

NOTES ON THE REVOLT

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ORTH-WESTERN PROVINCES OF INDIA.

BY

CHARLES RAIKES

JUDGE OF THE SUDDER COURT AT AGRA :

LATE CIVIL COMMISSIONER WITH SIR COLIN CAMPBELL :

AUTHOR OF "NOTES ON THE NORTH-WESTERN PROVINCES OF INDIA."

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P R E F A C E.

THE Author of the following Notes has only very recently returned from India. He has observed the anxiety on the part of the educated portion of his countrymen to acquire authentic information as to the present feelings and past conduct of the people of India; and has thought it right to place before the public an account, however hurried and imperfect, of his observations during the past year.

Having no personal adventures to recount, the writer's apology for relating his own history is his desire to support the opinions advanced in the concluding chapters of this book. For it is only from a recital of facts that we can gather material for our future conduct; and in these days any honest narrator of the Indian history of his day may hope for the indulgence of the public.

London : July, 1858.

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APPENDICES.

APPENDIX B.*

From C. Raikes, Esq., Commissioner of Lahore, and
 Officiating Judge in the Courts of Sudder Dewy. and
 Nizt. Adawlut, North-west Provinces, Agra.

To H. Ricketts, Esq., Commissioner for the Revision of
 Civil Salaries and Establishment throughout India.

Dated Agra: the 4th October 1856.

SIR,

I have the honour now to reply to your letter of the 30th April, and to give you my opinion on the several subjects mentioned by you. I have already informed you that as in my present office I have no time to spare from my daily duties, when the Civil Courts are open, I have been compelled to defer my reply to the present time of vacation.

2nd. Before answering *seriatim* the several questions proposed by you, and, indeed, to enable me to answer them at all in an intelligible manner, I must explain my sentiments on the form of Indian government in general.

3rd. There are two systems of government on this side of India, which may shortly be called Regulation and Non-Regulation Systems.

4th. I have served in what are called the Regulation Provinces from 1831 to 1853, and from the beginning of 1853 to the beginning of 1856, in the Non-Regulation Province of the Punjab. Lately I have again been at-

* See p. 171.

tached to the North-Western Provinces, and in a post which has enabled me to observe the general working of the system of government, and especially in the departments of Civil and Criminal Justice.

5th. In speaking of the two systems, I shall call one the Punjab, and the other the Regulation System.

6th. It would be tedious, and is unnecessary, for me here to trace the various steps which have led to the development of the government of the North-West Provinces in its existing form. But for the sake of contrast with the Punjab System, I must briefly describe the component parts of the administration in these provinces.

7th. In the North-Western Provinces there are thirty-one districts, containing a population, in round numbers, of thirty millions.

To control and administer Civil and Criminal Justice, and to collect the public Revenue in these thirty-one districts, there are six commissioners, each receiving salaries of 38,000 rupees per annum; 19 civil and sessions judges, receiving salaries of 30,000 rupees per annum each; one additional judge at 24,000 rupees per annum; and 31 civil officers holding the joint appointment of magistrate and collector on salaries of 27,000 rupees per annum. Under the magistrates and collectors are 22 joint magistrates with salaries of 12,000 rupees per annum. 10 of the same grade at 8400 rupees per annum, and (say) 40 junior assistants with average salaries of 4800 rupees per annum.

8th. Thus we have for the district local, civil administration in the North-Western Provinces (without taking into account the institutions of Government, Finance, Audit, the high Courts of Appeal, and the Revenue Board at the seat of Government), the following machinery:—

6 Commissioners of Revenue and Police at	-	-	Rupees.	228,000
19 Civil and Session Judges at	-	-		570,000
1 additional Judge at	-	-		24,000
30 Magistrates and Collectors at	-	-		810,000
2 Independent Joint Magistrates at	-	-		24,000
20 Joint Magistrates at	-	-		240,000
10 Do. do.	-	-		84,000
40 Junior Assistants	-	-		192,000
Total	-	-		<u>2,172,000</u>

These appointments are held by the regularly appointed civil servants of the East India Company.

9th. The agency subordinate to Judges and Magistrates and collectors, exercising judicial functions, or acting as deputies to the collectors of districts are next shown.

Uncovenanted Deputy Collectors.

			Rupees per annum.
2 at 600 per mensem	-	-	14,400
20 „ 450 „	-	-	108,000
8 „ 350 „	-	-	33,600
15 „ 250 „	-	-	45,000
Total	-	-	<u>201,000</u>

Uncovenanted Judges.

			Rupees per annum.
6 Principal Sudder Ameers at			43,200
14 do. do. do.			67,200
14 Sudder Ameers at	-	-	42,000
24 Moonseiffs at	-	-	43,200
74 „ „	-	-	88,800
			<u>284,400</u>
Add for Uncovenanted Deputy Collectors	-	-	201,000
Total	-	-	<u>485,400</u>

10th. We thus have a staff of Covenanted

	Rupees per ann.
Civil Servants, costing -	- 2,172,000
Civil Servants, not Covenanted -	- 485,400
Total -	- <u>2,657,400</u>

11th. In considering the administration of the North-Western Provinces, I will refer first to the Civil and Criminal jurisdiction, and then briefly to the Revenue management.

12th. Our judicial system was imported from Bengal, and rests virtually upon the code of 1793. For the regulations enacted in the beginning of the present century, for the ceded and conquered provinces, are mostly copies from those which had been promulgated at an earlier date in Bengal and Benares.

13th. It is important to bear in mind the fact that the system which wise and able men founded in one country, and in one state of society, has been introduced, with few if any modifications, into another country, and into a different state of society. For I may safely assert that the social and physical condition of the North-Western Provinces in 1856, differs very widely from what was the social and physical condition of Bengal in 1793.

14th. In Bengal sixty years ago, it was rightly considered safer and better to rely upon institutions rather than upon men. Hence, to use the words of an able modern writer, we have a judicial "system which does not depend for its success upon extraordinary individual efforts, but which is susceptible of effective superintendence and development." (Preface to Macpherson's Procedure of the Civil Courts of the East India Company.)

15th. To carry out this "strictly organised and regulated" system, we have an apparatus of highly-paid Judges, whose powers are limited to the administration of civil

justice, the trial of criminal cases at the Sessions, and the hearing of appeals from orders passed by the magistrates in criminal trials.

16th. Under them again are (more or less) 125 native or other uncovenanted judges, the bulk of whom receive a very scanty salary, and who decide civil suits, giving occasional aid to the magistrate in cases of small importance in the criminal department.

17th. The salary of the judge is not much more than that of the magistrate and collector; his duties are of a description less interesting, less stirring, and on the whole more irksome. Though the judge is the superior officer in the district, the magistrate is the more important and influential personage. The magistrate is to the people the direct and powerful representative of the Government, has large patronage, and a wide discretion and power, which the judge may fetter or restrain, but cannot exercise in his own person.

18th. The result of this is, that where the judge, and the collector, and magistrate are both earnest and zealous men, there is a probability of a conflict of opinion, and a possibility of great soreness and discontent on the part of the magistrate when the judge reverses his orders.

19th. To glance hastily at the Revenue system. Here we find that the orders of the highly educated European magistrate and collector in Revenue cases, concerning rent, replevin, or ouster are liable to be revised and reversed in a regular suit before a half-educated native moonsiff, on a salary of 100 rupees per mensem. (The natives are never tired of wondering at anomalies of this sort.)

20th. Again, the magistrate and collector in Police and Revenue matters is subordinate to the Commissioner. Whatever may be the cause, the effect of the relative position of the two officers as at present regulated is not always harmony and order, and in a word, what it ought to be, subordination. It has been the generous custom of

the senior members of the Civil Service to encourage freedom of opinion and discussion amongst the juniors; but this has been carried too far in many instances, and owing to this, and to the divided authority under which they labour, the magistrates and collectors, especially the more earnest men, have sometimes allowed themselves to forget the respect due to their official superiors. That such feelings have not formed the rule instead of the exception, is due to the good feeling and high principle so general in the service.

21st. I feel quite sure that the divided and remote nature of the control exercised by the judge and by the commissioner has a tendency to provoke opposition; and as the native ministerial officers and suitors, with a weakness common to their race, delight in fomenting quarrels, and in widening those breaches of courtesy which may unfortunately find place in official communications, no efforts on their part are wanting if they fancy there is an opportunity for creating or for increasing discussion.

22nd. The result of all this is, that our system of district administration, though in many respects efficient, can hardly be said to work well. There is too much friction in the component parts of the machinery, and too little unity of action. The evil-disposed intriguing part of the native population take advantage of this to set one officer or one system against another. If they cannot prosecute an enemy successfully in the criminal department, they try to harass him in the Civil Courts; if they find a magistrate or collector too active and vigorous, they endeavour to set the judge or the commissioner in opposition to him.

23rd. The idea, so natural to the European mind, that it would be unjust or impolitic for one and the same man to act as District Chief in matters of Revenue, Police, and Civil Justice, never entered into the mind of a native in India. They laugh at the division and consequent fritter-

ing away of power in the Regulation Provinces, and take advantage of the liberal and noble spirit of the Government to impede and restrict the free course of truth and justice.

24th. In a word, the natives of India are not fit, and will not be fit, to judge from the past, for centuries to come, for a Government carried on upon these principles, which suit a people who (like their rulers the British) are capable of self-government.

25th. To give them a Government on those principles is to *retard their progress*, to set the mass of the people against the ruling power, and to benefit sycophants and rogues.

26th. Social progress under the simpler *quasi* Oriental system is far more rapid than under the artificial system of checks which is established in the Regulation Provinces. I boldly assert that in the Jullunder Daob, the Lahore and Jhelum Divisions, and doubtless other parts of the Punjab, a greater progress has been made in five years than has been made in any of the Regulation Provinces in fifty. I know this to be a fact; and a reference to the Criminal Statistics of those Divisions will prove the truth of my assertion.

27th. The people there find themselves under a District Chief who has all legitimate power in his hands. Should he abuse or exceed that power, they have the Commissioner to look to for redress. The public interests of the Commissioner and of the Deputy Commissioner being identical, and the Deputy being unable (if he wished so to do) to resist the will and authority of his principal, the work goes on smoothly, harmoniously, and well. If it does not so go on, it is not the fault of the system, at all events; and my own experience is, that a Deputy Commissioner and Commissioner work together **LIKE ONE MAN**.

28th. My experience, on the other hand, in the Regulation Provinces is, that when an energetic, earnest Magistrate and Collector works in perfect harmony with his

Judge and Commissioner, it is owing to unusual temper and tact on the part of the subordinate, or extreme forbearance on the part of the superior officer.

29th. I therefore consider that, for India, the system introduced by our late Governor-General in the Punjab is the best.

30th. But both Commissioners and Deputy Commissioners in the Punjab are overworked and under-paid; and I therefore give below the scale of pay and the number and designation of officers which I would suggest for the North-Western Provinces,—so far as the District work is concerned.

PROPOSED SCALE OF OFFICERS AND SALARIES FOR
THE NORTH-WESTERN PROVINCES, ON THE PUNJAB
PLAN, MODIFIED AND IMPROVED.

Covenanted Officers.

No.	Offices.	Salaries of per mensem.	of all, per annum.
15	Commissioners - - -	2000	360,000
30	Deputy Commissioners - -	2000	720,000
10	Assistants, 1st grade - -	1000	120,000
20	Ditto, 2nd ditto - - -	700	168,000
40	Ditto, 3rd ditto - - -	400	192,000
115			1,740,000

Then for Uncovenanted Assistants.

No.	Offices.	Salaries of each, per mensem.	Salaries of all, per annum.
10	Extra Uncovenanted Assistants	Rupres. 600	Rupres. 72,000
20	Ditto - - - - -	400	96,000
90	Ditto - - - - -	200	216,000
120			384,000

*Total Expense of District Administration in the
North-West Provinces.*

	Rupees.
As at present - - - - -	2,657,000
Proposed on Punjab System - - - - -	2,124,000
Annual Saving by Punjab System - - - - -	Rs. 53,300

Thus each District would have a Deputy Commissioner with two Assistants, with one Extra Assistant at 600 rs. or 400 rs. per mensem, and three Extra Assistants at 200 rs. per mensem. With this Staff, and with Tehseeldars exercising Judicial and Criminal, as well as Revenue, powers,—the Deputy Commissioner trying, in general, Appeals only (in Civil suits), and educating his first Assistant as a Judge, by giving him the heavy Judicial cases; with one Commissioner over two Deputies, who could not only support these Deputies, but also keep them in perfect order,—the work would be done with *complete despatch and efficiency*, and at a considerable saving.

31st. If the districts were thus managed and the Punjab Arms Act introduced, as it ought to be, across the length and breadth of the land, as well as a simple code of civil procedure, and a modification of the existing criminal law, there would be more order, prosperity, and internal tranquillity in Hindoostan than in any part of the world. At present we are in advance of many European countries and but little behind England in these respects. With the alterations I have sketched we should soon be unrivalled in the world. For the Indian races are amongst the most industrious, commercial, orderly, and contented people in the world, if only kept in order.

32nd. The Asiatic system of a mild despotism suits them, and it is only under a system of paternal or despotic restraint that they will ever become capable of self-improvement and consequently fit for self-government.

33rd. Intelligent, honourable, and industrious English-

men, guided, controlled, or stimulated by the able hands of such men as have been always selected for the post of Lieutenant-Governor or Chief Commissioner in the Upper Provinces will, when free to act as in the Punjab, accomplish wonders and bring unexampled social order and commercial prosperity over the land.

34th. Such men will not waste their lives, abilities, and prospects in India on niggardly salaries such as may suffice for the judge of a county court or a stipendiary magistrate in England. Superior men will not accept inferior emoluments, and we want superior men for this work. A few able men well paid will do more for India than a larger staff of average mediocrity.

35th. The distant threats of cutting down salaries have already, I observe, taken effect; and it is notorious in England that a petty living of 200*l.* or 300*l.* per annum already holds out greater inducements to men of learning and talent than the Civil Service of India. The candidates for examination this year are far too few and only half in number of those of last year, although this year we have peace and last year were plunged in war.

36th. I need not allude to the higher offices of state held by the members of the Sudder Court and Board of Revenue at Agra, as some such machinery of government must be kept up and at the present expense. But with reference to the proposed constitution of the High Court will only express my conviction that it is a mistake, and a very dangerous one, to place natives into appointments where they will have to control European officers.

37th. I would ask whether is more of moral courage, self-reliance, candour, and intellectual light required in the office of a chief-justice or of a general of division?

38th. When natives are found fit to command our armies, brigades, or even regiments, it will be time to place them on the bench of the High Courts.

39th. They have as much physical courage as their

English rulers, are as well fitted for soldiers, but are not fit to command their own countrymen, still less are they qualified by nature or habit to command Englishmen.

40th. If then it be true, as who will doubt, that natives are unfit to command our armies, so are they equally unfitted to rule over councils, or as judges in the courts of appeal to exercise supreme control over our judicial and magisterial officers. Why should an English judge be placed under a Mahometan or Brahmin judge any more than an English colonel be put under a Brahmin general?

41st. Having ventured at some length to place before you my opinion as to the most really economical and effectual mode of district administration in these provinces I proceed to answer the queries proposed in your letter, which after the full explanation of my sentiments here given may be very briefly recorded.

42nd. *First Question.*—Would it be advantageous to introduce grades of salaries in the judicial and revenue departments? How many grades of magistrates, of collectors, of judges, and of commissioners would you have?

Answer.—I have fully answered this question in paragraphs 30 to 31, but I may add here that I think that every district chief should get a salary of 24,000 rupees per annum. If grades are introduced as a matter of economy so much the worse for the country, in my opinion. It is inconvenient to the local government to attach certain salaries to certain very large or difficult districts, because every district has its own peculiar difficulties, and the man who may be invaluable in one comparatively easy district from his local knowledge, may merit as high a salary as another officer who is selected for the charge of a very large and important district. I advocate one rate of salary of 2000 rupees per mensem for every magistrate and collector, deputy-commissioner.

43rd. *Second Question.*—Could we advantageously make further use of native agency by increasing the powers of

deputy-collectors, deputy-magistrates, monlovees, pundits, moonsiffs, and tehseelders?

Answer.—Collectors can at present make over most cases, however difficult or important, to be decided by their Native Deputies. I would not increase the powers of native subordinates, as they have now, when authorised by Government, as much power as the covenanted European Deputy Collector or Joint Magistrate.

44th. *Third Question.*—Would it be advantageous to separate the Police altogether from the Magistracy and to have a Superintendent of Police in each District?

Answer.—I think it would be a step in the wrong direction to separate the Police and the Magistracy. All power in India, to suit the genius and wants of the people and their simple state of civilisation, should be placed in the same hand. The degrees of power only, and not the nature of power, should be strictly limited and defined. This is the secret of successful government in Asia.

45th. *Fourth Question.*—Would it be advisable to increase the powers of magistrates and to give them authority to pass sentence of Seven or Ten Years' Imprisonment, their notes in English, with an abstract of the case, to be forwarded for the information of the Session Judge when the sentence may exceed three years?

Answer.—If the District Chief receive a salary of 24,000 rupees, it is reasonable to suppose that he will be an officer of 10 years' standing. In that case I think it would be an improvement to increase the powers of the Magistrate in the manner here proposed.

46th. *Fifth Question.*—Does your experience tell you that to give a Session's Judge the power to set aside a Magistrate's order is productive of much mischief, and that it would be beneficial to rule that a second opinion should be taken before an order is reversed? If you think a second opinion should be taken, by what measures could a reference be most conveniently provided?

Answer.—I have already, in Paragraphs 17 to 30, shown what I consider the best remedy for the clashing between Judge and Magistrate, and Magistrate and Commissioner. The way to correct this is to give the Judge or Commissioner an identical interest, differing only in *degree* with that of the District Chief. I think that it would be better for Judges to reverse Magistrates' orders as they do now than to complicate the machinery of Government further by requiring a second opinion before a Judge could reverse. If, however, a referee be required the Commissioner should be the man. But I could never recommend so cumbersome a check.

47th. *Sixth Question.*—Could the quantity of business now carried to the Sudder Courts be advantageously diminished by the Establishment of District or Divisional Courts with a European and two Native Judges sitting together for the disposal of certain classes of cases now carried to the Sudder Courts?

Answer.—In taking up appeals from Sudder Ameers or Moonsiffs, I should not object to see two Native Judges employed instead of one. Differences of opinion to be submitted for the orders of the District Judge, whose decision would be final. I should not wish to see a European Judge and two Native Judges on the same bench.

48th. *Seventh Question.*—How could the position of Sale Ameers under regulation 1 of 1839, be improved? Should other agency for the sale of distrained property be provided, or should the power of distraint be altogether withdrawn? Would it be well to transfer the trial of summary suits to Moonsiffs, or to station Deputy Collectors in the Mofussil, with powers to try them?

Answer.—My experience only enables me to suggest, with reference to the last of these queries, that in the North-West Provinces I think it very desirable that the local government should have and exercise the power of investing the Tehseeldars with powers to try summary suits,

subject to appeal to the Collector, who might make such appeals over to his Deputies, covenanted or uncovenanted. I adopted this plan in the Punjab and found it answer very well. In Bengal, where the services of Tehseeldars are not available, I presume it would be a good plan to make summary suits over to the Moonsiffa.

49th. *Eighth Question.*— Might it not be advantageous to increase the powers of Collectors and Commissioners, and to allow no appeals in cases which can be carried into the Civil Courts?

Answer.— The best plan, in my humble opinion, is that which I have sketched in Paragraphs 17 to 30 of this letter. But as it is not very probable that my suggestions will be adopted, I certainly think that it would be an improvement on the existing system if all suits for land and rent were decided entirely by the Collector and Commissioner, and were no longer preferred in the Civil Courts. This would put the agricultural interest, as such, under one set of masters.

50th. In conclusion, I beg to apologise for my own opinions thus hastily put together, by one more remark.

51st. There are, as I have remarked, two systems for Indian Government strangely growing up side by side, and each receiving daily fresh development.

The one, the *legal* or Regulation System, just in theory but unsuited in practice to the wants and genius of Asiatics. This is the system which finds favour with English lawyers, who guide the public mind of England in such questions. And this system, itself faulty, is being patched and perverted by certain pseudo-philanthropists at home who fondly believe that an English gentleman, when once landed in India, forgets the habits, instincts, and religion of his forefathers, and becomes an advocate for injustice, torture, and tyranny. These gentlemen philanthropists over-estimate the native capacity for Civil Government and for Self-Government in proportion

as they undervalue the integrity, ability, and public spirit of their fellow-countrymen in India.

53rd. The other system, combining the Oriental plan, and therefore so far suiting the people, with the virtues of Christianity and so far protecting them, is the Punjab system as introduced by the Marquis of Dalhousie. The object of this scheme of government is to combine all the avowed excellencies of the Revenue System of the North-West provinces, with a sure and simple form of Civil and Criminal Justice.

54th. Officers are as far as possible well selected, well supervised, and freely trusted. They ought to be also better paid than is now the case.

55th. Under Lord Dalhousie's Government and the mixed system of English and Oriental Government, many parts of the Punjab have progressed from anarchy to civilisation at a rate which is incredible to those who have not, as I have, witnessed and examined the marvellous change.

I have the honour to be, Sir,

Your most obedient servant,

(Signed)

CHARLES RAIKES.

Commr. and Supt. of Lahore, and Offg. Judge
of the Sudr. Dy. and Neist. Adwt. N. W. P.
Agra.

Agra : the 4th of October, 1856.

THE END.

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6	2	3	7	2	12	9	195	32,920	1,174,556	500	1.28
3	1	2	10	1	10	7	205	19,440	679,787	428	1.49
3	1	2	1	1	14	1	258	12,238	548,604	245	2.61
2	1	12	1	2	3	3	421	12,836	743,872	247	2.59
								55,361	1,379,788	495	1.29
11	1	9	11	2	8	3	1,442	132,795	4,526,007	378	1.69
3	0	9	9	0	15	3	1,184	51,732	3,087,874	421	1.52
10	1	7	6	1	13	10	646	57,678	1,653,251	657	.97
12	1	15	9	2	3	0	442	34,081	1,143,749	737	.87
1	0	12	6	1	1	6	336	28,329	1,104,315	214	2.98
8	1	15	9	2	2	5	220	35,362	851,757	856	.76
2	1	6	4	1	9	11	516	60,061	1,596,324	732	.87
3	1	0	9	1	6	9	3,347	267,243	9,437,270	478	1.34
1	1	4	1	1	8	2	9,549	1,273,560	30,271,685	420	1.52

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Agra.

Agra : the 4th of October, 1856.

THE END.

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