several enactments were made contrary to English precedents. Nevertheless, they received the warm approval of James Stephen. see, C.O.209/14: minute dated 29 Sept.1842 on Hobson to Stanley, 29 Mar. 1842.
5. Lord Hailey, introduction to C.K.Meek, _op.cit._, p.x.
6. hereditary property.
7. M.W.Roberts, _op.cit._, p.56.

Cession of 1874 circumscribed the actions of the government[1], the Ceylon government held a free hand to follow its own policies. There were no stipulations made as regards immovable property at the time of the cession of the Maritime Provinces, and in the Kandyan Provinces, the colonial government inherited the rights of overlordship of the king. The only restraints were those imposed by Dundas in his instructions, which were, however, not very closely adhered to[2]. As there was not yet a common imperial land policy, until the 1830's the Governor of the colony held the ultimate power and direction over land policy.

The traces of the development of private ownership were seized upon by the administrators. Their early reports well indicate how quickly they grasped the significance of these developments[3]. The principle of inalienability - limitation of alienation by requiring executive sanction - cropped up from time to time, and lip service was paid to custom[4], but 'the whole drift and tenor of British rule from the outset was towards the contrary principle of freehold rights'[5]. This was exemplified in a number of legislative enactments made during the following years[6]. The changes made in the service tenure system[7] too were in the same direction, for they were the first steps taken to relieve land from feudal encumbrances. At the same time, the government carefully guarded its rights of overlordship. H.W.Codrington noted

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1. see, J.D.Legge, op.cit., p.180ff.
2. see above, p.81.
3. For the Maritime Provinces, for e.g., see, C.O.54/126: a special account of the district of Matura, 17 Sept.1807 by Schneider, Colonial Engineer; for the Kandyan Provinces, extracts of the proceedings of the Board of Commissioners, 25 June 1824 in C.O.57/57: report of the Service Tenure Commissioner for 1872.
4. These features were epitomized in Maitland's Regulation of Government no.8 of 1809.
5. M.W.Roberts, op.cit., p.58.
6. see above, pp.148-149.
7. see below, pp.221-222.

that grants of land by the British government to chiefs of Sabaragamuva were worded in such a manner that it precluded private ownership[1]. The importance of these rights was seen only when the government sought to exercise them by disposing of great extents of land during the period of expansion of plantation agriculture[2].

Land alienation prior to the British did not fall into the category of a commercial transaction; landswere alienated usually for services rendered, and have been termed 'land grants' rather than 'land sales'[3]. Until the 1830's no significant changes were introduced to this method, but substantially larger land grants were made by the British to both local inhabitants and Europeans. At the beginning of British rule, motivated mainly by the Indian experience[4], Dundas had prohibited the settlement of Europeans outside Colombo. Under pressure from the colonial government, this rule was finally relaxed in 1810[5]. Meanwhile, from the time of North, the government had begun making perpetual land grants to local inhabitants, with inducements in the nature of tax exemptions to encourage agriculture; by the end of 1832, it was calculated that 54,890 acres of land in the Maritime Provinces were handed out in this manner[6]. By 1812, Europeans too received grants of land in perpetuity[7].

All these features show a 'picture of a Government fostering change; of Government altering the tenurial system and modifying the socio-economic

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1. H.W.Codrington, op.cit., p.7.
2. see particularly, I.Vanden Driesen, Plantation Agriculture and Land Sales Policy in Ceylon - I, UCR, XIV, 1956, pp.6-25.
3. ibid., p.6.
4. see above, p.16.
5. C.O.54/38: Castlereagh to Maitland, 21 Feb.1810.
6. R.Pieris, UCR, X, 1952, p.84.
7. Government Advertisement dated 21 July 1812.

structure in Ceylon'[1]. It is important to examine to what extent Colebrooke's proposals related to these developments. In the main his measures were closely linked with these developments, for much of his energy was devoted to the introduction of more widespread individual rights in land - indeed, the development of individualism was a patent feature in all his recommendations relating to the economic field. His ideas pertaining to individual rights in land were most clearly laid down in a memorandum he prepared early in 1829 upon the creation of a native land owning class at the Cape of Good Hope[2]. He saw that the creation of such a class was possible only with the active cooperation of the government, and as an immediate step recommended that the occupants of lands held in trust by missionary organisation should be 'declared Entitled to the free Grant of their allotments' after a period of residence of three years and the erection of a 'substantial dwelling'. His recommendations for Ceylon, however, were of a different nature. The government's actions were to be devoted not so much to an active creation of a land owning population, but to an encouragement of the developing tendency towards individual land ownership: there was no attempt to utilise government powers to force upon the people certain rights. This was a marked change from the earlier British policy, for there was a conscious attempt - perhaps, best exemplified in North[3] - to alter the land tenurial system by use of government powers. Colebrooke found that 'the people are generally anxious to acquire land', and saw the need

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1. M.W.Roberts, op.cit., p.60.
2. see, C.O.48/160: draft of proposed plan for settlements of lands at missionary institutions at the Cape of Good Hope, 11 Mar. 1829.
3. see below, pp.221-222.

to remove the restraints that had been built up to bar the attainment of this end; the role the ownership of land played in an oppressive system was well understood by him.

> 'The government has at all times drawn largely on the resources of the people in the taxes and duties it has imposed,in the monopolies it has enforced,and the gratuitous service it has exacted. When it is considered that in some places the peasantry have laboured on the roads,without wages or subsistence,during several months of the year,it is evident that the possession of land for their support alone have enabled them to sustain the burthen'. [1]

On the one hand, therefore, Colebrooke directed his attention to the abolition of the remaining feudal encumbrances upon land, and on the other, the removal of the artificial restraints upon individual enterprise. By the abolition of rājakāriya[2], the last feudal ties were to be removed from land and labour, and by giving full rein to individualism in economic activities, a larger land owning class would be created, and with it, the subdivision of land would be ended. Further steps were to be taken in the direction of law:

> 'The laws in force for regulating the inheritance and distribution of property,which are various and complicated,should also,as far as possible,be assimilated,a measure which may be connected with a reform of the system of land tenures under which the government still claims the service of the Kandyan people'. [3]

As in the case of the measures of the earlier administrators, the principle of inalienability with a motive of safeguarding the rights of the indigenous population over land was absent in Colebrooke's proposals. Such a principle

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1. Report upon the Admn.:W.R.,pp.210-214;P.R.,pp.27-28.
2. On this subject see below,pp.220-233.
3. Report upon the Admn.:W.R.,p.191,208 & 219;P.R.,p.25,27 & 28. Riddell, the ex-colleague of Colebrooke,suggested the introduction of the principle of primogeniture to the law of inheritance,but Colebrooke does not seem to have accepted the proposal. see,C.O.54/118:Riddell to Horton, 21 Mar.1832.

would have been inconsistent with Colebrooke's attempt to encourage the settlement and participation of the Europeans and Indians in the economic affairs of the colony[1]. The proclamation of inalienability by the government, and the attempt to preserve closely indigenous land ownership, was yet to become a tenet in British colonial policy. Since the active role of the government was to be minimal, the implication seemed to be that decisions regarding land was to be left in the hands of the judicial organisation. Colebrooke never made a clear directive regarding this subject, but it is important to note that already Western process of law had become the medium by which conflicts over land were resolved[2]. This in itself was significant because, apart from the influences of English conceptions of property, the decisions as well as the legal procedure adopted had tended in a number of colonies to change the character of land law[3].

Colebrooke did not prepare a scheme for land conveyance too, but pointed the way to future action by proposing the appointment of a commission composed of both European and local officials to register lands[4]. The Surveyor-General's department was to be employed in land surveys, an important measure for due to lack of efficient surveying, land disposal had become a tedious process[5].

In view of his attempts to create an élite as a prop to the government in the political and administrative fields[6], it is important to examine

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1. see below, pp. 200-205.
2. see above, p. 162.
3. see, C. K. Meek, op. cit., p. 290.
4. C.O. 54/121: Colebrooke's memo., 11 Oct. 1831. Although Colebrooke was aware of the benefits that could have been derived from the thombo, the Dutch land registers, he failed to propose either their revival or the institution of a similiar scheme.
5. ibid.
6. see above, pp. 75-76.

whether the same ideas pervaded in the economic field too. As M.W.Roberts has pointed out, the introduction of an élite to the agricultural field was not a matter which was even considered by the Victorian administrators, the administrators who strove so hard to find a collaborating class[1]. Yet, it is possible to discern in Colebrooke's pre-Victorian proposals a feeling that there was a need to create an élite in the agricultural field - an idea distinctly close to his mentor's views[2]. The idea does not seem to have come out with strength in the economic sphere as in the political and administrative, and the role this class was to play was of a more restricted nature. Perhaps, this can be explained by the fact that such a class was more necessary in the political and administrative fields, where with the removal of the strong arm of the government a need for props arose, than in the economic field where there was no need for such bolstering. The élite in the economic field was particularly for the purposes of the future economic development of the colony - a class with capital and skill was to be created to be the vehicle of development. His proposals respecting agriculture best exemplified this.

In agriculture too, the government's actions were to be directed towards the creation of a more favourable climate for the expansion of individual enterprise. Colebrooke was aware of the need to expand subsistence agriculture, particularly in view of the great quantities of grain annually imported[3]. Although steps were taken by the colonial government to improve this branch of agriculture[4], Colebrooke found that

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1. M.W.Roberts, op.cit., p.87. On the Victorian administrators see, R.Robinson & J.Gallagher, op.cit.
2. see below, pp.214-215.
3. It was calculated that between 1816-1828 the value of grain imported was over £150,000, C.O.416/2-A3.
4. see, C.R.de Silva, op.cit., ii, 355-372.

it attracted less attention than other forms of agriculture. This was partly due to the harmful and discriminatory legislation enacted by the colonial government itself. Several regulations, the one which imposed a limitation of land grants to local inhabitants to one hundred acres for example, had 'checked the application of capital to land, and the improvement of agriculture'[1]. The regulation which imposed a tax of one-tenth the value upon timber felled in all lands, was a 'great obstacle to the improvement of uncleared tracts of jungle or forest'[2]. Colebrooke called for the removal of all such harmful regulations.

The growth of subsistence agriculture had been retarded also by the neglect of irrigation works. When they were in good repair, a permanent revenue could be obtained by the agriculturists, but, as Colebrooke himself observed, majority of them were in ruins, and 'the landholders were too poor to execute works and the government has no fund applicable to this object'[3]. Early in the British rule there had been much enthusiasm for the renovation of the ancient irrigation works fallen into disuse, but with the preoccupation of the later administrators with political considerations, they were completely neglected[4]. The immense resources devoted to road construction were never devoted in the same manner to the equally, or perhaps more, important field of irrigation. By Colebrooke's time again there was much interest in irrigation,

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1. Report upon the Admn.:W.R.,p.137;P.R.,p.19. see also,C.O.416/3-A9: replies to Q.3 by the Collectors. Land grants to local inhabitants were limited to 100 acres, whereas the stipulated figure for Europeans was 4,000 acres.
2. ibid.:W.R.,pp.137-138;P.R.,p.19. see,Regulation of Government no.2 of 1822.
3. C.O.54/121:Colebrooke's memos.,14 Apr.& 2 May 1832. Colebrooke was greatly inspired by the ancient works:'the immense tanks,of which I saw the ruins,and by which the country was irrigated,were the cause of its permanent fertility so long as they were kept in repair',cited G. Barrow,Ceylon,Past and Present(London,1857),p.44.
4. see,M.W.Roberts,op.cit.,p.94.

particularly among the public[1]. The representations made to him indicated a willingness of certain inhabitants to contribute to the construction and repair of useful public works, and it was even specifically reported to him that the Giant's Tank at Mantota, one of the major works of the Sinhalese kings, should be renovated 'in consideration of which the Inhabitants would be willing to [subject themselves to] an additional assessment on their lands'[2]. On the other hand, in certain other regions 'the support of those works on which their fertility depend was considered the duty of the ancient government' and 'the assistance of the present is claimed to restore them'[3]. Colebrooke, however, was not inclined to encourage an active participation of the government in irrigation. He resolved the problem by suggesting a scheme where there was to be cooperation between the people and the government. The government's role was to be that of the provider of capital, particularly in the event of a failure of 'capitalists' to engage in irrigation works. For this purpose a fund was to be established, credited with the surplus revenue of the colony. The government's outlay in irrigation works was to be redeemed by the sale of lands brought into cultivation by such works, and by a charge on those lands unsold but cultivated. The tax thus imposed should be without reference to the produce, and from an undertaking of a similiar nature at Kireme in the Tangalle district, he assessed it at £1 to £2 per acre, with lower assessments on lands

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1. This was best exemplified in the numerous proposals brought forward for the repair of disused works. see,letters to the editor,Colombo Journal,1 Feb.1832 by 'A Cultivator',23 May 1832 by 'Penn' & 1 Aug. 1832 by 'Cerus'.
2. C.O.416/1:letter-book,Colebrooke & Cameron to Huskisson,Collector of Mannar,22 Oct.1830. also,Report upon the Admn.:W.R.,p.30;P.R.,p.6.
3. Report upon the Admn.:W.R.,p.135;P.R.,p.19.

cultivable by smaller works[1]. The tax itself should be redeemable, thereby ensuring the availability of capital for other useful works. In instances where capitalists engaged in irrigation works without the assistance of the government, allotments were to be either leased or granted upon rent free basis for a term of years.

In Colebrooke's estimation, there were several projects which required immediate attention: the repair of the Giant's Tank, the drainage of Muturājevela, and the repair of the canal between Negambo and Mutuwal river. 'These and various other works if skilfully executed would restore fertility of some decayed districts, increase the production of others, and enable them to maintain an augmented population in comfort'[2]. All these works mentioned were original Dutch or Sinhalese works which had fallen into disrepair. The early British administrators had repeatedly attempted to revive them, but for reasons of high cost they were never successfully completed. Colebrooke took an early interest in these, and even submitted a special report upon the repair of the Dutch canal before the formulation of his general reports[3].

Colebrooke has been much criticised by later-day writers for not having created a more active role for the government in the field of irrigation. For the success of his measures the cooperation of the local inhabitants was necessary, and his failure to realize that voluntary cooperation was not self-driven could be called the chief mistake of

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1. C.O.54/121:Colebrooke to Barnes,28 Jan.1831; Report upon the Revenues: W.R.,pp.36-37;P.R.,p.38 & Report upon the Estabs.,p.438. The Kirame canal was repaired during the time of North,and the lands brought into cultivation were assessed at 5s.peracre.
2. Report upon the Estabs.,p.438.
3. C.O.54/121:Colebrooke to Hay,13 Dec.1831,encl. On the Dutch scheme see, S.A.W.Mottau,Governor Van Imhoff and his Scheme of Inland Communications in Colombo Disawany,UCR,V,1947,pp.55-68.

Colebrooke. As Charles Pridham was later to remark, 'cooperation among the community must be enforced by authority'[1]. Rājakāriya had effectively helped in the restoration and the maintenance of irrigation works, but with its abolition he 'cut some of the ground under his own hopes', and further failed to utilise the traditional mechanism of Gansabhā for irrigation works[2]. His attempts to utlise the measures he proposed for major undertakings with disregard of the reasons for their earlier failures, too shows a lack of judgement. Captain Schneider, the Colonial Engineer, in his early surveys of the colony had clearly pointed out the inadvisability of attempting to undertake tasks of the magnitude of the repair of the Giant's Tank[3]. Colebrooke, however, was blind to such advice.

As Turnour stated, 'capital and industry' were the 'great requisitions' for the improvement of agriculture[4]. Through the early years of British rule the further commercialization of the ethos was seen[5], but capital was yet to be employed significantly in agriculture[6]. In keeping with his efforts to expand individual enterprise in the economic field, Colebrooke did not desire any exertion on the part of the government, and the source of capital for agriculture had to be entirely private. The government, however, was to encourage capital formation in the colony in the form of a 'Bank of Deposits'. The bank was to be under the control of the Treasurer and Auditor-General, and the deposits were to be granted an interest of five percent per annum. The advances from the

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1. C.Pridham, op.cit., p.369.
2. see, M.W.Roberts, op.cit., p.95.
3. C.O.416/4-A19. Schneider's reports were published in their entirety in 1832 in the Colombo Journal.
4. C.O.416/20-G16.
5. see below, pp.234-235 & 254-255.
6. see, C.O.416/2-A8: replies to Q.13 by the collectors & C.O.54/121: Colebrooke's memo., 14 Apr.1832.

bank were to be on 'moderate terms', thereby relieving the people from the 'exhorbitant demands' of the private money lenders. Colebrooke hoped that this would be particularly helpful to the agriculturists. The advances were to be on an adequate security, and were to be made on the recommendation of the Government Agents of the regions of the respective applicants.

> 'The Government Functionaries in common with others, would readily avail themselves of the Public security for their funds,and while the Island would have the benefit of a Capital which has hitherto been withdrawn from it,Agriculture would be encouraged and the Government would derive a Revenue in aid of its resources by which the repeal of objectionable taxes would be facilitated'. [1]

Colebrooke's recommendations relating to colonization were closely related to the need to foster agriculture. 'In the present state of the country', he wrote, 'there is no private capital applicable to the restoration of ancient works, or the clearing of lands.....The policy, therefore, of giving the utmost encouragement to settlers from abroad is unquestionable'[2]. Already the colonial government had taken steps to encourage the settlement of Europeans for agricultural purposes. The facilities offered for the opening of a coffee estate to George Bird - 'the first instance of an European agricultural attempt on an enlarged scale in the interior of the island'[3] - best typifies the actions of the government. It was diffused, limited to Europeans, and was solely devoted to the cultivation of cash crops rather than to the field of subsistence agriculture. From time to time discriminatory

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1. Report upon Estabs.,pp.442-443. In this context it is worthwhile noting that in 1834 Colebrooke proposed the formation of a joint-stock company in Ireland for 'the acquisition of land and the application of Capital to its improvement', A Plan for the Improvement of Ireland by the Union of English and Irish Capital.....(London,1834).
2. Report upon the Admn.:W.R.,p.203;P.R.,p.26.
3. C.O.416/9-D62:Campbell to Bathurst,31 Dec.1823,encl.also,C.O.416/4-A22.

legislation was enacted by the government for this type of economic activity. Their nature was best seen in the Regulation of Government no. 4 of 1829 which exempted all local inhabitants engaged in the production of certain crops - coffee, cotton, sugar, indigo, opium and silk - from demands of compulsory services. The government's role in coffee production, in which several government officials including Governor Barnes were engaged in , was a clear indication that it did not 'spontaneously grow-up' in Ceylon; the government was 'the agent which deliberately fostered the movement, supplied much of the driving force, and opened the way to individual initiative'[1]. The government's discriminatory actions promised the success of the production of certain crops only, and this as well as other policies in the nature of monopolies and prohibitions, either retarded the growth or completely precluded the introduction of private enterprise to other fields. Colebrooke himself declared that, 'besides the system of monopoly maintained, and in some cases extended by the government, the power exercised by the Governor of regulating duties and imposing taxes, has been injurious to commerce and to the influx and accumulation of capital'[2]. Thus, it is no surprise to find John Belts, whose attempt to cultivate indigo failed due to the indifference of the colonial government, appealing to the 'more decided encouragement from the Supreme Government'[3].

In the case of Colebrooke, it can truly be said that such appeals for active intervention of the government fell on deaf ears. He did not agree to the role the colonial government was then playing in the agricultural field, and called for a total abstention of such activities.

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1. I.Vanden Driesen, Coffee Cultivation in Ceylon, CHJ, III, 1953, p.29.
2. Report upon the Admn.: W.R., p.157; P.R., p.21.
3. see, C.O.54/100: Belts to Goderich, 13 July 1829.

> 'In the case of European settlers,all claims to the assistance or favour of government should be discountenanced,experience having shown that such dependence,while unjust towards others,has been unfavourable to the settlers themselves,for the jealousy it has excited in the native landholders'. [1]

The government was to be the 'impartial spirit', and the encouragement of agriculture in all its forms, both plantation and subsistence, was to be by the creation of a more favourable climate - the promotion of settlement being one of the more important steps.

Colebrooke was no advocate of 'systematic colonization', but working at a time when a great deal of attention was paid to emigration and land settlement[2], his interest in colonization does not come as a surprise. Although certainly by no means a colony potential of settlement, several writers considered Ceylon suitable for European immigration[3]. But, the energies of most were directed towards proving that Ceylon would derive greater benefit from the settlement of Indians. Captain Chapman, for example, suggested to Colebrooke that inhabitants of mixed European-Indian blood in Calcutta and Madras ought to be 'tempted' to colonize certain regions of the island[4]. Alexander Johnston had proposed earlier the introduction of Parsees from India to the 'greatest possible advantage to the prosperity of the Island'[5]. But, no effective colonisation took place.

> 'From the great extent of unoccupied land in Ceylon, it might have been expected that the invitation held

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1. Report upon the Adam.:W.R.,pp.206-207;P.R.,p.27.
2. The attention paid to this was demonstrated by the appointment of select committees of Parliament in 1826 & 1827 to consider it. see,F.H.Hitchins, The Colonial Land and Emigration Commission(Philadelphia,1938).
3. see,J.Forbes,op.cit.,ii,64 & C.Pridham,op.cit.,p.xiii.
4. C.O.54/121:Chapman to Colebrooke,n.d.
5. H.W.Tambiah,The Alexander Johnston Papers,CHJ,III,1953,p.29.

> out by the government during the last twenty years would have encouraged many persons to settle in the country; but the regulations of government, which opened the island to the enterprize of European settlers in 1812, have hitherto failed, as well as the attempt to promote the influx of Indian settlers from the Continent'.
>
> [1]

Clearly the first need was more information to potential settlers about the conditions and the capabilities of the colony. While in Ceylon the commissioners proposed a general survey of the island by which 'much useful information might be acquired.....regarding the character and resources of the Country'[2], and the publication of their reports with information embodied 'would be calculated to attract persons possessing capital to settle in the Country, and to carry improvements into effect'[3]. Meanwhile, several steps were to be taken to attract both Indian and European settlers. The liability to compulsory services had precluded the settlement of Indians who might have been otherwise attracted by the comparatively low land rents imposed by the Ceylon government, and therefore, the abolition of rājakāriya would encourage their settlement[4]. It would be necessary, particularly to induce the European capitalists, to abolish all regulation which barred private enterprise.

> 'With the removal of all restrictions on trade, on the free disposal of labour, and the liberty of cultivating all descriptions of produce, I anticipate that the regulations recommended for the granting of lands will include every encouragement which the government can be required to hold out for the settlement and improvement of the country'.
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> [5]

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1. Report upon the Admn.: W.R., p.199; P.R., p.26.
2. C.O.416/1: letter-book, Colebrooke & Cameron to Lt.Col.Fraser, Deputy Quarter-master-General, 1 June 1830.
3. Report upon the Estabs., p.423.
4. Report upon the Admn.: W.R., pp.138-140 & 202-203; P.R., p.19 & 26.
5. ibid.: W.R., pp.207-208; P.R., p.27.

The distinctions made in land grants between Europeans and local inhabitants had led to 'jealousy and ill-will', and in future applications for land grants 'should be considered alone with reference to the means of the applicant for executing the works required for the cultivation of the land, such as clearing of forests and repairing or constructing the tanks by which the land may be irrigated'[1]. The availability of cheap labour would be an added inducement to foreign capitalists[2]. Of the Europeans who would be attracted by such measures, Colebrooke hoped settlement would be undertaken by a wealthier class - indeed, he even stated that 'Europeans of the mechanical and labouring classes would find no inducement to settle in Ceylon, unless possessed of sufficient skill and capital to become tradesmen, farmers or master mechanics, a description of persons who would be of great utility in the country'[3]. Like Turnour[4], Colebrooke hopefully expected this class of settlers to provide an example and a path of action to the inhabitants of the island[5]. Therefore, the European settlers should not monopolise the advantages that could be derived from their enterprises, but rather cooperate with the local inhabitants 'profiting by their experience and frugal management'[6]. To further the cause of European colonization, later in 1840 Colebrooke went to the extent of recommending that in areas

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1. ibid.:W.R.,pp.204-205;P.R.,pp.26-27.
2. ibid.:W.R.,p.209 & 222;P.R.,p.27 & 28. For a discussion on the availability of labour see below, pp.227-228.
3. ibid.:W.R.,pp.220-221;P.R.,p.28.
4. see,C.O.416/20-G16.
5. As he later pointed out in relation to India,such settlers 'cannot fail to prove beneficial to the native inhabitants from the example of English probity and enterprize',Colebrooke's Observations in L.Von Orlich,The Military Mutiny in India(London,1858),p.vii.
6. Report upon the Admn.:W.R.,pp.224-226;P.R.,p.29. see also,C.O.54/145: Colebrooke's observations,17 July 1834.

of their settlement and lands adjacent, 'the English common law and statutes applicable to the Colonies should be recognised, subject to future modifications'[1]. It is also worth noting that under a proposal made by him, the Botanical Garden at Kandy was to be maintained 'as a means of introducing useful Plants from other Countries, and of improving those which are indigenous'[2].

It is important to emphasise that Colebrooke's plans for colonization were not solely designed to promote cash crops or plantation agriculture. He sanguinely expected 'general speculation' by foreign capitalists in sibsistence agriculture too: 'To encourage the cultivation of grain I have .....proposed to give this branch of agriculture the full advantages conferred upon others, and to remove every impediment which may hitherto have operated to retract it, or to check the influx of settlers'[3]. From the prominence given to colonization, however, the needs of the local inhabitants seem to have been neglected by Colebrooke. Much of the later criticism of Colebrooke has been based on his failure to provide more substantially for them[4]. It is quite evident from Colebrooke's writings that he objected equally to discrimination on behalf of them as to discrimination against them. He was not prepared to accept a planned interference of the state in the economic field with their advancement specifically in view. The economic conditions of the times would have given rise to hopes in Colebrooke that they would derive the same advantages the foreigners would derive from the measures of the government. In that

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1. see, C.O.54/185: Colebrooke's memo., 31 Dec. 1840.
2. Report upon the Estabs., p.433.
3. C.O.54/121: Colebrooke to Barnes, 28 Jan. 1831.
4. see, K.M.de Silva, CJHSS, II, 1959, p.250.

estimation perhaps Colebrooke was justified, for the early image of the local population as indolent and lazy seemed to have changed; there is not in Colebrooke's writings any reference to the nature of the people that characterised the early assessments[1]. Yet, Colebrooke can be criticised for not sufficiently providing for indigenous methods of agriculture. Chēnas, for example, were an extremely important source of livelihood of the people[2], a fact which was realized by Colebrooke too[3], but governed by the belief that the return from this form of agriculture was 'irregular and precarious' [4], he did not provide for chēna cultivation in his proposals for land disposal.

The method by which land was to be disposed was a subject which needed to be studied at length[5]; for this the commission of inquiry was provided with wide-ranging information[6]. Although not seen in the magnitude of other colonies, considerable dissatisfaction over the disposal of lands to foreigners arose later in Ceylon[7], and part of the blame for it lies with Colebrooke for the failure to take adequate steps. He failed to provide for a proper land sales policy for Ceylon; lands were to continue to be disposed mainly by grants. To 'accelerate the

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1. Maitland, for e.g., believed that there was in the character of the people 'a degree of indolence and inactivity that hinders them from making any exertion on any occassion', cited C.R.de Silva, op.cit., ii, 347.
2. In 1830 it was estimated that of the 430,000 acres under grain in the Maritime Provinces, over 100,000 were devoted to chēnas, ibid., p.356.
3. see, Report upon the Admn.: W.R., pp.133-135; P.R., pp.18-19.
4. ibid.: W.R., p.65; P.R., p.10.
5. The commission was requested to report upon the resumption of land for government purposes and the acquisition of land by Europeans in a directive later issued by the Colonial Department. see, C.O.55/67: Horton to commissioners, 13 Feb.1823.
6. For e.g., it was provided with detailed information about the system of land grants in New South Wales & Van Dieman's Land, C.O.49/8: Horton to commissioners, 30 Apr.1823.
7. see the study of M.W.Roberts, op.cit. On other colonies see, for e.g., J.D. Legge, op.cit., p.44ff, for Fiji; A.H.Harrop, England and the Maori Wars (London, 1937) for New Zealand & Lord Hailey, An African Survey (London, 1938).

improvement of the country', and to provide for the development of individual rights, Colebrooke proposed that uncleared lands, subject to an assessment of one-tenth the value of the produce if cultivated, should be either sold or granted in freehold[1]. He declared that 'the claims of the native inhabitants to the resumption of their lands which have been rendered waste by the neglect of ancient works ought to be equitably considered', but to a great extent the stipulation was nullified by the sweeping recommendation that 'extensive grants' of 'forest or waste lands' should be made by the government[2]. No account was taken of the importance of what were termed 'forest or waste lands' to the ecology of the villages, a failure which became more apparent at the time the government began to exercise powers over these lands[3].

Of Colebrooke's recommendations for economic reform, the subject which occupied a position of central importance was the land tax[4]. The question of land tax confronted many colonial administrators in the East, and attracted the attention of great many colonial reformers. In India, the question was argued and debated by many generations of administrators[5]. The new political economists in England too were much concerned with the question, and this question together with the controversy over the commutation of the tithe, led to widespread pamphleteering. Remarkably, what attracted the attention of Colebrooke was not the work of reformers like James Mill and Holt Mackenzie in India,

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1. Report upon the Admn.: W.R., p.206; P.R., p.27.
2. Report upon the Revenues: W.R., pp.39-41; P.R., p.38.
3. see, M.W.Roberts, op.cit., p.181ff.
4. 'This I consider to be a subject of great importance to the prosperity of this country and eventually to the British settlements in India', C.O.54/121: Colebrooke to Hay, 1 May 1832. The use of the term land tax is a misnomer as regards the policy of the Ceylon government. It was only a grain tax because lands cultivated with commercial crops were not subject to a tax. But, the term will be used in view of its usage by Colebrooke.
5. see particularly, E.Stokes, op.cit., pp.81-139.

but that of a theorist in England; the man of action, who so often was led by pragmatic considerations, succumbed to a theory. Colebrooke's mentor was the Reverend Richard Jones, a political economist now of relative obscurity. Jones (1796-1855), who was the Professor of Political Economy at King's College, London, and later Malthus' successor at the East India College at Hailbury[1], devoted his chief work to an examination of the question of land tax[2], and was actively associated with the movement for the commutation of the tithe in England[3]. He was one of the early political economists to turn against Ricardo, the theorist who so thoroughly dominated English economic thought until the latter part of the century. His most vigerous attack was made in 1831 with the publication of An Essay on the Distribution of Wealth, and on the Sources of Taxation. With a much broader perspective and outlook than Ricardo, Jones surveyed the whole of history, instead of confining his attention to particular reasons or circumstances. He condemned hasty generalization and advocated the patient use of factual research[4]. It is generally admitted that he failed to prove Ricardo wrong, and that he did not establish any new significant principle in the field of political economy, but his work has laid claims to certain fame as being one of the

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1. On Jones the following have been consulted: J.A. Shumpeter, History of Economic Analysis (London, 1955), p.822; E. Cannan, A History of the Theories of Production and Distribution (3rd ed., London, 1953), pp.262-264; M. Blaug, Economic Theory in Retrospect (Homewood, 1962), p.127, 202 & 251; & DNB, X, p. 1045.
2. see, An Essay on the Distribution of Wealth, and on the Sources of Taxation- Part I: Rent (London, 1831) . Only the first part was published. The collected works of Jones have been edited by W. Whewell, Literary Remains of Richard Jones (Cambridge, 1859).
3. He was associated in the passage of the Tithe Commutation Act in 1836 and was one of the commissioners appointed under it. He wrote a number of pamhlets on the question. see, A Few Remarks on the Proposed Commutation of the Tithe (London, 1833) & Remarks on the Manner in which Tithe should be Assessed..... (London, 1838).
4. J.S. Mill wrote that Jones' Essay contained ' a copious repertory of valuable facts on the landed tenures of different countries', Principles of Political Economy (London, 1923ed.), p.252.

forerunners of the school of historical economists. Although his work was overshadowed by those of others who gained ascendency in the 1830's and the 40's, Richard Jones was not devoid of influence on the thinking of his generation. Perhaps the best known of the intellectuals who came under his influence was John Stuart Mill. In his Principles of Political Economy, the most authoritative of his works, Mill accepted certain arguments put forward by Jones relating to the position of the Indian peasants, and his emphasis upon the role of 'custom', particularly with regard to land tenure, was thoroughly Jonesean[1]. Mill, however, despite the acceptance of the arguments of Jones, which were substantially dissimiliar to those of the elder Mill, went on to 'assert elsewhere the doctrines of his father concerning India'[2]. What attracted Colebrooke to Richard Jones rather than to his more illustrious contemporaries was his wider perspective. Colebrooke's assessment of the better known contemporary political economists clearly emerged when he wrote that,

> 'altho[ugh] an economist,I see great reason to differ from the views of Mr.Mill a[nd] MacCulloch a[nd] of those of their school who reason from their observations in the country,rejecting a more enlarged consideration of the facts and arguments to be deduced from the arrangements of policy which prevail in other countries'. [3]

Thus, it is no surprise that he chose to accept Jones' Essay as his guiding light. In his opinion, this work of Jones embodied 'an Elaborate investigation of the Ricardo Theory of Rent which is found at variance with the Experiences of different countries a[nd] quite inapplicable to India'[4].

1.M.Blaug,op.cit.,p.202 & E.Stokes,op.cit.,pp.135-136.
2.E.Stokes,op.cit.,p.136.
3.C.O.54/121:Colebrooke to Hay,24 Dec.1832.
4.ibid.

As in India, although to a very much lesser extent, the question of land tax had undergone considerable discussion, and much experimentation had been conducted in the island[1]. By the time of Colebrooke, at least three different systems of land taxation were in operation. In the Maritime Provinces, the tax was in the main farmed out to speculators, in certain Kandyan regions the collection was made in detail by local functionaries under the supervision of European officials, and in the other Kandyan areas, there were specific agreements with each landholder calculated according to the average production of his land[2]. All these systems came under the heavy criticism of Colebrooke. The collection of rent through a middleman may be convenient to the government, but it 'entails the necessity of much interference with the cultivation of the land to guard against negligence, fraud a[nd] evasion', the consequences of which were often 'extortions on the poor people'. A less vexatious form of the same system would be possible only if rich landholders are found to purchase the rent, thereby ensuring that the farmers of rent would be men with interests in land. The system of collection in detail by revenue officers was not less vexatious, and was open to fraud, and moreover, 'an army of native Revenue Agents must be employed by the Government who are very expensive'. It also discouraged the application of capital to land, and the 'irregularity of the seasons often led to a total or partial failure of the crops, and the poverty of the landholders precluded them from making any provision against years of scarcity'. The success of the scheme whereby specific agreements were made with the cultivators also depended upon favourable climatic conditions, and upon the fertility of the soil, and consequently, in regions like

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1.see,C.R.de Silva,op.cit.,ii,373-384.
2.C.O.54/121:Colebrooke's memo.,2 May 1832.

Nuvarakalaviya the government was forced to remit the tax from time to time; clearly, such a scheme was inapplicable in areas 'exposed to flood or droughts'[1]. In view of these facts, a variable assessment, as suggested by Philip Anstruther, would be on the whole better than any permanent rate, but Colebrooke observed, a periodical assessment too was objectionable, for with each assessment the government would profit by the improvements which the land owner makes out on his own - thus, 'it is calculated to deter agriculturists who have capital from applying it to improvements'. He also perceptively pointed out that the success of such a scheme would depend upon public servants 'zealous a[nd] active in surmounting the difficulties a[nd] reconciling the natives'. A further, and a major, objection to the land taxation systems in Ceylon was that, excepting tobacco in the North, they were not applied upon crops other than grain. Consequently, the tax was upon 'the subsistence of the inhabitants' and 'that of the first importance to encourage'[2].

Colebrooke chose to follow not these systems, but to strike out an entirely different approach to the problem. Although there is some flexibility in his thinking - he considered both a permanent settlement and a redemption as well as an abolition - the proposal which he pressed was that of a gradual redemption of the tax[3]. When compared with the assessments in the Indian continent, Ceylon land tax was light, but 'capitalists have not been found to engage in agriculture', and 'some further encouragement is required to be given to them'[4]. Colebrooke seemed to have viewed redemption of the

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1. ibid. & Report upon the Revenues: W.R., pp.9-10; P.R., p.35. also, C.O.54/121: Colebrooke to Hay, 24 Dec. 1832.
2. C.O.54/121: Colebrooke's memo. on 'Ceylon Revenues', 14 Apr. 1832 & Report upon the Revenues: W.R., p.18; P.R., p.36.
3. Later he firmly advocated this proposal for India too, as 'a measure which would aid the development of the resources of the country', Colebrooke's Observations in L. Von Orlich, op.cit., p.viii.
4. Report upon the Admn.: W.R., p.158; P.R., p.22 & C.O.54/121: Colebrooke's memo., 2 May 1832.

tax as the best form of encouragement. 'The opportunity of redeeming would be chiefly desired by those who possess the means of making improvements a[nd] who might be disposed to apply capital to the repair and construction of tanks a[nd] watercourses'[1]. In proposing redemption, Colebrooke seemed to have taken heart from the success of the variation of the redemption scheme which operated in the Kandyan Provinces[2]. In some regions cultivators had redeemed the whole of their rents above one-tenth, leading to an augmentation of the revenue: 'a tenth is now productive as a fourth or a third formally was', mainly because of an increase in cultivation[3]. Further, Colebrooke believed that the people interpreted it as a form of 'emancipation'[4]. Colebrooke went beyond this system, and proposed that redemption should be available to all by 'affording to the landholders throughout the island the option of redeeming, at an equitable rate, by instalments, the whole amount of rents chargeable upon their lands'. By the option left to them, they could discharge the tax in consecutive years, or 'in years when their crops may be most productive, in other seasons paying no higher rate than the ordinary tithe or other assessment imposed on their land'[5]. He well realized that from the small-holding nature of the land as well as from their poor return, the measure would be only gradually adopted. Therefore, he suggested ten or twenty year schemes of redemption[6]. The

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1. C.O.54/121:Colebrooke's memo.on 'Ceylon Revenues',14 Apr.1832.
2. Under this the tax was commuted for fixed assessments over periods generally extending from 3-9 years. see,C.R.de Silva,op.cit.,ii,381-383.
3. Report upon the Revenues:W.R.,pp.26-27;P.R.,p.37.& Parl.Papers,1831/32,XI (732-III),p.248.
4. marginal comment by Colebrooke,C.O.416/20-G11:Turnour's evidence.
5. Report upon the Revenues:W.R.,pp.21-22;P.R.,p.36. also,C.O.54/121:Colebrokke's memos.,14 Apr.& 2 May 1832.
6. Later in 1840,by which time the colonial government had adopted redemption in 8 years instead of Colebrooke's suggested periods, He re-affirmed that longer periods of redemption were better suited to the needs of the colony. see,C.O.54/185:Colebrooke's memo.,31 Dec.1840.

implementation of the proposal would, Colebrooke hoped, augment the revenue of the colony and bring back its agriculture into its former flourishing state, and 'time would be thus gained for the realization of other branches of revenue'. At the same time, there would a reduction in expenditure, for the establishment maintained for the purposes of the land tax could be gradually reduced[1].

Colebrooke's proposal was based on his dislike for direct taxation. On theoretical as well as on pragmatic grounds he thoroughly objected to direct form of taxation, and a proper understanding of these objections is necessary for they are iterated and reiterated throughout his economic proposals. The returns of the landholders were too 'precarious', and the people were 'too poor to advance a direct tax'. Drawing experience from the failure of the attempts to impose a coconut tax[2], Colebrooke stated that 'the petty proprietors in Ceylon invariably resist a new direct tax, while a much larger one is indirectly raised with little trouble or expense':

> 'When property is minutely subdivided, and the people indigent, the collection of any direct tax from a great number of small proprietors or tenants is attended with greater expenses and inconvenience than that of an equal amount by means of duties on the articles consumed by them'. [3]

Theoretically too the direct tax was objectionable in a country where the land owners cultivated for subsistence. Moreover, 'even at present with every disadvantage under which the country has laboured, the indirect revenue has exceeded more than ten fold the land tax'. He also alluded to the fact that even in England, the revenue was primarily raised by

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1. C.O.54/121: Colebrooke to Hay, 24 Dec. 1832 & Colebrooke's memos., 14 Apr. & 2 May 1832. also, Report upon the Admn.: W.R., p.20, marginal note.
2. see below, p.251.
3. C.O.54/121: Colebrooke's memo. on 'Ceylon Revenues', 14 Apr. 1832.

customs and excise, and that the land tax was redeemable, and formed only an inconsiderable part of the revenue. As in England, the main form of revenue in Ceylon should be in the form of duties on articles consumed by the people, the tax on tea being the guiding line[1]. Colebrooke's proposal for the redemption of the land tax, and his attempts to raise revenue by duties on imports rather than exports[2], thus clearly fit into this line of thinking.

To what extent Colebrooke derived inspiration for these proposals from the writings of Richard Jones is worthy of examination. In Jones' theory of rent, the land taxation systems of Asia came under what he categorised as 'peasant rents'. In his opinion, the remarkable effect, 'common to all forms of peasant rents', was their 'influence in preventing the full development of the productive powers of the earth'.

> 'When the earth is cultivated under a system of peasant rents, the task of directing agriculture, and of providing what is necessary to assist its operations, is either thrown wholly upon the peasants, as in the case of ryot or cottier rents, or divided between them and their landlords, as in the case of serf or metayer rents. In neither of these cases is the efficiency of agricultural industry likely to be carried as far as it might be. Poverty, and the constant fatigues of laborious exertions, put both service and the means of assisting his industry by the accumulation of capital, out of the reach of the peasant. And when the landholders have once succeeded in getting rid in part of the burthen of cultivation, and have formed a body of peasant tenantry, it is in vain to hope for much steady superintendence or assistance from them'. [3]

Consequently, if the improvement of agriculture is to be found, a third class would be necessary:

> 'The most efficient direction of labour, and the accumulation and contrivance of the means to endow it with

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1. ibid.
2. see below, p.259.
3. R. Jones, An Essay on the Distribution of Wealth....., pp.157-158.

> the greatest attainable power,seem to be the peculiar province,the appointed task,of a race of men,capitalists, distinct from laborers and landholders,more capable of intellectual efforts than the lower,more willing to bring such efforts to bear on the improvements of the powers of industry,than the higher,of these classes'. [1]

Once the third class was found, a community of interest between them and the landholders and the peasants ought to be forged to attain the desired end, that of improvement of agriculture. As far as the peasants were concerned, this could not be attained by further 'encroaching on the tenant's share of the produce, while the produce itself remains unaltered'; 'full development of the productive powers of a territory, which is essential to the progressive rise of the proprietor's income, can never be forwarded by the encreasing penury of the cultivators'. On the other hand, 'all the advantages incident to the position of a landed proprietor are only reaped in their best shape when his income is fixed.....; when he is free from any share of the burthens and hazards of cultivation'. Therefore, the most suitable course of action to forge a community of interest among the different classes was, Richard Jones concluded, the initiation of a system of redemption of the land rents payable by the cultivators. The landholders would gain, for they would receive a fixed income in money, a process whereby they too could attain the position of capitalists; so would gain the capitalists, for with the improvement in their positions, both the landholders and the peasants would be moved to apply capital to land; and, the peasantry would clearly be the ultimate recipient of all resultant improvements[2]. The greatest possible advantages of the redemption system could be obtained, Jones added, only by making available the widest possible forms of redemption, and he particularly

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1. ibid.,p.159.
2. ibid.,pp.162-164.

advocated redemption by cash payment, by land, by mortgages, and by means of corn-rents[1].

Colebrooke's recommendations relating to agriculture and land tax fall within this theoretical framework of Richard Jones. As might be expected, for he possessed a tendency for developing on his own the inspirations he derived from others[2], Colebrooke did not limit himself strictly to the path shown by Jones for the development of agriculture. This, no doubt, arose from a consideration of the particular circumstances of Ceylon. Like Jones, Colebrooke saw the need of a capitalist class for the improvement of agriculture of the colony. His recommendations relating to the settlement of foreigners, particularly of Europeans, illustrate the method he adopted to attract capital from outside, and his measures relating to government monopolies and other restrictions[3], demonstrate his attempts to foster the growth of a moneyed class among the local inhabitants. The development of land ownership too was within the framework of Jones' theory. As for the third class, that of the peasantry or the labourers, the least amount of effort was needed by Colebrooke, for he believed that labour was freely available[4]; but, he nevertheless took steps to facilitate greater availability of labour[5]. His proposals for the redemption of the land tax, particularly the belief that it would help all classes of people engaged in agriculture rather than merely the cultivators - a theoretical assumption which seems to be peculiarly Jonesean - well indicated his further debt to

1. R. Jones, A Few Remarks on the Proposed Commutation of the Tithe, p.5.
2. see above, p.118.
3. see below, pp.253-254.
4. see below, p.227.
5. see below, p.230.

his mentor, Richard Jones. The generally accepted assumption that Colebrooke derived his inspiration from the Utilitarian movement can be termed, in view of the preceeding facts, baseless. The very fact that Jones came out in opposition to the advocates of Utilitarian political economy, particularly Ricardo whose doctrines became 'the orthodoxy of the Utilitarian group'[1], amply shows that Colebrooke owed his inspiration to one not belonging to the Utilitarian set. The absence in Colebrooke's recommendations of such patent features of Utilitarian political economy as the deep suspicion of landlords[2], can be thus well explained.

The stance Colebrooke took in deciding upon the question of land tax was decidedly at variance to that of his colleague, Cameron, the Utilitarian. Cameron disagreed with many conclusions of Colebrooke, but only rarely carried the differences to a stage where long drawn out arguments between the two prevailed. Land tax was one subject which Cameron debated with much vigour - this perhaps is no surprise, for it was a subject which was very close to the heart of every Utilitarian.

The question which should be posed as regards land tax was, stated Cameron, 'simply whether the present Land Tax in Ceylon should be commuted for an annual payment fixed for a certain number of years, or should be redeemed'. Whilst Colebrooke preferred the latter course of action, Cameron chose the former. Commutation he chose because 'a Land Tax, in so far as it can be made to fall upon Rent, as distinguished from the return to capital laid out on Land, seems to me the very best of all taxes'. 'It is the only tax', he claimed,'which does not at all interfere with

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1. E. Halévy, op. cit., p. 318.
2. The 'bitter truth that the course of economic progress benefitted only the landlord at the expense of every other class in the community, governed the Utilitarian doctrine of taxation', E. Stokes, op. cit., p. 89.

the natural, i.e. the most beneficial distribution of capital'. He agreed that a perpetual settlement or redemption would give the landholders the highest possible encouragement to improve land, but argued that such steps would 'prevent Government from deriving benefit from the increase of rent'. He rejected the view that the demands of the government upon land ought to be limited; before any attempt is made to relinquish the government's revenue from this source, 'all the more oppressive taxes' ought to be removed, particularly such modes of revenue as the salt monopoly[1]. Cameron admitted that there would be practical difficulties in the application of his proposal. The difficulties, however, could be overcome 'by talent a[nd] perseverance coupled with an intimate knowledge of the habits a[nd] opinions of the natives'. The main objection to the commutation system has been that under its periodical assessment method, the improvements made upon land by the land owners were subjected to increased taxation. This objection could be removed by extending the period of each assessment.

> 'If the Government is to step in at the end of three years a[nd] increase the tax because the produce of the land has been increased, the motive for improvement in the mind of the cultivator will be much weaker than it would be if the whole profit to be derived from improvements were left to him for twenty or thirty years, a[nd] as his prosperity a[nd] the prosperity of the Revenue both depend upon that motive, it ought to be impaired as little as it can be consistently with the principle that the Government ought not to relinquish any portion of the rent of land to which it is already entitled until it shall have remitted all other more objectionable taxes'. [2]

The tone and tenor of Cameron's arguments were Utilitarian, the Utilitarian political economy as expounded in relation to India, and it can be fairly

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1. C.O.54/121: Cameron's memo., 8 Apr. 1832. also, ibid.: Cameron to Goderich, 25 Aug. 1831.
2. ibid.: Cameron's memo., 1 May 1832.

concluded with Colebrooke that, 'Mr.Cameron, I found, has taken precisely the same view that Mr.Mill has done in his evidence on the Indian system of Revenue'[1].

Colebrooke vehemently claimed that 'the prosecution of Mr.Mill's system would be a complete bar to the prosperity of the country. It proceeds upon a theory of rent which if not questionable, has at least no application in India.....'[2]. Thus, it is no surprise to find him arguing against the Utilitarian political economy as practised in India in his evidence before a select committee of the House of Commons on the affairs of the East India Company. It is worthwhile briefly considering Colebrooke's views in this respect, for they well illustrate to what extent his basic outlook differed from that of the Utilitarians. He argued that,

> 'although the Cingalese have suffered from the government monopolies,from the restrictions on trade and the forced labour exacted from them,I believe that there are no peasantry throughout the territories of the East India Company who are so much at their ease as are the peasantry of Ceylon,where no zamindary or ryotwarry settlements have been made. I can only attribute this to the circumstance that the demands of the government upon land have been more limited in Ceylon,than in any parts of the continent of India'.
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> [3]

Colebrooke again put forward the same argument when he stated that under the Permanent Settlement in Bengal, cultivation has expanded and general prosperity increased because 'the limiting of the demand of the government upon land.....led to the employment of capital and to the improvement of the resources of the country'. The argument thus put

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1. ibid.:Colebrooke to Hay,1 May 1832. He referred to Mill's evidence before a select committee of the House of Commons. For the evidence see,Parl. Papers,1831/32,IX(735-I),XI(735-III),XII(735-IV) & XIV(735-VI).
2. ibid.
3. Parl.Papers,1831/32,XI(735-III),p.244.

forward, that the limiting of the state's demands upon land would lead to increasing prosperity, an argument completely at variance with the teachings of the Utilitarians, no doubt was an important consideration in Colebrooke's decision to introduce a system of redemption for Ceylon.

III.RĀJAKĀRIYA.

Rājakāriya was an institution which was inextricably bound up with all economic questions under Colebrooke's consideration. It had its other facets too - social and political,for example - but, of more importance from Colebrooke's point of view seemed to have been its economic aspects: in his words, 'it is one connected with the Finance and Establishments of the Island and also with its Trade and Agriculture'[1]. It is, however, doubtful whether he fully understood the intricate nature of the institution; although more successful in his policies than the earlier British administrators, Colebrooke's writings convey the impression that, like others before him, he acted without fully grasping the nature of rājakāriya.

Rājakāriya, or compulsory services as it was later known at the time of the British, was an indigenous institution which had developed in the regions under the administration of the Sinhalese kings[2]. A complex institution, it covered a wide range of services and duties, and was closely related to the system of land tenure and the social strata. For the immediate purpose of the present study, only two aspects of the services rendered by the people under rājakāriya need to be noted. By far the more important aspect was the personal service to the king by the people who held land granted by him. This service was rendered to

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1.C.O.54/121:Colebrooke to May,11 May 1829.

2.For detailed studies of the institution see,R.Pieris,Sinha.Social Organ., p.95ff. & U.A.Gunasekere,op.cit.,p.75ff.

the king, his officials and chiefs, and for roligious establishments, and was often organised undor departments composed of a heirachy of officials. The administrative structure was built upon this service.

> 'The Country being Wholly His,the King farms out his Land,not for Money,but Service. And the People enjoy Portions of Land from the King,and instead of Rent, they have their several appointments; some are to serve the King in his Wars,some in their Trades,some serve him for Labourers and others are as Farmers to furnish his House with Fruits of the Ground;and so all things are done without Cost and every man paid for his pains: that is,they have Lands for it'. [1]

Such service was considered regular personal service. In addition to this, there was also what was termed exceptional service: service to be performed in times of national emergencies, and in connection with public works. The basis of this does not seem to have been land tenure, for it was universa -lly demanded from all inhabitants - even certain categories of landholders exempted from regular personal service to the king, tenants of temple lands for example, were required to abide by this rule. It seemed to have been performed to the king as sovereign, and not in his capacity as the ultimate owner of land[2].

The British inherited this institution both in the Maritime and the Kandyan Provinces. Although from the beginning rājakāriya was considered obnoxious by a considerable body of officials, through the years it was substantially utilised by the colonial government for purposes of state, and as might be expected, underwent remarkable changes at its hands. The most significant change introduced by it was in 1801, when service tenure was abolished thereby divorcing rājakāriya from land tenure[3]. In

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1.R.Knox,An Historical Relation of Ceylon(Glasgow,1911),pp.68-69.
2.see,U.A.Gunasekere,op.cit.,p.100.
3.For detail of the working of the system under the British see,C.R.de Silva op.cit.,ii,321-351 & 385-413.

that year North introduced a direct tax upon the produce of what were service tenure land, with the proviso that the government could demand the services of the people according to their respective castes on adequate payment. Subsequently under Maitland, who was highly critical of North's efforts to change the land tenurial system by the use of the power of the government[1], service tenure was partially reinstated, but as the lands continued to pay a share of their produce in the form of a tax, rājakāriya was not put on its original footing. Until the abolition of the institution, service was demanded according to caste, and at the same time there was an universal obligation of the people to perform what were earlier termed exceptional service[2]. The measures adopted in the Kandyan Provinces approximated those of the littoral. Here 'tenure by service survived in its pristine purity'[3], but the British having found the system cumbersome and unremunative, substantially altered it by the Proclamation of 21 November 1818. Service tenure was virtually abolished in favour of a tax on the produce of the land, but as in the case of the Maritime Provinces, the government's right to demand service according to caste on payment and to compel the rendering of exceptional service was reserved and re-affirmed.

Although by such actions the institution was greatly simplified, by the time of Colebrooke's arrival in Ceylon, the working of the system had become something of a thorny problem. In his very second communication itself, Colebrooke expressed an intention of an immediate investigation[4],

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1. 'Either the not comprehending, or if comprehended, the not attending to their nature, led to the measure of one line of a Proclamation changing in toto the Tenure on which land in this Island was held', cited C.R.de Silva, op.cit., ii, 345.
2. Under North's measures, such services too were to be made on payment, but Maitland withdrew the concession.
3. C.R.de Silva, op.cit., ii, 391.
4. C.O.54/121: Colebrooke to May, 11 May 1829. see also above, p.40.

and the importance he gave to the subject was demonstrated in the confidential nature of the report he wrote. The arrival of the commission of inquiry gave an opportunity to the people to give vent to their feelings against the system[1]. The most striking abuse from their point of view seemed to have been its employment contrary to the usages of the country. In particular to those who had lived under the Kandyan kings, this aspect would have been most objectionable. With the removal of the King and the substitution of a foreign sovereign, the ideological sanction rājakāriya possessed - "'King's Duty is greater than the service of gods'"[2] - was irrecoverably lost. Exceptional service under the Sinhalese kings was exactly what the term indicated. Under the British, however, it assumed the nature of a regular service: with their wider network of communications, they demanded the service of the people for work on roads - the most significant application of exceptional service by the British - in a manner hitherto unseen[3]. The brunt of this burden was borne by the inhabitants of the interior, for by the time Governor Barnes began using rājakāriya for construction of roads a great deal of work had already been accomplished in the Maritime Provinces. Call of the people for service according to caste too was made contrary to the usages of the island. As Forbes, the Agent of Government for Matale, pointed out,

> 'the Kandyan system has been virtually overturned by the Proclamation of 21st November 1818 which imposed

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1. As some Kandyan chiefs stated,'the people are well aware since the arrival of the Commissioners of Inquiry that the King concerns himself about their interests',Report upon the Compulsory Services,p.121.
2. R.Pieris,Sinha,Social Organ.,p.95. This was an old Sinhalese proverb.
3. Several Kandyan chiefs pointed out to Colebrooke that the roads so constructed were of little use to the people themselves,Report upon the Compulsory Services,p.117. On the working of the system see,C.O.416/20-G11:Turnour's evidence & C.O.416/20-G25:Turnour's report upon the grain tax & road service.

> a fixed tax as an equivalent to Government for most services and imposts,yet left by the 30th clause a power by which the services of the people have been employed by Government,in a much greater degree than by native sovereigns with few exceptions,and then the direct taxes were much less. In this Province the Ratta people [1] have been often employed in services they would not have been called on to perform under the Kandyan Kings,in building and repairing rest houses,court house,offices,granaries,tappal (post) stations, cutting and dragging timber,driving and watching elephants'. [2]

This perversion of the traditional system alone weighed heavily in Colebrooke's mind[3].

Attention was also drawn to numerous other oppressive features of the institution. Neither age nor the ability to carry out the tasks entrusted was taken into consideration, for old men and mere boys were indiscriminately called up for rājakāriya.[4] Although generally employed in their own districts, there were numerous instances where men were removed to great distances[5]. In regions of scanty population such demands became all the more oppressive, and detered their improvement: 'the claims which have been enforced by the government to the labour of the native inhabitants have been.....very unfavourable to agricultural industry and improvement, except in cases where that labour has been applied in the repairs or execution of works required for the cultivation of rice'[6]. In certain areas the impressments were so onerous that the people were unable to provide the attention needed to their lands, and consequently, were forced to serve as labourers during their free time to earn a sufficient

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1. Sinhalese: ratē ätto or minissu - of farmer caste,the chief caste.
2. cited,Report upon the Compulsory Services,pp.122-123. see also petitions nos.374,376,431,446,462 & 693 in C.O.416/31.
3. ibid.,p.107,118 & 121 & Report upon the Admn.:W.R.,p.175;P.R.,p.23.
4. ibid.,p.113.
5. ibid.,p.107. The disturbances at Valapanē,which occurred soon after Colebrooke's arrival,were due to instructions that the people should serve outside their district. see,C.O.416/21-G45.
6. Report upon the Admn.:W.R.,pp.157-158;P.R.,p.22.

remuneration for the upkeep of their families[1]. The exemption from land tax in consideration for service, the payments for performance of service according to caste, and the allowances granted in certain instances to those serving gratuitously on roads, were never equal. The demands for rājakāriya were continuously increased. In the Four Korales, until the end of the 1820's four hundred labourers were employed per day on average, and in the next few years this number was increased to eight hundred. These demands were made unevenly too. In the same region,for example, the road service fell upon one-third of the landholders owing to the exemptions made by the government[2]. The oppressiveness of the system even led people to abandon their lands and leave their homes when call for service was made, and there were occassions where the people offered open resistance too[3].

The burden of the system was often increased by the corruptions practised by the headmen. The machinery for calling forth services operated in such a manner that, other than in areas where the superior officials exercised a vigilence, they became all powerful with much scope to operate it for their own benefit. As Colebrooke stated, 'it does not appear that any fixed rule has been observed either in regard to the duration of the service, to the description of labour on which the people have been employed gratuitously or for pay, or to the rate of their remuneration when paid at all'[4]. Colebrooke well summed up the abuses of the headmen when he wrote that,

> 'in all cases the authority possessed by the native headmen over them is open to abuse,in the opportunity

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1. Report upon the Compulsory Services,p.116 & 119.
2. C.O.416/20-G25
3. Report upon the Compulsory Services,p.105. In Colebrooke's own time disturbances occurred in Valapanē.
4. Report upon the Admn.:W.R.,pp.117-118;P.R.,p.17.

> they have of appropriating the labour of the people to their own purposes,or of excusing them from public work out of favour,or for a pecuniary consideration. Such abuses are acknowledged to exist,and are proved by reference to some of the Returns,although they are generally difficult of detection,from the inducement of the people to acquiesce in such irregularities of their headmen,especially where public labour is gratuitously performed,and more severe than that which they perform for the headmen'. [1]

Although not employed in such corruptive manner, actions taken by certain heads of provinces resulted in oppression too. Colebrooke noted that these officials continued to demand the services despite the remonstrances of the people for the upkeep of their offices and residences, merely because 'they found that the inhabitants had been required to perform them by their predecessors'[2]. Another aspect of their action has been recorded by a contemporary: 'The condition of the roads and rest houses in each district, is very properly an object of rivalry between agents; and it is quite natural.....that some may be disposed to demand these labour from the natives than is contemplated by Government'[3]. Colebrooke found that the Governor of the colony too could abuse the system, for the claims to rājakāriya gave him an indefinite power over the labour of the people, and enabled him to circumscribe stipulations governing disbursements[4].

Apart from being a veritable hardship on the people, rājakāriya was also a great barrier to social progress. '[The] claims to labour have given an interest to government in upholding distinctions of caste'[5]. This was best exemplified in its demands on the Chāliya caste [6]. The judicial machinery too was brought into maintain these distinctions.[7]

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1. ibid.:W.R.,pp.128-130;P.R.,p.18. see also,Report upon the Compulsory Services,p.117,119,120,123-124 & 132.
2. Report upon the Compulsory Services,p.113.
3. Colombo Journal,25 Jan.1832,letter to the editor by 'Timon'.
4. Report upon the Compulsory Services,p.141.
5. Report upon the Admn.:W.R.,pp.158-159;P.R.,p.22.
6. see below,p.244.
7. see above,p.102.

Colebrooke well expressed the need to remove such policies of the government: 'when the distinctions of caste have ceased to be countenanced by the government, the unrestricted intercourse of the various classes will gradually obtain'[1]. On the other hand, rājakāriya also maintained inequality in society, for only the local inhabitants were subjected to it; there was a need to put the Europeans and the inhabitants of the colony on an equal footing in this respect too.

> 'In recommending a revision of the civil laws of Ceylon, with a view to adopt them more generally to the condition and circumstances of the people,it will be incumbent on the government to commence by renouncing in express terms all claims to the labour and service of the native inhabitants,and to place them,in respect to their civil rights, upon an equal footing with Europeans and all other descriptions of persons who may settle in the country'. [2]

Apart from the oppressive nature of the system, the wisdom of carrying out public works by use of rājakāriya became all the more susceptible because there was a clear alternative to it: voluntary labour. Considerable difficulties were faced in the early years of British rule[3], and again later in the heyday of the 'boom' in plantation agriculture[4], in procuring voluntary labour, but remarkably at this time the evidence placed before the commission of inquiry indicated that voluntary labour was readily available - indeed, Colebrooke himself was convinced that there was sufficient availability of voluntary labour for the government to dispense with compulsory service. The superintendent of the Botanical Garden at Kandy stated before Colebrooke that he experienced no difficulty in

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1. Report upon the Admn.:W.R.,p.190;P.R.,p.25.
2. ibid.:W.R.,p.189;P.R.,p.25.
3. North,for e.g.,was forced to import Indian labour during the war with Kandy in 1803,and later both Barnes and Bird,who opened up plantations in the interior,procured labour from India. see,R.Pieris,UCR,X,1952,p.90 & A.Kuruppu,A History of the Working Class Movement in Ceylon,CHJ,I,1951, pp.133-134.
4. see,M.W.Roberts,Indian Estate Labour in Ceylon during the Coffee Period, Indian Economic & Social History Review,III,1966,pp.1-52.

obtaining labour at six pence per day[1]. A report from the Galle district indicated that more voluantary labourers came forward than the numbers that could be employed[2]. In other regions too, voluntary labour was freely employed by government departments[3], European settlers[4], and religious establishments[5]. Rājakāriya, in the opinion of those who utilised voluntary labour, was detrimental to their interests, for it acted only to drain the free labour market[6]. At the same time, it must be noted, several reservations were expressed about the nature of voluntary labour. Even those who successfully depended upon free labour admitted that difficulties arose at times of cultivation on account of the fact that majority of the voluntary labourers were also landholders engaged in agriculture[7]. The evidence of James Davidson, a settler at Kandy, points more at the source of future difficulties: despite the inclination to work for wages, the people engaged in their own agricultural pursuits as it was considered 'more honourable'[8].

Clearly, as it was phrased by the Bengal Hurkaru, 'the mode and time most fit and proper for the abolition' of rājakāriya had come[9].

> 'The children of the Parental Government did not seem .....to have had a very great affection for the parent,nor to feel perfectly contended with the treatment they were receiving: nor did they appear by any

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1.C.O.416/2-A4.
2.C.O.416/23-H16.
3.see,Report upon the Compulsory Services,pp.135-136.
4.see,ibid.,p.110 & 129 & C.O.416/23-H16.
5.C.O.416/23-H16.
6.see,for e.g.,ibid.:evidence of Winter,a settler.
7.C.O.416/2-A4.
8.Report upon the Compulsory Services,p.110.
9.Bengal Hurkaru,27 Oct.1832.

> means inclined to remain under such a parental rule. Besides,under this 'patria potestas' the peculiam which they were allowed to retain of their earnings was so exceedingly small and so large a proportion of their means was exacted by way of regular revenue, labor or extortion,that on this account also they felt in no small degree dissatisfied'. [1]

Colebrooke's decision was for a total abolition. Henceforth, the government was to depend not on rājakāriya, but entirely on voluntary labour for its public works. To obtain labour, it should publicise whenever necessary within the colony as well as in the neighbouring coasts of India, the nature of labour required, terms of payment, and the duration of labour.

> 'If these measures fail,which is not probable,the Governor should have no authority without a legislative enactment to press labourers or workmen,nor to regulate their wages in any case,nor to employ them gratuitously or compulsorily with reference either to caste or custom. Excepting on special occassions when voluntary labourers cannot be procured,a legal sanction for calling out the inhabitants should not be granted,and even in extreme cases [until] other resources have been found'. [2]

The burden thus removed from the people, Colebrooke did not propose to impose fully upon the colonial government. He recommended that the construction of roads and bridges should constitute 'a charge upon the districts, and also the repairs of them where the tolls may not be adequate to defray the expense'. This tax should be 'assessed indiscriminately on all occupied lands in the district', and 'without any exception whatever arising from the nature of the produce or the tenure of the land, an cption however being afforded to the landholders of giving their daily labour in discharge of the assessment'[3]. The tax was clearly

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1. A Member of the Ceylon Junior Civil Service,Law Reform in Ceylon,its History,Progress and Tendency(Colombo,1852),p.16.
2. Report upon the Admn.:W.R.,pp.166-168;P.R.,pp.22-23.
3. Report upon the Revenues:W.R.,pp.37-39;P.R.,p.38.

designed to ease the financial burden imposed upon the government in consequence of the abolition of compulsory services.

A man influenced by humanitarianism, as most of the leading figures were at this time, in taking this step Colebrooke was genuinely moved by the sufferings of the people. It cannot, however, be said that it was all-pervading or that it dominated his thinking. If a larger view of his measures is taken, the abolition of rājakāriya can be interpreted as a logical outcome of his other recommendations. His attempts to recruit local inhabitants to the Legislative Council and to the civil service as well as Cameron's decision to create equality before law, would have been nullified had rājakāriya continued. The much needed changes in the financial structure of the colony could not be accomplished without a destruction of the institution. Neither could free enterprise be encouraged without freeing land from feudal encumbrances. To create a free labour market, upon which the success of free enterprise depended, rājakāriya obligations had to cease. For Colebrooke's attempts to weaken further the position of the headmen in society, their powers under the compulsory services system had to be abolished. Colebrooke's writings too convey the impression that the decision logically followed his other proposals, and was inextricable from them.

> 'The abolition of the system of compulsory services will give effect to the measures taken for the gradual redemption of the land tax,for promoting the settlement of the country,the liberation of the trade,and the free cultivation of cinnamon as a new and important branch of industry'.[1]

Looking back into the career of Colebrooke, it is possible to trace an important influence in his decision to abolish rājakāriya. It could be

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1. ibid.:W.R.,pp.158-159;P.R.,p.52.

argued that Sir Thomas Raffles, from whom Colebrooke derived inspiration for his policies relating to local officials[1], was also Colebrooke's guide in his attitude towards compulsory labour. There is a remarkable similiarity in the arguments of Raffles and Colebrooke. Raffles considered the system of feudal service and forced labour in Java most oppressive.

> 'Independently of demands for the public service, which, from the facility of obtaining labourers, were more unlimited than would otherwise have happened, every public officer deemed it fair to require the service of as many men as he found convenient. The Native chiefs followed the same system, and thus there could be no actual check on the part of the government. Can it be surprising that the industry and energies of the people were crushed, or that their labour, thus frittered away, should be unproductive, either to themselves or to the State?' [2]

The evils of the two systems in Java and Ceylon were similiar, the reasoning of the two very close, but Colebrooke went further than Raffles. Raffles' energies were directed only to restrict the practices and free them from abuse[3]; Colebrooke demanded a total abolition.

Once subjected to a thorough examination, the generally accepted assumption that Colebrooke's decision to abolish rājakāriya was a radical step can be found to be based on uncertain foundations. If we are to accept the contemporary arguments, the colonial government had gradually moved towards the abolition in the years preceding, and Colebrooke's measure was the logical outcome. The Colombo Journal stated that from the time of the conquest of the colony, 'there has been a constant struggle on the part of the Government to shake off a system so opposed to our national prejudices'[4]. It saw the logical evolution of a policy towards a total abolition of the system, and enumerated the steps taken in that manner by the colonial government. A comparison of the policies

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1. see above, pp. 115-118.
2. T.S. Raffles, op. cit., pp. 8-9.
3. see, J. Bastin, op. cit., p. 64.
4. Colombo Journal, 25 Jan. 1832. see also, ibid., 18 July 1832.

of the first two Governors alone would show that this argument was wrong, for there was no one policy of government. In reality, there were 'two sharply opposed schools of thought' during this period of time: 'the abolitionists and the conservatives held sway in turn, and each reversed the policy of the other'[1]. If an overall view of the effects of the policies is taken, however, there is a possibility of tracing a gradual move towards a relaxation of the system. Steps were taken from time to time to provide an adequate payment to those serving under rājakāriya[2]. A Minute of the Governor dated 23 August 1824 prohibited the Collectors from utilising forced labour without the prior sanction of the Governor. The same rule was applied to the Board of Commissioners at Kandy by a Minute of 7 July 1831. Several enactments were made regulating the duties of certain castes called up for rājakāriya[3]. The Moors and Chetties who were subjected to Uliam duty, a payment in lieu of forced labour, were freed from the tax as well as from the obligation for service by the Regulation of Government no.5 of 1830. One of the last acts of Barnes as the Governor was to introduce voluntary labour to the Cinnamon Department[4]. These steps were designed not to abolish the system, but alleviate and reduce the incidence and regulate the mode of use of the system. Although the evidence placed before the commission of inquiry indicated that these ends were not always achieved in practice, there is no doubt that, as Colebrooke himself stated, the system was 'progressively ameliorated'[5] in the years immediately preceding Colebrooke's arrival in the colony.

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1. C.R.de Silva, op.cit., ii, 335.
2. see, for e.g., Minute of the Governor, 20 Oct. 1829. For laws relating to rājakāriya see, C.O.54/145.
3. For e.g., Advertisement of 2 Mar 1814 regulated the supply of provisions to travellers by certain castes.
4. see below, p.246.
5. W.M.G.Colebrooke, JRAS, V, 1839, p.102.

Nevertheless, the decision to recommend the abolition was an important undertaking. The recommendation was made by Colebrooke at a time when the colonial government still regarded that the total abolition of the system would be impolitic.

> 'I do not see upon the whole that the System can be altered- Time and general improvement have already done a great deal and the total abolition of the system can only be looked for with advantage to the public interest by a further advance towards improvement- When the Country becomes wealthy enough to increase the number of foreign labourers,or when the people value money more than indolence,then there will be no necessity for resorting to compulsion'. [1]

Moreover, forced labour continued to be exacted in other colonies[2], and in certain regions in England the notion that the inhabitants should gratuitously serve for public works still prevailed[3]. Colebrooke's proposal was perhaps put in the best perspective by the Times in England.

> 'In congratulating our fellow-citizens on the abolition of forced services in one of our distant Colonies, and on the prospect of amelioration held out in the laws and institutions which regulate its destinies,we are impressively reminded of the forced labour which still exists at home,and of the children sacrificed,not to the cinnamon monopoly,but to our manufacturing avarice .....If we correct colonial abuses on the mere report of Crown Commissioners,how can we resist the abolition of a system of cruelty and despotism exercised over infants,which has been proved by so many witnesses.....' [4]

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1. C.O.54/112:Barnes to commissioners,10 Sept.1830. see also,ibid.;Barnes to Hay,22 Jan.1831,encl.
2. The most conspicuous e.g.was Java,where despite Raffles' reservations, forced labour was exacted for coffee cultivation as well as for road construction,J.Bastin,op.cit.,p.65.
3. Inhabitants of many English parishes were required to serve six days annually on roads until 1835,and in Scottish parishes until 1883,L.C.A. Knowles,op.cit.,i,178.
4. Times,26 Feb.1833.

IV.MONOPOLIES AND TAXES.

By contrast with Cape of Good Hope, where restraints upon individual commercial enterprise imposed by the Dutch monopolistic policies had been removed or greatly modified soon after British conquest[1], in Ceylon the Dutch pattern of economic activity was closely followed by the new government. As it was later pertinently questioned, 'we readily accuse the Dutch of monopolizing the principal staples of colonial commerce, and we call that policy illiberal.....but what did not the British government in Ceylon monopolize over which it had power ?'[2] Changing conditions in the colony and the changing outlook of the administrators gradually brought about modifications in this economic pattern of the government. As in the other spheres of the economic structure, the breach had occurred earlier, during the Dutch administration. Despite the restraints imposed, the production of cash crops, for example, had become a widely accepted idea during the period of Dutch rule[3]. Under the British, such developments were given a filip by certain actions of the government. The removal of the prohibition upon European land ownership beyond the district of Colombo, led to the establishment of several plantations in the interior by entrepreneurs like George Bird[4]. The Dutch regulations which restricted the mobility of labour[5], were gradually removed and 'free migration into towns was encouraged'[6]. In

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1.H.T.Manning,op.cit.,p.407.
2.J.W.Bennett,op.cit.,p.66. see also,Peter Gordon's 'The Actual Political Condition of Ceylon' in C.O.54/112.
3.D.A.Kotelawelle,A.A.G.Bijdragen,XIV,1967,p.15.
4.see above,pp.200-201.
5.They were designed to maintain the people in their traditional occupations and prevent their migration into towns. see,for e.g.Proclamation of 10 Aug.1686 translated by Colebrooke in JRAS,V,1939,pp.102-103.
6.R.Pieris,UCR,X,1952,p.82.

certain fields of economic activity, the government officials pointed the way to private enterprise. This was particularly true of coffee, and soon the lead of the Governor and his officials was followed even by the peasantry[1]. In other fields repeated demands were made for the removal of government control. In cinnamon, perhaps the most tightly controlled of all monopolies, for example, much enthusiasm was shown to form private plantations[2]. Meanwhile, the internal market had expanded considerably, creating opportunities for speculators to engage in commerce.[3] These features show that by design and by accident the government's rigid control over the economic field had undergone a certain relaxation. Significantly, it still held firmly to its monopolistic control over certain important articles of trade like cinnamon, salt and arrack[4], the more important sources of revenue. Liberalizing tendencies were still suspect. Maitland wrote,

> 'it would have been a most strange and unaccountable measure, supposing it possible, when we (England) were in this State of Society, if one of the ancient Barons had pulled out of his pocket Adam Smith, and said, I will apply to you vessals, 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'.
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> [5]

The fate of liberal ideas in this climate was best illustrated in 1813. In that year, William Orr proposed a commutation of land tax modelled after the reforms of Cornwalis in Bengal[6]. His proposals were viewed with much

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1. I.Vanden Drisen, CHJ, III, 1953, p.36.
2. Report upon the Revenues: W.R., p.55; P.R., p.40.
3. see below, p.255.
4. a liquor distilled from the fermented juice of the unexpanded flowerspathes of the coconut tree.
5. cited, C.R.de Silva, op.cit., ii, 347.
6. see, C.O.416/2-A1. On Cornwalis' reforms see, B.H.Baden-Powell, The Land-Systems of British India (Oxford, 1892), i, 398-442.

scepticism, and were condemned on the grounds that though 'admirable in theory, [were] wholly inapllicable to the circumstances of this country' - Orr's chief mistake seems to have been the illustrations he provided from the works of Adam Smith to illuminate his proposal.

By Colebrooke's time a greater degree of liberal ideas prevailed both in the colony and at home. Although there were still the defenders, particularly the Governor and his officials, there arose numerous voices in opposition to the government monopolies. While writers like Peter Gordon argued that 'the liberty of the subject in any country may be almost determined by considering the monopolies'[1], others like 'Mercator', a correspondent to the Colombo Journal, strongly expressed the opinion that the monopolies maintained by the colonial government were contrary to the fundamental laws of the country[2]. There was such a flood of representation against the monopolies that Colebrooke considered it necessary to submit extracts to the Secretary of State 'as it is natural that Lord Goderich should be made acquainted with the feelings of the people on this subject, and the inconveniences to which they are Exposed'[3]. 'It is to be recollected', he added,'on all questions of this Kind that the whole population of the country are directly concerned for they are all petty Landholders, and have a kindered feeling in what directly effects their interests'.

Such representations may have had a significant influence on Colebrooke in judging the government monopolies, but it must be noted that he was also influenced to a great extent by the liberal ideas that prevailed in

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1.C.O.54/112:'The Actual Political Condition of Ceylon'.
2.Colombo Journal,28 Jan.1832.
3.C.O.54/121:Colebrooke to Hay,24 Dec.1832,encl.

England. The free trade movement, and particularly the struggle against the monopolistic activities of the East India Company, seemed to have had a deep impression on Colebrooke in his outlook towards the Ceylon government's role in the economic field:

> 'At the same time that the East India Company of Merchants were about to be deposed of their Monopolies,with a view to disconnect them as Governors of India,from trading transactions,it would have been most inconsistent that His Majesty's Government should have retained this character in a possession of the Crown'. [1]

Basic to his thinking seems to have been the current belief that a careful distinction ought to be maintained between a trading company and a government concerned with the people. Colebrooke felt that irrespective of injurious effects, monopolies were incompatible with the interests of a government[2]. With such an attitude, it is no surprise that he judged the monopolistic activities of the colonial government with great severity.

The colonial government's monopolistic tendencies and its control over the labour of the inhabitants in its territory, was best exemplified in cinnamon. By the time the commission of inquiry arrived in Ceylon, the government had assumed completely the role of a monopolist in cinnamon. At the beginning, the sale of cinnamon was entrusted to the East India Company on contract basis, the government being concerned only with the production aspect of the monopoly, but in 1822 when the contract ended,the government successfully persuaded the Secretary of State to refuse a new contract[3]. The government assumed complete control over the spice. Colebrooke was not favourable to the monopoly. The maintenance

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1.C.O.54/128:Colebrooke's memo.,20 May 1833. In 1833 the first step was taken by the Parliament for the separation of the sovereign from the role of a trader in India.see,C.Ilbert,The Government of India(Oxford,1922),pp.81-93.
2.C.O.54/121:Colebrooke's memo.,22 July 1832.
3.Parl.Papers,1828,XXIII(529),p.89ff.

of the caste system with the production of cinnamon specifically in view drew his heavy criticism[1]. The regulations enacted to maintain the monopoly, though not as harsh of those of the Dutch government, resulted in numerous hardships to the people. As J.W.Bennett commented later, under those regulations 'not only the proprietors, but everybody and things, including bullocks and even carts were liable to prosecution and imprisonment'[2]. Colebrooke found that the right of the Chāliyas, to whom the cinnamon production was entrusted, to enter freely any land, including those in private hands, to peel cinnamon was often abused. They plundered the lands, and in some instances, even originated malicious proceedings against those who attempted to restrain them[3]. The regulations enacted to protect the cinnamon plant were detrimental to the improvement of agriculture, and greatly effected the value of land. As every plant growing in any land was protected by law, with heavy penalties for infringement, in areas where the plant grew spontaneously, lands were often abandoned after being over-run by cinnamon[4]. This deterred the clearance of jungle for agricultural purposes too. The monopoly itself was maintained in an anamolous manner, for the regulations which governed it in the Maritime Provinces were not formally introduced to the Kandyan regions. This had led, for example, to the formulation of private plantations in the interior, while they were prohibited in the littoral[5]. Although the government had formed plantations where the spice could be cultivated with less adverse consequences on the general

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1. see below, p.246.
2. J.W.Bennett, op.cit., p.68.
3. Report upon the Revenues: W.R., pp.51-53; P.R., pp.39-40.
4. C.O.416/5-B13: Anstruther's memo. on the cinnamon monopoly, 9 Feb.1830.
5. Report upon the Revenues: W.R., pp.53-56; P.R., p.40.

population, their widely dispersed nature had led to considerable difficulties in superintending them, and had occassioned great expenditure[1]. Colebrooke's conclusion was that

> 'independently of the injustice and severity of the existing regulations,and the great expense incurred by the government, the profit derived from the monopoly is in no degree proportioned to the injury it has occasioned to the inhabitants,and generally to the resources of the country,on which other important branches of revenue must depend'.[2]

The death of the Superintendent of the Cinnamon Department, under whom the monopoly operated, gave Colebrooke an opportunity to make immediate changes. He recommended that the department should be abolished[3]. The next step was the division of the government-owned plantations into sizeable units, and their lease to either the headmen of the Cinnamon Department or to others who were prepared to deliver the produce to the government. No doubt influenced by the willingness shown by the people to engage in private cultivation, at the same time he recommended that re-occupation of abandoned plantations - plantations abandoned or destroyed on the orders of North acting on concentrating the production in manageable properties - should be encouraged and promoted, and 'cinnamon of fine quality should be received at a regulated price by the government from all persons who may tender it, and who should be freely allowed to cultivate the plant in their own grounds, and to collect the cinnamon in the forests'[4]. With the implementation of these measures, he sanguinely hoped that 'a large quantity of cinnamon may be collected with little expense to the government' providing 'an improvement in the finance'.

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1. ibid.:W.R.,pp.50-53;P.R.,pp.39-40. For detailed figures of the expenditure of the department see,ibid.:P.R.,pp.53-54.
2. ibid.:W.R.,pp.64-65;P.R.,p.41.
3. see above,p.90.
4. Report upon the Revenues:W.R.,pp.58-60;P.R.,p.40 & C.O.54/121:Colebrooke to Hay,28 May 1832.

Colebrooke's plan was gradually to divest the government of its monopoly. Once initial steps were introduced to remove the government from its role as the producer of cinnamon, he proposed to reliquish step by step its sales role. Notwithstanding the failure of the sales in the island, introduced after the colonial government took over the sale of cinnamon, Colebrooke recommended that sales in the colony should be revived. Such a measure would enable the government to make considerable savings in the form of freight, insurance and management charges overseas[1]. No longer fettered with the chains of the monopoly, the sales of cinnamon would increase, and the merchants who repaired to Ceylon for cinnamon would also benefit trade in other commodities. The position of cinnamon in the world market, especially with increased sales eastward of Cape of Good Hope, would be strengthened. Hitherto, the policy of holding sales in England and the concentration upon the European market had given an opportunity to other producers, the Malabars and the Dutch in particular, to establish themselves in the Eastern market. Coarser and cheaper varities of cinnamon, generally known as cassia (cassia lignea), had even found their way into Europe thereby undercutting the Ceylon cinnamon trade[2]. These factors pointed not only to the need to revive sales in Ceylon where merchants from both West and East could purchase cinnamon, but also the necessity of re-establishing the superiority of Ceylon cinnamon by selling higher quality at cheaper prices in larger quantities[3]. This was a radical departure from the accepted policy, for the sales pattern had been based hitherto

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1. ibid.:W.R.,pp.60-61;P.R.,p.40.
2. ibid.:W.R.,p.61;P.R.,p.40 & C.O.54/121:Colebrooke's memo.,22 July 1832.
3. C.O.54/121:Colebrooke's memo.,22 July 1832.

upon the belief that to maintain the monopoly restricted quantities of cinnamon should be sold at higher prices[1]. To relieve further the government from commercial activities, Colebrooke suggested that the cinnamon growers be allowed the option of either selling to the government or of freely disposing of their produce for concumption in the island, which hitherto was restricted to twelve pouns per person per annum, or of exporting. For the government to continue to derive benefits from the spice, it was proposed to levy an export duty on cinnamon. The duty was to be fixed, without reference to quality, by which Colebrooke hoped to provide a premium on the production of better quality cinnamon[2]. The duty itself should be low because it was desirable to obtain revenue from import rather than export duty[3]: 'as an equivalent revenue would partly be derived from the duties on goods imported in exchange for cinnamon, the export duty on the latter would not require to be fixed at so high a rate'[4].

Cinnamon had held an almost mystical position in the revenue of the island[5]. Being the major source of revenue through the years, both the colonial government and the officials at home, the Lords of the Treasury in particuler, were much concerned with safaguarding the revenue from cinnamon[6]. Colebrooke was convinced that under his measures the market for the spice would expand yielding an annual nett profit of £100,000 to the colonial government. If the producers were to sell directly instead of channelling their produce through the government, a levy of an export

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1. C.Pridham, op.cit., p.394.
2. Report upon the Revenues: W.R., pp.63-64; P.R., p.41.
3. see below, p.259.
4. Report upon the Revenues: W.R., p.68; P.R., p.41.
5. 'Every European power in Ceylon monopolised this valuable staple of its commerce, and so lucrative was the trade in the spice that the profits from the monopoly became the mainstay of the revenue', C.R.de Silva, op.cit., ii, 414.
6. see below, pp.275-276 & 305.

duty of two shillings per pound, he estimated, would ensure the same income.[1] The figure thus arrived at was impressive, but he did not lose sight of his intention to diversify the sources of revenue. He decided, therefore, to restrict the income from cinnamon to £50,000 per annum[2], and further emphatically declared that 'it should not be increased beyond that amount but should ultimately be diminished by raising an equivalent Revenue upon the Import Trade of the Island'[3]. As compared to the income hitherto derived from cinnamon, this figure was quite modest, and was on the whole much less. Under the contract system the colonial government received successively £60,000 and £101,000 per annum, and after its ending an average of £115,817 per annum[4].

Colebrooke's recommendations relating to cinnamon can be viewed as a continuation of a trend in colonial developments. Although Ceylon was not subjected to all the restrictions of the Old Colonial System[5], the policy of the imperial government, particularly the privileges granted to the East India Company[6], had hindered the development of free trade. But, with the movement for freer trade, the officials concerned with Ceylon

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1. Report upon the Revenues: W.R., pp.66-67; P.R., p.41. Colebrooke's estimate compares favourably with those made by individuals more intimately concerned with the trade. Richard Penn, the Colonial Agent, for e.g., too predicted an annual income exceeding £100,000 in 1830, C.O.54/109: Penn to Hay, 17 Mar. 1830.
2. It is interesting to compare this decision of Colebrooke with the policy adopted by the Dutch in Ceylon. They did not include the income from cinnamon in the calculations of the revenue and expenditure accounts of Ceylon. 'The Directors of the Company and the Batavian authorities wished the Island to balance its budget without its most important item of revenue', K.W. Goonewardene, The Foundation of Dutch Power (Amsterdam, 1958), p.144.
3. Report upon the Estabs., p.438. see also the letters written by Colebrooke to the Times, 1 & 6 Feb. 1834.
4. For detailed figures see, Parl. Papers, 1847/48, XLII(933), p.215.
5. The navigation laws, for e.g., operated with less severity in the Eastern colonies, R.L. Schuyler, op.cit., p.186.
6. see below, pp.256-257.

too were slowly moving towards the establishment of freer trade in the colony. As early as 1814 William Huskisson, who was later to be a chief exponent of the movement for freer trade[1], called for free cultivation in cinnamon[2]. By the time the contract with the East India Company expired, certain officials of the Colonial Department seemed to have moved even further. In a memorandum prepared in 1821, it was advocated that first the trade and subsequently the cultivation should be freed from government control, thereby abolishing an oppressive system[3]. By this time the Secretary of State, Bathurst, too became associated with those advocating the cause of freer trade. Although he failed to take decisive steps, he continued to speak of the future possibility of ending of the monopoly[4]. In Ceylon, Barnes, though still a strong advocate of the monopoly, opined that 'throwing open the trade in that principal article of export will have most advantageous effects on the general commerce of the island'[5]. Moreover, demands were repeatedly made in public for the abolition of the government monopoly[6]. The representations made by commercial houses and merchants for free trade in cinnamon, were no less vehement[7]. With such a trend, Colebrooke's recommendations being favourably accepted by the public, particularly by the commercial sector, does not come as a surprise. There was, however, a considerable body in oppostion to the proposals. The Colombo Journal voiced the opposition and led the attack on Colebrooke[8], but the chief and the most effctive protagonist

1. see, A. Brady, William Huskisson and Liberal Reform (Oxford, 1928).
2. C.O.54/54: Huskisson to Goulburn, ii July 1814. Huskisson became the first Colonial Agent for Ceylon in 1801, and held the position till 1822.
3. C.O.59/28: memo. on Bertolacci's Statistical Account of Ceylon, n.d. (1821).
4. see, Parl. Papers, 1828, XXIII(539), p.92 & 94.
5. ibid., p.92.
6. Perhaps, the most perceptive critic was 'Liber' who wrote to the Colombo Journal, 14 Mar. & 21 Apr. 1832.
7. see, for e.g., C.O.59/27: Beaufort & Huxham to Lusignan, 22 Nov. 1821.
8. Colombo Journal, 13 Mar. 1833. Its main argument was that the measures were too premature.

was the Governor during whose time the measures were implemented[1]. The clash of opinions between the supporters of the proposals and the opponents led to lively discussions, mainly centered on the columns of the Colombo Journal, and several tracts embodying these debates were published[2].

Colebrooke devoted considerable attention to the role of the Chāliya caste in the cinnamon monopoly. Following the traditional pattern, Chāliyas were attached to the Cinnamon Department under the British, and service in the department continued to be the hereditary duty of the caste[3]. By the time of Colebrooke, the evidence placed before him clearly indicated that the duties of the caste had been continuously increased through the years to an extent not even contemplated under the old order.

> 'In their own Department besides the duties of cultivating the plantations.....[they] are liable to all work that the Superintendent may call on them to perform, such as cutting and dragging timber.....,and out of the Department they are employed under the Collectors in making and repairing roads in their districts'. [4]

Formerly under the Dutch they were required to hand over procured cinnamon to fixed stations or depots, from where it was was transported by coolies, but under the British they were 'required to deliver the cinnamon..... wherever the Superintendent may appoint'. From time to time their period of employment in the department was extended, and the long sojourn in forests forced upon them for the collection of cinnamon was extremely unhealthy to them, for most of these regions were areas where endemic fever prevailed. During the 1820's, particularly in the years 1824 and 1825, there was a heavy rate of mortality among them[5]. The hardships

1. see below, p.305.
2. R.J.Wilmot Horton, Reform in 1839 and Reform in 1831 (London, 1839), p.64.
3. The caste, which originated in India, was at the beginning designated a weaver caste, but was later attached to cinnamon duties by the Sinhalese kings, R.Pieris, Sinha. Social Organ., p.180 & 186.
4. C.O.54/145: evidence of Rajapakse, Head Mudaliyar, Cinnamon Department.
5. C.O.416/5-B5: evidence of Walbeoff, Superintendent of the Cinnamon Department.

entailed led often to refusals to work, and 'their services are not willingly rendered as a man coming from Galle and Matura would prefer to earn as much without quitting their neighbourhood'[1]. Instances have been recorded where Chāliyas employed others at higher rates of pay to procure cinnamon on their behalf[2]. And, not surprisingly, numerous attempts were made by them to avoid service in the Cinnamon Department. Perhaps, the most widely prevalent method was the registration of their children under the names of parents of other castes not subject to the department[3]. While their hardships were thus increasing, the position they held as a privileged group declined in a marked manner. In consequence of their special importance in the economic structure, under the Dutch Chāliyas received extensive privileges which assured them a unique place in society. Exemption from several taxes - land, fish, timber, and bazaar - from the salt monopoly, from rājakāriya services outside their department, and from the various tolls, formed these 'great and unconscionable privileges'[4]. To partake in these and to attain the privileged position, numerous individuals of other castes had registered themselves as Chāliyas[5]. Under the British these privileges gradually dwindled away. The 'Grievances of Chaliyas' specifically pointed to the loss of the 'unlimited privileges' they held under the Dutch; and, more vehemently, it was argued that due to these losses they were 'reduced to the same equal footing with the natives of other castes'[6].

With the whole monopoly under re-consideration, clearly the role of the Chāliyas too had to be re-assessed. Changes were necessary, and were

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1. Walbeoff cited, Report upon the Compulsory Services, p.133.
2. C.O.416/5-B5.
3. C.O.416/6-C11: evidence of Gregory de Zoysa, Sinhalese Interpretor & Translator of the Department of Schools.
4. C.O.416/5-B2 & B3.
5. C.O.54/145: evidence of Rajapakse.
6. C.O.416/5-B3.

even strongly demanded by the caste[1]. The colonial government, however, was unwilling to consider a total abolition of the system. Barnes determined during the last stages of his Governorship 'to abandon the system now pursued of compelling certain classes to labour in the cinnamon plantations and to trust altogether to.....hiring labourers'[2], but at the same time declared that 'the Government does not now relinquish the claim of the public to the service of the chaliyas, or other classes of people liable to serve as labourers'. Moreover, the concessions granted by the declaration were not extended to the cinnamon peelers. Barnes, however, attempted in several instances to relieve the burden of the Chāliyas[3]. Colebrooke unhesitatingly moved beyond these, and recommended the ending of the Chāliyas as a special caste attached to government service. He even declared that 'the injury and injustice of the mode.....in which cinnamon has been procured in Ceylon..... is the essential ground on which I have recommended the abolition of a monopoly to which the lives of the inhabitants have been sacrificed'[4].

A consideration of the salt monopoly is important, for it shows that despite Colebrooke's attempts to break with the financial system of the times, he was nevertheless inhibited by it. The monopoly was, as in many other economic activities of the colonial government, a continuation of a Dutch enterprise. Colebrooke found that it had 'grown up in a great degree, and has been rendered much more strict under the British Govern-

1. address of native headmen and people of Mahabadde in C.G.G.,15 Oct.1831. see also,C.O.416/5-B3:'Grievances of Chaliyas'. Mahabadda:Cinnamon Department.
2. C.O.54/113:Barnes to Goderich,11 Oct.1831,encl. This belated step became the target of the sarcasm of Goderich,C.O.55/72:Goderich to Horton,5 Apr.1832,encl. But,it deserves recognition as the first decisive step taken to introduce the priciple of free labour in the Cinnamon Department.
3. For e.g.,he called them up in alternate batches of 750,C.O.416/5-B5.
4. C.O.54/121:Colebrooke to May,23 May 1832.

ment than it was under the Dutch'[1]. During the course of their investigations, Colebrooke and Cameron became aware of the injurious effects of the monopoly both upon the people generally and upon certain economic activities specifically. Cameron stated that the monopoly 'seems to me to unite all the bad qualities which it is possible for a tax to possess, and look upon the abolition of it as the most essential of all financial reforms'[2]. The cost of production of salt was very low, mainly on account of the use of compulsory labour, but the monopoly practices of the government led to sales at high prices, the profit of the government being variously estimated between 800 to 1,100 percent[3]. To maintain the monopoly, it was reported, great quantities of salt were annually destroyed by the government[4]. The salt sold was often of an inferior quality, and the high monopoly prices had checked its consumption in the colony[5].

Perhaps, the most adverse effects were upon the economic activities of the people. With productive sea fisheries, curing of fish for the home and the export market could have been successfully undertaken in certain regions, but the high price of salt had checked the industry[6]. A potential export trade in salt too was hindered by the monopoly. As Colebrooke argued, the salt produced in Ceylon was of a better quality than that of the main producer in India, the Coromandel, and Ceylon salt could have been sold at two-thirds the price of salt in India[7]. Attempts were made

1. Parl. Papers, 1831/32, XI(732-III), p.246. The change is best illustrated in the restriction of the privileges granted by the Dutch to the Chāliyas. Their right of free collection, sale & retail of salt was restricted to the quantity necessary for their own families, C.R.de Silva, op.cit., ii, 491.
2. C.O.54/121: Cameron to Hay, 8 Apr.1832, encl. see also above, p.218.
3. Report upon the Revenues: W.R., pp.72-75; P.R., p.42.
4. C.O.54/121: evidence of Capt.J.T.Anderson.
5. Colombo Journal, 15 Sept.1832, letter to the editor by 'A Medical Student'.
6. Report upon the Admn.: W.R., pp.41-42; P.R., p.7. also, J.W.Bennett, op.cit., p.163.
7. Parl. Papers, 1831/32, XI(735-III), p.245.

to circumvent the monopoly by smuggling, but a close watch was kept by the government, and harsh punishments were meted out to those found guilty.

> 'Here then is a resource to the people which..... would provide amply for their subsistence but for the Government monopoly.....Every poor wretch who ventures to take this necessity of life which is provided by nature,is fined and imprisoned. It is as if the Government were to monopolise water !' [1]

Although thus concious of the adverse effects of the monopoly, Colebrooke's actions were limited by the necessity of ensuring a safe income for the government. His recommendations to abolish several government monopolies, if accepted, would have led to the ending of important modes of income, and until the means which he hoped would provide new income were successful, he was forced to depend on a number of existing sources for the revenue of the government. Salt was such a source. Once the new modes of income were adequately developed, he suggested, the government should cease to obtain a direct revenue from salt[2]. In the mean time, the rigerous nature of the monopoly was to be reduced. He proposed that the high monopoly price should be immediately lowered, and permission for export of salt and for its use for curing fish should be freely given. The export was to be duty free, but to obtain a revenue for the government, a small duty for collection was to be payable. In the internal trade, the monopoly was to be abolished and replaced by an excise duty.[3] Although he well realized that such an important commodity like salt should be freely available to the people, he was forced to confess that 'I regret that the state of the colonial revenue does not enable me to recommend at present an entire remission of the duty on salt consumed in the Island'[4].

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1. Colebrooke's marginal note on answers of Collectors of Jaffna & Mannar to Q.74-91 in C.O.416/3-A9.
2. Report upon Estabs.,p.438.
3. Report upon the Revenues:W.R.,pp.77-78 & 80-84;P.R.,pp.42-43.
4. Cameron roundly criticised Colebrooke for this,C.O.54/121:Cameron to Goderich,25 Aug.1831.

Another government monopoly which came under Colebrooke's scrutiny was the pearl fishery. From time to time, generally every seventh or eighth year, the government's sole right of pearl fishing was farmed out, and occasionaly the government itself conducted fisheries[1]. Pearl fishery proved to be a boon to the colonial government in years when it was a success. Faced with a recurrent deficit in its budget, the government attempted, whenever possible, to supplement its income, and thereby overcome its deficit, by successful fsheries. Colebrooke, however, refused to accept this source of income in his calculations of the revenue and expenditure of the colony: 'the pearl fishery is a branch of revenue of too precarious nature to be comprehended at present in any regular estimate of the annual supplies'[2]. Therefore, the revenue from pearl fishery, whenever it was forthcoming, was to be considered part of the surplus revenue which was to be devoted to the improvement of irrigation works[3]. He proposed measures to regulate the fisheries more efficiently, for the lax supervision on the part of the officials had led to considerable losses of revenue to the government from this source. He proposed that smaller fisheries with a lesser time lapse between fisheries should be held. 'An active and intelligent naval officer' should be appointed on a permanent basis to reside at Arippu, the principal pearl bank, and charged with the sole duty of superintending the banks. A small establishment of boats and divers were to be placed in his hands for the examination and policing of the banks. It was also hoped that this officer would be able to improve the fisheries, and provide a better

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1. For an authoritative account of pearl fisheries see, J. Stewart, An Account of Pearl Fisheries of Ceylon (London, 1843). Stewart was for 15 yrs. in charge of the fisheries as Inspector of Pearl Banks, and did much to improve the industry.
2. Report upon the Revenues; W.R., pp.89-90; P.R., p.44.
3. see above, p.197.

knowledge of the pearl banks and oysters[1]. Further, the fishery was to be no longer a monopoly of the government, and it was to be made open to the general speculation of the public, a move demanded by several contemporaries.

Arrack was an important monopoly maintained by the colonial government. An exportable article, it had found a ready market in Madras, principally with the army, but the imposition of heavy duties by the Madras government had led to its almost total exclusion from the market. The Ceylon government attempted to encourage exports by reducing the export duty imposed in Ceylon, but it did not lead to any significant success. In the meantime, the colonial government had 'imposed a duty on the consumption of arrack in that Island on an equivalent for the loss of revenue from export duty'. The consequences of this step was disasterous to the internal trade, for consumption greatly declined. Notwithstanding these developments, the government attempted to impose a monopoly upon the article, beginning with the district of Colombo in 1826. The government became the sole supplier to the market, buying from the producer and selling at advantageous prices. Though the government derived a substantial revenue from this source, Colebrooke found that the government's actions had been harmful to the industry. The prohibition of the distillation of arrack in certain areas had led to the depreciation of the value of coconut plantations, and had checked their expansion. The restrictions on the retail trade had occasioned numerous clashes between the proprietors of plantations and retailers, and had been harmful to the trade. Colebrooke wished to remove such injurious effects. Despite the misgivings of some contemporaries, he considered deriving a revenue from the consumption of liquor as legitimate: 'the object of raising a revenue on the consumption

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1. Report upon the Revenues: W.R., pp.93-100; P.R., pp.44-45 .

of spirits is generally to be approved'[1]. With these aims in mind, he suggested the introduction of a licensing system: licenses for distillation of arrack should be granted without restriction to plantation owners, to whom also should be given the right to sell to retailers. The owners of plantations were to be protected from all interferences of the retailers. To encourage export of the article, there was to be a further reduction in the export duty.[2] The other products of the coconut tree in which the government maintained an interest, of which the manufacture of coconut oil was the most important, too were to be relieved of all government interference.

To encourage further individual enterprise in cocnut plantations, Colebrooke recommended that the tax on coconut trees contemplated by the colonial government should not be enforced. The lands on which the coconut tree grew were known as gardens (in contradistinction to those cultivated with grain), and were not subjected to any direct taxation. Considering it manifestly unfair to leave such lands free from taxation while those in which grain was cultivated were burdened with substantial imposts, the colonial government acted from time to time to attempt to institute a tax of one-tenth the value upon the coconut trees. The first attempt was made by the Madras government, but in consequence of the great opposition of the proprietors, it was given up[3]. Subsequently, during the time of Barnes the measure was proposed again. Due to the opposition of the proprietors, the measure was postponed several times, and finally on the advice of Colebrooke it was abandoned[4]. Colebrooke sustained the arguments of the proprietors by pointing out that though

1. Later Forbes considered arrack 'the only serious evil amongst the numerous benefits which British dominion has lately conferred on the inhabitants of Ceylon', J. Forbes, op. cit., ii, 168.
2. Report upon the Revenues: W.R., pp. 111-117; P.R., pp. 46-47.
3. Ibid.: W.R., pp. 30-31; P.R., p. 37.
4. see above, p. 48 fn. 4.

there was no direct tax upon coconut trees, the indirect levies imposed contributed more (£35,573) than the entire revenue from lands cultivated with grain (£21,000).[1]

There were several other monopolies maintained by the government. These were unimportant from the point of view of revenue as well as from the point of view of the general economic structure of the colony. These, to be noted briefly, were horse breeding in the Delft Island, trade in elephants, and chank fishery, and Colebrooke recommended that they too be thrown open to the public[2]. 'In pursuance of the measures recommended in my general reports', he also called for the disposal of the government coffee and pepper plantations[3].

Of the taxes which were imposed by the colonial government in pursuance of a revenue, perhaps the most important were the land tax[4] and the fish tax. The fish tax was upon all fish caught, and varied between one-fourth to one-sixth, in addition to which there was a levy of one-fortieth percent of the value of the fish imposed by the headmen of the fisher communities. The tax was annually farmed out by the government to renters. Desiring a change in the system, based on the need to establish a more efficient and a cheaper mode of collection of the duty, and on the desire to relieve the people from the vexatious effects of the system, Barnes attempted on two occasions to abolish the tax and replace it with a licensing fee on boats payable annually to the government. On both occasions the attempts failed, mainly owing to the opposition of the headmen; on the other hand, the experiments proved to be adverse upon the revenue. The government reverted to the old system on the failure of these attempts. Colebrooke,

1. Report upon the Revenues: W.R., p.33; P.R., p.37.
2. ibid.: W.R., pp.103-108; P.R., pp.45-46.
3. C.O.54/121: Colebrooke to Hay, 13 June 1832.
4. see above, pp.207-217.

however, once again decided to bring forth the licensing system. The hope of improving fisheries, which he believed had great potential, was central to this recommendation, but the realization of the sufferings of the people under the taxation system, represented to Colebrooke directly[1], seemed also to have carried some weight. The licensing of boats should be monthly instead of annually, to enable the fishermen to pay the dues from the proceeds of each fishery. As a further step to encourage fisheries, he proposed that 'a drawback equivalent to the whole duty should be allowed on salt fish exported'[2]. Thus, it is seen that these proposals were closely linked with those relating to the salt monopoly.

There were several other taxes which came under the critical eye of Colebrooke. The assessments on houses, a local tax in Colombo and Galle, was recommended for abolition. The nature of property in Ceylon, argued Colebrooke, led to difficulties in assessments and to much vexation on the people. Stamp duties on public documents were to be abolished in favour of increased charges in the duty on transfer of property. He also recommended the abolition of several 'usleless restrictions which are easily evaded'. Among these were the tax on precious stones, on gaming-houses, and on certain honorary ceremonies, and the poll taxes[3]. The revenue from these sources formed only an inconsiderable part of the public revenue.

These proposals of Colebrooke meant a remarkable departure from the hitherto accepted policies of the colonial government. Other than in instances in which expediency dictated a continuation, the government was to be completely disassociated from an active interference in the economic

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1. He quoted extensively from the petitions sent to him by fishermen in his memo. on the fish tax written in May 1834. see, C.O.54/145.
2. Report upon the Revenues: W.R., pp.87-89; P.R., pp.43-44.
3. ibid.: W.R., pp.117 - 130 & 152-156; P.R., pp.47-48 & 51-52.

structure of the island - this in effect was a declaration of a laissez-faire policy. No doubt, Colebrooke thus hoped to foster the nascent capitalism of the colony. The articles of trade and commerce hitherto dominated by the government were to become 'objects of general speculation'[1]. The enlargement of the scope of individual activity in the economic field, necessarily led to a restriction of the powers of the colonial government. In particular, the powers held by the Governor in consequence of the monopolistic policies of the government[2], were to be severely curtailed. The recommendations marked an almost total upheaval of the revenue system of the government too. Hitherto, direct sources, mainly in the form of monopolies, formed the mainstay of the public revenue, but with the changes proposed, he looked towards indirect sources to obtain revenue[3].

V. TRADE AND COMMERCE.

As in the other fields of economic activity, in trade and commerce too the government was to withdraw itself from all participation, and facilitate individual enterprise. Already much enthusiasm had been shown by the people of the colony to engage in trade. The few mercantile firms which were engaged in trading operations, mainly as agency houses, carried on a considerable agitation to expand into spheres reserved solely for the government, cinnamon being the most conspicious example[4]. There were also attempts to break down further the barriers in the economic activities in which they had already gained a foothold. A body of European and local merchants, for example, continuously demanded the reduction of the duty

1. Report upon the Admn.: W.R., p.220; P.R., p.28.
2. see above, p.201.
3. see above, p.243.

on coffee with the hope of expanding their trading[1]. Such demands, incidentally, are important because they clearly indicated that already like-minded Europeans and local inhabitants were linking together to further their common interests. In 1824, Barnes' proposal to cease importing on account of the government 'in the view of leaving open to private speculation the supply of the Island in all Articles of Imports'[2], was received with open hands by the merchants engaged in the import trade[3]. Evidence also points to an expansion of the home market. At the beginning of his Governorship, North found that the commerce of the colony was 'so little' and 'so engrossed' that 'its effects were not felt a few miles outside the principal ports'[4], but by the 1820's it was reported that European goods such as cotton, bar iron, steel, iron mongery, cutlery, earthenware, glassware, haberdashery and umbrellas had found a ready market in the island[5].

Yet, the pattern of trade and commerce showed only a stunted growth. Apart from the monopolies exercised by the government, there were numerous other factors which operated in the nature of obstacles. The merchants who so enthusiatically accepted the freeing of the import trade, for example, found the duties imposed both in Ceylon and in England unfavourable to the expansion of their trade[6]. Perhaps, the most objectionable factor was

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1. C.O.54/105:Barnes to Murray,15 July 1829,encl.
2. Colombo Journal,1 Feb.1832.
3. see,C.O.416/12-E7.
4. C.R.de Silva,op.cit.,ii,445.
5. C.O.59/27:Beaufort & Huxham to Lusignan,22 Nov.1821. see also,S.Casie Chitty,op.cit.,pp.45-46. It is interesting to note the absence of these articles in the estate of Ähelepola,the Kandyan chief who was made a state prisoner during the rebellion of 1818. His effects were sold by public auction in 1825,C.O.54/104. Within the space of about 5 yrs. there seemed to have been a considerable expansion in the market for European goods.
6. see,joint communication of mercantile firms,31 July 1824,C.O.416/12-E7.

the role of the East India Company as a monopolist. At this time, the principal trading activities were carried on with India, the only exception being cinnamon. The monopolies, excessive duties and their uneven incidence - they varied from port to port - imposed by the Company seriously impeded this trade. 'The inhabitants of Ceylon and the continent are connected in a thousand ways, and might carry on a most profitable intercourse, but they are cramped and restricted in a manner that proves very injurious'[1]. These injurious effects as well as the adverse results of the policies of the Ceylon government were best exemplified in the trade in tobacco. This article of trade was mainly exported from the Northern regions of the colony to the Travancore district in India, where the Rājā maintained a monopoly with the connivance of the East India Company[2]. The Ceylon government repeatedly attempted to effect changes in this system by establishing a countervailing monopoly, and then with the failure of that measure, by instituting high rates of duty upon the trade with certain regions of South India. The cumulative results of the actions of the Rājā and the Ceylon government only led to the destruction of the trade: 'The end of all this restriction and heavy exactions have been the ruin of the most industrious, and at one time the most thriving people in the island of Ceylon, and perhaps in India, who depended on that trade for subsistence'[3]. Several other articles of exportable value, salt and arrack for example,[4] too were adversely effected by the policies of the East India Company. With deep

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1. Parl. Papers, 1831/32, XI(732-III), p.247.
2. According to Colebrooke, the monopoly was the Rājā's main source of revenue for the payment of the subsidy for troops maintained in his territory by the Company, Report upon the Revenues: W.R., pp.138-139; P.R., p.49.
3. Parl. Papers, 1831/32, XI(732-III), pp.247-248.
4. Report upon the Revenues: W.R., p.76 & 117; P.R., p.42 & 47.

insight into the close connexion that existed between the continent and the island in numerous relations, Colebrooke looked forward to a freer trade between the two peoples.

> 'It would be conducive to the welfare of both countries, and congenial to the habits of the people,who are naturally connected,that the duties and restrictions which fetter the intercourse between them should,as far as possible,be removed in the ports of the East India Company and those of His Majesty and that they should cease to be governed as rival possessions'. [1]

He proposed that the government of Ceylon should conduct negotiations with the East India Company to remove the obstacles that hindered trade between the two countries. The principle of reciprocity, he suggested, could form the basis of future trade relations. Salt could be exchanged for rice, and the reduction of duty on Indian cloth in Ceylon 'should lead to a corresponding reduction of duty of the production of Ceylon in the ports of the Indian continent, and to the abolition of the tobacco monopoly in Travencore'[2].

The main obstacle in the expansion of trade with other countries, was again the East India Company. Its chartered privileges stifled development in trade, for the imperial officials, who regulated the external trade of the colony, continued to pay a greater attention to the commercial interests of the Company before proceeding to grant concessions to the colony. An exasperated Brownrigg declared that 'every application to this Government is subject to a reference to another authority, and liable to be discussed, modified, and even rejected on principles preferable to the commercial interests of the East India Company'[3]. The imperial policy directly hampered trade too. As Colebrooke pointed out, the duties imposed

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1. Report upon the Revenues:W.R.,pp.145-146;P.R.,p.50.
2. ibid.:W.R.,pp.144-145;P.R.,p.50 & Report upon the Estabs.,p.439.
3. C.O.54/48:Brownrigg to Bathurst,15 July 1815.

in England on certain produce of the colony were harmful to their export. Colebrooke realized that such matters could not be considered in isolation only with reference to Ceylon, but nevertheless proposed that at least regarding certain articles of trade, particularly arrack and coffee, a more favourable trading and tariff policy should be adopted by the home government.[1] It is also worth noting that in his evidence before a select committee of the House of Commons, he strongly campaigned for the removal of the restrictions imposed upon the colonial trade in consequence of the chartered privileges of the East India Company[2].

Colebrooke proposed that there should be a full revision of the customs policy adopted by the colonial government. The policy was not regulated in a manner most advantageous to the revenue as well as to the trade and commerce. The rates of duties imposed were sometimes upon tariff, and at other times upon ad valorem, resulting in an unequal incidence, for the tariff charges were much higher than ad valorem. Generally, the duties on most articles of trade were heavy, and trade in these articles suffered thereby, tobacco being the prime example. On the other hand, some articles were not subjected to any duty at all. Coffee, for example, was exported duty free, besides being relieved from the burden of a land tax[3]. Although Barnes attempted to establish a system more regulated[4], to Colebrooke the principle upon which it was undertaken seemed harmful.

Having decided to remove the established basis of the revenue system of the colonial government by abolishing several monopolies, Colebrooke then decided that a major source of revenue in future should be customs dues:

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1. C.O.54/121:Colebrooke's memo.,1 May 1832.
2. Ibid.:Colebrooke to May,28 May 1832.
3. Report upon the Revenues:W.R.,p.146;P.R.,p.50 & Report upon the Estabs., p.439.
4. see,C.R.de Silva,op.cit.,ii,448-449.

'the revenue derived from the customs, if considered with reference to the expenses incurred in its collection, is larger in amount and less burthensome to the inhabitants than any branch of the internal revenue'[1]. From the evidence placed before him, Colebrooke firmly came to the conclusion that the income from this source would continue to increase in the coming years[2]. The customs policy he proposed to introduce was based on the premise that the main revenue should be derived from the import rather than the export duties. He believed that a reduction of the export duties would materially strengthen the revenue, for apart from the increase in exports, there would also be a corresponding increase in the import trade inconsequence of the trading activities of merchants who would repair to Ceylon - thus, the loss in export duties would be more than regained from import dues[3]. This belief was well reflected in his recommendations relating to the cinnamon trade[4].

Colebrooke also took steps to reform the monetary structure of the colony. In 1825, a significant attempt had been made on the instructions of the Lords of the Treasury to introduce an uniform system of currency. British silver coinage was to replace the diverse currency that prevailed in the colony, but by Colebrooke's time it had become clear that the measure had failed to supersede the earlier paper currency issued in Ceylon.[5] Colebrooke publicly signalled the failure of the Treasury measure by proposing the introduction of the Indian coinage to Ceylon. As he stated, 'the intercourse subsisting between that Country and Ceylon would have rendered it more convenient that the same currency should have been adopted in that Island'[6].

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1. Report upon the Revenues: W.R., pp.126-127; P.R., p.48.
2. see, C.O.54/121: returns of the Commissioner of Revenue, 8 Sept.1830.
3. Report upon the Revenues: W.R., p.132; P.R., p.49
4. see above, p.242.
5. Report upon the Estabs., pp.439-440.
6. ibid., pp.441-442.

Chapter : 6.

THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMISSION.

I.THE COLONIAL DEPARTMENT AND THE FORMULATION OF POLICY.

The reports of the Commission of Eastern Enquiry on Ceylon attracted little attention in England. There were, of course, the advocates of reforms for Ceylon in England,mainly centering on the figure of John Stewart, who made himself the watch-dog of Ceylon affairs in the Parliament. It is doubtful whether the Colonial Department took these advocates with any seriousness for, as the Colombo Journal devastatingly proved, their knowledge was seldom accurate; and, clearly their concern was not so much Ceylon but English interests, for their eyes were immediately fixed on politics of England[1]. Apart from Stewart and the like, as a contemporary observed in Ceylon[2], the reports of the commission of inquiry would not have been perused with great interest by other members of Parliament, even though they were ordered to be printed for the House of Commons. Joseph Hume who advocated reforms for Ceylon in Parliament had a more limited aim than John Stewart; his concern was the reduction of colonial expenditure. There was also the mercantile community, before whom Colebrooke felt it necessary to defend his proposals[3], but they too had a limited vision; apart from the controversial question of cinnamon, they hardly concerned themselves with other matters then under consideration by the imperial government. Newspapers and journals like the Asiatic Journal and Monthly Register featured Ceylon affairs in their

1. Colombo Journal,1 Feb.1832. The analysis of the journal was later printed as Examination of the Evidence given by John Stewart before a Select Committee of the House of Commons(Colombo,1832).
2. ibid.,13 Oct.1832,letter to the editor by 'A.B.'.
3. see below,pp.263-264.

columns, but their reports were often culled from either the Colombo Journal or the Ceylon Government Gazette, and only rarely did they comment on Ceylon issues. With the lack of any public opinion in England, it was left to the officials on the spot to bear an influence upon decision-making in England. In Ceylon there certainly was a public opinion, which the officials circles did much to foster, but it was limited to the English-speaking public, primarily the European community[1]. Though prominent, the role of this group did not become effective. The critics of the commission of inquiry were never able to submit their opinions as a body in a forceful manner to the officials at home; the link between the members of Parliament and the European community in Ceylon was yet to be forged[2]. The opposition in Ceylon was disorganised, and in majority of the instances, was based on purely personal feelings and reasoning[3].

The Colombo Journal attempted to provide some semblance of a platform for them, but in the eyes of the officials at home it became highly suspect for they were aware of its tendencies to reflect the views of the Governor, Wilmot Horton. Perhaps, if the opposition reached the proportion the opposition to Utilitarianism reached in India, the Colonial Department may have taken a more serious view of it. Initially the Secretary of State seemed to have decided to obtain independent evidence before acting upon the reports of the commission, for he called for the sentiments of the Governor, council and of those 'whose local knowledge and judgement reliance can be placed'[4]. Though the Governor acted on this, there is no evidence that they carried any weight with him. The conclusion one can

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1. see above, p. 52.
2. see below, p. 300.
3. see above, p. 160.
4. C.O. 55/74: Goderich to Horton, 14 Sept. 1832.

come to is that decision-making was undertaken completely within the confines of the Colonial Department, with only certain other administrative departments playing a role in it. As it was pointed out contemporaneously in Ceylon, the decision-making was by the Secretary of State who was more than fifteen thousand miles away from the subject under consideration, and more importantly, 'he was not checked by the supervision of a competent public, for there are not ten men in England who have the means of knowing whether his statements are accurate and his recommendations judicious'[1].

Once the reports were submitted to the Colonial Department, the tasks of the commissioners of inquiry did not cease. They continued to assist the department in its work relating to Ceylon[2], and there awaited the more onerous task of defending the reports from the attacks made from various quarters - as Colebrooke so succintly put it, there would be 'obstacles raised, which must be combated'[3]. The onus of defending the reports was left to the commissioners, though the department gave every possible assistance. Inevitably, the task fell more upon Colebrooke than Cameron, not only because his work covered a much wider field, but also because his proposals touched the more sensitive question of power and privileges of officials.

Thus, it was Colebrooke who took to task the new Governor, Horton. Once away from the scene, Barnes seemed to have been a quickly forgotten figure. His earlier communications seem to have had no longer a place in the discussions on the reports. Communications to and from Barnes after this period relate only to personal matters or matters connected with his Governorship, not to either the reports or the reforms decided

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1. Colombo Journal, 17 Oct. 1832, letter to the editor by 'Censor'.
2. see above, p.48.
3. C.O.54/121: Colebrooke to Hay, 6 June 1832.

upon the reports. The neglect of Barnes seems remarkable when it is noted that the ex-Chief Justice, Sir Richard Ottley, was consulted closely by the department in the decision-making respecting certain subjects[1]. Perhaps, Barnes' uncompromising criticism may have convinced the officials that there was no possibility of eliciting unbiased and reasonable views from him upon reforms. Thus, attention was drawn to the more subtle and the more able critic, Horton. Horton wrote incessantly opposing the reforms throughout his stay in Ceylon. Although the Colonial Department soon saw the deceptiveness of his attacks[2], Colebrooke had to devote considerable attention to him. Certain officials at home did not prove to be any easier. Of them perhaps the most formidable opposition came from the Lords Commissioners of the Treasury[3]. In dealing with officials like the Treasury Lords, whom the Colonial Department itself viewed with suspicion, Colebrooke always had the backing of the Secretary of State and his assistants. Colebrooke also concerned himself with critics who had little or no influence with the Colonial Department; he took it upon himself to deal with 'every little objection that can be raised'[4]. Not only in official circles but also publicly,Colebrooke defended his reports. The reports were much criticised in the Ceylon newspaper, the Colombo Journal, but he was not inclined to take up a defence. His attitude was different when the Times, the leading newspaper in England, took up the cause of the merchants who were opposed to some recommendations of Colebrooke[5]. In two letters to the editor of the paper, he recapitulated

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1. see below,pp.284-285.
2. see below,pp.294-295.
3. see below,pp.275-276.
4. Howard,the Colonial Agent,was one such critic. see,C.O.54/121:Colebrooke to Hay,6 June & 22 July 1832.
5. see,Times,30 Jan.1834.

the reasons that led to the proposals, and particularly defended the decision to transfer the cinnamon sales to Ceylon, the proposal which was most criticised[1]. While Colebrooke was thus engaged in defending his reports publicly, his colleague, Cameron, was engrossed in the judicial reforms then being formulated in the Colonial Department[2].

How the decision-making upon the reports was undertaken within the Colonial Department is not always clear. There does not seem to have been a well-defined method to undertake such tasks; the practise of minuting, which would have indicated the manner in which the respective officials acted, had yet to be developed into a standard practice[3]. There is clear evidence on Cameron's report, but nothing comparable is found respecting the reports of Colebrooke. From the frequent references of the commissioners, and from the correspondence between the Colonial Department and other departments, it is clear that Robert Hay, the Undersecretary who supervised the Mediterranean and Eastern colonies, was immediately in charge of the commission of inquiry. He was not highly estimed by his colleagues - in Taylor's opinion he was 'certainly not equal to the office he held'[4] - and his own conception of his duties did not lead him to play a decisive role in colonial affairs. He 'accepted the traditionalist position that the Permanent Undersecretary should give advice only when called upon to do so; even trifles should be handled by the Secretary of State'[5]. True to this thinking, he did not play an important role in the decision-making on the reports, though there is evidence to show that he could errupt with a fiery spirit when the power

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1. ibid., 1 & 6 Feb. 1834.
2. see below, p.284ff.
3. For an account of the office at work see, D.M. Young, op.cit., pp.84-123.
4. H. Taylor, op.cit., i, 147.
5. D.M. Young, op.cit., p.87.

of the department was threatened[1]. Thus, the positive role lay with the Secretary of State. Lord Goderich, who held this position at this time, did not seem to have been always equal to the task. His Undersecretary, Howick, wrote that 'he may be truly said.....to have no will or opin[io]n of his own'[2]. This was no doubt an exaggeration, but evidence indicates that he tended to reduce his role in decision-making to a minimum. On the formulation of a charter of justice based on Cameron's report, for example, he stated that

> 'my own duties,on this occasion,have been limited to an attentive review of the statements comprised in that Report,and of the advice founded upon them; to the endeavour to supply a few occasional omissions in the scheme of the Commissioner; and to the care of carrying it into execution by the accompanying Charter with the utmost attainable method and perspacity'.

'I therefore', he added, 'find myself absolved from the necessity, which would otherwise have been incumbent upon me, of explaining the motives of changes which have been made, and to various causes which have contributed to render them necessary'[3]. There is no doubt that the assistance of certain officials of the department was extremely helpful to Goderich. Of these, as far as Ceylon reforms are concerned, the outstanding contribution was made by James Stephen. His role in the formulation of the charter was significant[4], and it is possible that he took the initiative in other reforms as well; he was often 'forced by his sense of duty to shoulder an even greater burden than he was carrying'[5]. Again, it is perhaps the reluctance of the Secretary of State and his Undersecretary to take complete charge of decision-making that enabled the commi-

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1. see below, p. 277.
2. cited, D.J.Murray, op.cit., p.166.
3. C.O.54/145: Goderich to Horton, 23 Mar. 1833.
4. see below, pp. 285-287.
5. D.M.Young, op.cit., p.104. see also, H.Taylor, op.cit., i, 147.

ssioners of inquiry to play such an important role after they concluded their investigations[1].

Yet, it is only a half-truth to state that Goderich left much of the work respecting Ceylon reforms to his assistants. There is no doubt that it is only his determination that enabled the imperial government to carry through to success Colebrooke's recommendations to reduce expenditure[2]. On certain controversial questions relating to the proposals of the commission of inquiry, from the beginning he held decidedly firm views, views which were never swayed by the unceasing efforts of the Governor of Ceylon. This was perhaps best reflected in his decision to accept Colebrooke's recommendation to end compulsory services. He firmly stated that 'its immediate abolition was a duty which I owed to the Natives of Ceylon'[3]. Such instances apart, however, it is difficult to ascertain fully what role Goderich played. It is doubtful whether he brought before his colleagues in the cabinet the question of reforms for Ceylon. This was a time when the cabinet was preoccupied with the political crisis at home, and when colonial affairs came before it, abolition of slavery and the new charter for India claimed priority[4]. The picture that emerges about the subject of decision-making is hazy. Yet, remarkably a policy was formulated and introduced, notwithstanding the opposition of the officials on the spot. It is perhaps here that one can note the great potential that lay within the department to become an efficient administrative organ.

By the time decision-making was embarked upon, the prevailing tendency

1. see above, p.35.
2. see below, p.271.
3. C.O.55/74: Goderich to Horton, 14 Mar. 1833.
4. H.T. Manning, The Colonial Policy of the Whig Ministers 1830-1837, CHR, XXXIII, 1952, p.342.

within the department itself had become helpful to the cause of reform. Hitherto, it seemed to have acted on the advice of James Stephen that all subjects controversial should be deferred for decision until the commission of inquiry reported[1]. No decision, for example, was taken on the subject of judicial reform[2]. Even the Governor of the colony was informed that,

> 'it was the wish of His Majesty's Government that you should abstain until after the commissioners had made their Report from offering any useful suggestions connected with the details of your Government,because those which you had previously submitted for approval had been reserved for the consideration of the Commission'.[3]

The same reasons led the Secretary of State Murray to oppose in the House of Commons a motion brought forward by John Stewart to appoint a select committee to inquire into the revenue and expenditure of Ceylon[4]. Thus, it is no surprise that there was a general anticipation that with the submission of the reports of the commission of inquiry, important changes would be undertaken in Ceylon by the imperial government[5].

The recommendations of the commission of inquiry that were initially decided upon were those of Colebrooke relating to the form of government of the colony. The officials were well aware that no important changes could be introduced until the form of government itself underwent changes[6]. Moreover, this subject was less controversial in that already a clear course of action had been decided for colonies like Ceylon; unlike the subjects of judicature and cinnamon, for example, there was no need to

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1.C.O.54/90:Stephen to Hay(private),19 Sept.1825.
2.see above,p.123.
3.C.O.55/69:Bathurst to Barnes,26 Apr.1826.
4.see,Hansard,n.s.,1830,XXIX,pp.1155-1170.
5.J.Stewart,op.cit.,p.12.
6.see above,p.135.

formulate new attitudes. By this time crown colonies, to which category Ceylon belonged, had broken away from the 'rigid mould' that had encompassed them in the early part of the century, and had embarked upon a constitutional growth[1]. Colebrooke's proposals did not precisely follow these developments, but the decisions of the officials at home were such that soon Ceylon was in the mainstream of colonial consitutional growth - indeed, Ceylon became 'the pioneer of the non -European dependencies' in these developments[2].

The most significant result of the changes proposed was the reduction of the powers of the Governor; he became a less authoritarian figure. Partly this was a direct consequence of the acceptance of the recommendations of the commission of inquiry: in particular, those powers the Governor had gathered in his hands by local enactments were removed[3]. But, more importantly, it was because the Colonial Department decided to follow the practice already accepted in several other colonies: it introduced what has been termed 'the classical form of Crown Colony Government'[4]. It is perhaps this that led the department to reject those proposals of Colebrooke which did not conform to the pattern of crown colony government. The role Colebrooke intended for the Governor to play in the administration was not rigidly enforced; ultimately, the Governor remained a figure with more power than he anticipated.

The new form of government was based on the uniformity proposed by Colebrooke. Already a step in this direction had been taken with the introduction of legislative uniformity in 1831[5]. Ceylon was divided into five provinces,Northern, Southern, Eastern, Western and Central, the

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1.M.Wight,op.cit.,p.59.
2.ibid.,p.74.
3.see above,pp.63-64.
4.L.A.Mills,Ceylon Under British Rule(2nd ed.London,1964),p.103.
5.see below,p.301.

boundaries of each following the recommendations closely[1]. Government Agents headed the administration in each,and they were assisted by a number of assistants stationed in the more important towns of each province. As Colebrooke forecast there was a saving of £1015.0.0.under the new arrangements[2].

This step signified the reduction of the Governor's powers. The establishment of the two councils of government, the Executive and legislative Councils[3], emphasized more the new role of the Governor: he lost much of the independent powers,and more precise and regulated bodies were established to help him to manage the colony. The Executive Council, as suggested by Colebrooke and true to the crown colony pattern, was entirely an official body. Changes were made in its composition, for in place of the Auditor-General, Surveyor-General, Collector of Customs and the Government Agent for Colombo recommended by Colebrooke, the King's Advocate, Commander of the Forces, and the Government Agent for the Central Province were brought in, reducing its numbers to five. This modification could be interpreted as an attempt to strengthen the body, for the new additions were considered to be more senior officials. But, in the hands of the Governor this did not signify an important change; the manner in which he acted resulted in the council being less powerful than anticipated by the imperial government[4].

As the Executive Council was in effect a perpetuation of the advisory council[5], the creation of the Legislative Council marked a more significant change in the administration. Its composition too underwent a transformation. There were nine officials - the Chief Justice, Commander of the Forces,

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1. Proclamation of 1 Oct.1833.
2. C.O.54/130:Horton to Stanley,22 Nov.1833,encl.
3. see,C.O.55/74:King's Supplementary Commission to Horton,19 Mar.1833.
4. see below,pp.297-298.
5. M.Wight,op.cit.,pp.128-129.

Colonial Secretary, Auditor-General, Treasurer, Government Agent for Western Province, Surveyor-General and the Collector of Customs, who held precedence over the unofficials in that order - and six unofficials selected by the Governor 'as far as possible in equal proportion from respectable European Merchants or Inhabitants and the higher classes of Natives'. In keeping with the crown colony pattern, this council became less powerful than Colebrooke intended; the devices he prepared to give this body independence from the Governor were rejected. The Governor was made its president - the rule of colonial legislatures[1] - and the proposal to remove Governor's sole power to introduce measures in the council was not accepted. Similiarly, the proposal for secret deliberations of the council was not implemented. Nevertheless, the measures introduced did not lead to the creation of a weak and an inefficient body. Its members, for example, were given the right to record any subject in a minute, thereby breaking the monopoly of the Governor over deliberations. The minutes themselves were to be sent home, thus ensuring an additional control. The conduct of business was by a majority vote, and certain subjects were removed from its purview. The enactments were to receive the sanction of the Secretary of State for implementation, apart from urgent and special instances. The drafts of the enactments were to be published three weeks in advance in the Ceylon Government Gazette. Moreover, the unofficials were to play a definite role: 'secure at once the advantage of the most exact local information, and the still greater benefit of convincing the population that the laws made for their Government proceed from persons participating in their own interests'[2]. Like the Executive

1. Initially it was not clear whether the Governor should preside or not,but by this time a definite rule had been established,ibid.,p.102.
2. C.O.55/74:Goderich to Horton,14 Sept.1832 & Additional Instructions to Horton,20 Mar.1833.

Council, the Legislative Council was constituted on 1 October 1833, and together with the Governor formed the new government, the form of government termed crown colony government - thus, Ceylon followed the pattern already established in Trinidad in 1831, and in St.Lucia and Mauritius in 1832[1].

Considerations of general policy was significant in the reforms introduced in the civil service too. The need to economise dominatod the policy. There is no doubt that in this instance the significant role was played by Lord Goderich. He belonged to the Whig ministry, whose first principle in colonial administration was economy[2]. His experience and interests well fitted for this task.[3] Although he had the backing of Howick, a strong advocate of retrenchment, the Colonial Department in general disliked the movement for economy. Robert Hay was a vehement critic[4], and there was strong opposition from the colony[5]. These were of no consequence: the policy of retrenchment was successfully pursued by the government. The civil expenditure of the colonies which stood at £472,000 at the time the Whigs assumed power, was reduced to £347,445 by 1832[6]. In the colonies that came under the purview of the Commission of Eastern Enquiry, measures were introduced which led to an immediate reduction of expenditure of twenty three percent,

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1.M.Wight,op.cit.,pp.68-69.
2.H.T.Manning,CHR,XXXIII,1952,p.214.
3.D.M.Young,op.cit.,p.122.
4. H.T.Manning,CHR,XXXIII,1952,p.203ff.
5.see below,p.303.
6.P.Burroughs,The Historical Journal,XI,1968,p.461.

and an eventual reduction of thirty nine percent (see,table I). In Ceylon, this figure was attained by severely curtailing the civil establishment on the lines recommended by Colebrooke[1]. Firstly, certain offices were abolished. Those of the Commissioner of Revenue, Paymaster-General, Deputy to the Chief Secretary, Private Secretary to the Governor, eight Sitting Magistrates, and the Registrar of the Vice-Admiralty Court, came under this heading. Secondly, officials of inferior grades were entrusted with the duties of certain offices. Thus, assistants were appointed in place of the Collectors of Mannar, Tangalle, Chilaw, Ratnapura, Kurunegala, and Batticaloa. Thirdly, certain offices were continued, but with lower salaries. These were the Auditor-General, Vice-Treasurer and the Collector of Customs. Fourthly, several offices were retained, but with new designations. The remaining Collectors became Government Agents, Provincial Judges became District Judges, and the Chief Secretary became the Colonial Secretary. Salaries of all offices were reduced, in addition to which the pension fund of the civil servants was abolished. Pursuing the cause of economy, military officers who held civilian posts were to be continued, and 'as a measure of public economy' were to be appointed elsewhere too. And a drastic reduction was ordered in the number of officials of lower grades[2].

table I[3]

	initial charge	saving immediate	saving prospective	total
Cape of Good Hope:	£26,377.17.6.	7,642.17.6.	8,545. 0.0.	16,187.17.6.
Mauritius	: 82,487. 0.0.	9,062. 0.0.	12,806. 0.0.	21,868. 0.0.
Ceylon	:190,570. 6.10.	30,732. 0.0.	27,378.11.10.	58,110.18.7.

1.For detailed figures see,app.C.
2.C.O.55/74:Goderich to Horton,23 Mar.1833.
3.Parl.Papers,1833,XXVI(434),p.410.

Expenditure was thus reduced, but no decisive steps were taken correspondingly to improve the machinery. It is true that the rules Colebrooke devised for the new establishment were not as precise as those of Maitland[1], but their implementation, it could be argued, would have gone some way to establish a more efficient machinery and to counteract some of the damaging results of the reduction in expenditure. Some rules were directed to be introduced, but no rigid adherence of the Governor was called for; in contrast, no discretion was allowed to him in the retrenchments. Thus, their effectiveness depended upon the disposition of the Governor. Rules like the requirement of a knowledge of Sinhalese or Tamil by civil servants, promotions to be on merit, and the payment of security by those holding offices of pecuniary responsibility, were all ordered to be implemented[2], but never became effective during the period under consideration. It was decided by the Colonial Department that 'Civil Situations will henceforth be open to all classes of native community'[3], but this did not lead to a change in the exclusive principle of the civil service. In such instances, lack of resolution on the part of the Colonial Department to ensure their implementation, and the thwarting attitude of the Governor negated any effective use of Colebrooke's proposals. In other instances, the department expressed no desire even to declare that Colebrooke's measures should be introduced. The establishment of a pyramidal form of administration, and the role of the local officials in it, was proposed by Colebrooke to introduce efficiency and to counteract adverse effects of the reduction in expenditure[4], but this aspect of Colebrooke's plan was completely neglected.

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1. see above, p.106.
2. C.O.55/74: Goderich to Horton, 24 June 1832 & 23 Mar 1833.
3. ibid.: Goderich to Horton, 14 Sept. 1832 & 23 Mar. 1833.
4. see above, p.110ff.

It is important to note that the Colonial Department did not attempt to change the role of the Governor as the head of the civil establishment; he remained the head of the civil service too. Thus, the proposal of Colebrooke to place the administrative departments of the colony under the corresponding bodies at home was not accepted[1]. More importantly, the Lords of the Treasury did not obtain complete overriding powers in Ceylon. In some instances, even when they laid down instructions, the purchase and application of stores for example, the Secretary of State did not require that they be observed rigidly; only an 'implicit obedience' was called for[2]. This was a marked contrast to the Cape of Good Hope, where acting on the recommendations of the Commission of Eastern Enquiry, the colony was placed under 'virtual Treasury control.....[which] destroyed the autocracy of the Governor, Lord Charles Somerset, when many political attacks had failed'[3]. It is not argued that the Treasury held no powers in Ceylon. It was directed, for example. that the surplus revenue of the colony could be utilised only with its sanction[4]. But, Ceylon was not brought completely under its control in matters of revenue and disbursement - indeed, it was one of the last conquered colonies to be subjected to Treasury control[5]. The powers of the Treasury over Ceylon was operated mainly through the Colonial Department. This was best seen in the formulation of the reforms themselves.

The movement for economy had thrown the Treasury into the forefront of colonial affairs. In particular, the acceptance of the recommendations of the commission of inquiry appointed in 1830 to investigate colonial

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1.C.O.55/74:Goderich to Horton,14 Sept.1832.
2.ibid,
3.S.M.Hardy,UBHJ,VII,1960,p.182.
4.C.O.54/127:Horton to Goderich,31 Mar.1833.
5.D.M.Young,op.cit.,p.172. By 1825 Mauritius,New South Wales,Van Diemen's Land & Sierra Leone had comeunder the Treasury, but Ceylon did only in 1837.

revenues, led it to assume a position of authority: all colonial expenditure henceforth came under its scrutiny[1]. Under Goderich, the Colonial Department gave up the old practice of appropriating money without due consultation with the Treasury[2]. This change meant that reforms for Ceylon touching revenue and expenditure had to be subjected to Treasury approval. The concern of the Treasury was financial management, and it is perhaps this reason that led it to be preoccupied with the question of the cinnamon monopoly, the major source of revenue of the colony through the years. Unlike the Colonial Department, the Treasury was not prepared to readily accept the recommendations of the commission of inquiry. It doubted many findings of Colebrooke, principally the proposal to transfer cinnamon sales to Ceylon, and even demanded documentary evidence 'in corroboration of the statements of his Report'[3]. The Treasury Lords themselves admitted that they were aware of the objections to the cinnamon monopoly, but adverting to the 'long and continuous embarrassment of the Ceylon Finance', and to the 'greatly increased produce realized from the Sales of Cinnamon under the present system of Management', they considered that no alteration was possible in the monopoly except on the express undertaking that expenditure of the colony would be considerably reduced[4]. The Colonial Department was able to argue convincingly that under Colebrooke's measures there would be no deficit, but a surplus even though the income from cinnamon was calculated only at £50,000 per annum. The revenue was estimated at £227,933 and expenditure at £227,532: with the revenue from pearl fisheries, there would be a handsome surplus[5]. With this

1. Parl. Papers, 1837, VII(516), p.325.
2. P. Knaplund, JMH, I, 1929, p.45.
3. C.O.54/119: Stewart to May, 18 May 1832. This led to a personal appearance of Colebrooke before the Treasury Lords, C.O.168/12: May to Colebrooke, 26 May 1832.
4. ibid.: Stewart to May, 16 May 1832.
5. ibid.: Treasury minute, 18 Sept. 1832.

the policy was agreed upon, and was implemented - a policy, as Goderich stated, which was 'in accordance with the recommendations of the Commissioner of Eastern Enquiry, a[nd] modified in conformity with the minute of the Lords Commissioners of the Treasury'[1].

The influence of the Treasury was seen in varying degrees in other measures too. Treasury insistence led to the requirement of security from civil servants[2]. A minute of the Colonial Department states that 'it stands pledged to the Treasury to effect reductions of Salaries'[3], a testimony to the fact that Treasury attitude was as important as Goderich's decisions in the reductions of the civil establishment. Again, though the recommendations of Colebrooke for the Civil Engineer's Department were accepted by Goderich, the objections of the Treasury that it would lead to an increase in expenditure resulted in the proposals not being implemented fully[4]. Such evidence shows a heavy handed parsimony on the part of the Treasury, but it should be noted that some of its measures led to considerable relief to the colony too. Its right to recover past expenditure incurred in aid of Ceylon was waived, and it also gave an undertaking to relieve the colony from its debenture debt[5].

The more immediate result of the Treasury's role in Ceylon reforms was a delay in their implementation. Its insistence on changes and the delay in communicating views, which Hay estimated to be four months, led to a postponement of the reforms[6]. In financial matters the Colonial Department lost a great deal of its discretionary powers. Within few years James

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1.C.O.55/74:Goderich to Horton,2 Nov.1832.
2.C.O.54/132:Stewart to Hay,1 Mar.1833.
3.C.O.54/129:minute,n.d.,on Horton to Goderich,29 Aug.1833.
4.C.O.54/119:Stewart's memo.,15 Oct.1832. This delayed the appointment of 4 District Engineers.
5.ibid.:Treasury minute,18 Sept.1832.
6.C.O.54/132:minute by Hay,8 Mar.1833.

Stephen was writing that 'I understand that we are not to increase the Establishment by the smallest fraction of a penny. If that be not the rule, where is the line to be drawn ?'[1] May saw even more ominious signs, for the Treasury Lords insisted that all communications to the Governor based on their directions should be submitted to them for scrutiny. If the Colonial Department was to be subjected to such demands, wrote May, colonial business would fall into 'inextricable confusion a[nd] arrear, a[nd] the Colonial Secretary will henceforth become the Register of the Treasury designs a[nd] be allowed no scope for the exercise of his own judgement'[2].

Apart from the changes made on the insistence of the Lords of the Treasury, Colebrooke's recommendations relating to the economic field were substantially followed. The monopolies exercised by the government were almost totally destroyed. Goderich, who under Huskisson played an important role in the relaxing of the Old Colonial System[3], proved to be very receptive. Even the Treasury, once the anding of the cinnamon monopoly was agreed upon, declared 'the necessity of absolute discontinuance and positive prohibition of all trading concerns, and speculations of every description on the part of the Ceylon Government'[4]. The cinnamon monopoly was abolished, and the new rules for the governing of the cultivation and sale of the spice was laid down by the Regulation of Government no.5 of 1833. The recommendations of Colebrooke were followed excepting in the high price fixed for the reserve stocks of cinnamon in the hands of the government and duties payable on export, which were based on the decisions of the Treasury. Colebrooke condemned both these deviations, especially the export duty at

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1.C.O.54/148:memo.,11 Nov.1836.
2.C.O.54/132:minute by May,8 Mar.1833.
3.see,R.L.Schuyler,op.cit.,p.107ff.
4.C.O.54/119:Stewart to May,20 Sept.1832.

3 shillings per pound which he believed to be 'unquestionably high' and an incentive to smuggling[1], but Treasury policy prevailed. A liberal policy was adopted towards land sales. On Colebrooke's recommendation distinctions between Europeans and others in land grants were abolished. As he failed to provide for a proper land policy, the Colonial Department decided to follow the policy adopted in the Australian colonies, thus bringing in Wakefieldian theories to Ceylon[2]. On Colebrooke's advise, however, unlike in Australia smaller lots were to be put up for sale[3]. Land sales rapidly increased, rising from 146 acres in 1833 to 42,582 acres in 1840, forming an important source of revenue [4]. Restrictions on the felling of timber were removed[5]. Several economic activities were thrown open to the public:breeding of horses, trade in elephants, chank and pearl fishery, internal trade in arrack and other produce of the coconut tree[6]. A More favourable policy towards customs duties was to be introduced. Goderich accepted Colebrooke's view that customs duties should be collected mainly from imports rather than exports, and that all distinctions in favour of certain produce should be abandoned[7]. But, as Colebrooke pointed out, the first direction was nullified by the high export duty fixed upon cinnamon[8], a factor which clearly shows that in matters affecting revenue and disbursement a blanket policy on the basis of Colebrooke's recommendations was not enforced. It must also be noted that a comprehensive revision

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1. Times, 1 Feb.1834 & C.O.54/145:Colebrooke to Stanley, 3 Oct. & Colebrooke to Hay, 28 Dec.1833.
2. see, K.M.de Silva, The Third Earl Grey and the Maintenance of an Imperial Policy of Sale of Crown Land in Ceylon, Journal of Asian Studies, XXVIII, 1967, pp.5-20.
3. C.O.55/72:Goderich to Horton, 17 Apr.1832.
4. I.Vanden Driesen, UCR, XIV, 1956, pp.10-11.
5. Regulation of Government no.1 of 1833.
6. C.O.55/72:Goderich to Horton, 6 Apr.1832; C.O.55/74:Goderich to Horton, 4 May 1832 & 23 Mar.1833.
7. C.O.55/74:Goderich to Horton, 4 May 1832 & 23 Mar.1833.
8. C.O.54/145:Colebrooke to Stanley, 3 Oct.1832.

of customs regulations was not undertaken during the period under consideration owing to the requirement that such a step should await the full results of the abolition of several sources of revenue; beginnings, however, were made in the year 1834[1]. In the meantime trade in arrack, tobacco and salt between the colony and India was to be fostered by the Governor acting with the cooperation of the officials of the East India Company. Here too success was not achieved immediately. For example, though the Bengal government obtained salt supplies from Ceylon during seasons of scarcity, no regular export of salt to India was permitted[2].

These steps marked an important shift in the economic pattern of the colony. By the abandonment of several monopolies, important sources which the government depended for its revenue were lost. Steps were taken in the same direction by abolishing a number of 'insignificant and objectionable Revenue' from such sources as licenses on honorary ceremonies, gaming-houses, precious stones and poll-taxes[3]. The Governor was directed to abolish the fish tax, and institute instead a licensing system on the lines recommended by Colebrooke[4]. A more important undertaking in this respect was the redemption of the land tax. By contrast with India, where there was a mass of conflicting proposals for land settlement, the choice before the Colonial Department in Ceylon was limited to those of Colebrooke and Cameron. The issue became less complex mainly because the proposals of the Governor and council of Ceylon coincided with those of Cameron[5]. The decision was in favour of Colebrooke, and the Governor was to introduce

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1. see, Addresses Delivered in the Legislative Council of Ceylon by Governors of the Colony, Together with Replies of Council (Colombo, 1876), i, 27ff. The task was accomplished only in 1837. see, C.O.54/157.
2. see, Parl. Papers, 1834, XLIV(228), pp. 39-42.
3. C.O.55/74: Goderich to Horton, 23 Mar. 1833.
4. ibid.
5. C.O.54/121: Cameron's memos., 8 Apr. & 1 May 1832.

'the redemption, at an equitable rate, of the Tithe or Grain Tax, now chargeable on the Corn Lands'[1]. These directives meant that in future the government's revenue was to be derived from indirect rather than direct sources, a marked departure from the hitherto accepted policy. The change was radical in that direct sources, mainly in the form of monopolies, had been traditionally the major form of revenue of government, both indigenous and foreign. But, it must be noted, the change was not total for certain direct modes of revenue were continued, mainly on grounds of expediency. Perhaps, the most important was salt. The logic of Colebrooke's argument that it was necessary for the time being to safeguard certain important modes of revenue when a major part was being abandoned, was not lost to the Colonial Department. The Governor was ordered to remove its injurious effects, but the monopoly itself was continued[2]. indeed, it even continues to the present day though Colebrooke proposed it only as a temporary measure. Again it is perhaps because of the need to ensure a safe revenue that a close superintendence over pearl fishery was ordered; by contrast, no such stipulations were made as regards the other monopolies given up by the government. Colebrooke's recommendations regarding this subject were accepted[3]. Certain minor sources of revenue, recommended by the commissioners to be abolished, were retained. Local assessments and stamp fees collected by courts of law, belonged to this category. The change in the economic pattern of the colony was also marked by the freedom that for the first time was given to private enterprise. The acceptance of Colebrooke's proposals to abolish several monopolies paved the way. The nascent capitalism that was seen during the time of Colebrooke in Ceylon, quickly grew into a

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1.C.O.55/74:Goderich to Horton,23 Mar.1833.
2.ibid.
3.ibid.

powerful form marking a remarkable change in the economic structure of the island[1].

Acting on Colebrooke's advise compulsory labour was abolished by Order-in-Council of 12 April 1832. Significantly, this was one major instance the imperial government directly acted, for generally in introducing other reforms the implementation was left to be carried out by local enactments. Colebrooke's insistence led to this step: he argued that if the execution of the abolition was left to the colonial officials, it would not be accomplished[2]. Moreover, any delay in its application, Colebrooke emphasised, 'might tend to weaken the confidence of the people in the protection of the King's Government and thereby to hazard the tranquility of the country'[3]. Contrary to Colebrooke's recommendations, and indeed even protests[4], the abolition was not made total, for the measure was not extended to the tenants of royal and temple lands; thus, the claim Colebrooke later made that the measure ended all distinctions maintained by the colonial government[5] was only partially true. The provisions regarding royal lands, formerly belonging to the Sinhalese kings but now in the hands of the colonial government, were not exercised on the orders of the Secretary of State[6]. Thus, in effect the relics of feudalism lingered on only in temple lands. In his investigations, Colebrooke found that though not onerous, services rendered by temple landholders were performed only reluctantly, and were at times even abandoned[7]; the govern-

1. see below, pp. 307-308.
2. C.O.54/121: Colebrokke's memo., 25 Feb. 1833.
3. Report upon the Compulsory Services, pp. 142-143.
4. C.O.54/121: Colebrooke's memo., 25 Feb. 1833.
5. W.M.G. Colebrooke, JRAS, V, 1839, p. 102. c.f.: 'It is thence we may date the independence from almost slavery of its inhabitants', Law Reform in Ceylon.. ....., p. 13.
6. C.O.55/72: Goderich to Horton, 3 May 1832.
7. see, for e.g., petition no. 332 in C.O.416/30. also, nos. 357, 385 & 402 in C.O. 416/31.

ment's association in the maintenance of such rights he believed was impolitic[1]. The view of the colonial government, however, was different.

> 'The natives in general are still decidedly attached to their religious Institutions, so much so that the local Government has hitherto considered it politic to give them every support and continuance, with the object of conciliating the people.....Any interference with a view to change would certainly be regarded by the chiefs and people as well as by the Priests as subversive of these Institutions'. [2]

This view was accepted by the officials at home, and though Colebrooke had not made any provisions in his recommendations, temple lands were exempted from the abolition of rājakāriya. The policy hitherto followed of giving protection to Buddhist religious institutions was continued, but traces of the beginnings of changes which ultimately led to the total disassociation of the government from the religion can be observed: it was the direction given to the colonial government that a portion of the income of the temple lands should be set aside for the maintenance of an English seminary[3].

Colebrooke's recommendations relating to the field of finance were not favourably received. His proposals for an improved coinage on the basis of the Indian system were rejected. Similiarly, the proposal for a bank of deposits was rejected. It was argued that 'the intervention of the Government by the Establishment of a Bank of Deposits and Discount would only interfere with the Employment of private capital for purposes of commercial accomadation'[4]. The imperial government seemed to have desired an even lesser interference in the economic field by the colonial government

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1. see, Report upon the Admn.: W.R., pp.101-105; P.R., p.15.
2. C.O.416/20-G11: evidence of Turnour. This policy was based on the protection extended to Buddhism under clause 5 of the Convention of 1815.
3. C.O.55/72: Goderich to Horton, 14 Sept.1832.
4. C.O.55/74: Goderich to Horton, 23 Mar.1833.

than Colebrooke contemplated. A savings bank, however, was established on a proposal made by Horton. An improved system of accounts was directed to be introduced, and the issue of debentures was forbidden[1], thus ensuring a control over government expenditure.

The education structure was reformed on the lines proposed by Colebrooke. A school commission was formed in May 1834, to which was handed over the task of supervising all schools and advising the Governor on 'the measures they consider it expediant to adopt for the Establishment of efficient schools and for the extension of education'[2]. English language was to be the medium of instruction, and an English seminary was to be founded[3]. Colebrooke had hoped that the new education system would train the local inhabitants for the civil service, but with the practical closure of the service to them, it became geared to the training of officials of the lower grades[4].

The judicial reforms remain to be considered. How the recommendations of the commission of inquiry were translated into a course of action, a policy, can be best illustrated by examining the procedure adopted towards Cameron's report. The judiciary together with the subject of reduction of expenditure were given priority by the Colonial Department:

> 'The settlement of the Judicial System [is] the basis upon which all other measures of improvement must depend, a[nd] as is the only effective security for their execution, Lord Goderich is anxious that it should if possible precede every other change in order of time a[nd] that the questions of Finance which are inseperable from it, should engage the immediate attention of Colonel Colebrooke a[nd] yourself'. [5]

By this time the officials at home were prepared 'to set to rest the very

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1. ibid.
2. C.G.G., 19 May 1834.
3. C.O.55/74: Goderich to Horton, 23 Mar. 1833.
4. L.A.Mills, op.cit., p.266.
5. C.O.168/12: Hay to Cameron, 16 Feb. 1832.

numerous and important questions which the existing Charters of Justice have given rise'. They were aware that 'this object cannot be effectively obtained except by an entire revision of these Charters'[1], and the task was entrusted to Cameron. He was given complete freedom to formulate the new charter - 'in such a manner as would give complete effect to your own recommendations so far as they can be effected by an Instrument of that nature'[2].

With the completion of Cameron's draft charter, there were three such instruments before the Colonial Department for its consideration. The other two were those prepared earlier by the Judges of the Supreme Court of Ceylon[3]. Of these, the one formulated by Charles Marshall was interpreted as the closest to the charter then in operation, and that of Richard Ottley was 'the most direct a[nd] the most English'. Cameron's draft contained 'much of novelty'[4], yet such was the esteem in which he was held by the department, his were the only proposals that were given any serious consideration. Even Ottley, who was asked by the department to report whether the draft prepared by him or that of Cameron was the more suited for reforms, recommended that Cameron's draft be 'preferred and adopted'[5]. Nevertheless, the authors of the two earlier drafts were called upon for the discussions that centred on Cameron's proposals. These discussions, 'long a[nd] frequent', were led by James Stephen[6]. It is to be noted that Colebrooke was not invited. Although long dialogues were held between the two commissioners of inquiry on certain subjects, when deciding upon

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1.C.O.55/69:Bathurst to Barnes,1 June 1827.
2.C.O.168/12:Hay to Cameron,16 Feb.1832.
3.see above,p.123.
4.C.O.54/118:Rough to Horton,9 Oct.1832.
5.C.O.54/120:Ottley to Goderich,3 Nov.1832.
6.ibid.:Stephen's memo.,7 Aug.1832. This memo. gives in detail the procedure adopted in the discussions.

policy respecting these the Colonial Department seems to have consulted only the commissioner concerned with the subject. This did not mean that the clash of ideas between Colebrooke and Cameron was fruitless in terms of decision-making. It is Colebrooke's representations, for example, that led to the provision for Gansabhā in the charter of justice[1]. In the discussions, as observed earlier, Richard Ottley proved to be very receptive to Cameron's views, but Charles Marshall remained a critic. Unlike Ottley who was by now no longer a member of the Ceylon judicature, Marshall, the Chief Justice-designate, was much concerned with safeguarding the powers and privileges of the high court, and particularly opposed those provisions in the draft charter that would have led to a change in the Supreme Court's powers.[2] The discussions ended with unanimity among the participants on all the clauses of the draft excepting three to which Marshall continued to object. Stephen decided in favour of Cameron on these clauses,[3] and his advice was accepted by the Secretary of State: the original provisions made by Cameron in the draft remained unchanged.

A question that should be examined at this juncture is, what was James Stephen's role in the formulation of policy ? By this time he had assumed an important position in the Colonial Department, especially in matters concerning law and judicature[4]. His objections to several recommendations of the Commission of Eastern Enquiry upon the judicial administration of the Cape of Good Hope, for example, were upheld by the Secretary of State and his views prevailed[5]. The reorganisation of the judiciary undertaken in a number of colonies during the 1820's and the 30's shows, in several respects, Stephen's marked influence. The general principle adopted, that

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1.C.O.55/74:Ceylon Charter of Justice,1833.
2.see,C.O.54/120:separate memos.of Marshall,14 July 1832.
3.ibid.:memo.,7 Aug.1832.
4.P.Knaplund,James Stephen and the British Colonial System(Madison,1953),p.41.
5.see above.p.150.

there should be uniformity but with allowances for local variations, was that of Stephen[1]. With such an attitude, it is no surprise that the radical innovations of Cameron were to a great extent acceptable to Stephen. Though he was not always willing to accept Benthamism, he must be 'classed among the Utilitarians. Clearly he wanted the government to provide the greatest happiness for the greatest number'[2]. Throughout his stay at the Colonial Department, he advocated the cause of inexpensive means of justice, and felt a strong bias for reform of the criminal law of England[3]. There is no doubt that there was in him much sympathy for Cameron's endeavours to reform the judicature of Ceylon. Cameron prepared his draft charter 'after frequent personal discussions of the subject' with Stephen, which explains the 'general coincidence of opinion between us'[4]. Cameron accepted several suggestions made by Stephen. Thus, for example, his view that rules governing salaries of judges should not be embodied in the charter but be left for executive action, was accepted by Cameron. Several other clauses of the draft, the method of selection of inferior officials of courts of law for example, were based wholly upon the new charter of justice of the Cape of Good Hope, a charter which Stephen had much hand in drafting[5]. Yet, there remained differences of opinion between Stephen and Cameron, differences which they felt were 'irreconcilable except by superior authority'[6]. An examination of Stephen's opinions together with the Ceylon Charter of Justice shows that generally Stephen's views were accepted by the Secretary of State. It is evident that where he

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1. L.M.Penson, The Making of a Crown Colony, TRHS, 4th s., IX, 1927, p.134. The basis of this was his communication to Twiss dated 25 Aug.1830. see, V.T.Harlow & F.Madden, op.cit., pp.104-107.
2. P.Knaplund, op.cit., p.16.
3. ibid., p.16 & 239.
4. C.O.54/120: minute by Stephen, 16 June 1832.
5. ibid.
6. ibid.

could argue on the basis of his own experience and knowledge, Stephen was successful. Where he felt that Cameron possessed a superior knowledge over his 'own ignorance of Indian character', Stephen's actions seemed to have indicated that Cameron's opinions should be preferred to those of his. Thus, when Cameron argued that the character of the inhabitants of the colony demanded that decisions of juries should be on a simple majority instead of the English precedent of unanimity, Cameron's proposal was accepted[1].

In view of the preceding facts, it could be stated that in the formulation of the charter of justice, the role of James Stephen was second only to that of Cameron. But, it must be emphasised, Stephen's role was that of one behind the scene; he was yet to be established as the domineering personality of the Colonial Department in the eyes of the public[2]. Officially the man signalled out for praise was Cameron, not Stephen; his name was not even mentioned in the despatches sent to Ceylon. It was best seen in the words of Goderich: 'It would be unjust to withhold the distinct avowal that it is to the advise of the Commissioners, as conveyed in Mr.Cameron's Report, that the public are indebted, not only for the general basis and design for the Charter which has been issued, but for all its more valuable details'[3].

Before the draft charter together with the attended memoranda was submitted to the Secretary of State for decision, it was communicated to the Crown law officers of England for their opinion[4]. 'Although it

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1.C.O.55/74:Ceylon Charter of Justice,1833.
2.Stephen was,of course,well known in West India circles even by this time. see,H.Taylor,op.cit.,i,78.
3.C.O.54/145:Goderich to Horton,23 Mar.1833.
4.C.O.55/73:Howick to Attorney-General,19 Jan.1833.

varies from the precedents usually followed on similiar occasions', they opined,'there was nothing expressed in the Charter which we consider objectionable'[1]. The Attorney-General and the Soliciter-General, however, voiced their opposition to a number of provisions in Cameron's report, which was submitted to them with the draft charter, even though they were not embodied in the charter itself; they were concerned about the possibility of future application of those measures.

The final evolution of the policy lay with the Secretary of State. There is no doubt that he held Cameron in high esteem. 'The materials on which his advise is founded', he wrote,'have been collected with great diligence, employed with equal ability. But, his Report owes its chief value to the solidity and comprehensiveness of the general principles by which it is pervaded'[2]. Herein lies the qualities of Cameron's work as a commissioner with which he was able to overcome the inhibitions that otherwise would have prevailed against the radical nature of his proposals. That Cameron was able to incorporate most of his recommendations in the draft charter, in view of this, causes no surprise. As Goderich stated later, 'of these recommendations, a very large proportion have been executed by the charter'[3]. Of course, there were the recommendations which were not accepted: 'in some instances', wrote Goderich, 'I have been compelled either to dissent from the opinions of Mr.Cameron, or to concur in them with mutual qualification' - it is perhaps here that Stephen's work was best seen. Thus, Cameron's recommendations for the abolition of stamp duties and the payment of witnesses by the public, which were highly criticised by the law officers of both England and Ceylon, and which

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1.C.O.54/132:Horne & Campbell to Goderich,23 Jan.1833.
2.C.O.54/145:Goderich to Horton,23 Mar.1833.
3.ibid.

touched the question of additional expenditure for the colonial government, were rejected[1]; and, the recommendation for omnicompetent courts of law was modified by giving the Supreme Court on circuit concurrent jurisdiction in criminal matters[2]. It is perhaps this that led to the claim in Ceylon that the charter greatly differed from Cameron's recommendations[3]. There were also the recommendations which were not embodied in the charter, but which 'remain to be carried into effect by the Judges in the exercise of an authority delegated to them by the Charter for that purpose'. In this respect, Ceylon followed an already established pattern.

> 'In every Charter of Justice with which I am conversant', wrote James Stephen,'the Courts have been entrusted with the power of regulating the forms of judicial procedure in order that His Majesty's subjects in colonies might be rescued from the bondage under which suitors in England labour by having at their utmost peril to adhere to a code de procedeur'[4]

Thus, Cameron's recommendations for pleading in the form of an oral altercation and for the submission of complete lists of witnesses and documents at the beginning of suits, were left to the discretion of the judges of the Supreme Court to either adopt, modify or reject[5]. Such powers were given to the judges instead of the Governor mainly because experience had shown that the interference of the executive in judicial matters was not desirable[6], but the Colonial Department failed to follow the policy to its logical conclusion. The legislature, for example, was given powers to

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1. Ibid. For the opinions of the law officers of England see,C.O.54/132:Horne & Campbell to Goderich,23 Jan.1833; for Ceylon law officers,C.O.54/118: Morris & Perring to Anstruther,13 Oct.1832. Cameron vigorously countered the arguements of these in C.O.54/145:Cameron to Hay,7 Mar.1833.
2. ibid.
3. see,Colombo Journal,9 Oct.1833.
4. cited,P.Knaplund,op.cit.,pp.233-234.
5. C.O.54/145:Goderich to Horton,23 Mar.1833.
6. ibid.

determine the question what mode should be adopted towards malificent litigants, Cameron's recommendations being not accepted in the face of the strong opposition of the Crown law officers[1]. This step, however, did not correspondingly lead to a clear definition of the relationship between the judicature and the legislature - a marked failure, for in several other colonies where the issuance of charters of justice coincided with the creation of legislative councils attempts were made to delineate the respective powers of the two branches of the administration[2]. Consequently, in the years following questions arose which necessitated the intervention of the Colonial Department[3]. Apart from the changes made at Stephen's suggestion, the charter hardly contained any measure which was not recommended by Cameron, perhaps with the exception of the provision for appeal to the Privy Council of England. This became necessary by the creation of its Judicial Committee as 'a supreme court of the entire empire' in 1833[4].

On balance, it could be said that the charter of justice was in the main the work of Cameron. To what extent he dominated the reforms was best seen by the inability of the Colonial Department to determine several questions which Cameron left unanswered in his report. In some instances Colebrooke's representations pointed the way[5], but such important

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1. ibid. Cameron's proposal to give judges the power of punishment of litigants found guilty of perversion of justice, the law officers of England found 'wholly inconsistent with the principles of a free Government.....A law that no person should be permitted to commence or resist any action unless at the peril of being both fined and imprisoned at the discretion of a Judge would,we apprehend,often amount to a total denial of justice',C.O.54/132: Horne & Campbell to Goderich,23 Jan.1833.
2. see,P.Knaplund,op.cit.,p.230.
3. see below, p.309 fn.3.
4. P.Knaplund,op.cit.,p.229.
5. see above,p.285.

questions like the seating of jurrors on caste basis, the type of training that should be given to judges, and the form of law that should be accepted in courts of justice, were ignored by the department. Justly, Cameron could claim later that 'the judicial system of the Island is the result of my labour'[1]. His inclination to laud the Colonial Department, in view of this, is understandable.

> 'I have no reason to suppose that the Colonial Office will be found less desirious to improve the Asiatic people who are placed under its care than the India Home authorities. As a law reformer I had much experience of both departments, and of the two,I have found the Colonial Office much more ready to listen to my suggestions,much less blind to the defects of existing systems, and much less timid in adopting remedies for them'.
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> [2]

The charter of justice received the King's assent on 18 February 1833[3]. Thus, in the opinion of the Colonial Department, 'the whole question underwent, here, the most deliberate consideration'. It expressed the belief that in view of this there was no need to submit the reforms to the scrutiny of the colonial government as requested by the Governor. The charter was ordered to be implemented within two months of its communication to Ceylon; no discretion was allowed to the Governor to delay its promulgation[4]. Thus, in the year 1833 Ceylon joined the host of colonies which received new judicatures in the 1820's and the 30's[5].

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1. NLI,Mss.13363:Cameron to Monteagle,25 Nov.1857.
2. C.H.Cameron,An Address to Parliament,p.118.
3. C.O.55/74:Ceylon Charter of Justice,1833.
4. C.O.54/145:Goderich to Horton,23 Mar.1833.
5. Charters of justice were issued to New South Wales on 13 Oct.1823,to Newfoundland on 19 Sept.1825,to Gibraltar on 1 Sept.1830,to Van Dieman's Land on 4 Mar.1831,to Mauritius on 13 Apr.1831,to British Guiana & Trinidad on 23 Apr.1831,to St.Lucia on 20 June 1831,to Cape of Good Hope on 4 May 1832 & to Sierra Leone on 22 Apr.1834. These are printed in R.M. Martin,History of the Colonies of the British Empire(London,1843),app. pp.1-304.

II.HORTON AND THE REFORMS.

Sir Robert Wilmot Horton was a man of different temperament from Sir Edward Barnes,the previous Governor. He too was led to challenge the findings of the commission of inquiry - the very commission he himself proposed to be appointed. His opposition to the commission was as steadfast as that of Barnes, but there never was a frontal clash, perhaps because the respective parties were in far removed places; the methods adopted by him were more subtle. He did not oppose commissions of inquiry per se. He had spoken admiringly of the work of the Commission of Eastern Enquiry at the Cape of Good Hope as a member of Parliament[1]. Writing later he argued that from the labours of 'Investigating Commissions' , 'whatever errors they may have fallen into, much colonial advantage and improvement has unquestionably proceeded'[2]. In contrast to Barnes, whose opposition to the commission was based on an instinctive dislike, Horton opposed it on the basis of a different attitude towards colonial problems and their solution. By this time he held well formulated ideas about colonial policy[3]. Essentially an imperialist, who held the more traditional view that colonies were 'an integral part of the Nation at large'[4], Horton's vision of the empire was different from that of the commissioners. Perhaps, Colebrooke and Cameron as reformers would have been classified by Horton

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1. Hansard,n.s.,XVII,1827,p.1170.
2. R.W.Horton,Exposition and Defence of Earl Bathurst's Administration of the Affairs of Canada during the years 1822 to 1827 inclusive(London,1838), pp.39-40.
3. He devoted particular attention to the questions of slavery and emmigration and became a well known pamphleteer. see,for e.g.,The West India Question Practically Considered(London,1826) & An Inquiry into the Causes and Remedies of Pauperism(London,1836).
4. For his views see especially,Letters on Colonial Policy,Particularly Applicable to Ceylon(Colombo,1833). These letters were originally written by Horton under the pseudonym 'Philalethes' to the Colombo Journal.

as those whom very disparagingly he termed 'Levellers'[1]. Reforms he did not oppose unreservedly. Soon after his arrival in Ceylon,he admitted that there were some reforms which needed to be undertaken urgently[2]. But, he drew a careful distinction between two kinds of reform: 'between Reform and Innovation'.

> 'I am a reformer because I plainly see that the question must go on; and because such a Reform had already been effected in public opinion,that what is to come is rather the registering of a past transaction than an innovation of which we know not the object or end'. [3]

No doubt, in his view, the commissioners were innovators. He stoutly criticised, 'again a[nd] again', the 'theoretical character of Col[onel] Colebrooke's mind'. 'This is not the Soil', he firmly stated,'for theories to be hastily reduced to practice, especially Theories which are the result of a far too speculative a[nd] generalising mind'[4].

At the beginning he accepted that 'it is by fair collison of opinion that subjects become well sifted, and that practical improvements have the best chance of being accomplished'[5]. The methods he adopted to put across his views in opposition to the commissioners, however, did not display such laudable aims. His basic assumptions were that the commissioners failed to consult the best qualified in the island to provide information, and that their reports were inaccurate in several respects[6]. To add weight to these arguments, from time to time he submitted opinions of leading officials and unofficials in the colony[7]. The method by which he elicited

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1.see his,Reform in 1839 and Reform in 1831.
2.C.O.54/114:minute,encl.in Horton to Goderich,10 Nov.1831.
3.R.W.Horton,Reform in 1839 and Reform in 1831,p.v & 5.
4.C.O.537/146:Horton to Stanley(secret & confidential),27 Apr.1834.
5.C.O.54/114:Horton to Goderich,22 Nov.1831.
6.C.O.54/118:Horton to Goderich,3 Oct.1832.
7.see above,pp.56-57.

these opinions, especially from the officials, is noteworthy. He addressed communications critical of the commission of inquiry to these men inviting their opinions. As expected, he often received replies favourable to his views, and these he forwarded 'to throw some light on the mode which the commissioners adopted for the purposes of obtaining information, and to enable Lord Goderich to decide what degree of confidence should be placed in their report'[1]. In certain instances, this method even led some officials to perjure themselves at the expense of maintaining good relations with the Governor. For example, Goderich wrote of the Inspector of Pearl Banks that Horton's actions 'has, I doubt not, led Mr.Stewart to adopt (probably from an idea that he was called upon to so do in self defence) a tone which is by no means becoming'[2]. Attempting to influence decision-making, Horton at times submitted copies of the Colombo Journal, by which he disseminated his views in the colony, as reflecting public opinion[3]. He seemed to have even deliberately leaked private communications addressed to him to give publicity to opinions favourable to his cause. Thus, the criticisms of Colebrooke made by his ex-colleague Riddell in a private letter to Horton became 'notorious' to the public[4].

Such methods did not endear him at the Colonial Department. His relations with it were far from happy. During his tenure as an Undersecretary, he quarrelled with Henry Taylor. James Stephen once his assistant,

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1.C.O.54/118:Horton to Goderich,3 Oct.1832,encl.
2.C.O.55/74:Goderich to Horton,15 Mar.1833. Stewart had claimed that he was not consulted, whereas Colebrooke had not only consulted him,but had perused Stewart's reports,oneof which he deemed fit to place before the Royal Asiatic Society,C.O.54/118:Colonial Department minute,20 Feb.1833.
3.C.O.54/118:Horton to Hay,14 Oct.1832,encl.
4.Colombo Journal,5 Dec.1832,letter to the editor by 'Epron'.

and who was persuaded to join the department in a full-time capacity by Horton himself, described him as 'that stupid fellow'[1]. His relations with Goderich gradually became cool, particularly when he realized that his opinions were not favourably received by the Secretary of State. He strongly believed that his views were 'distrusted' by Goderich. After a time he gave up his practice of writing private letters to the officials of the department. He even candidly admitted that his 'Star was not predominating at the Colonial Office' during Goderich's tenure[2]. It may be true, as it has been claimed[3], that Horton's previous experience at the department stood him in good stead in his management of the colony, but in his relations with the officials at home during Goderich's Secretaryship it never became a point of strength. In contrast to Goderich, his relations with both Bathurst and Stanley, Goderich's predecessor and successor at the office, were friendly. Bathurst was a close friend, and he devoted a pamphlet to defend Bathurst's handling of colonial affairs[4]. After Goderich's tenure, it is no surprise that he warmly welcomed Stanley's appointment as the Secretary of State[5]. He resumed private communications. He even hoped that Stanley would overthrow the decisions of Goderich, and would implement his views[6]. But, the die was cast. Horton seemed aware of it too: 'the struggle is over', he wrote,'the Commissioner has had his triumph'[7]. However, he was not a man to end his work on that note. "'Victrix

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1.D.J.Murray,op.cit.,p.147.
2.C.O.54/130:Horton to Stanley(private & confidential),25 Oct.1833.
3.J.Ferguson,Ceylon in 1883(London,1883),p.123.
4.see,Exposition and Defence of Earl Bathurst's Administration.....
5.C.O.54/130:Horton to Stanley(private & confidential),25 Oct.1833.
6.ibid.
7.ibid.

causa deis placuit'", he went on to state, 'and I have no intention, either physically or politically, of imitating the example of Cato'[1]. The future course of action was clear. Bathurst, out of office, wrote:

> 'the report of the commissioner,a[nd] the decision of the Government upon the report.....protects you.....; and you have only to express regret,and (when fairly out of the Kingdom) pretty severe censures,if not against Lord Goderich at least against his Secretary,Mr.Hay,for the measures you will have to execute'. [2]

What sound advice it proved to be ! Soon Horton was writing, ' I shall be in no way responsible for the rapid retrogation of this new flourishing Colony if the views of the Commissioners are to be accepted'[3]. Thus, he struck the note that was to characterise his Governorship.

An examination of Horton's attitude towards the proposals of the commission of inquiry, therefore, becomes necessary. He clearly possessed the ability to guide the reforms through to success, but the sympathy that was necessary to do so he lacked. The outcome was predictable: the reforms already depleted by certain decisions taken at home, were never worked out in the spirit they were intended.

Horton firmly believed that the recommendations of the commission of inquiry relating to the political and administrative fields were based on the premise that "it was desirable in principle to degrade the Governor 'politically and personally' so that there might be no visible distinction between him and other men"[4]. The degrading of the Governor personally

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1. Horton quoted from Lucan's Pharsalia,book I,lines 126-128. Lucan referred to the wars between Ceaser and Pompeii which Ceaser won,and as a result of which Cato,the Stoic,committed suicide. I am indebted to Dr.J.R.L.Highfield of Merton College for the location of the original source.
2. cited,E.G.Jones,op.cit.,p.98.
3. C.O.54/118:Horton to Goderich,15 Oct.1832.
4. ibid.:Horton to Goderich,13 Oct.1832.

had already been accomplished, for the number of his personal retinue had been considerably reduced on the advice of the commissioners by October 1832[1]. Now steps to degrade him politically were to be taken. One instrument used by Colebrooke for this was the establishment of an Executive Council. Contrary to the view held by Colebrooke as well as the Colonial Department, Horton argued that the conduct of colonial business by 'checks and refinements' would 'lead to no practical or beneficial result'[2]. Financial control should be completely held by the Governor, and not shared with any metropolitan or local power. The policy of giving publicity to government finance, a measure he adopted on his own initiative, would make a council in the nature proposed unnecessary[3]. In any case, the council would be unable to consider the mass of financial matters which have to be considered, mainly because it was composed of those whose full-time duties lay elsewhere[4]. By the changes proposed, he concluded, a council which handled wide-ranging duties would become a body exclusively dealing with financial affairs, 'such as those which might have been delegated to a Board of Revenue'[5].

Horton's representations failed. But, undeterred, he proceeded to interpret the instructions sent to establish the council in the most favourable manner to his own view. By his own admission, these instructions[6] were stricter than those sent to him at the beginning of his Governorship in 1831[7], and the instructions sent to Governor North in 1801[8] which formed

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1. C.G.G., 6 Oct. 1832.
2. C.O.54/114: Horton's minute, 10 Nov. 1831.
3. ibid.
4. C.O.54/118: Horton to Goderich, 1 & 13 Oct. 1832.
5. ibid.: Horton to Goderich, 23 Oct. 1832.
6. C.O.55/74: King's Additional Instructions, 20 Mar. 1833.
7. see, C.O.55/72: Royal Instructions, 30 Apr. 1831.
8. see, C.O.55/61: Revised Royal Instructions, 18 Apr. 1801.

the basis of royal instruction until 1831; the earlier instruments, according to him, gave the Governor 'much more latitude' than the instructions of 1833[1]. His interpretation, however, made the new instructions one of less rigidity. The Executive Council became 'a Council of Advice' constituted by the Governor on matters of 'importance' and when 'desirable'[2]. No doubt this interpretation was made on the letter and not the spirit of the instructions, for the Governor was required to 'in all cases consult with the said Executive Council, excepting when the matters to be decided shall be too unimportant to require their advice'[3]. Remarkably, the council which was meant to replace an ineffective body, owing to the actions of the Governor, became an even weaker organ, for the existing council had been accepted as a co-partner in the administration[4].

The Legislative Council too was an instrument designed to degrade the Governor politically. 'A jealousy of the functions of the Governor', according to Horton, formed its basis[5]. The oath of secrecy demanded of its members, the proposal to leave the Governor out of its deliberations, and the requirement that laws be registered with the Supreme Court, all displayed Colebrooke's intentions; these also exhibited the 'crude and impractical views of Colonel Colebrooke', views which made him the 'laughing stock of the Eastern Hemisphere'[6]. These assumption of Horton proved to be premature for these proposals were not accepted by the Colonial Department. But, Horton found another aspect of Colebrooke's measures, which was accepted, irksome : the inclusion of un-officials in the Legislative Council. This proposal, Horton felt, was 'premature'. In the case of the local inhabi-

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1.C.O.54/153:Horton's memo.,n.d.
2.ibid.& Addresses Delivered in the Legislative Council,i,5.
3.C.O.55/74:King's Additional Instructions,20 Mar.1833.
4.see below, p.301.
5.C.O.54/118:Horton to Goderich,1 Oct.1832.
6.ibid.& C.O.54/114:Horton to Goderich,14 Dec.1831.

tants it could be said without a doubt, he argued, that there was no ambition on the part of any individual to attain the position of even a civil servant, let alone that of a member of the legislature. There was no individual whose appointment would 'give confidence to his fellow countrymen who look up to Europeans as protectors against the encroachment of the higher classes of their own countrymen'[1]. These arguments possessed no lesser validity regarding the European community. They lacked the distinguishing marks of men suited to hold representation in a legislature - the merchants, who formed the majority, 'have no local interest in the colony - they have no property in it - they are mere agents for foreign Houses'. 'It is not to be supposed that men so circumstanced', he added, 'can willingly be tempted to give up much time and pains to administrative duties. They well know that the benefits that are to grow out of any improvement in legislation will not necessarily fall on them and their children'[2].

Events soon proved Horton wrong on both counts. Among the general population, the establishment of the Legislative Council was greeted with enthusiasm[3]. Horton, however, continued to write of the difficulty of finding suitable representatives from them, and overcame the difficulty only by pensioning a Sinhalese and a Tamil government official and appointing them to the council[4], but as it was noted by the contemporaries in Ceylon[5], his actions betrayed an attempt to find men whom he could control. With these appointment in 1835, the council which was originally constituted only with the official members, expanded. Yet, the European

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1. C.O.54/127: Horton to Goderich (private), 23 Jan. 1833.
2. ibid.
3. see, C.O.54/150: address of the natives. This held 24,384 signatures. see also, The Trial of the Kandyan State Prisoners....., pp.100-105.
4. Addresses Delivered in the Legislative Council, i, 18-24.
5. C.O.54/146: memorial of merchants, 7 Nov. 1835 & Colombo Observer, 11 Mar. 1833.

representatives remained to be elected. Though the European community greeted the creation of the Legislative Council with much acclaim, Horton refused to be moved. They continued to struggle to gain the right of representation. They held public meetings[1], flooded the Colonial Department with memorials condemning the Governor and doubting the legal validity of a partially constituted council[2], and even established contact with members of Parliament in England to represent their views[3]. The press in India and in Ceylon took up their cause. In India, the Madras Conservative, the Madras Times and the Bengal Hurkaru, gave publicity to the controversy. The Colombo Observer, the successor to the Colombo Journal which was under the control of the mercantile community, led the 'unqualified opposition to the Local Government' by the local press[4]. In this what can be termed the first of the modern political crisis in Ceylon, the Governor received the full backing of the Colonial Department. Arguments like that an incomplete council was illegal did not move the department to the cause of the Europeans[5], and Horton's resistence did not break until the tail-end of his rule.

Horton's actions are perhaps understandable. He particularly disliked the creation of the Legislative Council, for at the time of his appointment, as Bathurst stated, he had 'the satisfaction of being free from legislative assemblies'[6]. His experience as an Undersecretary in the management of Berbice and Demerara may have convinced him of the folly of entrusting

1. A.J., n.s., XVI, 1835, p.35.
2. see memorials encl. in C.O.54/141: Horton to Aberdeen, 15 July 1835 & C.O. 54/146: Horton to Glenelg, 8 Jan. 1836.
3. C.O.537/146: Horton to Stanley (private & confidential), 17 Apr. 1834.
4. C.O.54/135: Horton to Stanley (private & confidential), 2 May 1834. The publication of the Colombo Journal was given up on the orders of the Secretary of State in 1833. Horton utilised the Gazette and the Legislative Council to counter the attacks of the press.
5. Addresses Delivered in the Legislative Council, i, 9.
6. cited, E.G. Jones, op.cit., p.98.

too much power to colonists[1]. Moreover, his inclination was to safeguard his own power and privileges as the Governor. As the Governor of Ceylon he received far less than what he originally desired for, for when seeking a colonial appointment he was not attracted to Ceylon but to Canada, and then to Madras. In Ceylon, after his appointment reforms were instituted which reduced the powers of the Governor. The advisory council which hitherto rested on the instructions to the Governor, was formally constituted, and its powers were extended to the Kandyan Provinces thereby establishing legislative unity in the colony[2]. With this, according to Horton, the members of the council became 'direct coadjuters of the Government, and in point of fact copartners in the government to a considerable extent'[3]. The Governor lost his powers to regulate customs duties on his own, and a more precise form was laid down to govern his powers over the civil service[4]. Such measures reduced the Governor's position, but yet he remained a figure of considerable consequences. It was only in 1833 that a real assault on his powers was attempted. To the changes in 1831 Horton gave in without a struggle, but clearly by now he was no longer inclined to do so.

The reforms of the civil service too Horton opposed vigerously. He was aware that in 'these ungolden days of Reduction'[5] measures would be taken for economy: he had to accept the Governorship at a reduced salary; and, as the Governor he even undertook to effect reductions in expenditure[6]. But, he was against outright economy. His idea of economy 'was not based

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1. see, D.J.Murray, op.cit., pp.138-139.
2. I.Jennings, JRASCB, I, n.s., 1950, p.63.
3. C.O.54/114: Horton's memo., 10 Nov.1831.
4. L.A.Mills, op.cit., pp.102-103.
5. cited, E.G.Jones, op.cit., p.96.
6. In 1832 alone, for e.g., he planned to reduce expenditure by £4250.10.0., C.O. 54/117: Horton to Goderich, 23 Jan.1832.

on actual expenditure but on the outlay which was calculated to produce the best results'[1]. Thus, he opposed the reductions of 'the utmost severity' in the civil service. Aware of the role civil servants played in the administration, he argued that their salaries should be 'in proportion to the importance of the duties they execute, and the necessary expenses of the times in which they live'[2]. He had already taken steps for 'every reduction consistent with the real interests of the colony and justice to individuals', and any further attempts would lead only to inefficiency, and would be detrimental to his plans for the improvement of the colony[3]. In principle he was not opposed to the abolition of the exclusive nature of the civil service, the other major proposal affecting the service, but unlike Colebrooke believed that the measure was premature, mainly because such prejudices like caste needed to be erradicated beforehand[4].

The introduction of the reductions in the civil service became one of 'greatest embarrassment' to Horton[5]. As Horton pointed out, the reductions in salaries were unequal. In the case of twenty eight officials it amounted to twenty percent, but in the case of two others it was only two percent[6]. He found it difficult to find new positions for some whose offices were abolished. Robert Boyd, for example, though one of the most senior officials in service, could not be found a place in the new structure after his office of Commissioner of Revenue was abolished[7]. The Colonial Department admitted that his was 'a very hard case, and one which deserves every

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1. E.G.Jones, op.cit., p.69.
2. ibid., p.107.
3. C.O.54/114: Horton's minute, 10 Nov.1831 & C.O.54/117: Horton to Goderich, 16 Jan.1832.
4. ibid.: Horton's memo., 12 Jan. & Horton to Goderich, 14 Dec.1831, encl.
5. C.O.54/130: Horton to Goderich, 22 Nov.1833.
6. C.O.54/129: Horton to Glenelg, 29 Aug.1833.
7. ibid.: Horton to Glenelg, 30 Aug.1833, encl.

consideration'[1], but no concrete proposals were brought forward. Horton also argued that the new measures did not either adequately provide for or not made provision for certain public establishments, in particular in the revenue branch[2].

There is no doubt that the reductions proposed in the salary structure of the civil service led to its decline[3]. James Stephen remarked later that 'retrenchments were made by unskilful as well as unsparing hands, and that they are more distinguished by parsimony than economy'[4]. One main consequence of the salary decreases and the abolition of the pension fund was the attention paid to commercial enterprises by civil servants. Initially there was confusion as to what course should be followed towards these activities of the government officials, but later approval was given both by the Colonial Department and the Governor[5]. Though their interest contributed to the growth of the plantation industry[6], the results were adverse, for the civil servants 'became indifferent to their work, so that in some cases they paid more attention to their coffee plantations than to the service of the Government'[7]. Colebrooke has been often criticised for paving the way to this situation. It is true that he looked towards an active role by the civil servants in the economic field, but his sanguinity precluded him from foreseeing that they would concentrate on economic activities at the expense of their government service; such views were in James Stephen's words, 'Visionary'[8]. It should not be forgotten that apart from the reductions in salaries and the abolition of

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1. ibid.: minute, 22 Jan. 1834.
2. C.O.54/135: Horton to Stanley, 1 May 1834.
3. see particularly, L.A.Mills, op.cit., p.65ff.
4. cited, S.M.Hardy, UBHJ, VII, 1960, p.187.
5. L.A.Mills, op.cit., p.77.
6. C.Pridham, op.cit., p.206.
7. L.A.Mills, op.cit., p.77.
8. cited, S.M.Hardy, UBHJ, VII, 1960, p.187.

the pension fund there were other reasons which equally contributed for the decline of the civil service. The effects of the promotions system, which continued to be on seniority, a system which was later condemned as 'pernicious'[1], is to be noted in this respect. Another reason was the continuance of the exclusive nature of the civil service. The Secretaries of State did not give up their privileges of patronage[2]. In both these respects, the policy followed was contrary to the recommendations of Colebrooke; they helped to perpetuate the inefficiency that Colebrooke attempted to overcome.

Though Horton devoted much attention to the proposals relating to the political and administrative fields, there is no doubt that his interests centred on the economic field. He firmly believed that 'good finance and a commercial drive were the foundations of prosperity and good government alike, and that constitutional advance required such a preparation', and proceeded to formulate proposals for the economic development of the colony which, according to one writer, 'led to a new vista of colonial thinking'[3]. He was aware of the need to equalise expenditure with revenue, and his study of Bertolacci's Statistical Account of Ceylon convinced him that this could be achieved without much difficulty - indeed, within a short time of his arrival in Ceylon, he confidently forecast not only the end of the deficit that characterised government finance, but also a surplus[4]. Like his predecessors, he was attracted to retrenchments to attain this end, but well realized that for more positive results a proper re-organisation of government finance was necessary. On the one hand, therefore, he resolved that all duties and taxes which were expensive in

1. see, J.E.Tennent, Ceylon (London, 1860), ii, 174.
2. C.O.54/148: Barrow's minute, 13 Sept. 1836.
3. see, S.M.Hardy, UBHJ, VII, 1960, pp. 181-185.
4. C.O.54/114: Horton's minute, 10 Nov. 1832.

collection, vexatious in nature, and trifling in amount should be abolished; and, where they acted to bar the development of industry, should be lowered or abolished[1]. In this he closely anticipated Colebrooke's recommendations. On the other hand, he decided that measures should be taken to improve the economy[2]. This was to be undertaken by the government, and not left to a laissez-faire system. 'The Governor totally disagrees', he declared,'with those persons who lay down as an invariable principle that the state should do nothing in the way of public improvement but that the people should do it for themselves if they should be in want of it'[3]. Here, his proposals were totally opposed to those of Colebrooke. He desired the continuation of the cinnamon monopoly because it was one form of revenue that could provide capital to carry out 'vital improvements'[4]. By the ending of the monopoly, he argued, the revenue of the colony would receive 'a blow from which it can never recover, and from that hour the Colony will rapidly retrograde'[5]. Though opposed to the salt monopoly in principle, he sanctioned its continuance on the same grounds[6]. The same argument formed the basis of his opposition to Colebrooke's decision to abolish compulsory services: such a step would 'frustrate' the plans he made for the improvement of the communications network, a matter of vital importance to the colony's development[7].

It is true, as has been pointed out[8], that Colebrooke's measures destroyed Horton's plans for the economic development of the colony: there was no possibility of engaging the government in the manner he desired.

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1. ibid.:Horton to Goderich,9 Nov.1831.
2. For details see his,Letters on Colonial Policy.....
3. C.O.54/114:Horton to Goderich,9 Nov.1831.
4. see,Letters on Colonial Policy.....,pp.9-14.
5. C.O.54/127:Horton to Goderich,31 Mar.1833 & C.O.537/146.
6. Addresses Delivered in the Legislative Council,i,25.
7. C.O.54/118:Horton to Goderich,1 & 12 Oct.1832 & C.O.54/127:Horton to Goderich,4 Jan.1833.
8. see,S.M.Hardy,UBHJ,VII,1960,p.185.

But, on the other hand, it cannot be said that Colebrooke's measures were as disasterous to the colony as was claimed by Horton. In particular, he alluded to the abolition of the cinnamon monopoly as the most striking obstacle to his administration. For example, he even stated that 'had not Col[onel] Colebrooke destroyed our surplus Revenues by his change to the Cinnamon Trade - a[nd] had <u>time</u> a[nd] <u>discretion</u> been allowed in carrying these vital changes into Effect', the alleged conspiracy of 1834 by Kandyan chiefs, a conspiracy which Horton haldled with considerable ineptitude[1], would have been avoided, for the dissatisfied could have been won over by increased emoluments[2]. As Horton forecast, the revenue from cinnamon declined in the following years, but throughout his Governorship the economic position of the colony remained more stable than it ever had been. In April 1834, for example, he wrote that 'there will be <u>no danger</u> of our calling money from home. Our Revenue will rather more than cover our Expenditure'[3]. By the end of his rule he was able to state that 'I shall close my Government with satisfaction of my financial conscience'[4]. The cause of this satisfaction was an anticipated surplus of £70,000. It could be argued that this position was not due to any success of Colebrooke's measures - it was mainly due to Horton's judicious use of the pearl fisheries[5] - but, Horton's attempts to lay the blame of every failure or disaster of his administration on Colebrooke is manifestly unfair to the commissioner. In Colebrooke, no doubt, Horton found an excellent scapegoat.

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1. Thomas Skinner later described it a 'burlesque', A. Skinner (ed.), <u>Fifty Years in Ceylon</u> (London, 1891), p. 216. Major Skinner (1804-1877), played a very significant role in the opening up of the interior of the colony.
2. C.O. 537/146: Horton to Stanley (secret & confidential), 27 Apr. 1834. For correspondence relating to the conspiracy see, C.O. 54/137.
3. <u>ibid.</u>: Horton to Stanley (secret & confidential), 17 Apr. 1834.
4. C.O. 54/149: Horton's memo., 26 Dec. 1836.
5. see, S.W. Baker, <u>Eight Years in Ceylon</u> (London, 1884 ed.), pp. 323-324.

The economic development of the colony after the introduction of the reforms did not follow the pattern anticipated by Colebrooke. Colebrooke expected wide spread individual speculation in economic activities, but it remained limited to certain fields. Where industry and capital as anticipated by Colebrooke became available the success was remarkable, but where such resources were not made available the failure became almost total. It is perhaps here that failure of Colebrooke's idealism is best seen. He expected such resources to be devoted to subsistence agriculture and irrigation works apart from the plantation sector, but success was limited only to plantations[1]. Even in plantations, though he expected an attention to diverse products, only coffee progressed, which within two decades became the 'Great staple of the island'[2]. Cinnamon, for which he held a bright future, greatly declined,and by the same period became 'an almost profitless speculation'[3]. The high duties instituted by the Treasury were mainly responsible for this decline[4]. To a certain extent the colonial government too was to be blamed. Horton's writings[5] certainly betray the truth of the allegation made at the time that 'the government did not enter into the spirit of the instructions from home'[6]. The failure of cinnamon itself marked the pattern of the new emerging economy: a produce which held sway as the leading product of the island for centuries gave way to coffee, the outcome of resolute individulaism in economic activities; the plantation world was being born with all the

1. K.M.de Silva,CJHSS,II,1959,pp.249-250.
2. J.Capper,A Brief Notice of Vegitable Productions of Ceylon,JRAS,XVI,1852, pp.266-267.
3. ibid.
4. see particularly,L.A.Mills,op.cit.,p.214ff.
5. see,for e.g.,C.O.537/146:Horton to Lefevre,12 Sept.1834.
6. Colombo Observer,14 Oct.1834.

trappings of developing capitalism[1]. The new trend was not visualised by Colebrooke, but nevertheless it demonstrated above all the success of individualism he desired for the colony; the economy was no longer in the strait-jacket of a demanding government.

In contrast to other fields, Horton paid decidedly less attention to reforms relating to the judicature. Horton's attitude again reflects the general preoccupation of the officials in the colony with reforms affecting their powers and privileges. Horton, who criticised the theoretical mind of Colebrooke, completely failed to understand that more doctrinaire proposals were introduced in the judicature than in other fields. Of all the reforms, perhaps the new judicial system had the best chance of success, for the officials in the colony were willing to cooperate. Charles Marshall, who persistently opposed the reforms during their formulation, as the new Chief Justice expressed his determination to carry them through to success with his brother judges[2]. Horton wrote of the 'zealous and most cordial support of Sir Charles Marshall'[3]. For the first time since the inception of British rule in Ceylon, there was a possibility of a close cooperation between the judicature and the executive. Yet, soon the reforms showed glaring defects. Relations between the Governor and the Chief Justice became strained[4]. Some inherent weaknesses of Cameron's system could not be easily overcome. H.C. Selby in his Report on the Judicial System in Ceylon pointed out that

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1. Between 1840-1846 £4 million was invested in coffee, and such features as commercial banks - Bank of Ceylon in 1841 & Oriental Bank in 1843 - soon appeared in the scene. see, I. Vanden Driesen, Some Aspects of the Financing of Commercial Enterprize in 19th century Ceylon, UCR, XVIII, 1960, pp. 213-221.
2. Colombo Journal, 9 Oct. 1833.
3. C.O. 54/131: Horton to Stanley, 23 Nov. 1833.
4. This necessitated even the removal of the Chief Justice from the Legislative Council by 1838. see, M. Wight, op. cit., p. 166.

features like the constitution of the Supreme Court were such that they could 'only work well by accident'[1]. On the other hand, defects arose as a consequence of the exercise of powers under the charter by the judges of the Supreme Court. In some instances the rules and regulations they issued led to considerable improvements - stamp fees, for example, were reduced[2] - but, in other instances the effects were disasterous. About the rules of procedure and pleading laid down by the judges[3], it was written that they were 'pretty voluminious and complicated, and they certainly introduced a system of pleading and procedure fraught with great technicalities'[4]. By 1842 even the Governor, Sir Colin Campbell, was writing that

> "the condition of the system of Justice is a subject of universal complaint and with the greatest reason. The delays and practical denial of justice both in civil and criminal matters [are] unparalled in any country. In civil matters this arises from the pecularities of the Charter increased by rules of practice for..... there is no summary form of procedure for small or simple cases.....[The] consequence is that justice is in effect almost denied to the poor and this is the direct result of a Charter the avowed principle of which is 'to favour the poor by giving them the same Judge to decide the poor man's case and the rich'".
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> [5]

This survey of the reforms can be profitably concluded with a brief notice of the views of Colebrooke expressed in 1840 about the reforms. Colebrooke had an opportunity of commenting upon the reforms when in 1840 he was called upon by the Secretary of State to write a memorandum on a review of Ceylon affairs made by the Colonial Secretary of the colony,

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1. see, K.M. de Silva, CJHSS, II, 1959, pp. 248-249.
2. C.O.54/131: stamp fees of District Courts approved by the Supreme Court, 1 Oct. 1833.
3. Ordinance no.1 of 1834. This was enacted by the Governor in Council at the request of the Supreme Court. The Colonial Department severely condemned the Supreme Court, for in its opinion this request in effect led to a negation of the independence of the judiciary, C.O.54/130: memo. on Horton to Stanley, 16 Jan. 1834.
4. Law Reform in Ceylon....., p.34.
5. C.O.54/196: Campbell to Stanley, 18 Apr. 1842.

Philip Anstruther[1]. To some extent on certain subjects he had moved away from points of view held in 1832[2], but generally he upheld the earlier recommendations. He wrote firmly under the assumption that the introduction of his measures had led to the improvements Anstruther had noted - 'the administration has been most materially improved in every particular', Anstruther had written[3]- and that what was wanting for further improvement was the implementation of those measures of his which were either neglected or modified. Thus, he called for the Governor's removal from the Legislative Council, the introduction of elective officials in villages, lowering of export duties, in particular on cinnamon, and the encouragement of the settlement of foreigners[4]. That Colebrooke was to a great extent still restricted to the viewpoints formulated in 1832 is well illustrated by the sanguinity he displayed towards the success of cinnamon even at this time. Although by now an experienced colonial administrator, he did not seem to have developed fresh ideas about the governing of colonies. No doubt, the reports on Ceylon were the greatest achievement in his colonial career, and he seemed to have been more concerned in a defence of them at this time.

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1. K.M.de Silva, UCR, XXI, 1963, p.153.
2. He expressed more positive ideas on land policy, where an influence of Wakefield can be discerned, and on the state's role in Buddhist affairs, where he seemed to have come under the influence of Evangelists, ibid., pp. 153-154.
3. C.O.54/185: Anstruther's memo., 23 Nov. 1840.
4. ibid.: Colebrooke's memo., 31 Dec. 1840.

Chapter:7.

CONCLUSION.

The period which came under consideration in the present study formed one of the most formative epochs in British colonial history. In what can be truly termed a reform era, eventful changes were introduced in colonial administration with profound consequences upon the nature and character of the empire. These years saw the emergence of settlement colonies; the acceptance of a new emmigration policy; changes in colonial trade undermining the traditional economic bases of the imperial system; beginnings of a new land policy in Australian colonies; rationalization of colonial finance; reorganisation of the colonial church; impact of humanitarianism upon colonies; improvement of their administrative machinery; and, changes in their system of government beginning with a thorough overhauling of royal instructions to Governors - in fact, new theories and practices concerning colonial administration came into being. Throughout, as at home, the emphasis was on reforms, and the impulse for reforms was national, not partisan. The emergence in 1822 of the liberal flank of the Tory party gave a filip to the reform movement. The Whigs, who assumed control of the government by 1830, carried on their work, and embarked upon a programme of reform with great vigour. The reform-mindedness of the times was well reflected when a man like Sir John Hobhouse, the president of the Board of Control, who had much say about Indian administration, could declare that 'some measures are more safe by being sudden'[1]. Even in the distant colony of Ceylon, it was exclaimed with much

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1.cited,G.D.Bearce,British Attitudes Towards India(London,1961),pp.157-158.

cynicism,

> 'This is indeed a wondrous age,
> most rare of all we've had:
> Improvement now is all the rage,
> folks are improving mad'. [1]

There were the impulses for reform, but changes in colonial administration were not embarked upon in a head-long rush. By this time the Colonial Department, which was entrusted with the task of administering colonies, had assumed more direction and collective purpose as an administrative organ, but it moved cautiously and with chariness. Partly this was due to the lessons learnt during the first empire, and partly due to the absence of a well established colonial policy and its unfamiliarity with the new empire. Often tentative, hesitant steps were taken before deciding upon firm courses of action. This was particularly true of the older colonies where there was a need to take into consideration the views and the feelings of the colonists. In the newer colonies imperial power was not subjected to such restraints, but there was the need to familiarise with their conditions to take action. Through these years when the new imperial system was being born, royal commissions of colonial inquiry formed an invaluable background. In the older colonies they probed and laid bare the views and the feelings of the colonists and others concerned with them, and pointed the way to legislation. In the newer colonies, information was collected, often for the first time, enabling the Colonial Department to grasp their conditions and decide upon policy.

With the emphasis initially upon obtaining information about colonies, the Colonial Department took time to develop a clear policy towards the recommendations that were embodied in the reports submitted by commissions

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1. Colombo Journal, 10 Mar. 1832.

of inquiry. Although a commission was appointed in 1822 to investigate the laws of the West Indies,'what was to be done in the old colonies with the reports of the Legal Commissioners on the Judicature was a question which was left unconsidered'[1]. Once the reports were submitted, a great deal of procrastination was seen. Murray, the Secretary of State, who in 1829 gave an undertaking to the House of Commons that colonial judicatures would be reformed on the basis of the reports of the Legal Commissioners, within less than a year attempted to retract the promise; only parliamentary pressure made the Colonial Department act[2]. When measures were ultimately taken, the department itself confessed that a considerable period of time elapsed between the submission of reports and the enactment of legislation[3]. In 1831, the re-organisation of the judicatures of the West Indian colonies of British Guiana, Trinidad and St.Lucia was undertaken on the basis of the findings of the Legal Commissioners[4]. By this time, the Colonial Department clearly seemed to have begun to value commissions of inquiry not only for the purpose of obtaining information, but also for obtaining advice as to what course of action should be undertaken in colonies.

Once this sense of purpose was achieved, royal commissions of inquiry began to play a more decisive role in colonial developments. The Commission of Eastern Enquiry, for example, was not only closely consulted by the Colonial Department in the formulation of policy for Ceylon, but also entrusted with the task of drafting executive and legislative orders to the colonial government, thereby transforming it from a purely fact-finding

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1. D.J.Murray,op.cit.,p.105.
2. ibid.,p.157.
3. Goderich to Grant,Governor of Trinidad,25 May 1831 in V.T.Harlow & F.Madden, op.cit.,pp.96-97. The report on Trinidad was submitted in 1827,but the Order-in-Council was enacted only in 1831.
4. see,charters of justice to British Guiana & Trinidad dated 23 Apr.1831 & to St.Lucia dated 20 June 1831 in R.M.Martin,op.cit.,app.,pp.32-42.

mission to a body with certain well defined executive functions. This was the exception not the rule, but it well illustrated the changing role of royal commissions of colonial inquiry. In many of the instances where the Colonial Department acted with the close cooperation of commissions of inquiry, certain circumstances proved to be significant. The work of the Commission of Eastern Enquiry relating to Ceylon was not surrounded with controversy at home, and above all it is this factor that enabled the department to act closely with it. There was no pressure upon the department to take action upon its reports - the initiative lay with the officials of the department. The conviction that reforms were needed played its part, and the intrinsic merits of the reports themselves had a bearing on the decision to act. Within the space of a year, important changes were introduced in the administration of the colony, and these bore the strong imprint of the commission of inquiry. In this sense, the Commission of Eastern Enquiry's work relating to Ceylon was truly representative of the royal commissions of colonial inquiry of the times. The generality of them functioned in relative obscurity at home, despite the fact that the whole basis of royal commissions of inquiry at home was being subjected to much controversy at this time. There were many like Francis Baring, member of Parliament, who found that there was yet to be a commission of inquiry which was not desirable to be appointed for purposes of inquiry, or which was unproductive in terms of its work[1]. But, there were the others who refused to share such optimistic views. Particularly the spate of inquiries inaugerated by the Whigs provoked criticism. The Times was led to declare that 'the great number of

1. Hansard, 3rd s., XXV, 1834, p.490.

commissions for inquiry and other purposes issued within the last two or three years, the heavy expenses thereby occasioned to the public, and the formidable mass of patronage created' deserved the closest attention of the people of the country[1]. Within the Parliament, Goulburn[2] and Robert Peel[3] repeatedly criticised the government use of royal commissions. Without, the legal position of commissions was assailed, the attacks reaching new heights with the writings of J.Toulmin Smith[4]. Commissions of inquiry sent to the colonies were not subjected to such controversy. They often faced criticism and hostility in colonies, but once their investigations were completed, they worked in less demanding conditions. Perhaps, their very nature as royal commissions was significant in this respect. They were not answerable to Parliament, but to the Crown. Their reports were transmitted to the Parliament only if the government was so inclined or if there was an address for their production from its members. Often the confidential nature of the reports,precluded any possibility of public discussion even by interested parties. In such circumstances, interest in the work of commissions of colonial inquiry lay only with the Colonial Department: commissions reported, and decisions were taken upon them entirely within the walls of the Colonial Department, with only certain other departments participating.

There were also the instances where royal commissions of colonial inquiry functioned under a glare of publicity at home. Inevitably, like any other colonial issue, the interest on the work of these depended on the awareness of the public, of the subjects under investigation. With

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1. Times, 28 July 1834.
2. see, Hansard, 3rd s., XXV, 1834, p.484. see also above, pp.22-23.
3. ibid., p.494.
4. see particularly his, Government by Commission Illegal and Pernicious..... .....(London, 1849).

the attention paid to slave amelioration, it is no surprise that commissions of inquiry sent to the West Indies during this time attracted a great deal of interest. The commission appointed to inquire into crown estates of Berbice, for example, was the target of the attacks of many pamphleteers[1]. At times, commissions were subjected to political manipulations. In the controversy over slave emancipation, for example, the British government often used the Legal Commissioners to the West Indies to parry questions in Parliament and to delay taking action[2]. On the other hand, the opposition did not desist from utilising commissions of inquiry for its own political advantage. The reports of J.T.Bigge on New South Wales, for example, were exploited by the opposition to embarass the government[3]. In such instances, no doubt, in taking action upon reports of commissions of inquiry the Colonial Department did not have a free hand. This was best reflected in the changes it was forced to accept under pressure from Parliament in the legislation prepared in 1823 for New South Wales upon the findings of Bigge[4]. Again in formulating a policy for Cape of Good Hope, the Colonial Department had to take into consideration not only the recommendations of the Commission of Eastern Enquiry, but also the powerful political pressure exerted on behalf and against its Governor, Lord Charles Somerset[5].

Thus, it could be seen that royal commissions of colonial inquiry played a significant role in the colonial developments of the period under

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1. see, J.Marryat, An Examination of the Report of the Berbice Commission..... .....(London, 1817) & J.Macqueen, The Colonial Controversy..... (Glasgow, 1825), pp.172-194.
2. D.J.Murray, op.cit., pp.104-105 & 142.
3. A.C.V.Melbourne, op.cit., pp.85-86.
4. One of the most important changes was the provision for a legislative council which was wholly opposed to the recommendations of Bigge. see, A.C.V.Melbourne, op.cit., p.[illegible]ff.
5. see, M.Roberts, Lord Charles Somerset and the 'Beaufort Influence', Archives Year Book for South African History, VIII, 1951, pp.1-34.

review. Not operating in a vacuum, but in a climate where profound changes were under way, the impact of royal commissions depended upon the special circumstances which surrounded each of them. Primarily their role was determined by the attitudes that prevailed in the Colonial Department. To a lesser degree upon the ability of interested pressure groups to exert an influence upon the administration. It is important to note the changing role of commissions of inquiry. At the beginning essentially fact-finding missions, they gradually developed into bodies which virtually chartered the future course of the several colonies they investigated. In view of this, more emphasis should be placed on their role in the respective colonies rather than in the general colonial scene. Thus, Bigge's mission to New South Wales has been called 'a landmark in Australian history'[1]. No doubt such a position was achieved owing to the special circumstances that governed policy towards New South Wales during this time, but the role the commissioner himself played cannot be ignored. Bearing in mind these factors, it is to an evaluation of the work of the Commission of Eastern Enquiry in Ceylon that we must turn now.

This commission was the first royal commission of inquiry sent to Ceylon by the British government. As a commission of inquiry, it was the lineal successor to the earlier de Meuron commission[2] and the Board of Commissioners for Kandyan Affairs, the two bodies which undertook the task of collecting information about the colony on behalf of the imperial government. The Commission of Eastern Enquiry, however, had a much wider

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1. H.T.Manning, op.cit., p.539.
2. This body, named after its president, was appointed in 1797 by Lord Hobart 'for investigating the state of Revenue, and other important matters on the Island of Ceylon'. see, C.R.de Silva, op.cit., ii, 212-224.

scope than these bodies. The de Meuron commission was limited to the Maritime Provinces, and the Board of Commissioners to the Kandyan Provinces, but the Commission of Eastern Enquiry covered the whole state of the colony, enabling the imperial government to view its conditions as a whole for the first time. It was, unlike the earlier bodies, placed above the Governor and made directly responsible to the Crown, thereby making it less susceptible to the pressure in the colony and at home. The significance of this factor cannot but be emphasised, for if the commission was subjected to the pressure exerted in the colony by the Governors, Barnes and Horton, there is no doubt that the direction it would have taken in its recommendations would have been far different to the course it ultimately took. It is worthwhile noting that though the constitutional factor enabled the commission of inquiry to function without regard for the pressure exerted, it is perhaps the ability of the commissioners to resist such, that was decisive. More importantly, again unlike the earlier bodies, this commission was not composed of administrators. This had its defects. For example, it could be argued that if Colebrooke possessed his later experience as an administrator at the time of his investigations in Ceylon, he may not have recommended such drastic reductions in the civil service, for as the Lieutenant-Governor of New Brunswick he fully realized what disasterous effects could arise from reductions in the salaries of civil servants[1]. It is perhaps lack of experience in the colony that led to the errors that contained in the reports of the commissioners. There was considerable truth in the assertation made at

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1. The reductions were occasioned by the small civil list granted by the colonial assembly, and Colebrooke strove hard to convince the officials at home that the colonial government should not be subjected to such actions by the assembly. see,C.O.188/91:Colebrooke to Stanley,26 May 1845.

the time that the commissioners possessed only a superficial knowledge of the character of the people of the colony[1]. They failed, for example, to grasp that the ethos of Buddhism was unfavourable to the success of the individualism they demanded of the people[2]. To a great extent such weaknesses were a pattern in the early administration of the colony. Perhaps, it is no surprise that the commissioners were unable to understand fully the complex and intricate nature of rājakāriya, for such institutions had baffled many early administrators too. Such disadvantages were there, but it is important to observe the advantages that resulted from the members of the commission not being administrators. Not circumscribed by administrative functions, the commissioners were able to collect information about the colony which, as it has been rightly pointed out, far surpassed the 'information' in Wakefield's Letter from Sydney which played a so decisive role in colonial developments[3]. In collecting information and submitting recommendations based upon them, they were not subjected to the inhibitions and prejudices that governed the thinking of men who acted as administrators. Alexander Johnston, for example, who contributed sincerely for the improvement of the colony in the early nineteenth century, was nevertheless moved by the need to consolidate the position of the judicature, which he represented, at the expense of the executive in his representations to the imperial government to reform the colony's administration in 1810. The absence of such prejudices in the work of the Commission of Eastern Enquiry need to be noted. Whether viewed purely as a fact-finding mission or as a body responsible for

1. see, C.O.54/118: remarks on the first report of Colebrooke, 8 Oct. 1832 by Ackland.
2. For a discussion of the interaction between the Buddhist ethos and individualism see, R.Pieris, UCR, IX, 1951, pp.181-182.
3. S.M.Hardy, UBHJ, VII, 1960, p.181.

reforms, the manner in which it functioned assured this commission of inquiry a special place in the history of the colony.

The work of the Commission of Eastern Enquiry has attracted the attention of many generations of writers in Ceylon. The assessments of many of these writers abound with clichés which have unfortunately tended not only to obscure the assessments themselves, but also the reforms inaugerated as a result of the commission's work in Ceylon. Sweeping statements based on such assumptions like that the commissioners attempted 'to transform the system in Ceylon as far as possible according to the latest ideas proclaimed in Britain and accepted by those in power in Britain at the time'[1], and that their proposals were 'a blend of Philosophical Radicalism, Radical Imperialism, and Evangelism'[2], need to be questioned in the light of the evidence brought forward in the present study. It was pointed out in the nineteenth century by the historian William Robertson, the contemporary of Edward Gibbon, that 'people would use their own civilization and social standards as the criteria for judging other people'[3]. The truth of this statement was well reflected in the work of the Commissioners of Eastern Enquiry. Both Colebrooke and Cameron were much influenced by standards of judgement which sprang from their own institutions and society, in determining about conditions in Ceylon. But, it is necessary to stress that they lived in turbulent times when changes of profound importance were occurring with such complex movements like Humanitarianism, Utilitarianism and Evangelism determining attitudes of the British towards the empire. To isolate one or several

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1. G.C.Mendis, The Evolution of a Ceylonese Nation, JRASCB, n.s., XI, 1967, p.4.
2. K.M.de Silva, CJHSS, II, 1959, p.246.
3. G.D.Bearce, op.cit., p.299.

of these movements and point to them as the only or major influence upon the commissioners of inquiry is to beg the truth. The conflicting nature of the movements of the times has not been sufficiently understood by those who have evaluated the commission of inquiry. It has been too easily supposed that both Colebrooke and Cameron were subjected to the same influences arising out of the climate they functioned. The two commissioners, Colebrooke and Cameron, worked cordially together and displayed much sympathy towards each other's work, but as this study has attempted to show, the influences they came under, and consequently the nature of their work, was radically different.

Cameron was a complete doctrinaire , a Benthamist to the core. True to the Utilitarian thinking, he bore no reverence for the traditional institutions of the colony. The belief that its judicial organs were created by the British, paved the way for either the easy dismissal, or for only a lukewarm acceptance, of the traditional institutions. In this respect, Cameron did not significantly differ from the early Governors of the colony, for generally they too were not upholders of tradition. But, he was radically different from them in that he was no respecter of British institutions either. The principles of utility were ruthlessly enforced upon those institutions created and maintained by the early British administrators. The outcome of these efforts was an entirely new system which had few roots either in the traditional institutions or in the institutions introduced by the British themselves. Cameron was an innovator in the widest sense of the term.

For a Benthamist Cameron received an unique opportunity of applying his doctrinaire beliefs to establish a completely new judicial system

for Ceylon. In India, where other conspicuous instances of Benthamite influences were seen, no single Benthamite ever received the opportunity of applying the doctrine completely to any single branch of the administration. The vast complexities inherent in the Indian administrative system, and the militant opposition the Benthamites faced, precluded any possibility of a complete application of the Benthamite principles through the actions of an individual or a number of individuals during a well defined period of time. Consequently, Benthamite influences in India were seen sporadically, through a long period of time. Even Cameron himself never got the opportunity of implanting these ideas in India in the manner he followed in Ceylon. After successfully ending the special position held by the Europeans in the judicial administration of Ceylon, he repeatedly attempted to introduce a similiar measure in India. After these attempts failed he wrote in 1857 that Ceylon 'is the only British possession having an Asiatic population in which Asiatics a[nd] Europeans are equal before the law. Alas! Alas! India for whom I have struggled through long years to obtain the same advantage, is now farther thanwas from it'[1]. Cameron's work in Ceylon can be termed a singularly unique instance in the practical application of Benthamism in the history of Philosophic Radicalism.

Cameron, however, unlike the Utilitarians in India, was narrowly limited to a particular field of action. Benthamism was a coherent system, with 'its ethics, its constitutional theories, its jurisprudence, and its political economy.....closely linked together'[2]. Such a wider and a more fuller application of the doctrine in Ceylon was precluded by the policy followed by Cameron's fellow commissioner, Colebrooke. Cole-

1. NLI, Mss. 13,363: Cameron to Monteagle, 25 Nov. 1857.
2. A.V. Dicey, op.cit., p. 144.

brooke's work was complementary to that of Cameron, but it was not undertaken in the same spirit. There is no evidence of Cameron attempting to convert his colleague to the Benthamite cause, and apart from disputing few of the conclusions of Colebrooke, Cameron concentrated completely on his own field. He did not get the opportunity of even working in the field of education, a subject for which he held what can be termed a life long interest[1]. Consequently, Cameron's role as a reformer was of a limited nature. Although he expressed 'the hope that a well constituted judicial system would be an efficient means of establishing morals'[2], he well realized the limited effectiveness of a judicature in the improvement of a country and its peoples. 'I know very well', he wrote later, 'that a judicial system, however good it may be, can only strengthen a[nd] secure the prosperity which has been produced by other causes'[3].

Being a Benthamite, to Cameron can be applied the general criticisms made of Bentham and his doctrine[4]. It is true, as a contemporary observed, that Cameron's recommendations were 'founded upon views of human nature just a[nd] philosophical enough'[5]. As some others stated, 'it is impossible not to admire the tone of earnestness and sincerety in which the recommendations are enforced, and the humane and generous feeling by which they were evidently dictated'[6]. But, it should be remembered, the assessment of human nature made by Cameron was not based upon any understanding of the East; it had its roots in an European experience.

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1. For his own account of his work in the educational field in India, and the ideas pertaining to the subject see his, An Address to Parliament, pp. 6-174.
2. P.D. Kannangara, op.cit., p.254.
3. NLI, Mss.13,363: Cameron to Monteagle, 25 Nov. 1857.
4. For a critical analysis of Bentham's views see, E. Halévy, op.cit., p.373ff & A.V. Dicey, op.cit., p.126ff.
5. C.O.54/118: Rough to Horton, 9 Oct. 1832.
6. ibid.: Norris & Perring to Anstruther, 13 Oct. 1832.

Consequently, his assessment and the plan he brought forward upon that assessment, were unrealistic. In this respect, Cameron's work embodied the major failing of many a doctrinaire: it lacked earthiness and practicality. Elphinstone in India well expressed the difficulties facing a doctrinaire reformer: 'you will not know what difficulty is until you come.....to reconcile Maratha custom with Jeremy Bentham'[1]. The validity of the reforms became more doubtful for, as a contemporary pointed out, they failed to show satisfactorily that the existing institutions could not have been reformed before the innovations were made[2]. These criticisms, however, do not detract the merits of the reforms, and to Cameron can be applied the final verdict of Leslie Stephen on Bentham:

> 'However imperfect his system might be,considered as a science of society and human nature.....[his] method involved a thorough going examination of the whole body of laws,and a resolution to apply a searching test to every law. If that law was not unequivocal or ultimate as he fancied,it yet implied the constant application of such considerations as must always carry weight,and, perhaps,be always the dominant consideration,with the actual legislator or jurist'.
>
> [3]

Cameron's colleague,Colebrooke, formed a study in contrast. The only doctrinaire influence to which he was subject to was wholly anti-Utilitarian in character. His mentor, Richard Jones, was one of the early examples of the reaction that ultimately set in against Utilitarianism. It is true that Colebrooke came under the influence of Utilitarianism and Humanitarianism, but it was far from doctrinaire, and was not all embracing. Colebrooke was an utilitarian in the sense many of his contemporaries were

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1.C.H.Philips(ed.),Historians of India,Pakistan and Ceylon(London,1961),p. 223.

2.Colombo Journal,17 Oct.1832,letter to the editor by 'Testes'.

3.cited,J.Plamenetz,op.cit.,pp.81-82.

utilitarians: with his strong pragmatic bias, he was attracted to principles of utility, but not to principles of Utilitarianism. Perhaps, this was best seen in his attitude towards education. To James Mill, the Utilitarian, education was 'the best employment of all means which can be made of, by man, for renderring the human mind to the greatest possible degree to cause of happiness'[1]. To Colebrooke, education was of prime importance for finding a set of educated inhabitants from the colony to man its services: it was never a panacea. As for humanitarianism, it has been rightly pointed out, 'the inspiration of colonial policy by humanitarian ideals is no modern innovation, but as old as Western rule'[2]. The dominant characteristic of Colebrooke was pragamatism, a legacy perhaps of his early army training. Even when he derived inspiration from others, he perfected his own maxims. The debt he owed Richard Jones and Thomas Raffles was significant, but it was of a lesser degree than Cameron's debt to Jeremy Bentham.

Not bound by any rigid doctrinaire thinking, Colebrooke was able to judge measures suitable for Ceylon on pragmatic considerations. His comments on the Gansabhā, for example, show to what extent he was prepared to go beyond the limited field of action of Cameron. He too bore no great respect for tradition, but did not seem to have hesitated to make use of traditional institutions where they could serve an useful purpose for society. Again, it is pragmatic sense that enabled him to propose measures which closely related to the needs of the colony. Although he too should be subjected to the criticism that his knowledge of the people was superficial, he deserved it less than Cameron, for he clearly understood

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1. cited, E. Halévy, op. cit., p. 288.
2. J. S. Furnivall, op. cit., p. 289.

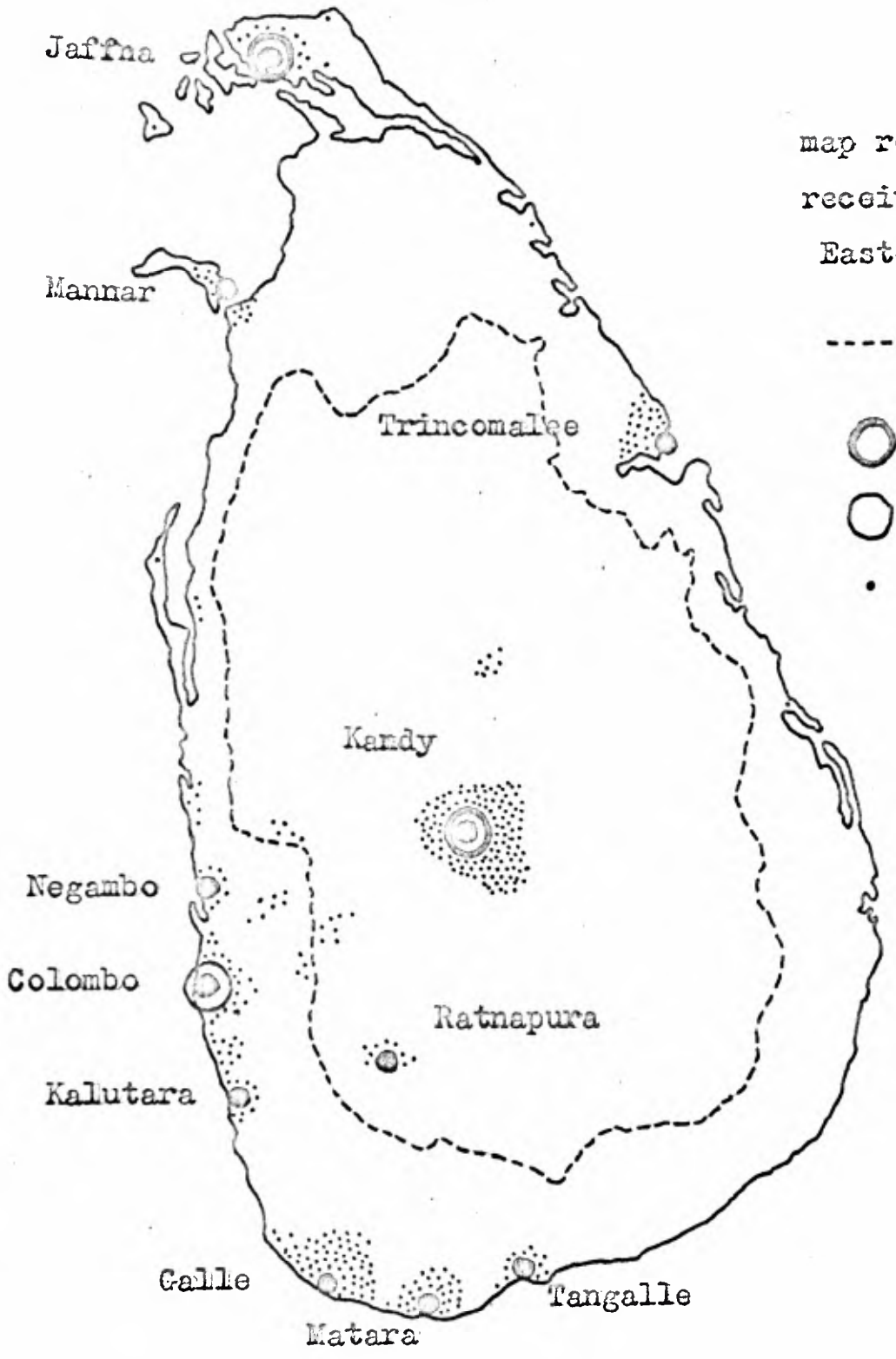
the changes that were under way at this time in society. He saw above all that there was a need to take these into consideration in formulating proposals for the colony, and acted accordingly. It is true that he failed to precisely charter the future course of these developments in his measures, but there is no doubt that the success they achieved in the following years was to a great extent due to the proper environment he created for their sustenance. The triumph of individualism owed much to the filip he gave it by abolishing the restraining façade. He created the machinery that ultimately gave a platform to the emerging public consciousness of the people. In effect, his recommendations brought together for the first time in a comprehensive and a visible manner the diverse developments which were occurring piecemeal in Ceylon, and projected their growth. Viewed in this manner, his proposals seem less radical than they are generally claimed to be. There were, of course, the recommendations that could be termed radical. These stemmed from the idealism to which Colebrooke, like any reformer, was subjected to. Ultimately, these proved to be the weak links in his reforms. This was undoubtedly due to the inherent weaknesses, weaknesses which were well demonstrated in his estimation of the attitude of civil servants to commercial activities which he desired to foster. To a certain degree the lackadaisical manner in which his reforms were implemented too contributed. In this respect, Colebrooke's measures suffered more than those of Cameron, for they became the focus of the hostility of the Governor of the colony. It could be argued that if Wilmot Horton displayed a sympathetic attitude towards the reforms, the colony would have benefitted more from them than it ultimately did.

Clearly, in assessing the reforms that were introduced in Ceylon as a result of the work of the two Commissioners of Eastern Enquiry, it is imperative that the evaluation should be undertaken separately. Cameron, the innovator, laid the foundation of the modern legal system of Ceylon. The work of the pragmatist, Colebrooke, was less clear-cut, being merged with a continuing transformation. The two commissioners taken together, however, hold an unique place in the history of British rule of Ceylon, for, above all, their reforms constituted the only instance where changes were introduced into every aspect of government and society in the colony during a well defined period of time.

In judging the reforms from the point of view of modern times, the commissioners of inquiry could be most criticised for not having gone beyond in their reforms than they ultimately did. The reforms, perhaps with the exception of those relating to the judicature, were lacking in the spirit of adventure which characterised the work of many a reformer. Colebrooke in particular seemed to have been content with projecting the growth of the developments occurring in the colony. His measures singularly lacked any recommendation which was in advance of the times. His attempts at removing the remaining feudalistic features from society, for example, well displayed the cautious nature of his work. A more spirited attack on the powers and influences of the headmen, perhaps, would have enabled the mass of the population to seek their own identity rather than being dominated by the local chiefs - a factor of much importance in view of the important role the headmen continue to play in society through the century. Such criticisms could be made, but it is manifestly unfair to the commissioners of inquiry to judge their work by the stand point of

modern times. They may have been the best judges of their own times.

APPENDIX A.



CEYLON

map representing the petitions received by the Commission of Eastern Enquiry, 1829-1831[1].

----- : British frontier in 1796.

: 200 petitions.

: 100 petitions.

• : 1 petition.

1. The figures have been collected from C.O.416/29:register of petitions received and register of Kandyan petitions & C.O.416/32:unnumbered petitions.

APPENDIX B.

The following is an extract of the questionnaire sent to the Collectors of the Maritime Provinces by the Commission of Eastern Enquiry[1]. The questions relate to government-owned land, and illustrate the searching and comprehensive nature of the questionnaire formulated by the commissioners in the course of their investigations in Ceylon.

Q.96. Can you state the aggregate Extent of cultivated Lands (the actual property of Government) in your District Exclusive of lands on tenures of service ?

Q.97. Are such lands occupied by Tenants at will or for a term of years ? In the latter case, are they held under written leases or verbal agreements and what are the usual stipulations of such leases or agreements ?

Q.98. What is the largest Extent of any Government land occupied by a single Tenant or cultivator ?

Q.99. Are these lands connected together or are they dispersed in small allotments amongst the lands of Individual proprietors ?

Q.100. Can you state the aggregate amounts of rents receivable from them in money or produce ?

Q.101. Are the leases commonly renewed or are the Lands successively occupied by different tenants and are tenants frequently ejected ?

Q.102. Upon the death of a Tenant of Government Land, is it usual to grant the land to those who would inherit it if it were heritable property or to any other person or persons standing in any particular relation to the deceased Tenant ?

Q.103. By whom are Government Lands let and if by the Collector, is the letting subject to the confirmation of the Governor or the Commissioner of Revenue ?

Q.104. Are the Government Lands as well cultivated as those of Individual proprietors ?

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1. C.O.416/1: letter-book, circular to Collectors, 27 Nov. 1830.

Q.105. Are the rents of Government Lands collected by the farmers of revenue in common with the tithe or tax due upon those Individual proprietors and is the process used to compel payment the same in both cases, and if not, in what respect does it differ ?

Q.106. Can you state the number and Extent of the abandoned Cinnamon Gardens and of the coffee and other Plantations which are the property of the Government in your District, and the rents received from them when occupied ?

APPENDIX C.

The following schedules refer to the new salary structure proposed by Colebrooke for the civil service of Ceylon[1]. They also indicate the changes recommended in the civil establishment of the colony.

schedule no.1: offices abolished.

establishment of 1833	salary per annum
Commissioner of Revenue	£ 3,000. 0.0.
Paymaster-General & Commissioner of Stamps	2,000. 0.0.
Second Assistant,Colonial Secretary's Office	512. 0.0.
Private Secretary to the Governor	500. 0.0.
Sitting Magistrate,Colombo	1,000. 0.0.
Sitting Magistrate & Fiscal,Jaffna	610. 0.0.
Sitting Magistrate,Tangalle	180. 0.0.
Sitting Magistrate,Väligama	135. 0.0.
Sitting Magistrate,Poneryn	135. 0.0.
Sitting Magistrate,Kandy	135. 0.0.
Sitting Magistrate,Galle	100.0. 0.
Sitting Magistrate,Kalpitiya	67.10.0.
Registrar of the Vice-Admiralty Court	270. 0.0.
total:	£ 8,674. 10.0.

1.C.O.54/145: Goderich to Horton,23 Mar.1833,encl. Schedules nos.6 & 7 relating to ecclesiastical offices have been omitted.

schedule no.2: civil offices of the yearly value of £500 and above

establishment of 1833	salary per annum
Governor*	£ 8,000.0.0.
Colonial Secretary+	2,000.0.0.
First Assistant,Colonial Secretary's office	640.0.0.
Treasurer	2,000.0.0.
Auditor-General	2,000.0.0.
Civil Engineer & Surveyor-General	800.0.0.
Postmaster-General	512.0.0.
Master Attendant,Colombo	700.0.0.
Master Attendant,Galle	500.0.0.
Collector of Customs	1,574.0.0.
Collector,Colombo	1,541.0.0.
Assistant Collector,Kalutara	512.0.0.
Collector,Galle	1,000.0.0.
Collector,Tangalle & Mātara	1,107.0.0.
Collector,Batticaloa	785.0.0.
Collector,Trincomalee & Agent,Tamankaduva	1,338.0.0.
Collector,Jaffna	1,226.0.0.
Assistant Collector,Jaffna	512.0.0.
Collector,Mannār	788.0.0.
Collector,Chilaw	1,014.0.0.
Revenue Commissioner,Kandy	1,500.0.0.
Agent of Government,Kurunegāla	1,000.0.0.
Agent of Government,Ratnapura	500.0.0.
total:£	32,061.0.0.

*1831 salary:£10,000. +1831 salary:£3,000.

new schedule	salary per annum
Governor	£ 7,000.0.0.
Colonial Secretary	2,000.0.0.
Assistant Colonial Secretary & Clerk to the councils	600.0.0.
Treasurer & Commissioner of Stamps	1,500.0.0.
Auditor-General & Comptroller of Revenue	1,500.0.0.
Civil Engineer & Surveyor-General	800.0.0.
Postmaster-General	300.0.0.
Harbour Master,Colombo	700.0.0.
Harbour Master,Galle	500.0.0.
Collector of Customs	1,000.0.0.
Government Agent,Colombo	1,200.0.0.
Assistant Government Agent,Colombo	300.0.0
Assistant Government Agent,Kalutara	400.0.0.
Government Agent,Galle	1,000.0.0.
Assistant Government Agent,Mātara	400.0.0.
Assistant Government Agent,Batticaloa	400.0.0
Government Agent,Trincomalee	1,000.0.0.
Government Agent,Jaffna	1,200.0.0.
Assistant Government Agent,Jaffna	300.0.0.
Assistant Government Agent,Mannār	400.0.0.
Assistant Government Agent,Chilaw	400.0.0.
Government Agent,Kandy	1,200.0.0.
Assistant Government Agent,Kurunegāla	400.0.0.
Assistant Government Agent,Ratnapura	400.0.0.
total:£	24,900.0.0.

schedule no.3: civil offices under £500 per annum

establishment of 1833	salary per annum	new schedule	salary per annum
Superintendent-General of Vaccination	£450. 0.0.	Superintendent-General of Vaccination	£450.0.0.
5 Assistants at £90 each	450. 0.0.	5 Assistants at £90 each	450.0.0.
Master Attendant,Trincomalee	400. 0.0.	Harbour Master,Trincomalee	400.0.0.
Assistant Engineer & Surveyor	300. 0.0.	Assistant Engineer & Surveyor	300.0.0.
Superintendent,Botanical Garden	250. 0.0.	Superintendent,Botanical Garden	250.0.0.
Supervisor,Pearl Banks	200. 0.0.	Supervisor,Pearl Banks	500.0.0.
Agent of Government,Badulla	135. 0.0.	Assistant Agent,Badulla	400.0.0.
Agent of Government,Alupota	67.10.0.	Assistant Agent,Alupota	400.0.0.
* Agent of Government,Ruanvälla	67.10.0.	Assistant Agent,Ruanvälla	400.0.0.
Agent of Government,Mätalé	67.10.0.	Assistant Agent,Mätalé	400.0.0.
Agent of Government,Fort King	45. 0.0.	Assistant Agent,Fort King	400.0.0.
Agent of Government,Madavalatanna	90. 0.0.	Assistant Agent,Madavalatanne	400.0.0.
total:	£2,522.10.0.	total:	£4,750.0.0.

* These offices held by military officers who received in addition their full military allowance.

schedule no.4: judicial offices of the yearly value of £500 and over

establishment of 1833	salary per annum	new schedules	salary per annum
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.
Advocate-Fiscal	1,800.0.0.	King's Advocate	1,200.0.0.
Deputy Advocate-Fiscal & 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,Colombo	1,600.0.0.	District Judge,Colombo	1,000.0.0.
Provincial Judge,Galle	1,600.0.0.	District Judge,Galle	1,000.0.0.
Provincial Judge,Trincomalee	1,152.0.0.	District Judge,Trincomalee	1,000.0.0.
Provincial Judge,Jaffna	1,500.0.0.	District Judge,Jaffna	1,000.0.0.
Provincial Judge,Kalpitiya	500.0.0.	District Judge,Chilaw & Puttalam	500.0.0.
Judicial Commissioner,Kandy	2,000.0.0.	District Judge,Kandy	1,000.0.0.
Agent of Government,Ratnapura	500.0.0.	District Judge,Ratnapura	150.0.0.
total:	£17,702.0.0.	total:	£12,450.0.0.

schedule no.5: judicial offices under £500 per annum

establishment	salary per annum
Fiscal of Colombo	£350. 0.0.
Private Secretary to Chief Justice	270. 0.0.
Private Secretary to Puisne Justice	180. 0.0.
Provincial Judge,Batticaloa	250. 0.0.
Provincial Judge,Mannar	200. 0.0.
Sitting Magistrate,Kalutara	--
Sitting Magistrate,Panadurē	135. 0.0.
Sitting Magistrate,Negambo	225. 0.0.
Sitting Magistrate,Balapitimodera	135. 0.0.
Sitting Magistrate,Mātara	225. 0.0.
Sitting Magistrate,Hambantota	135. 0.0.
Sitting Magistrate,Mullaitivu	180. 0.0.
Sitting Magistrate,Point Pedro	67.10.0.
Sitting Magistrate,Mallagam	135. 0.0.
Sitting Magistrate,Kayts	67.10.0.
Sitting Magistrate,Chavakachchēri	135. 0.0.
Judicial Agent,Kurunāgala	135. 0.0.
* Agent of Government,Badulla	135. 0.0.
* Agent of Government,Alupota	67.10.0.
* Agent of Government,Ruanvälla	67.10.0.
* Agent of Government,Matalē	67.10.0.
* Agent of Government,Fort King	45. 0.0.
* Agent of Government,Maturata	90. 0.0.
total:	£3,297. 10.0.

now schedule	salary per annum
Fiscal of Western Province	£350.0.0.
Private Secretary to Chief Justice	270. 0.0.
Private Secretary to Senior Puisne Justice	180. 0.0.
District Judge,Batticaloa	250. 0.0.
District Juage,Mannar	200. 0.0.
District Judge,Kalutara	135. 0.0.
District Judge,Panadurē	225. 0.0.
District Judge,Negambo	225. 0.0.
District Judge,Ambalagoda	225. 0.0.
District Judge,Mātara	225. 0.0.
District Judge,Hambantota	135. 0.0.
District Judge,Mullaitivu	225. 0.0.
District Judge,Point Pedro	157.10.0.
District Judge,Mallagam	225. 0.0.
District Judge,Kayts	157.10.0.
District Judge,Chavakachchēri	225. 0.0.
District Judge,Kurunēgala	150. 0.0.
District Judge,Badulla	150. 0.0.
District Judge,Alupota	150. 0.0.
District Judge,Ruanvälla	150. 0.0.
District Judge,Matalē	150. 0.0.
District Judge,Fort King	150. 0.0.
District Judge,Nuvara Eliya	150. 0.0.
total:	£4,460. 0.0.

*These offices were held by military officers who received in addition their full military allowance.

schedule no.8: offices created.

	salary per annum
civil:	
Assistant Agent, Negambo	£400.0.0.
Assistant Agent, Galle	300.0.0.
Assistant Agent, Hambantota	400.0.0.
Assistant Agent, Kandy	300.0.0.
judicial:	
Second Puisne Justice	1,500.0.0.
Private Secretary to Second Puisne Justice	180.0.0.
District Judge, Nuvarakalāviya	150.0.0.
ecclesiatical:	
College Professor	300.0.0.
total:	£3,530.0.0.

recapitulation.

offices	establishment 1833	establishment new schedule
abolished	£3,674½	£ --
civil: of £500 and above	32,061	24,900
under £500	2,522½	4,750
judicial: of £500 and above	17,702	12,450
under £500	3,297½	4,460
ecceliastical: of £500 and above	5,000	4,500
under £500	1,350	1,350
new creation	--	3,530
	£70,607½	£55,940.

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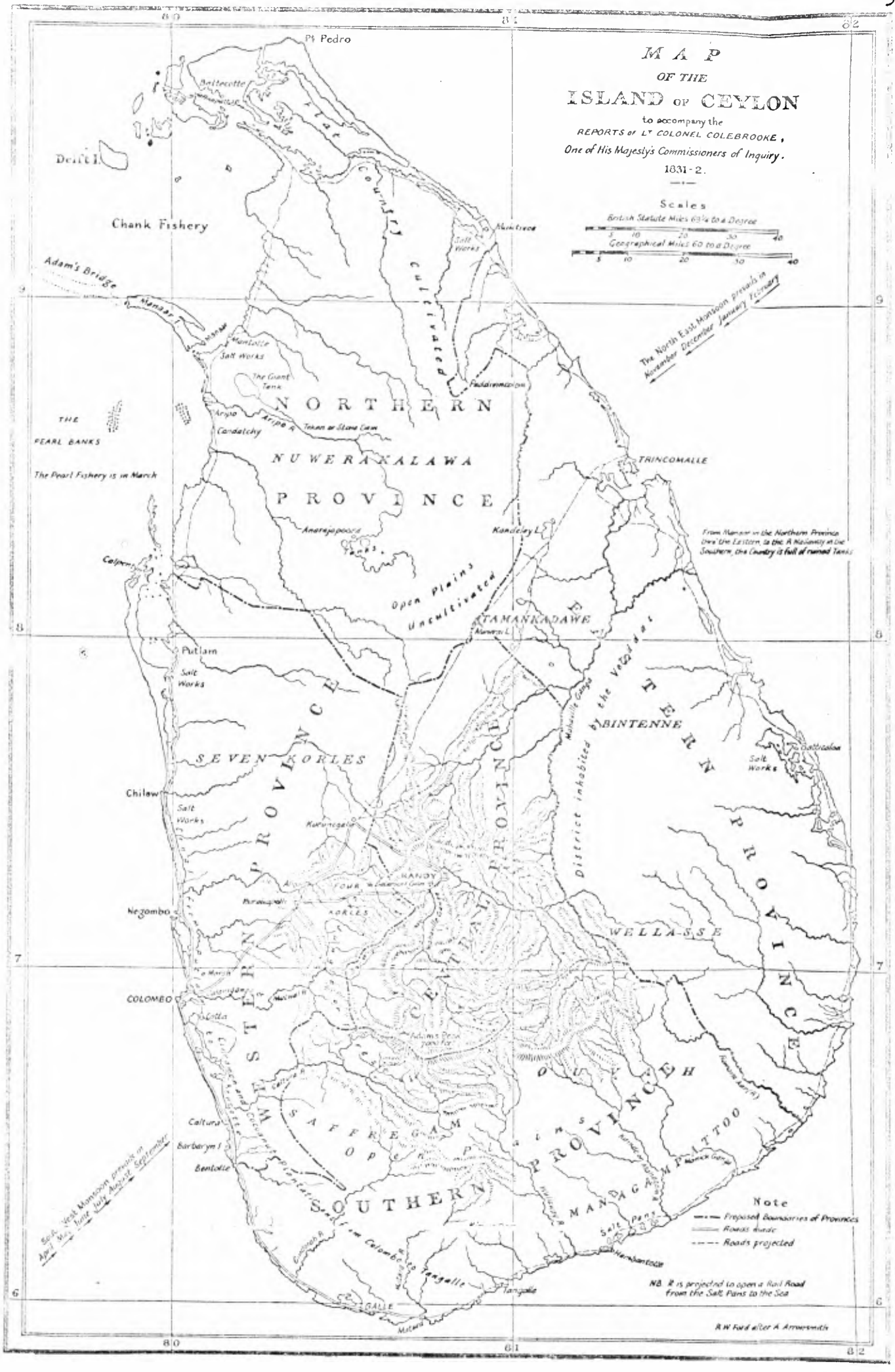
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MAP
OF THE
ISLAND OF CEYLON
to accompany the
REPORTS of Lt COLONEL COLEBROOKE,
One of His Majesty's Commissioners of Inquiry.
1831-2.
Scales
British Statute Miles 69¼ to a Degree
Geographical Miles 60 to a Degree
The North East Monsoon prevails in November December January February
Pt Pedro
Batticotta
Delft I.
Chank Fishery
Adam's Bridge
Mantotte Salt Works
The Giant Tank
Argoo
Candatchy
THE PEARL BANKS
The Pearl Fishery is in March
NORTHERN
NUWERAKALAWA
PROVINCE
Anuradjapoora
Calpentyn
Open Plains Uncultivated
Kandelay L.
TRINCOMALLE
From Mannar in the Northern Province thro' the Eastern to the Wallawitty in the Southern, the Country is full of ruined Tanks
TAMANKADAWE
Putlam
Salt Works
SEVEN KORLES
Chilaw
Salt Works
Kurunegalle
Negombo
COLOMBO
Caltura
Barberyn I.
Bentotte
SOUTHERN PROVINCE
SAFFREGAM
Open Plains
MANDAGAM PATTOO
Salt Pans
Hambantotte
Tangalle
GALLE
Matura
Salt West Monsoon prevails in April May June July August September
Note
Proposed Boundaries of Provinces
Roads made
Roads projected
NB. R is projected to open a Rail Road from the Salt Pans to the Sea
R.W. Ford after A. Arrowsmith