DISTRICT ADMINISTRATION IN INDIA
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S. S. KHERA

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To the memory of

GOBIND BALLABH PANT

a great administrator who gave me his open
hearted support and guidance throughout a long
association of mutual respect and affection and
encouraged me to write this book
FOREWORD

There is a pressing need in this country for literature on administration, rooted in our own tradition and experience. In several other countries there is a great wealth of such literature, and it continues to grow apace. We in India have learnt to draw upon the writings of authors abroad, and indeed we have come to depend upon these, until almost by force of habit we look elsewhere for direction and for authoritative material on the theory and practice of administration.

Of course this is better than having nothing at all to draw upon. But our people, and our younger administrators particularly, must learn to seek guide-posts to good administration in our own context. For, in administration as in management, the context colours the author’s writing, and thus limits severely the proper extrapolation of experience gained in one conjuncture into another context which all too frequently provides an entirely different set of circumstances. The local parameters of a situation are vitally significant, in administration as in politics; and in field administration they are indeed compulsive.

Writing based upon the Indian context is therefore to be welcomed; and the growth of literature in India on administration needs to be encouraged. This will aid not only the administrators to understand the tasks laid upon them, and to apply themselves more effectively to those tasks, but will also help the citizen in playing his part in full, and even in finding his way through the vast and complex labyrinth of the governmental apparatus. Furthermore it helps to explain and to interpret our ways of transacting public business, to those abroad who have to have increasingly dealings within the Indian setting and yet who perhaps often lack the essential knowledge about the Indian scene.

Mr. Khera describes in this book the administration in the district, which is the basic unit of field administration throughout India. In doing so he has drawn upon his long experience as district magistrate and collector in many districts, as divisional commissioner in charge of groups of districts, and as the head of various departments of government such as Land Reforms, Development, Industries, and Co-operatives. He takes pride in the fact
that out of the thirty-six years of his career in the Indian Civil Service, more than twenty were spent in the field, and were directly concerned with administration in the districts. He has attempted to present a continuous picture, extending over the last two decades of the British regime, and the first fifteen years since Independence.

For all that administration is largely an art, and a great deal depends upon practice as well as upon its practitioner, sound practice must conform to valid principle as well as to basic doctrine. Mr. Khera’s approach to the subject has been to describe, and to illustrate the practice; and to identify the principles by which the practice may be illuminated and indeed tested. He has applied this to the district administration as a whole, as well as to its constituent parts.

Upon the subject of law and order, which he postulates as a central purpose of district administration, he has devoted a special effort to seek out and to establish, albeit in a tentative way, certain basic principles and precepts. This is perhaps a comparatively new venture in the science of field administration concerning that most primary of all functions of a country’s governance, the maintenance of law and order.

The principles of law and order are worth enumerating. They include these: that law and order are inseparable terms; that the maintenance of law and order must command absolute priority; that the rule of law must prevail; that law and order must comprehend the safety of all without any distinction or exception whatsoever; that the maintenance of law and order rests upon the sanction of force; and that the civil authority is supreme.

The principles are followed by maxims, or precepts for guidance in law and order methodology. These concern the establishment and prevalence of valid authority; firmness in essentials; the establishment of limits of tolerance; the risk of error; the location and transfer of responsibility; and finally the prescription that the processes of law and order should be fair and just at every point, and that they should also be seen by the common man to be fair and just.

The author stresses the importance of case histories; but not in the narrow sense of seeking precedents, that great safety device of bureaucracies everywhere. He advocates the study of case
histories of situations that arise in real life, how they develop, how they are dealt with and with what consequences. The purpose is to derive lessons upon which to build sound practice and healthy administration. He gives a number of examples of several such situations, mainly as indicators to guide further study and research.

Mr. Khera deals with the administration in the district, and the governmental apparatus there as an integral whole. He cautions against regarding it as a mere collection of different bits and pieces. This is important, as a warning against a universal failing, namely, the narrow compartmental approach and the departmental attitudes that plague all large-scale organisations. The concept of the integral whole pervades the purposes, the structure, and the methodology of district administration as viewed through the author’s eyes.

The phase change that has come about in our national life and in its political fabric has its counterpart in the administration. For it is to carry out the political, social and economic objectives as prescribed by the Constitution, that the administration as well as the tasks which are laid upon it have their purpose. The administration is to be judged by the measure in which it is able to perform those tasks and to fulfil that purpose. The translation from foreign rule to government for and by the people themselves, of a nation of more than four hundred million people provides a great challenge to the qualities of administrative, no less than political, responsibility and leadership. While the older administrators may provide the benefit of their experience, and of all that is good in the disciplines of the past, Mr. Khera looks to the younger generation to tackle the new tasks. To this end, it is very necessary that the growing generations of administrators should benefit by the basic training in the principles and practice of administration in the field as well as at the headquarters of the state and the central governments. They must also learn the essential disciplines of public administration. These disciplines are rigorous, and not to be acquired for the asking, or easily; training and practice are needed to make these disciplines part of the young administrator’s make-up.

Mr. Khera stresses the place of the common man in all the processes of administration. He declares his deep and abiding faith in the sovereignty of the people, and the supremacy of the Cons-
titution; as well as in the principles of good government and administration as the only way to a stable, peaceful and prosperous way of life for the nation as a whole.

The author refers to the twin features of change and of continuity in the district and its administration. The changes are great, and far-reaching; and many of the tasks committed to the district administration are new. These tasks demand new approaches, newer ways of thinking and of doing things, new skills, and above all new modes of relationship between the government, the administration and the people. Mr. Khera draws attention to the former mutual screening between the political leadership on the one hand and the administrators on the other which was characteristic of the British regime in India. This single feature has provided a whole order of handicaps in the governance and administration of a country so large as this, particularly in field, or district, administration.

I have profited greatly by reading Mr. Khera’s book in typescript. I hope it will have a very large circle of readers who, I feel sure, will learn much that is of value and significance by its perusal.

ZAKIR HUSAIN

New Delhi,
4th October, 1963.
PREFACE

In stating the purpose attempted in writing this book on district administration, it might help if I try and clarify as to what it does not profess to be.

It is not intended to be a comprehensive handbook of practice for administrators; although it is addressed mainly to those who are involved in district administration or have a serious interest in field administration in India. A great part of field administration remains, and much will probably always remain, for each one to explore for himself and even to try out some experiments of his own. This in fact is one of the exhilarations of field administration, and is perhaps difficult for static, secretariat officials to comprehend. Indeed if it were not so, we might as well try and introduce computing machines to deal with field situations. This is not to say that we cannot or need not apply scientific method to district administration. On the contrary it is in the application of scientific method, and the possibilities opened up by cybernetics and the techniques of operational research, that the administrator is presented with new opportunities of experimenting in the field.

Although this book is not intended to be a definitive treatise on district administration, it may perhaps in a limited way provide some signposts to action, and also indicate some areas of experiment and research.

It is also not intended to be a collection of extracts from or reference to existing literature on administration, even in the limited field of district administration. Nor is it the purpose of this book to present an anecdotal narrative of administrative experience. The temptation to do so is real, and increases as the years pass. I have attempted to resist the temptation, and have tried to limit any reference to the incidents which occupied the twenty-five odd years of personal district experience, to the drawing of samples in order to illustrate the text.

The book attempts to describe the administrative complex that goes to make up the district administration, both as to the component parts as well as to the administration as an organic, dynamic whole. It seeks to establish the proper inter-relationships of
the different agencies; including the lines of control and of accountability. It emphasises the unity of the whole administration under our laws and regulations and within the general pattern of the country's governance.

Law and order is a central concern in the treatment of district administration in this study. An attempt is made, somewhat tentatively, to identify and illustrate some fundamental principles involved in law and order. There is a brief description of the agencies responsible for law and order: the police, the magistrates, the courts of law, the military, and the citizen both when embodied in an organised group and also as an individual. Some attention is also given to the methodology of law and order. A few maxims of canons of action are formulated. Some of the kinds of emergent situations that occur from time to time are briefly described, as well as the arrangements to deal with them.

The revenue administration forms the subject of another division in the book; although the treatment is rather summary. The main focus is on land regulation and management, land records and surveys, revenue assessment and collection.

A third main section deals with economic and social development, and the welfare of the community as a concern of district administration. There have been great changes in this sphere over the last fifteen years since Independence. More changes are on the way, and yet more may be foreseen in the future. An attempt is made in this book to distinguish the more abiding principles and the main direction of effort in this area of the functions and responsibilities of the district administration; as well as to describe some of the agencies engaged in these tasks, and the methods employed.

The evolution of district administration is referred to very briefly.

To summarise: this book is intended not so much to provide a handbook of practice for administrators, as to provoke interest and concern in the fundamentals of district administration; nor does it profess to be a definitive treatment of the subject, nor to present an anecdotal narrative of district experience. It is more in the nature of a tentative effort to seek out and to state some of the principles that may govern good administration; to derive from past experience and within the discipline of established fun-
damental principles some indicators of direction and hypotheses for further thought, experiment and research; and thus to contribute a little perhaps towards the advancement of the proper science and practice of administration.

In concluding I may add that, while this book is published with the permission of the Government of India, no one other than myself is responsible for any of the facts, views or opinions stated in the book.

S. S. KHERA

ACKNOWLEDGEMENTS

This book owes so much, to so many people, that it is difficult to single out those who have helped in the writing of it. However, I owe a special debt of gratitude to some of them, which I deem it right to acknowledge by name.

The late Sri Gobind Ballabh Pant, as Chief Minister of Uttar Pradesh and later as Home Minister of the Government of India, encouraged me to write this book. I recall the strength that all drew from this great leader, truly dedicated to the cause of freedom, and to the principles of good government and sound administration. There are many to testify to his great and constant faith in the common man, his steadfast confidence and his strong support in the hour of crisis and after. This book is dedicated to his memory.

Dr. Zakir Husain, Vice-President of India, has been good enough to read the typescript of the book, and has written a foreword.

Mr. S. Banerji of the Indian Administrative Service, formerly Deputy Commissioner of Delhi, and more recently working in the Home Ministry of the Central Government, has helped me in finalising the text. He has made many valuable suggestions, which have been incorporated in the book. I have also received special assistance from Mr. V. Vishvanathan of the Indian Civil Service, Home Secretary to the Government of India; Mr. D. P. Singh, of the Planning Commission, with his experience of and feeling for development work in the field; the many district and state officials and others who have made material available for
use in the writing of the book; the authors of books and reports (some which are listed in the brief bibliography in this book) on which I have drawn; to K. M. Shyamala, Research Officer of the Indian Institute of Public Administration, for help at many points, particularly during the course of lectures on the subject which I delivered at the Institute early in 1963; and to my wife, Mohini, who has brought to bear upon each successive draft of the manuscript a critical and human approach from the point of view of the citizen contemplating often in perplexity and confusion the workings of a vast and overbearing bureaucracy.

I am grateful to the Government of India for permitting me to publish this book.

S. S. Khera
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"... Administration is meant to achieve something, and not to exist in some kind of an ivory tower, following certain rules of procedure and, Narcissus-like, looking on itself with complete satisfaction. The test after all is the human beings and their welfare."

JAWAHARLAL NEHRU
Chapter 1

Introduction

Definitions

The Oxford Concise Dictionary defines a district as a territory marked off for special administrative purposes. This fairly well defines what exactly a district in India is.

To quote the same dictionary, administration is the management of public affairs.

Thus, district administration is the management of public affairs within a territory marked off for the purpose.

We may describe public affairs as those portions or aspects of human activity, individual as well as group activity, which derives from a prescription based in law or other authority, and derived in a line identifiable as running from the activity itself to the ultimate sovereign in the country. This is what to my mind the management of public affairs connotes. It seems to be true, whether we consider a state with a constitutional government and with a written constitution such as the United States or India, or with an unwritten constitution but with a constitutional government nevertheless such as Britain; whether we contemplate a parliamentary democracy such as our own, or a people's democracy of the kind which is represented by the Union of Socialist Soviet Republics; or again whether we consider an absolute monarchy, or a totalitarian government, or any variations or combinations of these. The management of public affairs in all such states and modes of government will be found to conform more or less to the description given above.

It might appear from this that the management of public affairs comprehends, and indeed commands the total life of a community. It does not of course do anything of the sort; although governments have been known to consider that it does, especially totalitarian governments. It commands large, and varying areas of human activity, and as these areas vary, so must the array of matters contained in the scope of administration vary in any particular state. In a completely totalitarian state such as the late
fascist and nazi regimes in Europe practically nothing remained excluded. At the other extreme, in a state of general *laissez faire*, the administrative apparatus may be concerned with comparatively few elements of group or individual activity. In between there are varying degrees of coverage. In this respect, in India we have a situation fairly far removed from both extremes.

For convenience of treatment we may at any time define public administration to include, or to exclude, any particular sphere or portion of the management of public affairs. For instance, some writers confine their treatment to the examination of the executive government of the state; others to the judicial system or the courts of law and the judiciary; others to the legislative processes and institutions, such as the parliament, or state legislatures, or the election processes; still others to the sphere of local self-government, and so on. These subjects, and many others are all parts of public administration. It is largely convenience of treatment in each particular case that predicates the demarcating of an area of public administration for treatment.

As we shall see, district administration in India deals, and must deal with a widely embracing sphere of the total management of public affairs. It is this wide embracing nature of the sphere of district administration which is of particular significance in the study of public administration in India. District administration in this country comprehends a very wide spectrum indeed of public administration.

Having defined a district, and the terms administration and the management of public affairs, we may now attempt to define district administration as a term. Quite simply, district administration is that portion of public administration which functions in the territorial limits of a district. For an understanding of this definition, it is necessary to understand why, and how, the district in India constitutes a unit of administration.

The Constitution of India, which deals with all kinds of territorial delimitations and jurisdictions, makes no mention at all of a district as a unit of administration. There is indeed one reference in the Constitution, in article 233, to the appointment of district judges; but no other mention at all about a district. And none about district administration, or the district magistrate and collector about whom one hears so much as the pivot of all
governmental functions in the district. There are of course references in other laws and statutes such as the Code of Criminal Procedure, the revenue laws and other specific statutes; but not in the Constitution.

Nevertheless, the district in India is in many ways the most important unit of field administration in the country. It is a convenient geographical unit, where there can be concentrated the total apparatus of public administration. It constitutes a convenient unit, not too small and not too large; and it seems to be a convenient mode of organisation. It provides a practical method for the management of public affairs in a country like India. It is in many ways the result of history. It has stood the test of time; and time provides some very severe tests for all forms of organisation, everywhere.

There has been a remarkable continuity of the basic form of the district as a unit of administration. To go as far back as we can, the code of Manu describes the general form of administration. Manu starts with the village. He describes the village as a more or less self-contained republic, a social group in a state of stable economic equilibrium, a political group running its own affairs as a community in a state of balance. Each village had its headman. Roughly every thousand of such villages were grouped together and placed in the charge of an official, while the larger townships had each a special official appointed to supervise their affairs.

This figure of a thousand is significant. It has not varied greatly over the centuries, and the number of villages in the average district today is about the same. The half a million and odd villages of India are today divided into about 320 districts. This gives a flat average of just about 1,400 villages to a district, which is very close indeed to the ancient figure of 1,000 villages to a district. This is the position today; and was so before the country became independent and when the system of district administration as we know it today did not extend over quite large portions of the country covered by the Indian States.

In the time of Akbar, there was a similar demarcation by districts. The district was described as a “sarkar”, a term which is significant. Although it came to be spelt during the British period as “circar”, it really is “sarkar”; and that is what it literally was,
namely, the government in its total manifestation, in a conveniently demarcated geographical unit.

The same pattern prevailed in the British period, particularly in the so-called British India, where the district formed the unit of field administration. And now in independent India we find that the district continues to prevail as the principal unit of field administration.

It is truly a mark of its soundness as a viable unit and as a practical mode for the management of public affairs that the district has continued to subsist through the centuries, under very different circumstances and under entirely different forms of government.

There is nothing sacrosanct about any particular form of organisation, including the present form of district administration. As in the management of private affairs, or in the management of business and industry, many different forms of field administration can be devised within any given set of basic parameters governing social life, the public ethos, the policies of the nation and of the government, the major objectives to be attained, and so on.

Within any given set of parameters governing public administration, it is quite easy and practical to devise quite a number of different forms and patterns of organisation. Hence the opportunity to experiment, as also to test existing forms, with the knowledge and the confidence that they can be changed if need be, without upsetting any basic principles. Any such experimenting must of course be carefully ordered, with due study and research and thought. Mere experimenting for its own sake serves little purpose as a rule, unless the experiment is carefully designed and executed; this applies as much to experimenting with forms of organisation as it does to scientific research.

The experiment and research must be rigorous as to method and discipline. This is all too often forgotten when experimenting with organisation and method in administration and in management. "Let us do this and see what happens" is about the silliest way of experiment or research; unless indeed the experimenter happens to be a genius, in which case it is probably something in his subconscious which may make him think up something new and world-shaking.

To continue our effort to define district administration, for this
INTRODUCTION

is our subject, we may say that district administration is the total functioning of government in a district; that total and complex organisation of the management of public affairs at work, dynamic and not static, in the territory of a geographically demarcated district. That to my mind is what district administration is.

District administration includes all the agencies of government, the individual officials and functionaries, public servants, including a public servant who is a government servant and equally one who is not. For the term public servant includes many who are not government servants as such. It comprehends all institutions for the management of public affairs in the district; all the bodies corporate such as the panchayats of different kinds, the gram sabhas, the nyaya panchayats (which are courts of law), the panchayat samitis, the zila parishads, municipal committees, and local boards of every kind. It includes all advisory bodies associated with the administration, as well as individuals serving in such ways as assessors and jurors in the trial of cases. There may be an advisory committee for instance, to advise the district magistrate in the issuing of arms licences in the district; or an advisory committee for the selection of honorary magistrates, and indeed for many other purposes.

District administration provides the principal points of contact between the citizen and the processes of government. It is truly the cutting edge of the tool of public administration.

District administration does not include private individuals, citizens in their private capacity. (A public servant while acting in his private capacity is not part of the administration. Some public servants tend sometimes to forget when exactly they cease to be public servants, and thus frequently get themselves and others into trouble). It does not also include members of parliament or members of legislative assemblies, or any other representative of any sort whatsoever except only when there is a specific provision under the law for their association. That association as well as the provision under which it is established must be tested against the continuity of that line which has already been mentioned, namely, the continuous line that can be identified to run from the point of actual functioning to the ultimate sovereignty in the country, wherever that sovereignty lies. Anything that cannot be traced back in that continuous line is invalid in terms of
the administration of the district. It may be part of something else; indeed it may even be the most important thing; it may be a revolutionary process, which upsets everything including the existing administration. But it is not part of the administration, and that is what it is important to remember, in dealing with the subject of district administration.

An anecdote that may be related here will help illustrate this point. The police sub-inspector in charge of a police station in a district, reporting on his experience and practice to his district officer said that he was getting on very well and everything was under control. He had achieved this by the simple process of receiving guidance from a local elected representative of the people, who advised him whom to arrest and whom not to. The idea apparently was that since his adviser was the elected representative of the people, he also represented conversely the authority of the government and of the legislature and therefore the police officer concerned was on good grounds in acting upon his advice, or thought he was.

Trivial as it appears to be, this instance illustrates the problem which every public servant must constantly live with, namely, the problem of distinguishing between what forms part of the administration and what does not, between what is a valid and legitimate component of the district administration, and that which merely masquerades as such. This may be comparatively easy in a simple organisation; it can be extremely difficult in a complex organisation like the district administration in India.

It must also be stressed here that what forms part of the administration in one capacity may not form part of the administration in any other capacity. We may illustrate this with another example. It is the duty of a district magistrate to regulate the work of his subordinate magistrates. In so doing, he functions as part of the administration in his capacity as district magistrate. A case comes up in the court of a subordinate magistrate, and the district magistrate sends for him, or perhaps the magistrate (foolishly) goes to him for advice in the particular case. The district magistrate may say “It would be best to convict, and to award a sentence of six months”. In so doing, he and his action are no valid part of the district administration.

For the law prescribes that the magistrate trying the case must
exercise and declare his own judgment in the case; and that judgment can be reviewed or upset in appeal only along the appellate line prescribed by the law, and not by the district magistrate acting in his administrative capacity in apportioning and regulating the work of his subordinate magistrates. Any advice or instructions about the merits of a case pending in the subordinate magistrate's court falls outside any continuous line that can be traced back to the ultimate sovereign authority of the country. It lies outside that line; and also, and consequently, bears no compulsion for accountability. It is therefore invalid and no part of the lawful administration.

*Some General Principles of Administration*

We may consider now some general principles of administration. The recognition of the basic principles is important, as well as adherence to these principles. These principles relate not only, and indeed not so much to the safety and security of the public servant concerned in the administration, but the security and welfare of the citizen, for whose purposes the administration exists. These principles are few in number, and are quite elementary. They apply to the entire field of public administration and to district administration in particular.

We have seen that district administration is a convenient unit and a convenient form of field administration. But the principle behind this should be recognised, namely, that administrative organisation is a matter of convenience and of historical accident and development. The reason for stressing the recognition of this principle is that much of the sufferings and torments of the citizen at the hands of a bureaucracy bound by procedure, red tape and precedent can be traced to a lack of understanding of this basic principle of administration; indeed, not so much to the lack of a desire to observe this principle but a more or less complete ignorance that such a principle exists, or could exist. Many different patterns of organisation can be and are devised for the performance of the same fundamental purposes. I mentioned earlier the relationship of this principle to different forms of government. We may examine it also in relation to different functions of government.
In a random selection of public functions to illustrate this, we may consider the administration set-up for public health, for law and order and one or two other subjects. A cursory survey of the institutional devices adopted for the achievement of common objectives even amongst those countries or states which have basically the same form of government and the same general approach to social problems illustrates the great variety that can exist in respect of organisational form and pattern.

In the case of public health, the objective is obviously much the same in countries like Britain, the United States and India. The fundamental purpose is the same. The technical methods are very largely the same, with similar systems of medicine and of surgery, and similar pharmacopoeia, hospital practices and so on.

Yet the whole organisation and administration of public health in the United States is entirely different from that in Britain. In the U.S.A. public health and medical practice, other than certain preventive programmes, is left largely to private enterprise. In Britain there is a more or less completely socialised system of medical assistance and treatment, with state control of essential drugs and medicines. In India there is a mixed system of public health and medical administration, and administrative policy and practice appear to be still in a state of formation.

Or we may consider something so basic to the citizen's safety as law and order. In the United States, those who have followed the recent troubles in the southern states of the U.S.A. may have gained some acquaintance with the administration of law and order there, and an insight into the problems and how they are dealt with. We have seen recently how, to get one little negro girl into a school, the President of the United States had to call in the federal troops, which went into action to enforce the judgment of the court against segregation in schools in that part of the country. And that was by no means an isolated instance; indeed there have been several such instances there recently.

But it would be a mistake to conclude from these events that the federal troops have to be called out as a rule, to maintain law and order in the U.S.A. In fact law and order prevails, and effectively, as does the rule of law in that country; government exists under a constitution, and is governed by it, and is further controlled or kept in check by a completely independent supreme court.
charged with the duty of upholding that constitution. The executive government there is under equally compulsive mandate, both constitutional and political to uphold the constitution and to execute the court's writ.

In Britain the organisation and arrangements for maintaining law and order are quite different from those in the United States. The local police are employed by the county councils and the borough councils. Over the long centuries when the constitutional form of government was being evolved, there was never a central police force and it was only in the 19th century, during the time of Robert Peel as Prime Minister that the police force was organised at all. (Hence, from the name of Robert Peel, the nickname Bobby which the London policeman bears).

In India again the arrangements for law and order are entirely different. The police system is differently organised, so are the arrangements in the district, from those that prevail in Britain, although the general principles of law and order, and the working methods are much the same. There are also greater degrees of centralised direction and control.

We find similarly striking differences in organisation amongst these three different countries, in the matter of education, revenue, scientific research, to mention only a few items taken at random from the whole list of functions with which the management of public affairs is concerned.

There seems to be no given and comprehensive set of rules according to which an administrative organisation can be devised. The best pattern to suit a particular conjuncture must take into account the circumstances that exist in the particular setting. This does not mean that there are no principles to act as guide posts to organisation, or that one may just go on experimenting with any form or pattern of organisation which may strike the fancy.

There are indeed principles, and quite rigorous and precise principles at that; although these concern method rather than the form of administration. It is through the principles to which method must conform that we may obtain such guide posts as there may be towards devising a suitable organisation in any particular set of circumstances; the principles as to method to that extent affect the form and content of any particular administrative organisation.
What should administrative function and method conform to? They must be contained within four principal parameters; and this conformity provides our second principle of administration.

These four parameters predicate that, firstly, administrative function and method must conform to the basic codes of law of the country; secondly, to the basic social ethic of the nation; thirdly, to the basic policies of the government in office, and, fourthly, to the basic principles of the prevalent form of government.

The basic codes of law with which we are concerned include the Constitution as the Supreme code of the nation's governance. In the context of district administration, the Constitution serves as the legal charter of reference in at least three separate ways. In the first place it enables the lines of authority to be identified, to discover the continuity of the line and of its relationship to the ultimate sovereignty which vests in the people. Secondly, it demarcates the boundaries and jurisdictions, the distribution of functions, and the limitations placed upon each of the principal agencies such as the executive, the judiciary, the legislature, the central government, the states, and so on. It prescribes the checks and balances in the performances of the different functions which are laid upon the executive, the judicial, the legislative and other agencies set up by or under the Constitution. Thirdly, the Constitution provides the final point of reference in regard to the fundamental rights of the citizen. The Constitution thus is of basic importance in the management of public affairs in the district.

The second group of the basic codes of law are the great legal codes of procedure which were most devised about a century ago, soon after the British Crown assumed direct responsibility for the governance of India, in place of the East India Company. These include the Code of Civil Procedure, the Evidence Act, and the Code of Criminal Procedure (which was finally codified about the end of the 19th century).

A third group consists of a vast array of codes of substantive law, of which again some of the most important, including the Indian Penal Code, and the Indian Police Act, were also enacted about a century ago. The list of substantive law codes is too long to be recited here; it includes the laws for the regulation of a great many things, including land tenures, trade and industry, fixa-
tion, vehicles and transport, public health, social conduct, and many others.

The second parameter of the second principle of administration, is the basic social ethic. For our purposes, the basic social ethic to which administrative function and method must conform, may be said to be contained and codified in the Directive Principles of the Constitution. These Directive Principles do not lay down anything really new. Rather do they interpret and give expression to the accepted values of the people, upon whose authority the Constitution itself rests.

The third parameter which is contained in the second principle refers to the basic policies of the government in power. Within the same existing codes of law and within the same social ethic, there can be large differences of policy. Public administration must take notice of changes in policy and conform to them. In Britain, when the Labour government came into power, it nationalised the steel and coal industries, and the whole of the railway and the road transport systems. When however the Conservatives returned to power six years later, the steel industry was de-nationalised; but not the coal industry. It has been a firm plank in the Labour Party's policy for the future, when they next come to power in Britain, to nationalise the steel industry again. This is an example of a basic policy of the government in office being reversed when another party happens to assume office. The administration must conform to the changes.

In India, the basic policies of the Congress Party which is in office, include an industrial policy which is set out in what is known as the Industrial Policy Resolution; the establishment of village self-government known as Panchayati Raj, and the attainment of a socialist pattern of society. The administrative function and method must conform to these policies, as validated by legislative sanction.

The fourth parameter comprises the basic modes of the prevalent form of governance which no government in office for the time being can ignore or escape. Here we refer again to the Constitution, and the prescription therein for the separation of the executive, the legislative and the judicial functions as a basic principle in our particular form of government under the Constitution.
Another basic mode of governance under the Constitution is the principle of ministerial responsibility. This is a particular kind of responsibility, almost exactly similar to that which prevails under the constitutional law and practice in Britain but unlike that, for instance, in the United States of America.

Amongst the special features of it are these: ministerial responsibility is directly to the legislature; it is also borne by a minister both jointly with the council of ministers as a whole, and severally, separately by himself. This latter feature indeed is sometimes not wholly explicable to those not acquainted with constitutional law and practice in Britain and in India.

Incidentally, there is also a pointer here, and in the next feature which I will mention, to prepare us for what is to follow later in this book, when we consider the complex linkages of authority, command, servicing, and accountability which characterise every organisation.

The third feature of ministerial responsibility is its accountability to the legislature; and particularly to the legislature mainly in terms of the continuing confidence of the legislature enjoyed by the minister throughout the period of his office. This results in a surprising variety of situations which may lead to a minister's resignation.

Examples of ministerial responsibility are readily available from history, recent as well as current history, both in Britain as well as in India. For instance, in Britain early in 1963 a minister resigned because of a relatively minor and quite honest error of judgment over the release of an offender on probation; while later in the same year a senior minister resigned in circumstances of considerable public and political excitement, although the specific and precise point upon which he resigned was that he had told an untruth to the House of Commons. In India too we have instances of ministers resigning in a variety of circumstances, in some cases returning to office some time afterwards.

Yet another mode which is basic to the particular form of governance under the Indian Constitution is the division of functions between the centre and the states. There are several others.

These four parameters combine to form the second principle of administrative function and method.

The third principle in public administration is that there must
be a reasonably clear, and clearly visible and sufficiently well-known line of authority and command. This assumes special importance from the citizen’s point of view. The citizen must know to which point he must go to obtain direction, clearance, or redress. He must also know as to the next point, and the one after that, to which he may resort, in case he is disappointed, rebuffed, or merely tormented, or even caught within the trammels of procedure.

Conversely, there must be reasonably clear lines of accountability. Thus if a citizen, being disappointed at point $A$ knows that he must then go to point $B$ in the administration, then the relationship between the two points must be such that not only can $B$ command $A$ but conversely $A$ must be accountable to and made answerable to point $B$. This principle assumes special importance in district administration, which is an extremely complex apparatus in the labyrinths of which it is all too easy for the citizen to get confused and lost.

Fourthly, to make public administration workable, and for that matter for any system of administration workable, the organisation (whether it be simple, or complex, whether it is the district administration, or a ministry of government, or a department) must recognise, and must have the in-built ability to understand the very complex play of authority, the equally complex play of pressures, and possess at the same time the ability to distinguish and the will to apply the distinction between valid authority and illicit influence.

Professor Finer has dealt with the play of pressures in a democracy in his writings. Indeed, a functioning democracy is described as the play of pressures. To enable any administration to work at all, it is necessary to recognise, to understand and to acknowledge the play of pressures, to be able to distinguish between the valid and the illicit, and to have the courage to resist the illicit.

To the official who complains “What can I do? I am put under pressure and I cannot resist it, I cannot say no.” The answer of perhaps a hardened old bureaucrat like me is, “Don’t draw your salary when next it is due. For you will not have earned it, nor the security which as a public servant you enjoy.”

A fifth principle of administration may be stated somewhat loosely as follows: The public administrative organisations con-
tained within the total national administrative complex are not separate isolates. They all intermesh in many ways. It is always tempting for a manager (and it happens more often with a manager in business enterprises, although it does happen also in government organisations) or an official functionary to try and get his jurisdiction defined, de-limited and isolated. It is an elementary mistake and one that is constantly made. It needs to be recognised.

It arises from the failure to understand the principle that the overall administrative complex does not contain mutually separate isolates, but itself consists of and comprises the whole system. The units of administration intermesh. They often intermesh in ways which are difficult for purists in logic to quite understand. Consider for instance the police, the magistrates, the judiciary and the administration of justice. The sequence: the police catches the criminal, the magistrate commits him to trial and the judge tries and sentences him, seems neat and tidy, with each party doing his own separate allotted task, in apparent isolation from one another. But it is never, and can never be quite so simple. The three agencies in this example intermesh; and without this intermeshing they could not function at all, as we shall see when we come to consider the subject of law and order.

Apart from functional intermeshing, there is much interpenetration of different administrative units, through common services. There are all sorts of services which are common: municipal services, and public services of all kinds. There is also very often an actual territorial intermeshing of agencies and jurisdictions. For instance, a railway line runs through a district. Who is responsible for that? If someone is killed in a running train between two districts, what happens? What are the functions of the railway police, and of the district police in such a case, and of the magistrates, or of the railway station masters?

Similarly, formerly more frequently than now, the jurisdiction of a district judge extended over more than one district. A canal system sometimes runs along the line of the canal and the system of jurisdictions amongst the irrigation staffs runs rather differently from that of the other departmental agencies in a district. The executive engineer for irrigation may be in charge of a canal system running through several districts; and there may be more
than one executive engineer located at a district headquarters, each responsible for a separate canal system running through the district.

Apart from all this intermeshing of jurisdictions and functions there is the necessity of inter-communication and co-ordination amongst the different units and agencies of administration. This again assumes particular significance in the complex field of district administration.

Some Essential Ingredients of Administration

There are certain essential ingredients which form part of any administration anywhere. These include firstly, communications, and that comprehends communications of all kinds: internal communications within the organisation, its communication and relationships with other organisations, the lines of communications, the so-called lines of approach, and the methods of communications. Should the executive engineer, when there is a major breach of a canal system, submit his reports, take orders from the collector, or perhaps someone designated by the collector? or should he refer to the Chief Engineer? What happens? Communication in all organisations of any kind whatsoever is an essential and an important ingredient, which cannot be avoided and which must be given attention to in the study of administration, whether it is administration in a district or in any other sphere.

Secondly, an essential element in any administration is delegation—of function, of authority, or resources, with its corollary of accountability. The moment there are two persons involved in the performance of a function, there will be a situation requiring delegation; and as the numbers and groups increase, so does the extent and complexity of delegation.

Thirdly, there must be systems of accountability and of control in any organisation to prevent it from becoming a disorderly mess. There must be in public administration of every kind, specific reference points in law, in rules, in conventions and in accepted practice. And all such reference points to be valid must be capable of being put down in writing.

Fourthly, administration necessarily consists of a system of jurisdictions with their problems of delimitation of overlapping,
and with an intermeshing of relationship at various points. It is an ingredient again which exists in every organisation.

A fifth essential element is the definition of objectives, of targets, and of methods. The clearer the objective is and the more precisely it can be defined, the more effectively can the methods be applied, and certainly the better can the organisation be adjusted in its working towards the achievement of its objectives. And it is for the attainment of some objective or other that an organisation exists at all. Therefore, defined objectives, targets and methods, must be recognised as an essential ingredient of any administration.

Finally, every administrative apparatus consists of human beings; and therefore personnel management is an ingredient of administration which is inescapable and essential, and must be studied in the context of each particular administration and as part of it. Furthermore public administration, if it has any purpose at all, must have aims which can be defined in terms of human beings. Indeed, in any society, in the last analysis the whole existence of public administration is related to human activity. This is sometimes forgotten, in the tangle of rules and procedures.

*Objectives of Administration*

To understand the present system of district administration, a distinction should be made between the purposes and aims of the British administration in India, especially of district administration, and with the purposes and objectives of the administration as we know it today. The purposes of British administration in India included, apart from the maintenance of the imperial power, and indeed as a means to that maintenance, and as ancillary to this, some very specific policies.

Firstly, it was part of the policy of British rule to maintain the *status quo* of personal law and custom, apart from such extreme things like *sati* and *thuggee*, which were sought to be stamped out. The maintenance of the *status quo* with regard to personal law and custom provided a sort of an equilibrium of social forces—at least that was what—was intended. (But, whatever the British did in India, in their own country they were committed to the rule of law and had an established method of deriving their
law from decided cases). As a result of this two consequences happened in India. Firstly, earlier cases tended to be decided upon ancient and unchangeable custom; secondly those decisions tended to compel further decision and practice, with the result that the social system tended to be petrified into its old forms and practices. This well suited, of course, the conservative elements who in turn constituted the mainstay of the imperial power. There we have an example of the relationship of objective and method.

Secondly, there was what has been described by Jawaharlal Nehru as the method of "balance and counterpoise". The British have always been great believers in the balance of things; this has inevitably, and almost invariably led them to the principle of partition, of balance of power, both in Europe and elsewhere.

It is an ancient policy; and it has been injected into their activities and administrations outside their own country. Within their own country it has been quite different, and indeed it would not be possible within Britain, when we consider the constitutional history of that country through the centuries since Magna Carta. The partition of Ireland was not truly part of that history; for Ireland was a colony.

Thirdly, there was a clear, conscious and sustained resistance to the challenge of nationalism. It was quite clear, it was continuous and it was determined; and it resulted inevitably in the repressive laws backed up by the police and the army, and, indeed, the whole apparatus of the administration.

Fourthly, divide et impera—divide and rule, about which a good deal has been written. It was a clear policy, and diligently and cleverly practised at all levels of administration. I remember well, in district after district, where if you had, say, six deputy collectors, the policy was always to have three members of one community and three of another. It was applied to other services as well, especially to the police. The effort was clearly to keep the people divided. This was reflected in the administration, in the political sphere and in the legislative sphere. We know only too well the methods adopted to give communal representation in the legislatures, and the manner in which the elections were regulated for representation by communities.

Fifthly, there was a clear and deliberate purpose to maintain, to create in fact and not merely to maintain, vested interests inti-
mately bound up with the British rule. The Indian Civil Service was one such. The States, the so-called Indian States, were another. These were firstly reduced from their theoretical status of equality-by-treaty-right with the British government to subordinate princedoms, and they were sustained as subordinate princely states. And if one looks at the map before Independence, one sees how significant was the geographical intermeshing of these subordinate States. In many cases large military establishments were based in them. There was quite a number of these: Neemuch, Secunderabad, Mhow, and so on. Then again they encouraged, and where necessary created, zamindaris. In Oudh, in what is now Uttar Pradesh, the taluqdaris were known as the barons of Oudh; and within their territories they exercised extensive powers over the people. They stood, and were often admiringly referred to as the pillars of the British raj in the then United Provinces—as they undoubtedly were.

Now of course, with Independence, the major objective (and we need not here go into all the array of our national and social and economic objectives), has become something entirely different.

Whereas the previous objective of the district administration was to sustain and maintain the imperial power as the first purpose, now the first purpose is the maintenance of the people's government. The people constitute the real sovereign in our land. Although people speak of parliamentary sovereignty in India, it is not the parliament which is the final sovereign: It is the people that are the ultimate sovereign; and the Constitution is their instrument, their deed of trust.

The Constitution says: "We, The People of India, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity of the Nation; IN OUR CONSTITUENT ASSEMBLY this 26th day of November 1949 do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

It is this instrument that creates, and gives validity to, the dif-
ferent organs and agencies for the country’s governance.

As in England before, and so here now, the people’s government is the government and the only government. It is the first function of any administration, and the district administration in particular, to maintain, to uphold and to sustain it.

Truly, this demonstrates a major and indeed a basic change. It is a phase change in the administrative purpose of our country. It is because district administration has since 1947 stood the test of this great phase change, that leads one to the conclusion that this particular form of field administration is likely to continue as being practical, viable and valid.

I have just mentioned the people as the ultimate sovereign, the creator of the trust of governance. It is significant, to contemplate an occasion when the people take upon themselves, directly, the truly effective governance of the country, by prescribing the parameters and limitations within which any government, any legislature, any other administrative entity, indeed the whole apparatus set up by the Constitution, must act.

I refer, of course, to the national emergency that came about through the Chinese invasion at the end of 1962. The people did not merely indulge in a national upsurge of emotion. It went much deeper and further than that. The people, who had given themselves this Constitution, whose creatures the executive government and parliament equally are, demonstrated a remarkable, and even an unpredictable measure of a determination to the effect that, not the country just in a vague way, but the government, the parliament, the administration must perform upon a mandate that India shall be secure from foreign aggression and that it shall be demonstrated to the people that India will be so kept secure. No government, no parliament, if I may predict the future in this country, can stand at all in the coming years unless it can also stand and demonstrate its determination and its ability to resist aggression and to keep the country secure against assault upon its territories.

This may appear to be a political judgment; but it is not. It attempts rather to interpret the legal situation in which the administration functions. Ultimately it is the people, as a political whole, that create the organs of government, and invest them with such authority as may be prescribed, and for the purposes
for which those organs, and the whole apparatus is set up at all.

For the administration to function at all, in particular for the purposeful functioning of the district administration, which has its being and operates amongst the people directly, it seems an essential need for every administrator, functionary, and agency to understand and abide by the position and the relationship codified in the Constitution.
CHAPTER 2

PURPOSE OF DISTRICT ADMINISTRATION

I have defined, or rather described, what is comprehended in the term district administration, as the total management of public affairs within the territorial limits of a district. We may now proceed to examine briefly the array of such public affairs within the ambit of district administration.

What are these public affairs? They are many and varied. But whatever they may be, and howsoever varied, they must conform to the principles, the parameters that govern public administration in India.

They must abide by the rule of law. No function can be undertaken by the district administration which is not covered by the laws of the land. That seems a fairly simple thing to say. It is not as simple as it sounds. One of the principles which we have to conform to in this country is the rule of law.

They have to conform to the provisions for the fundamental rights of the citizen as set out in the Constitution. Therefore, anything that is or tends to be contrary to these has no place in public administration in India, and in the administration of a district. It is not a legitimate function. For instance, we have a rule that every citizen is entitled to be protected. In some modern and so-called civilized societies, we have the very recent experience where this particular rule did not apply; and therefore the public administration in those states had to conform to the absence, to the want of, these protections before the law.

The outstanding and extreme example is, of course, the deprivation of the fundamental right of safety and protection for citizens of Jewish race or extraction in Nazi Germany. The elimination of this one simple provision in the laws of that country, and as a part of the policy of the government (in the last chapter I stressed the close relationship of the administrative apparatus with the policies of the government in power), the policy that the Jews should be deprived of their civic rights, then of their property and finally of their lives, led to great holocausts, the highly efficiently organised mass killings which we now only read about,

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and of which the Eichmann trial is a more recent reminder.

The functions of the district administration in India may be grouped, albeit somewhat loosely, into a number of fairly broad categories. We will find that the matters contained in each category overlap and even intermesh, and indeed so also do some of the categories themselves. Therefore, the classification which we may set out for ourselves should not have more read into it than that it is a convenient method of finding our way through a seeming jumble of activities. The citizen, that is you and I, as well as our less fortunate fellow citizens, has been mostly unversed in the intricacies of establishment and procedure, and is frequently ignorant and unread. He finds himself confused, lost in the midst of entities and the hordes of officials with whom he is compelled to deal. Mark the term: compelled to deal.

He requires a number of essential commodities, which because of the fact that they are essential, are controlled or regulated in different ways. Or he may seek information, or obtain a service, such as services relating to transport and communications. In his search for any one of these things he may get lost and confused in the administrative labyrinth. He often does not know where to go, nor what to do. The citizen finds himself in the maze and jumble arising out of bureaucratic proliferation which is so universal a characteristic of modern public administration everywhere. It is by no means peculiar to India alone.

So, even only as a convenient method of finding our way through a seeming jumble of activities and agencies, even as a classification of convenience, to ease our path through the intricacies of district administration, we may distinguish some of the broad groups of functions.

The first group necessarily concerns the public safety, the protection of the citizen and of all his rights. It includes the maintenance of law and order and the administration of criminal and civil justice.

A second group, for convenience again, may be called the revenue and excise group. Revenue and excise go together, and are concerned with the assessment and collection of taxes and duties of different kinds.

Revenue includes quite a number of items. It includes land revenue, irrigation dues, income-tax, agricultural income-tax where
it is levied, sales tax, stamps, court fees, excise duties of various kinds, entertainment taxes, taxes on motor vehicles and others. For convenience of arrangement we may include in it also, although it does not strictly fall into it, the recovery of loans which are advanced to cultivators under two Acts which are popularly known as Act XII and Act XIX. Act XII provides for loans for repetitive investment in the farmer’s occupation, such as the purchase of seed, while Act XIX provides for larger sums repayable over a longer term or for more permanent improvements, such as preparing a masonry well, putting in a tubewell, buying a tractor, and the like.

Under excise, we may consider the district of Delhi as an example. The Delhi administration report says that in the year 1961-62 excise included the control, regulation and deriving of revenue from liquor, drugs and poisons.

Let us take a little closer look at the liquor and the drugs. The district administration obtained a revenue of 27 lakhs of rupees that year by auctioning country liquor shops. There are two such shops in Delhi. Thus someone on the staff of the district stood and publicly auctioned, two country liquor shops for a total revenue of Rs. 27 lakhs. Additionally, the excise duty on country liquor, the liquor sold in those two shops, produced Rs. 50,70,000, over half a crore of rupees. Besides this, foreign liquor provided an excise revenue of very nearly Rs. 59 lakhs, well over half a crore of rupees.

When we come to drugs, we find that there are a number of bhang shops. The Delhi administration in the same year sold by tender for Rs. 1¼ lakhs the right to sell bhang.

(I am dwelling on this in some detail here, to illustrate the internal variety of a district administration, and as forming part of a pattern which tends to repeat itself over the country).

Those who are very young have probably never smelt opium and probably never will. Probably they may not even know that opium is sold at all in this country. The Delhi administration report says that opium was in fact issued in 1961-62 to opium addicts during the year, although on a decreasing scale and of course only on medical certificate. In the old days, opium was sold as a government business enterprise. It was grown, manufactured and sold as a government monopoly, and I remember when I was in
a district, opium used to be kept in the treasury along with the currency. Even today, we export quantities of opium abroad, for pharmaceutical and other uses.

In the same group of revenue and excise we might also include the government treasury. The treasury officer works under the control of the district officer, and forms part of the district administration. He is in charge of the treasury. The treasury in the smaller districts often consists of two parts: what is known as the double lock and the single lock, constituting the first part; and what is known as the currency chest, the second part. Where there is a branch of the State Bank, the Bank keeps the currency in its strong room, besides performing much of the treasury function, in recurring and paying out monies on government account.

Then we come to land reforms, land acquisition, land management, land records, and including also the programmes of consolidation of agricultural holdings, as well as the management of estates under the Court of Wards.

Another group consists of agriculture (which is the major industry in the average district, and certainly the largest single industry in practically every district), irrigation, and industries. These form part of the economic group of administrative functions.

Then we have a whole group, which we may term generally the welfare and development functions, some of them economic also. These include community development, with which we are familiar, co-operatives, public health, education, social welfare, panchayati raj and others.

Food and civil supplies stand in a category by themselves. This is the area of control mechanisms which have come into being more over the last twenty years or so than in any previous period. At one time not so long ago, over the period of the second world war, practically everything essential was controlled and rationed. Now it is much less so.

Nevertheless, there is a great deal of control and regulation in the supply of essential commodities. Coal and steel are fully controlled; other controls cover cement, foodgrains, oil, imported materials and goods. Sometimes the control is informal, but none the less real for that.

For civil supplies, whether there is a control in existence or not, it is a function of the district administration to ensure within
reasonable limits that the flow of civil supplies of essential commodities for the people of the district is maintained.

Then we have a group which I may term calamities. The district administration has, as one of its duties laid upon it the duty of dealing with calamities.

Calamities can be of many kinds. Literally anything can happen. Things may go on smoothly, and you will think there is no great prospect or danger of anything going wrong. And suddenly there may be a flood. The nature of calamities other than drought is that they tend to happen rather suddenly. Secondly, they tend to catch people unprepared, the people who are the victims of it: an earthquake, for example, or a fire which may devastate a whole village, particularly when the crops have been harvested and collected in one place on the threshing floors. There is a season which in some parts is called the fire season, because the climate (of northern India for instance) is such that about the months of April and May the weather gets increasingly hot. It also gets increasingly dry and windy. The crops are harvested, the main crops of the year, and they are put together on the village threshing floors, known as khalyans. Then suddenly by accident, mostly by accident, but occasionally even known to happen through arson, a spark may set off a disastrous fire.

Therefore, a wise district officer in those parts round about the month of March begins to look around and caution his revenue staffs to look out for fires, and if a fire does occur, to give very quick relief. For, in many ways, that is the point of time in the year when the cultivator is least able to face such a calamity. He has put everything into the cultivation of his crops and to the bringing in of his harvest. That is the whole reward, of his work and investment, the harvest; and if that goes up in flames, then it is very much the business of the district administration to deal with the situation quickly and effectively.

The district administration is concerned with the running of all elections to parliament, to the state legislatures and to the local bodies. There is usually a district election officer. The Collector of the district is responsible for the proper conduct of the election process, with the help of staffs which he very often draws from all the other departments in the district. Usually at election time a notice from government goes out to all the departments
just before the election asking them to spare as many officials as may be needed, to act as polling officers or returning officers or in other ways to participate in the conduct of the elections.

The next group with which the district administration is concerned is local self-government. That is a rather general term. It includes institutions like municipal committees, municipal boards, district boards of the old type, and more recently the zila parishads and panchayats. All these are organs of local self-government. Incidentally, the proper test of the term self-government seems to me to be that function and power and responsibility are distributed and delimited by statute and are not merely delegated.

Finally, the district administration exercises the undefined executive functions of government. That is a residuary term. In dealing with the distribution of powers, the Constitution prescribes that the executive function or the executive power shall vest in such and such a way: the President, the Council of Ministers, and so on. But the Constitution does not comprehensively define the executive function. What does it mean?

I would define the executive function of government as that compendium of the management of public affairs in accordance with the Constitution, in accordance with the laws, in accordance with the policies of Government, that residuary compendium of public affairs not specifically provided for by particular provision of law.

The Constitution provides specifically for the judiciary. It provides specifically for the legislative process. It provides for things like the audit of the public accounts. It provides for the process and the apparatus by which public servants are to be appointed, through the Public Service Commissions. It also prescribes and invests with authority the apparatus for the election process itself. And there are others.

But what is not included specifically does, after making as long a list as one may in respect of public administration, still leave some things which must be included so as to complete the entity, the total national, social, economic, political entity. Those things must be looked after, by the executive. The district administration is very much concerned with such residuary functions of the executive.

In the last resort a good district officer, for that matter a good
officer anywhere but particularly a good district officer, will not hesitate to take complete charge of a situation on behalf of the government, indeed as if he were the government, exercising the full executive authority under the sanction of the Constitution. This capacity to assume and exercise the executive authority of government becomes vitally important in periods of crisis endangering the life and security of the community.

The list recited above demonstrates in some measure the sheer variety of functions, the spread of responsibility and authority of the district administration. Not all the functions have been described, for we must draw a line somewhere. And each one of the functions listed contains quite a number of sub-functions. For instance, the maintenance of law and order, and the administration of criminal and civil justice, which we have put in a couple of lines, covers a very large organisational content in the district, as we shall see when we come to deal with it even in some detail.

What does district administration not include? The district administration does not normally include responsibility for the functioning of the railways, or the posts and telegraphs; or for the military armed forces which may be physically located in the district; nor the airways, the geological surveys, the activities for instance of the oil exploration organisation of the central government. These are some of the things which are excluded.

Nevertheless, even these all come within the territorial jurisdiction of the district administration for various purposes. For instance, in the matter of law and order, the responsibility vests squarely in the district administration: if there is a murder on the railway, or a fight or a defalcation in a post office, or a robbery in a military cantonment, the jurisdiction of the district administration covers it immediately. The officer commanding the cantonment cannot say: “Stay out, this is within military jurisdiction”. I have known some who have tried to take this attitude, and who had to learn the law afresh. In the same way, if there is a railway accident, within the territorial limits of a district, the district administration is immediately concerned, and is responsible for seeing that all that can be done is done to provide relief, and that the investigation is duly and properly made, that the evidence is fairly produced and presented, and so on.
Thus even those activities and functions of government which do not strictly come either in the main list or in the residuary list of the functions of district administration come nevertheless in many ways within the ambit of the district administration, within the territorial jurisdiction of which they themselves function.
Chapter 3

The Component Parts

We may proceed now from what has really been a listing of functions to be somewhat more specific as to what goes into the making of a district administration. What does it consist of? What are its component parts?

Firstly, in a general way, and to introduce this part of the study, let us mark one feature that is usually characteristic of district administration in India.

The general structure of the administration in the district is in a series of tiers, usually three, sometimes four tiers. There will be one level which comprehends the whole district within its jurisdiction. It may be the collector, the district magistrate, or the superintendent of police or the district agricultural officer; it may be the chairman of the zila parishad, or the district education officer, or the health officer, and so on. Some functionary tends to contain the district as a whole within his particular functional jurisdiction.

Secondly, and mainly because of the size of a district (and we have seen the average size of a district), there is usually an intermediate territorial level. Sometimes there are two intermediate levels in the larger districts. The intermediate level can be the tahsil, or a sub-division, or a block, or a panchayat samiti, a circle inspector of agriculture, and so on.

Then at the ground level, in the so-called lowest level, the village provides a convenient territorial jurisdiction. Here we have the village panchayat, the nyaya panchayat, the village headman, the village chaukidar, the village patwari—each an important element in the administration of the district.

For example, in Madras we have as tiers of the revenue administration, a collector; then a taluk with a tahsildar; and then we have a sub-taluk, because the districts there are large, in charge of an independent deputy tahsildar; and, finally, there is the village, with the village headman, or the karnam. In the same state, as component parts of the development administration, there is the district development council at the district level, with the collector as the chairman. (I do not like that pattern very much,
with the collector as chairman; though experience may prove it to be successful). Then you have the block level, the panchayat union council and, at the village level, the village panchayat.

Let us take one more random sample of a state. Take the Punjab, at the other end of the country. For revenue functions at the district level we have the collector; at the tahsil there is the tahsildar; at the village level a patwari. For development, at the district level you have the zila parishad, at the block level the panchayat samiti and at the village level the village panchayat.

So one observes a certain common pattern of departmental and functional jurisdictions, normally at three and sometimes at four levels of the district administration. This general pattern should be kept in mind throughout, for it tends to repeat itself.

*Law and Order*

Let us now look at the law and order component of the administration. The component parts of the district administration that are concerned with law and order consist of the magistracy, a magistracy which is provided for in detail in the Criminal Procedure Code. That is the code of law which gives form to and provides sanction for the setting up of the system of magistrates of different kinds: a district magistrate, a sub-divisional magistrate, a judicial officer (a new term, not in the Criminal Procedure Code) who really does magisterial cases, magistrates of the first class, magistrates of the second class, magistrates of the third class, benches of magistrates, honorary magistrates. There is a whole array of different magistrates.

Then there is the judiciary. The Constitution, and the Codes of Criminal and of Civil Procedure provide for the judiciary. It starts at the top with the Supreme Court of India. Each state has a High Court. Below the High Court is the district judge; and we may recall that we found the term district judge mentioned in the Constitution as the only reference to the term district as such. The district judge has below him judges of different categories: such as subordinate judges, small cause court judges, sessions judges.

The judiciary deals with civil cases, and with criminal cases of the more serious kinds. A sessions judge deals with cases committed to the sessions in accordance with the Criminal Proce-
dure Code. These are the more serious offences, mainly under the Indian Penal Code. The judges also hear appeals from the magistracy, including the district magistrate. For all his standing and power and seeming glamour, a verdict or judgment by the district magistrate is in most cases appealable to the district judge. There we have the supremacy of the law. And that has been so from the old days. It is nothing new; and district administration is none the worse for it.

The magistracy acts in many ways as the agency of the judiciary. The execution of writs of the civil and criminal courts, including criminal writ from courts outside the district, is normally done through the magisterial element of the district administration. If the High Court having heard a criminal appeal confirms a sentence of imprisonment and the accused person is on bail, he is ordered to surrender to his bail; it is not the High Court itself that sends somebody out to arrest him. That writ goes to the district magistrate, who sets in motion the process for the apprehension of the convict and for depositing him in jail.

The third element is the police. The police consists of a whole hierarchy of officials, from an Inspector-General of Police in a State, a Deputy Inspector-General of a range, which often is spread over one or two administrative divisions, about eight to ten districts in all; to a superintendent of police for the district (in a district with a large city there may be a senior superintendent of police, or several superintendents of police. For instance, in Delhi there are four superintendents).

The superintendent of police is responsible for the police force of the district and for the performance of all the police functions including the prevention and detection of crimes and the prosecution of offenders. He has circle inspectors at the intermediate level, station officers in charge of police stations, and sub-inspectors. In the main, the district police below the sub-inspectors carry no firearms. But usually some armed police are attached to important police circles or stations. Also, there is a fairly strong body of armed police in reserve at district headquarters. These provide the armed guards for prisoners under trial or otherwise, and for other purposes. Then there is usually a police officer who looks after prosecutions in court, briefing also, in the more serious cases, a civil government pleader.
Then in the village we have the village chaukidar. In the state in which I served, the village chaukidar was appointed under a special statute and came under the disciplinary control not of the superintendent of police but under the district magistrate, unlike the other members of the district police force. In the same state, the village chaukidar was frequently a member of the pasi caste. It is a somewhat odd circumstance, but familiar and perfectly understood by anyone who formed part of the village community or who was concerned with the administration in the village, that the pasis constituted one of the so-called criminal tribes, the members of which were liable to be put under special restraints, by provision of a law called the Criminal Tribes Act. Colloquially, the village chaukidar was often called the village pasi; and be made an excellent chaukidar, or village watchman as a rule.

More recently, by an Act of the Central Legislature of 1949, provision has been made for a centrally established and centrally administered police force.

The police functions and the magisterial function intermesh, and are also otherwise closely related at several points in the most intimate way.

The district magistrate is responsible for the criminal administration of the district. For this purpose, he is also responsible for the police administration in the district. Section 4 of the Police Act enjoins: "The administration of the police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent of Police". The police regulations in most if not all the states provide specifically that the district magistrate is the head of the criminal administration of the district and the police force is provided to him by law to enforce his authority. Thus, while the internal departmental control of the police force as such vests in the superintendent of police, the deployment and use of the police force in the district is subject to the overall control and direction of the district magistrate.

The annual police administration report prepared by the Superintendent of police is submitted through the district officer. The latter goes through it, and makes his comments and his recommendations concerning the matters contained in the report and covering the whole of the police force and its activities in the
district, as well as recommendations for the prevention and detection of offences and for the prosecution of offenders.

The actual internal administration of the police force, including discipline, as well as what may be termed internal house-keeping activities, and the training and deployment of the force is largely the responsibility of the superintendent of police, discharged through his own departmental line. In many ways, and in many circumstances, the operational control of the police force comes under the charge of the district magistrate. This becomes evident particularly when there is rioting or widespread disorder.

That is one way in which the magisterial and police functions intermesh. Another example is provided by the fact that whenever a magistrate, however junior he may be, is present, he assumes charge of the situation and the police must act under his orders. It is he who must give the order to fire or to use force; unless of course the situation is such that he is unable to do so.

These are merely two of many ways in which the magistracy and the police are closely linked together in their functioning.

There is one element of police function which may be mentioned here, and merely mentioned. This is intelligence. An official of the district police force is usually designated, whose duty it is to carry on what is known as criminal intelligence work.

The whole problem of the intelligence activities of the police is an extremely difficult one and, in the nature of the function itself, must be shrouded in complete secrecy. During the British regime (and this may come as a surprise to some) the policy so far as one could understand it was that the intelligence activity of the police must itself be kept under extremely close and careful supervision and check. An efficient district magistrate would make it his business to keep in close personal touch with this part of the police work.

A brief comment may be made here on the element of secrecy and the basic problems which the need for secrecy gives rise to.

Secrecy is necessary in many of the processes of public administration. The more secret a process, and the larger the administrative field covered with such secrecy, the more necessary it becomes to keep close and effective control of the process.

This is particularly true of what are termed intelligence activities. The fascist regime in Italy and the nazi regime of Hitler in
Germany provide extreme examples of secret processes in administration. In each case the process culminated in the total denial of the fundamental rights of the citizen. On the evidence which has been revealed recently, a somewhat similar situation appears to have progressively characterised the rule of Stalin in Soviet Russia.

To come to the present day, we may refer to a book, *Freedom of the Mind* which has been published towards the end of 1962. The book is by Justice Douglas, a judge of the Supreme Court of the United States. He speaks about the secrecy surrounding what is known as the Central Intelligence Agency of the United States of America. He says: "This agency has been more responsible than any other United States agency for foreign policy in the Middle East and elsewhere. Its movements are not known. The manner in which it intercedes in foreign relations, with its money, is never reported. The reasons why it supports feudal regimes, the results of its policies, the dangers that it generates, are not known even to many of the informed press."

Let us emphasize here that Justice Douglas is speaking not of a regime like Hitler’s Germany or Stalin’s Russia or Mussolini’s Italy. He is speaking of the United States of America, a country with a democratic Constitution, where there is a system of government in which actual practice observes and upholds the rule of Law, and where the citizen, without any distinction whatsoever, can resort to the processes of law in courts whose writ is readily executed by the executive government.

Justice Douglas’s book serves as a caution against any complacency about secret agencies in public administration. Such agencies have in the past in different parts of the world tended to display a number of characteristics. Firstly they tend to extend the sphere of their activities. The very secrecy in which they work makes such extension effective and unknown. Secondly, they tend to increase their own power and authority, to increase their sway. Here again their secret nature helps these agencies to do so. Thirdly, they may provide conditions in which the agency itself, or whoever gains control of it, becomes the judge of what is in the public interest; and, in doing the public good, to put their own interpretations and to take their own secret decisions as to what should or should not be done to that end.
With the best intentions in the world, interpretations as to what is for the public good and what is not are liable to error. Where such interpretations, and decisions based upon it are openly arrived at, and more so where there is opportunity for explanation to be demanded and given as in the parliamentary process, there is an inbuilt restraint as well as provision for correction. Where, however, the process is secret, and the agency is secret, then the extension of activity, the increase of power, the tendency to interpret the public interest, as well as the risk of error which inheres in any exercise of judgment, may of themselves tend to conceal incipient mischief against the public interest.

It is a sound principle of public administration, therefore, that agencies which by the very nature of their work must be secret or must work secretly, must be kept under the immediate, direct and strict supervision and control of a non-secret part of the governmental apparatus.

This indeed is the principle to which practice in India conforms. It applies in district administration, to emphasize the rule of the district officer and of the magistrates, in keeping themselves informed of the intelligence function and of ensuring that it works properly and efficiently.

Another element in the law and order component of the district administration which may be mentioned here is the jail. The district may contain one of the several central jails in the state, where the comparatively long-term convicts are kept. There is also in every district a district jail, which is used for keeping people convicted of various offences, as well as prisoners under trial. The district jail often has arrangements for the execution of prisoners condemned to death by a court of law. The only method of civil execution under the law in India is by hanging.

The jail is under the general control of the district magistrate. It was the practice formerly for the Civil Surgeon of the district also to be the superintendent of the jail. But the present practice is for an officer of the jails service to be in charge, with an inspector-general of prisons for the state. (Here again it may be noted in passing that formerly the practice was for an officer of the Indian Medical Service to be the inspector-general of prisons).

The district jail forms part of the district administration, and as we have seen, comes within the general responsibility of the
district magistrate. It is worth mentioning that a member of the police force cannot enter the jail or make any contact with a convict or a prisoner under trial, without the specific authority of a magistrate. A policeman cannot enter the jail except by special written permission of a magistrate. Such occasions are rare, and permission is given only when it is demonstrably necessary, such as the need to question a prisoner in the investigation of a crime.

We may also note that when a condemned prisoner is executed, a magistrate must be present, and must sign the necessary certificate that the execution has been carried out. The execution itself cannot be carried out until the magistrate has satisfied himself that the death warrant is in order. It is his personal duty to examine the death warrant and to read it over to the condemned prisoner. He must satisfy himself that there has been no error, no slip anywhere before a man’s life is taken. A case has indeed been known to happen (I believe it was in Lahore in the old days), where through a rare mishap along the line of communication, a condemned prisoner was hanged, in spite of a reprieve or a postponement which had been ordered. It is only meticulous and personal attention to the procedure that can guarantee against an accident of that kind.

It is the function and responsibility of magistrates on the district staff, by visiting the jail from time to time, to see that all is well in the jail. The usual method for ensuring this is for a magistrate to visit the jail, to count all the prisoners in the different wards, to give every prisoner an opportunity of speaking if he so wishes; to examine the record of discipline; to check the security arrangements; to examine the jail ticket of every under-trial prisoner to satisfy himself that there is no undue delay, nor too many remands in the disposal of the prisoner’s case; to examine the food and the kitchens where it is cooked; and to pay special attention to the cases of any juvenile offenders who may be detained. These are some of the matters which must be looked into.

There is also a system of unofficial jail visitors; and considerable scope exists for good work by anyone who may be truly interested in penal reform and in the rehabilitation and reform of the unfortunates who have had to spend time in jail.

We may now examine briefly one other aspect of the law and
order component of the district administration. This concerns the interrelation of the judiciary and the magistrates, and the problem of the separation of the judiciary from the executive. We may have occasion to refer to this again; but here we may briefly examine the present position.

One of the Directive Principles of State Policy, as prescribed in Article 50 of the Constitution, is the separation of the judiciary from the executive. Although the whole of the judicial function lies within a pyramid with the Supreme Court of India at its apex, and may be described as a unitary judicial system, it has been left primarily to each state to take action towards the separation of the judiciary from the executive. There is concurrent jurisdiction of the centre and of the states in this matter; and the central government has from time to time obtained the progress reports from the states, to see how far the separation has been achieved.

In seven states of the Indian Union, there is fairly complete separation of the judiciary from the executive; while in seven of the remaining states various stages have been reached in the implementation of the policy. For example, in Uttar Pradesh the scheme for the separation of the judiciary is in operation in 47 districts, thus covering the whole state except the districts of the Kumaon and the Uttarkhand divisions. In the state of Rajasthan, partial separation has been effected by investing 45 out of 71 munsif judges with magisterial powers. (In fact there is nothing very new in this, for it was usual in the former days occasionally to invest a munsif with magisterial powers under the Criminal Procedure Code). In the Punjab, a modified system of separation has been tried in five districts; the intention appears to be that a decision regarding the other nine districts of the state will be taken in the light of the experience gained in the individual districts where it is being tried out. In Orissa the judiciary and the executive have been separated in 9 out of 13 districts, while in Bihar the scheme of separation has been enforced in 12 districts out of 17. Finally, in Assam a committee was set up to examine the proposal and has made a report.

We have examined briefly the law and order component of the district administration. We may now go on to consider, again in a rather summary way, the other parts that comprise the whole.
The next group is of the revenue components, in which we may include revenue, excise and the government treasury. This group includes ten separate items.

The first of these ten items concerns itself with land revenue, its assessment and collection. The district apparatus for this purpose in the normal way consists of the collector, the sub-divisional officers, who in some states are just called deputy collectors, or revenue divisional officers, which is the name used in Kerala and Madras, or an assistant collector, as in Gujarat and Maharashtra. The sub-divisional officer is by definition the revenue officer in charge of a sub-division, a sub-division being a portion of the district. He is usually a junior member of the Indian Administrative Service, or, more frequently, a member of the State Civil Service.

Below the sub-divisional officer comes the tahsildar. Here again the standard term is tahsildar, which is how I will refer to him. But we may note in passing that again for instance in Gujarat and Maharashtra, he is called, or his equivalent is called, the mamlatdar, and in Orissa, I think in one district, he is called the taluka officer. The tahsil is frequently, but not always, co-terminous with the sub-division. But while the sub-divisional officer's headquarters is usually at the district headquarters, the tahsildar operates from the tahsil office, located within the tahsil or sub-division. The tahsildar is often assisted by a naib-tahsildar, in some places also called a deputy tahsildar.

From the tahsil we go to the village level; and here we meet the patwari. Whereas the collector is regarded as the pivot of the district administration, let me say at once that the patwari has been referred to, and rightly, as the king-pin of the revenue administration in the district. Anyone who either comes from a village or has lived in a village, or has had anything to do with a village, especially concerning the land or agriculture, will appreciate what is meant when we say that the patwari is the king-pin of the revenue administration in the district.

Here again the designation of this official varies in the different states. He is called in Bihar a karamchari; in Gujarat and Madhya Pradesh again, as well as in Maharashtra and Mysore,
he is called the patel; in Orissa in some places he is called the village munsif or accountant. (But let us not confuse this term munsif with the judicial official, a member of the judiciary, who is also called a munsif). More recently, the patwari in Uttar Pradesh has come to be called the lekpal, the writer. He keeps, maintains up-to-date, and jealously guards the village land records.

Between the tahsildar and naib tahsildar or the deputy tahsildar at the tahsil, taluk level, on the one hand, and the patwari at village level on the other, there are frequently a number of intermediate officials. These officials are variously called a kanungo, as in Uttar Pradesh, a circle inspector (not to be confused with the police circle inspector), a circle officer, or a revenue inspector. In Madras he is called by the rather odd name of dependent deputy tahsildar; I have not come across this designation anywhere else.

At this point I am only making very summary reference to the actual functions because later we shall come to the performance of the more important functions, the methods used and the principles which apply or should apply.

The next group consists of the irrigation department. In the case of irrigation dues, we may remark here that the assessment of water rates, unlike land revenue, is done not by the main revenue line, the collector, sub-divisional officer, tahsildar and so on, but by officials of the irrigation department. I may refer to that when we come to the irrigation component as such of the district organisation.

The irrigation department makes out the demand lists of irrigation dues each season. These are then sent to the collector, or directly to the tahsildar. Thereafter the responsibility for the collection of these dues, which often equal or even exceed the land revenue demand, is assumed by the collector and his land revenue staff, the tahsildars, the naib tahsildars, and other officials including some who may be specially employed for the purpose.

At one time it was customary in one or two states to have these irrigation dues collected through the lambardars, with a small commission payable to them. Later the government took over the collection directly. For example, in Uttar Pradesh (formerly known as the United Provinces) the collector would receive from the irrigation department the detailed demand lists in respect of
each of the main agricultural seasons, the kharif season (mainly millets, rice, maize and a few other crops), and the rabi season (wheat, barley, pulses, and other crops). The collector would also receive sanction to engage, and to employ for the collection of these irrigation dues a certain quantum of staff, consisting of temporary naib tahoildars, and other officials. Within a small specified percentage of the total amount to be collected, the collector would be free to engage the staff required.

The period of collection of the irrigation dues tends to coincide more or less with the collection of the land revenue; and frequently the effort to collect both kinds of dues would be combined. More recently the tendency has been to absorb the temporary part of the collection staff into the permanent, more regular revenue service which functions in the district.

The third element in this component is income-tax. Here again, the assessment is made by the officials of the income-tax department, which is a department of the central government (unlike the irrigation department which is a department of the state government). At the district level there may be one or more income-tax officers, together with their separate staffs. The general practice is for the income-tax department to attend directly to the collection of income-tax dues. Nevertheless, an arrear of income tax can be certified to the collector of the district for collection as an arrear. It is then recovered by the processes which are much the same as those for the collection of land revenue.

A fourth element is agricultural income-tax. This tax is a comparatively recent innovation. It is of some importance in districts where there are large holdings; much less so in the large number of districts where the holdings are small. There are comparatively few persons assessed to agricultural income-tax. When the assessments have been made, the collection of this tax follows the pattern of land revenue.

Sales taxes form a fifth element in this component of district administration. These also are comparatively new taxes; and the practice as well as the method varies in the different states. The departmental apparatus consists of sales tax officers and inspectors. These assess the tax amounts payable; thereafter for purposes of collection, the process comes under the authority and
responsibility of the district collector, especially for the collection of arrears.

A sixth element comprises court fees payable in connection with various judicial proceedings, such as the presentation of plaints, the issue of writs and other processes, documents and certified copies of proceedings. It also includes taxes leviable in the shape of revenue stamps on documents such as sale and transfer deeds, agreements of various kinds, receipts and the like.

The assessment of the dues payable in all these cases is made by different authorities. In some cases it may be the registrar or sub-registrar of documents, to whom a particular deed or agreement is presented for registration, where such registration is prescribed or permitted by law. The registrar assesses the amount to be paid, and the document must have affixed to it, or have printed upon it the stamp of the appropriate amount. When a plaint is presented or a document filed in a court, it must be stamped with the appropriate amount of court fees. It is the duty of the clerk of the court to ensure this, and for the presiding officer of the court whether he be a judge or a magistrate, to satisfy himself that the appropriate court fee stamps have been affixed to the document and duly cancelled. In the case of copies of documents, statements, judgements and the like, there is usually in the office of the collector as well as in the office of the district judge an official who is responsible, under the supervision of an officer, for receiving applications for copies and for having these copies made and issued. It is also his function to assess and to ensure the payment, by the affixation and cancellation of stamps, of the appropriate charges.

In many cases it is incumbent upon the citizen himself to make an assessment of the stamp duty payable, and to see that it is duly paid.

This includes agreements which the law does not require to be registered, but prescribes that it shall have stamps of a stated value to be affixed or embossed upon it. Failure to do so involves the person responsible in penalties, if the document is sought to be proved in a court of law. An example of this kind of document is the common receipt. The law provides that for any payment exceeding a certain value, it is incumbent upon the person re-
ceiving the money to give a signed and stamped receipt. This is a legal obligation. If this obligation is not fulfilled, it may not only lead to difficulty in proving the payment, but since it amounts to an offence it may lead to prosecution and conviction for failure to stamp the receipt.

The collection of the taxes in the case of stamp and court fees is of course a simple matter. Stamps are purchased across the counter, frequently from licensed vendors, who get a small commission on the value of the stamp. The stock of stamps as well as of stamped paper is kept in the government district treasury, exactly in the same way as currency notes. It is the function of the district officer to check from time to time the stocks so held, also in exactly the same way as the currency in the treasury is checked.

A seventh element of the same component consists of excise duties of different kinds. These include excise duties on various commodities such as liquor, drugs, various petroleum products, and quite a number of other things. As we have seen earlier, the Delhi Administration derived a revenue of nearly Rs. 20 million from liquor alone in the year 1961-62.

There are government departments of excise, both in the states as well as in the central government. In the state there is normally an excise commissioner, with a number of assistant excise commissioners who are responsible for supervising the excise work in groups of districts. In the district itself, normally an officer on the district officer’s staff is designated the district excise officer, through whom is supervised and controlled the work of the excise inspectors.

Besides the assessment and levy of excise duty, which is performed through convenient control points such as a distillery or a bulk storage depot or a refinery, the excise staff is also engaged in watching for and preventing illicit trade as well as the illicit production of liquor, drugs and other excisable articles.

Smuggling presents a problem, especially in the districts bordering upon areas where similar restrictions are not in force. The enforcement of prohibition, especially where prohibition is not total or where there are areas where prohibition is in force adjoining other areas where it has not yet been introduced, present their own special problems. In a city like Bombay, for instance,
the enforcement of prohibition as well as the prevention of illicit distillation and the smuggling of liquor forms a major part of the duties of the excise administrative apparatus. In this work, the police also have an important part to play, in assisting and, in other ways providing, the necessary force required. This is frequently the case, especially when a raid has to be organised by the district authorities upon premises which come under suspicion.

The district excise officer under the collector also attends to the sale by auction or otherwise of liquor and drugs licenses. He is also responsible for inspecting and otherwise controlling the bonded warehouses or other places where excisable goods are stored in bond as also of course the shops or other premises for which excise licenses have been granted.

A number of other taxes such as taxes on motor vehicles, entertainment taxes and others combine to form an eighth element of the revenue component of the district administration. In the case of each of these there is a departmental administrative line and staff. These consist of the usual array of inspectors and other officials. The collection of these various taxes is, in the average districts, watched over by the collector.

In the revenue component we may also include two other matters, the takavi and the treasury.

Takavi, consisting of loans made under the different statutes providing for advances for assistance in agricultural operations, comes within the responsibility of the collector, the sub-divisional officer, the tahsildar, the kanungo and the patwari. Each of these officials is closely associated with assessing the amount of relief required in case of agricultural calamity; as also for estimating the amount of loan that may be necessary in each individual case.

We see thus that takavi comes within the same line as land revenue; for the same officials are responsible not only for estimating the amounts to be given on loan as well as overseeing the distribution of the loans, but also for the recovery of the amounts advanced together with the interest as prescribed.

A random sampling of the recoveries made tends to show that on the average the district administration appears to be more effective in the recovery of the comparatively larger number of smaller loans which are given to the agriculturists under Act XII
than in the case of the larger loans given to comparatively fewer individuals under Act XIX for making improvements or investments in agricultural holdings, such as the sinking of a well, or the purchase of a tractor.

The district treasury comes within the responsibility and control of the collector. In the tahsil, the tahsildar is usually also the sub-treasury officer for the government treasury at the tahsil. These treasuries, including those at the different tahsils scattered all over the country formerly carried a very large part of the total currency of the country. As the State Bank has extended its operations and increased its branches, the treasury chest has come increasingly to be held by the bank.

The treasury officer has in recent years tended to be drawn from a special cadre; but in the district he comes under and is responsible to the collector.

It is the duty of the treasury officer, or at the tahsil the sub-treasury officer, to ensure that the amounts of money, or stamps that are placed in the treasury or are taken out of it from day to day are covered by due and proper authority; and to ensure also that the balances from day to day are in fact physically existent in the treasury.

The collector is responsible for general overseeing, and at stated intervals for physically checking, certifying, and communicating directly to the accountant-general, the exact balances as found to exist at his inspection. The figures reported by him are then checked against the accounts submitted by the treasury officer.

*Land Reforms, Records and Management*

The third component of district administration concerns itself with land reforms, land management, land acquisitions, and particularly with land records.

For land reforms the district organisation consists of the collector, the sub-divisional officer, the tahsildar and the patwari. It is customary, when a particular land reform is introduced and is extended to cover a whole or the larger portion of a state, for a special department to be created and special staffs assigned to it.

Such a reform is the one known as the consolidation of holdings.
The fragmentation of holdings through processes of inheritance and otherwise has in many parts of the country scattered each single farmer's holding in little plots scattered all over the village agricultural land. The consolidation of holdings is directed mainly towards increasing the productivity of a holding; while it also makes for simpler and clearer demarcation of a holding and of its record in the land registers.

Large-scale programmes of consolidation of holdings have been in process for many years in states like the Punjab and Uttar Pradesh. While a special departmental apparatus is created for such a programme, the main supervisory line is through the collector of the district; and the programme draws upon the district staff down to the patwari to assist in the work. When the consolidation programme in a district is completed, the land system goes back to the normal district administration consisting of the collector, the sub-divisional officer, the tahsildar and the patwari; they are responsible for the proper maintenance of the consolidation records.

Similarly, the abolition of the zamindari, which included the talukdars and all other land holders and intermediaries between the cultivator and the state, required in Uttar Pradesh the setting up of a special land reforms department headed by a land reforms commissioner. It was the function of this department to implement the abolition of intermediaries, to undertake the calculation of compensation to the several million intermediaries, and to initiate and conduct a programme to invest the tenant-cultivators with proprietary rights in their lands on payment of certain multiples of the annual rent. In the district the main responsibility for supervising the programme was laid upon the collector and his revenue staffs, augmented by special staffs recruited for the land reforms programme. The whole programme involved more than fifteen million separate holdings.

For land acquisition, there is usually on the collector's staff an officer who besides performing other functions is also designated the land acquisition officer. Where acquisition has to be done on a large scale, for instance if a canal system is being introduced into a district, or a pipe line is being laid such as the new oil pipe line running from the eastern extremity of Assam, through Bengal, and to the centre of Bihar at Barauni, in such cases special
land acquisition officers are appointed. But the land acquisition process itself remains within the overseeing responsibility of the district administration.

Land records consist of the basic village records, including the detailed village maps showing every single plot of land however small it may be; a register describing the nature of each plot, its size, its soil, and the crop grown on it; and a register of holdings, which sets out the details of each holding, the names of the cultivators and specifying their separate shares where necessary, the rent or revenue payable, and other details. There are other records, but these three are the principal ones.

The records and their maintenance up-to-date is entrusted to the village patwari. It is here that the patwari plays such an important part in the district administration. The up-to-date maintenance of the records is a continuing task; on the extent and quality of the supervision exercised by the collector, the sub-divisional officer, the tahsildar and his assistants, the naib-tahsildar and the kanungo depends very largely the accuracy of the records. The state of the records is frequently reflected in the state of peaceful living or of conflict amongst the villagers.

Land records, apart from their maintenance up-to-date throughout, come under general revision from time to time. One of the things that takes a new administrator in a district by surprise is the number of cases with which he has to deal even in normal times, concerning the maintenance, correction and revision of land records. Floods change boundaries, often radically. Rivers change their courses, and thereby provide one of the most frequent sources of dispute. There may be encroachments, some of them gradually made; and a gradual encroachment is often more difficult to deal with than a sudden trespass. Or areas are brought under cultivation for the first time, or cultivated areas are abandoned. Forest land is cleared, or land may be put aside for afforestation. Land is often thrown out of cultivation by the passing through it of a canal system or a railway line.

And all these are events apart from the disputes over land boundaries, and entries in the village records, which are a running feature of any district administration. There are excellent practical manuals available, setting out the methods and procedures for dealing with all these things. The point to mark is that
land records maintenance is a continuous concern of the district administration in practice from day to day, and is contained in the same line as land revenue, namely, the collector, the sub-divisional officer, the tahsildar and the patwari.

When a general settlement or re-settlement of the land revenue of a district takes place, it is usually preceded by a complete general revision of the land records. One of my earliest settlement experiences was over the years 1927-29 when the government introduced probably for the first time an aerial survey of the district. The aerial survey, even in those comparatively early days, greatly speeded up the process of revising and correcting the land records as a necessary preliminary to the land revenue settlement. It also created some problems of its own, which were new to the survey staffs. For instance, a tree or a clump of trees would obscure boundaries of holdings which were in dispute; furthermore the aerial maps tended to distort the features on the ground, especially where the ground was uneven.

In those areas in which consolidation of holdings programmes have been completed, one may say that there will be no need for any major revision of records for many years; provided always that the normal procedures are observed to maintain the records correct and up-to-date.

Land management as a concern of the district administration includes the management of lands belonging to the government, and sometimes uncultivated common lands, forests, waterways and the like. In several states the land belonging to government is known as nazul, which may have fallen into government ownership by confiscation, escheat, acquisition, purchase or otherwise. Where a district has large areas of such land, there may be a special nazul officer on the district staff; but normally one of the officers of the district staff is additionally designated nazul officer. The responsibility for managing the land lies in the same line as we have seen in the case of land reforms and land records, namely, the collector, the sub-divisional officer and the tahsildar.

As part of the land management function, there is often in the district what is known as the court of wards. There may be a special manager of the court of wards, where there are one or several large estates belonging to minors or other persons disqualified from managing the property. In the normal course, the
district officer is always the manager of the court of wards, and is responsible for supervising the management of all estates large or small, including those for which there may be a special manager.

*Agriculture, Irrigation and Industry*

The next component we may consider includes agriculture, irrigation and industry. This grouping is merely for convenience of treatment here.

In the case of agriculture we have now new entities known as the zila parishad, the panchayat samiti, the village panchayat and others. There are local variations of these names in different states. For instance, the panchayat samiti is in some places called the kshetra samiti. All these are concerned in one way or another with agriculture and the agricultural economy of the district. In the departmental line of government, stemming from a department of agriculture under a director of agriculture at the headquarters of the state, there is in the district an agricultural officer and his various inspectors and other assistants. They represent the technical wing of administration, and are intended to provide the technical services to assist agriculture in the district.

Irrigation covers a number of activities, including the planning and construction of water resources such as canal headworks, tubewells, canal systems and often hydro-electric stations at several points along the system.

In a district with an established canal system, there are usually one or more executive engineers. An executive engineer is often responsible for a length of main canal together with its branches running through a number of districts; so that there may be at a particular district headquarters a number of executive engineers, each looking after a different canal system running through two or three districts. He is assisted by departmental sub-divisional officers, amins and a whole list of other functionaries. It is their business to manage the canal system; to see that the canals are maintained in proper working condition, that breaches in the banks are prevented or quickly repaired, to regulate the amount of water that may be drawn from the different outlets, to maintain rostes for the main outflows from the canal, and a large number of other duties.
It is also the duty of the irrigation staff under the executive engineer to assess the water dues payable by every farmer. These assessments have to be made for each principal season, normally twice each year. The assessment lists are prepared by the irrigation staffs and then made over for collection as we have seen through the district revenue staffs under the collector, the revenue sub-divisional officer, and the tahsildar.

In a district where a new canal system is to be established, such as a headworks, or a tubewell system or a network of canals, project divisions are set up, under one or more executive engineers, and in the case of major projects under a superintending engineer or, in the case of the really large projects, a chief engineer.

In the case of major industries, such as steelworks, cotton mills, sugar factories and other large establishments, the district administration is mainly concerned with the aspect of safety, and with the assessment and payment of workmen’s compensation in case of injury or death. The district collector is usually also designated an inspector of factories under the Factories’ Act; sometimes this authority is also vested in other officers on the district staff.

In the case of small industries, there is usually a departmental establishment under the state directorate of industries. There may be local departmental officials responsible for particular industries, or a particular locality; such as the small-scale metal working industry at Moradabad with its tradition of fine craftsmanship in brass, or the raw sugar (gur) industry, village tanneries, small potteries and so on. The district administration is charged with the responsibility for keeping a general watch on the prosperity, advancement and working conditions in such industries.

It is also, and more directly, concerned with village industries such as khadi, handloom and others. Here the zila parishad, the panchayat samiti, the village panchayat, the block development officer, and technical staffs pertaining to each particular industry constitute part of the district administrative apparatus for the advancement of these industries.

**Supplies and Transport**

We may, again for convenience of treatment, consider supplies and transport together. Supplies consist of the essential civil sup-
plies, particularly food. There is usually a district supply officer, either a special officer assigned to this work, or if the amount of work involved is small, then one of the deputy collectors or assistant collectors on the district staff may be designated as the district supply officer in addition to his other duties.

Here we may note in passing a tendency for departments and departmental establishments to grow. Parkinson's law tends to prevail. There is always a tendency for any establishment to grow departmentally; and it is necessary to maintain a rigorous watchfulness to ensure that departments which are set up for a particular purpose do not outlive, or outgrow their usefulness or the purpose for which they were set up.

It is often much easier to create an establishment than to dissolve or even to reduce it. One of the main reasons for this is simple enough, namely, that with the lapse of time, routines become established, activities may be perpetuated which have little or no relation to the original purpose, and even vested interests are created and entrench themselves. These things provide formidable resistance to any attempts to reduce or abolish establishments, and sometimes even attempts to relate the establishment to the original purpose.

There is a caution here against any over-ready tendency to set up new departments, agencies, divisions, and sections. In district administration there has in the past been a fair amount of flexibility, and even a certain margin of cushion. But these were related to the need for the district administration to be flexible, adaptable to need, and to deal with large varieties of different functions. It becomes very different when we have departmentalisation of functions.

As to transport, there is in a large urban district usually a special transport organisation. In every district, the district police are concerned with the regulation of traffic, supervision over the proper registration and maintenance in good order of motor vehicles, particularly heavy transport and passenger-carrying vehicles, and generally with traffic control. In every large city there is a special formation of traffic police, often under a special superintendent of police, under the overall direction and control of a senior superintendent or commissioner of police.
The next general component of district administration contains the activities and functions that go under the name of community development, co-operatives, public health, education, and other welfare activities. In the case of these, there are so many functional entities that one begins to find some difficulty in finding one's way amongst them. We may however attempt to list them briefly here.

The zila parishad is quite definitely concerned with all these activities. So is the panchayat samiti and the village panchayat.

The district collector is concerned with these activities. In some cases there may be an additional collector specially assigned to look after them, while the district magistrate attends to other things, such as law and order, revenue, and general administration.

The sub-divisional officer comes into the picture, and of course the block development officer whose principal function is to attend to the developmental activities in his area.

A district inspector of schools and, more latterly, district inspectresses of schools, are assigned to almost every district.

For public health, there is usually a medical officer of health in the district.

Then there are whole shoals of officials and functionaries, such as the social educational officers, the minor engineers, the village level workers, the veterinary officers, agricultural assistants, officials dealing with fisheries, or forestry, or dairying, sanitary inspectors, nurses, village midwives, subsidised medical practitioners, vaccinators, teachers, and so on.

This is the complex of functionaries which tends to confuse the villager. In fact it tends to confuse the ordinary citizen anywhere. It is necessary to find one's way through the maze, and to try and establish some sort of order which one can recognise, and which the ordinary villager can identify, as to who does what, and with whom he must deal for his different needs. It is just here that there presents itself the principal organisational problem in district administration, and with which we must endeavour to deal.

The most recently created agency, which came into being on
Republic Day in January 1963, is the village volunteer force. The intention appears to be to recruit literally millions of volunteers to constitute the force, covering the whole country. The force is intended to be a body of specially active persons who will contribute not merely in general terms to the welfare of the people of the district; but provide an institution where the people of the district will themselves actively join together to do a number of specific physical, objectively defined, objectively measurable tasks for the betterment and development of the community. Should the ambitious programme contained in this scheme be realised, even partially, it would truly be a rural revolution. But this cannot happen without great, widespread and sustained effort.

*Calamities*

When calamity strikes a district or any portion of it, we are presented with a situation where every official and every agency in the district comes into play, to share the responsibility in dealing with the situation. The overall responsibility rests primarily and squarely upon the collector and district magistrate. It does not matter what kind of calamity it is: a flood, an earthquake, or a fire; the apparatus to deal with it is the whole of the district administration. Every element in the administration, every functionary, every institution that goes into the make-up of the district administration is called upon to help, always under the overall responsibility and direction of the district collector.

*Elections*

In every district there is always going on more or less continuously some process or other connected with elections. Even when there is no election actually in progress, there is a certain amount of work connected with elections, parliamentary elections, elections to the state legislatures, elections to the local bodies, panchayat elections and so on. It is a normal function of the district administration to deal with all matters which form part of the election process. There is normally on the district collector’s staff a deputy collector or assistant collector who is designated as the district election officer. During an election this officer is relieved of other
work so that he may devote himself more fully to the election work.

Elections provide another kind of activity which involves all or most of the officials in the district, whatever department they may belong to. During an election period, as we have seen, it is usual for a directive to go out from the state government to all departments, that every assistance should be given to the district authorities, namely, the collector and the district election officer, by deputing their staffs to serve as polling officers or in other ways, under the supervision of the district election officer.

*Local Self-government*

The district administration contains different institutions of local self-government. There are the zila parishads, which have replaced the former district boards. In the cities there are municipal committees and municipal boards; or city corporations such as the ones in Delhi and Bombay; improvement trusts which are usually set up by the state government directly, with members nominated by the government; various kinds of urban bodies such as town area boards, notified area committees, and cantonment boards.

We may notice here that bodies like the panchayat samitis perform not merely developmental functions, but governmental functions. It is in this sense that they are truly organs of local self-government; they contain the elements of governmental authority vested in them by law and not by delegation.

Once, formerly, the district officer used to be the chairman of the district board. Then for several decades the district board had an elected chairman. Recently, with the introduction of the new pattern of democratic decentralisation, in one or two states the collector was made the president or chairman of the zila parishad. That was perhaps a regressive step, and I do not think that it is a good arrangement to have the collector as chairman of the zila parishad. In one state, Uttar Pradesh, in July 1963 the state government has nominated the chairmen of all the zila parishads in the state. The prospect of having elected chairmen for the zila parishads appeared to have somewhat receded for the time being in that state.

But so far as the collector or the district officer is concerned,
it seems to be a better arrangement that he should stand somewhat outside the organ of local self-government, which the zila parishad is. He has in general the right to attend meetings of the zila parishad, the power to inspect and to report, and the duty to advise and generally to keep a governmental eye upon the functioning of local self-government in the district. This mode and degree of association appears to be adequate; it predicates a lively but objective interest by the collector and his assistants in the proper functioning of local self-government bodies.

The commissioner of a division figures in the functioning of the district administration here, for he sometimes has specified functions in relation to the local self-government bodies. These may include the examination of their budgets and in some cases the power to sanction the budget. In some cases the power may be vested in him to suspend or remove members of such a body.

At the level below that of the district officer, the sub-divisional officer occupies a position in relation to local self-government bodies somewhat similar to that of the district officer.

*The Executive Function*

Finally, we may consider briefly the executive function of government. This embraces the residuary executive responsibility, authority and power of the government established under the Constitution.

Should a dire situation arise in a district, who is to assume the mantle of government, and speak for the government? Someone or other has to do it, and occasions are not wanting when this becomes necessary. For instance, during the threat to Tezpur in Assam in November 1962, who assumed the governmental function at Tezpur?

The answer is that here, there is one single entity in the district that can assume the responsibility, on behalf of the executive government, and that entity is the collector and district magistrate. There can be no one else. Upon the collector and district magistrate falls firmly the mantle of authority, and the responsibility of the government as a whole.

In normal times this particular function, the executive function of government, is not very obvious. But as we have seen earlier,
after all the functions that one can think of, have been tabulated, classified and totalled up including the judicial and the legislative functions, there is still left the residue of the executive authority, the executive responsibility of government.

The roots of this executive responsibility lie deep in the English common law, from which stem many of our concepts, our pattern and our method of a parliamentary democratic government. Let us note that its roots do not lie in the old prerogative of the crown, or as something derived from, or taken from the old sovereign head of state. The roots lie in the old English common law. It is from there that we derive such concepts as this, namely, that in case of turmoil or commotion, or of dire need arising otherwise, it becomes the duty of someone or other, some agency acting on behalf of the people, to see that things do not get out of hand, and that order is restored.

This duty is nowhere laid down or specified in the Constitution; but it is there, as we may see when we consider the maintenance of law and order. There may be a general disaster that threatens to overwhelm the community; or there may be just a general state of affairs, or a state of threat, where it becomes necessary that the executive authority of government must be demonstrably, effectively established and maintained and exercised. It is of the essence of good government, and of sound administration, to be able to judge the necessity, and to act upon the judgment of the need, and to be able to meet it.

We are not referring here to matters such as the extent or delimitation of the powers or authority of a state government, or of the central government, or of a minister or of a department, or of a local self-governing body. The reference here is to something deeper, more fundamental to the governance of a nation. This is that total executive function of the government as a whole, the government as a creature and agent of the people themselves. How can the sovereign people act? Through what agency can the sovereign people act in case of need? How are they to act when the need arises abruptly? What is to happen when none of the arrangements made under the authority of the Constitution can meet a situation? Just as that agency must be the executive government, so in the district must the executive function of government be assumed and properly discharged by the collector, for
and on behalf of the government and of the people. He must discharge the trust thus laid upon him, striving his utmost to restore communication with the higher echelons of the government, and reporting and rendering full and due account as quickly as he can.
CHAPTER 4

THE ORGANIC WHOLE

We have now briefly catalogued the component parts of the district administration. We have seen, rather briefly, how the parts work in relationship to one another. But what about the district administrative apparatus as a whole? How are all these component parts integrated into an organic dynamic whole?

We may consider this by looking at the whole complex of different parts to see how they work together, as a whole. For all these different components are in actual function all the time. What are the dynamics of their functioning?

We may attempt this examination by taking all the parts together, as an organic whole, and by approaching the problem in three different ways. Firstly, we might examine the interrelationships of the component parts. Then we might trace the lines of authority, of control and of accountability. Finally we may consider whether there are any and if so what are the unifying features that pervade the apparatus of district administration. For it is in the measure in which district administration can be seen as an organic whole that it may be possible to comprehend its working for the purposes for which it exists.

Interrelation of the Parts

The first of the three aspects or cross-sections of our examination concerns itself with the interrelationship of the component parts. The different parts are interrelated in a number of different ways.

Firstly, there is a functional relationship between the different parts. That is to say, the different agencies in the district administration may perform the same or closely related functions. This happens more frequently than is imagined. Departmentalism tends to abhor it, forgetting that there can be no watertight compartments in the administration as a whole.

Secondly, there is sometimes an actual intermeshing of staffs belonging to different components of the administration. An examination of one of the organisational patterns will demonstrate this.
Thirdly, in the case of the different components, there is at certain points, and at certain levels, a unification of control, or of overseeing, or of the function itself.

In the district one such major unifying point will be found to be the collector. Another such major unifying point will be found to be the zila parishad. At the divisional level, there is the unifying point provided by the commissioner. Finally, in our system of government, the ministry, and the council of ministers or cabinet provides the administrative unifying point for all the principal purposes of the district administration.

The full and proper use of such focal points in the administration, together with carefully devised and properly observed lines of communication would make for proper co-ordination and control. It would at the same time help towards putting to the most productive use the investment made in the apparatus of the district organisation as a whole.

This leads us to consider the second element or aspect of district administration as an organic whole. This consists of the lines of authority, of control and of accountability. We may trace a few of these lines through the structure of the administration, as samples of the complex network of such lines.

There is, as in every government organisation, the departmental line. One such clearly defined line relates to the police, and runs through the inspector-general of police, the deputy inspector-general of the range, the district superintendent of police, the circle inspector, the station officer, the sub-inspector and the constable. In another department, the department of agriculture, such a line runs through the director of agriculture, the district agricultural officer, the agricultural inspector, and the lesser functionaries down to officials on the ground level such as seed men, store keepers and the like. In a third example, the department of irrigation, the line runs through the chief engineer, the superintending engineer of a circle, the executive engineer, the sub-divisional officer, and down again to the officials at the ground level. All these are clear and well-established departmental lines.

Authority and control exercises its influence downwards, while account is rendered upwards at each stage. This is rather an oversimplification of the true picture of control and accountability, which is much more complex, in that control as well as account-
ability in any organisation, large or small, tend to be multi-way functions in organisational dynamics. But for our present purposes the simplified line will do.

In dealing with the functioning of the district administration in its individual parts and also as an organic whole, we must keep in mind these departmental lines of authority, control and accountability. They are a necessary and useful means of communication and control. They are also sensitive to any intrusion or interference from outside, or from what may be regarded as being outside the strictly departmental line.

Here lies one of the Parkinsonian dangers. There is a tendency, a very human and inevitable tendency, for every department to have its own separate organisation all along the line. It is simple, clear cut, and self-contained. But with every department trying to achieve this, it must result in an inadequacy of field staff at the very points where the department acts in relation to its ground functions. There simply would not be enough workers, if each department, or each activity or function is to have a separate line all down to the level of the village. And even if the departmental budgets did permit the employment of all the separate armies of workers which would be required to work at the village level, there would be so many of them that perhaps the villagers for whose benefit they are intended would in order to make room for them have to leave the village and go somewhere else.

And since neither of these two things is practicable, what may happen and does in fact often happens is that the comparatively small field staff which is available to any particular department is dispersed over too large an area. In the understandable desire to stretch its field staffs independently over as large an area as possible, the department ends up by spreading the jam too thin altogether. The net result then is that the villager, for whom the whole department exists, if he does get any service at all gets it from the most ill-equipped, ill-paid and most harassed individual official in the department. Therefore, while recognising the departmental line as essential for any organisation, we must caution ourselves against the entirely independent, self-contained over-simplified departmental line.

A second line of authority and accountability may be termed the institutional line. This is different from the comparatively tight
line within a particular department. It is something that binds the
different institutions together, essentially in regard to their func-
tions. Such a line connects the zila parishad, the panchayat samiti
and the village panchayat. This is a fairly simple institutional line.
A somewhat similar institutional line forms part of the judicial
process, where a succession of appeals, references and revisions
against legal or other decisions may take a course different from
the departmental line within which each deciding authority func-
tions.

Another line of authority and accountability may be loosely
described as the co-ordination process. The lessons of the past
point to the conclusion that the line of co-ordination works effec-
tively the closer it lies to the actual operative line; it works best
when the two lines are identical.

It may seem a good thing to pick the best men, the most effi-
cient officials or others, and to put them on to do nothing else
but co-ordinate the functions of others. This lays upon anyone a
task that is almost impossible to perform; and the more the co-
ordinating authority is outside the line of operation, the more
difficult the task becomes. Indeed it can, and in practice often
does lead to confusion, an escape from responsibility, and failure
in the very functions intended to be co-ordinated.

Therefore we must search for and establish effective lines of
co-ordination, and arrange that they are contained as closely as
possible within the operational apparatus. This seems to be a
valid principle in management and in administration.

Another line of control and accountability subsists in what may
be described as the general inspection and overseeing line. In this
would be included functionaries such as the divisional commis-
sioner, some departmental heads, and ministers of government.
It should definitely exclude what may be called secretariat offi-
cials from the headquarters of government. A secretariat official
has no place whatsoever within the district administration. Their
proper place is at the government headquarters. A secretariat offi-
cial may sometimes think that he possesses a total picture which
the field officials do not have. With extremely rare exceptions,
as for instance when an official may be deputed from government
headquarters to visit and report, secretariat officials generally are
not equipped to oversee the working of the administration in the
district. Their place is in the secretariat office.

Then we have in the district, in this same line of control and accountability, the pivotal position of the collector and district magistrate. Great changes have taken place, and are taking place in the structure and functioning of the district administration. But amidst all this change, there remains the collector, the district magistrate, providing the main focal point of reference, and the pivot upon which the whole administration turns. Apart from the departmental line within which he and his direct subordinate staffs are contained; apart also from the institutional line which we have considered, as well as the co-ordinating, institutional and overseeing lines, the collector provides an exceptional element containing portions of all these. In the district, much of the essential cross communication and cross consultation which are vital to the functioning of the district administration as an organic whole depend largely upon the collector. Here as much as in any other respect the quality of the collector’s efficacy and initiative, as well as of his character and leadership, is reflected in the smooth running or otherwise of the district administration as a whole.

Organisational Charts

A brief consideration of organisational charts may be useful here, to complete our study of the district administration as an organic whole, and the inter-relationship of its component parts.

Everyone is familiar with the distinction between line and staff functions. It forms part of every elementary course in general administration. I may therefore assume the reader’s acquaintance with the subject, and we may proceed to consider some charts, to see what kinds of lines connect the different entities contained within an organisation.

We may start with the simplest organisational chart of all, bearing in mind that no organisational chart, however detailed it may be, can ever present the full content of an organisation. This is true of large and complex organisations as well as the smallest and simplest.

This is the chart of an organisation. We have entity A and
entity B. B is subordinate to A. A controls and exercises authority over B. B is controlled by and renders account to A. This is about the simplest organisational pattern we could have. But the chart, and the annotation with which it is provided simply cannot illustrate adequately the relationships which subsist between A and B; and we speak not of the many relationships in general which could exist between A and B, but specifically their relationships in terms of the very function, the exact tasks in which A and B are jointly involved and for the purpose of which the two of them form an organisation.

Furthermore, this same simple chart may be used to illustrate every situation in which any two persons are associated, for similar, or for different functions or indeed for any purpose whatsoever. Thus each of the three simple charts, looking exactly alike,

\[
\begin{array}{ccc}
A & C & E \\
| & | &  \\
B & D & F \\
\end{array}
\]

may each refer to an entirely different relationship, even if we provide all of them with the same annotation, namely, that B, D and F are respectively subordinate to A, C and E. And even where the functional relationship in each case is similar, as for instance if A, C and E are three ministers of government and B, D and F are their secretaries or departmental heads; or if A, C and E are inspectors-general of police, and B, D and F are superintendents of police, no pair of them will be exactly alike. And no two of the sets of relationships will be identical.

When dealing with actual organisations therefore let us keep in mind this very elementary fact, that no organisational chart, however simple, however plain to see, can illustrate the full nature and content of the organisation. It certainly cannot illustrate organisational dynamics.
We may consider another chart, also simple though in a different way. This is the pyramid.

![Pyramid Diagram]

Each entity has two below him; A has B and C, while B and C each have two others, and so on. We may continue this chart through as many stages as we wish. Instead of two there may be three or four or more at each stage. This is a pyramid, a simple organisation. It is somewhat the military pattern. On the face of it, such an organisation provides a smooth flow of orders down and obedience and accountability upwards, with a manageable number of control points at each stage or level.

However, the pyramid is also an oversimplification for our purposes. In real life military organisational patterns are much more complex. The district administration is an immensely complex organisational pattern. Indeed it is one of the most complex that one could find anywhere. So that whereas standard organisational chart patterns might provide some elementary guide-lines, we must go much beyond them to understand how the administration functions as an organic whole. District administration provides indeed a fascinating exercise in organisational dynamics.

The only instance in recent history where an attempt was made to work to simplified organisational patterns on any scale occurred in fascist Italy and nazi Germany. The organisational pattern and its function was in turn based upon a simple principle, known as the leader principle. The leader was at the top. His authority was complete in every imaginable respect. His authority was unquestioned. In fact questioning it would itself challenge the principle.

Below the leader, Mussolini in the one case and Hitler in the
other, there existed a simple organisational pyramid. At every point authority was exercised downwards, while obedience and accountability were rendered upwards. Both the regimes have provided the classic examples, possibly of the ultimate simplicity in organisational form and content in modern times. In doing so they also achieved in each case about the most inefficient regimes in the whole of history. This inefficiency, rather than the moral ethic of it, evil enough as the ethic was proved their undoing.

Let us now consider just a couple of organisational patterns as they actually exist. The samples given here are with special reference to district administration. One rather over-simplified organisational chart includes the state executive government, the judiciary, the police establishment and the magistrates. It looks something like this:

```
SUPREME COURT
  | HIGH COURT
  | DISTRICT JUDGE

STATE GOVERNMENT
  | I.G. POLICE
  | D.I.G. POLICE

DIVISIONAL COMMISSIONER
  | DISTRICT MAGISTRATE
  | SUBORDINATE MAGISTRATES

JUDICIAL STAFFS

DISTRICT MAGISTRATE

POLICE FORCE
  | DIST. SUPT. POLICE

(DISTRICT)
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This comparatively simple chart illustrates a small part of the inter-relationships which subsist between the different agencies and the executive government, and also between the executive and the judiciary, some of which are considered in this book.

Another organisational pattern concerns the relationships between the executive government, the local authorities, and the field agencies, and refers particularly to those field agencies whose functions lie directly within the district.
(Note—This does not show all the lines of authority and interaction. The lines do not all represent the same degrees or modes of authority, or influence).
This chart is rather more complex than the first. The lines of communication, of command, and of advisory or persuasive relationships intermingle in several ways. This chart also illustrates the focal position of the collector in the economic and social administration of the district.

Finally, we may consider an organisational pattern which concerns a single principal function, civil defence. Here again a very simplified chart is somewhat like this:

In the chart describing the organisation for civil defence we find lines running from the central government and its council

(Central Government)

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<th>Ministries of the Central Government</th>
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<tbody>
<tr>
<td>State Government Departments</td>
</tr>
<tr>
<td>District Magistrate and Departmental Officers</td>
</tr>
<tr>
<td>Local Authorities</td>
</tr>
</tbody>
</table>

More than twenty five different agencies

(This is an extremely simplified version of a large and complex set of organisation patterns relating to civil defence).

of ministers or of one of its special committees especially set up for the emergency, through a line which runs through the Home Ministry of the Government of India, to the Home ministry of each state government, and in turn we will find lines running from the state Home ministry to points within the district administration.

At the same time other lines run from the central government through separate central ministries. For instance they run through the ministries of Defence, Communications, Railways, Commerce
and Industry, Labour, Works, Irrigation and Power, Food and Agriculture, Information and Broadcasting, Education, Health, Transport, and Finance. Thus almost every ministry at the centre is involved in the complex network of lines that constitute the organisation of civil defence.

Furthermore, in a number of these cases the line runs from a particular central ministry to the equivalent ministry in the state government; while in other cases, such as Defence, Communications and Railways, they may run straight through from the centre to a point within the district administration. In the case of transport the line goes partly through the state government and partly direct down into the district administration.

All these lines will appear to be focussed at various unifying points: the particular ones to mark include the unifying point of the central government, the equivalent unifying point of the state government, and finally the unifying point of the district administration. In the district administration itself, to deal with civil defence alone, there are no less than about twenty-four separate authorities. Amongst them, they are responsible for performing nearly fifty separate and distinct functions of government.

The Unifying Features

In dealing with the organic whole, we have considered briefly the inter-relation of the component parts, and the lines of authority, control and accountability which affect the district administration. We may now consider the third aspect of district administration as an organic whole. What are the unifying features that go to make the district administration a single whole, and not merely an assemblage of separate parts?

Firstly, we have the prevalence of a common Constitution, applicable uniformly over a vast country, with not more than a very few local exceptions. The Constitution unifies the administration in its purposes, its structure, its methods, and in the tests of performance to which it must conform.

Secondly, the common codes of law and common patterns of rules made under the law make for uniformity and cohesion in the administration.

Thirdly, there has been so far a common policy and pro-
gramme throughout the country. This may in part be due to the phenomenon of a single massive political party holding office at the centre, and in practically every state with only one or two short-term exceptions. Thus, whatever may be the actual performance, there is a common policy and programme of land reforms in every district throughout the country, such as the abolition of intermediaries.

A fourth feature is the inter-flow of personnel, amongst different units of administration within a district, amongst the different districts within a state, and in some respects an inter-flow within the whole country. These include inter-flows of many kinds, and as various as, for instance, amongst the major departments of government, in some cases amongst different cadres; between the states and the central government, as well as between states; also the inter-flow of political personalities such as is illustrated by the appointment of a chief minister of a state as a governor of a distant state, by persons standing for and being elected from constituencies distant from their home states, and so on.

Finally, there is a common widespread pattern of administration which repeats itself at the national level, in all the states, and in every district. This is true with very few exceptions. Thus the functional agencies in any district administration as well as the people amongst whom and for whose purposes they are established are all contained within a total administrative pattern with which everyone all over the country is familiar.
CHAPTER 5

LAW AND ORDER: PRINCIPLES

We will go on now to consider law and order. The subject of law and order occupies a fair portion of this book; for law and order is central to district administration and its functioning. We will deal first with the principles of law and order. But in order to know what we are discussing, let us define the term law and order.

For our purpose it is difficult to improve upon the definition given in the Oxford Dictionary. Law is defined as the body of indicated or customary rules recognised by a community as binding. Each term in that definition carries a significance of its own. Order is defined in the same dictionary, and again each term in the definition is significant, as prevalence of constituted authority, a law-abiding state, absence of riot, turbulence and violent crime.

By way of introduction to the principles of law and order, we may recall what Lord Northbrook said on the subject. He was speaking more in terms of pax Britannica and the maintenance of peace in the British empire. But I think what he said applies equally here in independent India, and indeed everywhere else. What he said was to the effect that if people are to live in peace, there must be laws. The laws to be effective must be definite, and they must be comprehensible to the people for whom they are made, and to those entrusted with their application. There must thus be judges and courts to enforce the laws; and there must be police to execute the law, the writs and the warrants of the judges and the courts. And there must be armed forces to protect all these, the police, the judges, the courts, the people. That, in the most elementary and basic way, is what law and order must universally comprehend.

Before we consider the principles in detail, let us also consider the significance of the principles as a whole. For the principles to be valid, the principles must themselves be tested and proved. A principle does not become a principle merely because someone wise or someone knowing sets it down as a principle. A principle can only be a principle, something valid, if it can pass certain tests.
The main test of a principle governing any conjuncture is that without the principle prevailing, the conjuncture cannot prevail. Therefore, the test of the principles here must be that if the principles cannot prevail, then law and order will not prevail; and that is what makes these principles valid, precisely as in the case of the laws and theorems of nature and of physics.

I have listed six principles. They are: that law and order are an inseparable entity; that law and order must claim absolute priority; that the rule of law must prevail; that law and order must comprehend the safety of all, without any exception whatsoever; that law and order involves the sanction of force; that law and order can prevail only if the principle of civil supremacy prevails.

Now these principles may be considered individually, which we will do presently; but it may be stated here that the six principles tend to prevail as a whole. Damage to one principle will tend to extend the damage to the rest. In other words, the prevalence of the six principles as a whole provides a total conjuncture against which the principles as a whole must be tested. If anyone is denied his proper safety, then presently no one will be safe. If you try to maintain order without the sanction of force, the rule of law cannot be maintained, and law and order cannot obtain the priority which it needs. If law and order is not given the absolute priority it must obtain, it will be impossible to secure the safety of all or to uphold the rule of law. One can go on thus applying the test to these principles, the test being that damage to or denial of any one of the six principles will tend to extend the damage and the denial to the others; and will therefore tend to damage law and order as a whole. There can be no law and order at all without these principles.

Then we must consider as to how these principles come to be established. I said a little while ago, a principle does not become a principle because a wise man lays it down. Let me say at once that these principles, as any other principles, cannot be established a priori. They cannot be given.

Bracton, a philosopher of the early 13th century, considered the rule of law. He propounded the thesis that there is a universal law that has been given and that governs the world, which law the kings must rule according to. That doctrine has been demons-
trated to be fallacious by the history of the centuries that have passed since then. These principles cannot be given from above by anybody. They must grow. In Britain (in whose traditions of law much of our present way of orderly social living is grounded) gradually, not without struggle and pain there came a realisation that the rule of law derives not from above but from the common law. The common law is the common law of the common people. This realisation, and the establishment of the true rule of law are the result of long historical processes and struggles. And a point to remark is that these processes of history and the struggles are by no means all past. They continue today, and they will continue in the future.

Even our Constitution, to which we look for safety, protection, and the values that subsist in the social whole which forms this nation, does not absolutely protect this principle of the rule of law. For one thing, the Constitution contains provisions for setting aside some of the very protections and fundamental freedoms which it provides, and for setting them aside by ordinary legislative processes. The preventive detention Acts are provided for under the latitude given to the legislature by the Constitution to deprive a citizen of his personal liberty; and this can be done without changing the Constitution.

Therefore, to stress the point again, these principles do not come, and cannot be given, and are not given from above. They cannot be contained in a code. They grow from within a community and derive from the common law, the law of the people, given to themselves by the people.

The principles of law and order merit our constant watch and constant study. Constant vigilance on our part is called for, lest they be suddenly denied. A coup can happen just like that. You can wake up one morning and find they are gone, these principles, simply abolished or suspended. Equally and even more dangerously they can be defeated by insidious nibbling with them here and there; a little exception here, a little slackening there, a little less application of a principle, a little special provision for some special circumstance. History is full of them. Our own constitutional history is full of them. Therefore, the need constantly to state principles, constantly to watch them against the sudden denial of any of them, and against any insidious nibbling at the
principles and what each of them stands for.

Let us never forget that rulers everywhere find these principles irksome. It does not matter whether it is an absolute monarch, or a dictator, or an executive provided for by the Constitution like that of the United States, or a government and an executive under immediate parliamentary control and discipline. Rulers tend to find these principles irksome in the performance of their own daily tasks.

And the agents of the rulers, that is to say, the vast bureaucracies, the police, the public functionaries, the official invested with a regulatory office and power, the man from whom you must buy a stamp from the postal counter, the harassed constable trying to discover and catch an offender, every one of them, they find these principles even more irksome. For the lower in the rung you go in any administrative establishment, the closer you come to the contact of the administration with the citizen, and the greater is the ignorance about fundamental principles and of the need to apply them at the very points of direct impact of the administration upon the citizen.

Therefore it is necessary constantly, both in the case of those who govern as well as their agents, call them by what name you like, constantly to remind them, constantly to prod them, constantly to challenge them, and challenge them not merely to adhere to the principles but to test the principles themselves.

How is this to be done? Who are the watch-dogs? Who are the custodians of these principles?

There is no single custodian. They cannot be given into the keeping solely of the executive, the policeman, the official functionary, any official agency whatsoever. If one does that, there will be an inevitable tendency to trim down the safeguards, even through wishing with the best intentions in the world to help the citizen to be guided as to what he may do or may not do. That process itself of guiding the citizen, unless it is severely self-disciplined and also watched from without, may set you upon an escalading process which will end up by denying these principles.

Therefore, let us recognise clearly that the watch-dogs of these principles cannot be the executive agencies of the country's governance, or any agents of the executive. The watch-dogs in our country consist firstly of parliament and the other legislatures; secondly,
it consists of the judiciary; and thirdly, and most important of all, it consists of the people, the citizens, "we, the people", the same "we, the people", who are identified as the creators of the Constitution itself.

What does this watching and guarding imply? It involves the assuming of a burden of responsibility, which is quite clear and quite definite. This burden and this responsibility predicate particularly the following disciplines. Firstly, constant and unremitting vigilance; secondly, courage; thirdly, determination and fourthly, self-discipline.

This self-discipline can be the most powerful sanction in anyone's hands, more powerful than many other sanctions that appear for the moment to be more effective. It was self-discipline rigorously applied, under Gandhiji's determined leadership that proved one of the most powerful weapons in the struggle for independence. Parliament has its rules of business and its disciplines; but let us mark that in one area where a code, a difficult thing indeed, is contemplated by the Constitution, namely, the introduction of rules and regulations as to parliamentary privileges, the parliament has not yet been able to provide itself with a set of rules, but has continued to use the practices of the British parliament. Nevertheless, the rules of parliamentary business provide ample scope for the legislature to act as a watch-dog of the principles of law and order, within the parameters and the sanctions prescribed in the Constitution.

The judiciary has formal codes of discipline which are readily available in the statute book and in the rules for the conduct of business in judicial and other proceedings. The Constitution and other laws have established the judiciary as the guardians of the principles.

What about the people, who are the very creators of the principles, and for whose security the principles exist? Here exactly to my mind is where the burden and discipline of responsibility falls upon every citizen, to guard these principles. They cannot, and they will not be guarded otherwise. When one reads the case histories of tumult, revolt, rebellion, revolution, disorder, we should look then for this particular element or its absence: as to whether the people did, or failed to guard, and in guarding whether they exercised those disciplines of responsibility required to
sustain the security of the principles themselves.

The security of these principles must be watched constantly, courageously and effectively, with each of the proper watch-dogs, the parliament, the judiciary and above all the citizen exercising that necessary self-discipline without which the principles must fail.

The Principles

The first principle is that law and order are inseparable. Put that way it seems obvious enough. But if one looks at the dictionary meanings of the two words, we may see that the two terms are not exactly the same thing. If they were, one might as well use one word and say “law”, or one might say “order”. But law and order are each distinct. This distinction must be kept in mind; the principle follows, namely, that law as law, and order as order, are mutually inseparable for the proper administration of any ordered social living.

There can be no law to prevail unless there is order; and no order can prevail which is not that of a law-abiding nature. Order can indeed prevail for very short periods in special circumstances, without the law prevailing. The law can be denied by a sudden dictatorship, by a sudden usurpation, by a sudden abolition of the rule of law and of the processes of the judiciary. History and contemporary events provide plenty of examples of this. But whereas order can prevail, albeit as history demonstrates only for short periods, law cannot be maintained at all without order. This exactly is the reason for making the rule of law supreme, and not the rule of order. You will not hear of a principle called the rule of order; but there is a principle called the rule of law. We grow up in it, we live in it and we take it for granted. But let us mark the distinction between the rule of law and the rule of order. It is exactly because law cannot be maintained without order, that it is necessary to establish and maintain the principle of the supremacy of the rule of law, as a basic principle and not a derived mode of ordered living.

While the agencies of law cannot even function without a state of order (the judge of the Supreme Court cannot get out of his house, leave alone enter his court so that he may adjudicate and hand down the law, if there is a riot going on in front of his house),
the agencies of order can upset the rule of law itself. They can not only function without the rule of law; they can even upset the rule of law itself. The dictator regimes while they last, such as an army coup abroad of the sort we hear of not infrequently, or the truly classic dictator states of nazi Germany and fascist Italy, can, and do in fact establish a state of order, without the rule of law. Indeed they are compelled for the existence of the dictatorship itself, to deny and abolish the rule of law. And thus they carry the seed of their own destruction, apart from the great misery they cause. We recognise therefore the inseparable nature of law and order.

The second principle, that of absolute priority of law and order, seems again a fairly obvious one. But in practice, there are a surprising number of failures to recognise, understand and to apply this rule. I know of several cases from my own experience and I may mention one, which took place some years ago.

An election officer was conducting an election, and there was excitement, threat of disorder, threat of a riot, and the question was: should he, as a magistrate—and he was a sub-divisional magistrate—should he as the magistrate responsible for law and order and for maintaining the peace, hold up the election process and deal first with the threatened riot and prevent it, or should he continue the election process which was prescribed by law and which would be rendered infructuous unless it kept to the very strict election procedure and time schedule. He thought that the election process was so sacrosanct and must command such priority that he must continue with it. The result was that while he was getting on with the election process, the excitement outside increased. People came to blows, there was a riot, and the rioters upset the polling booth and polling station and everything, with the net result that neither was order maintained nor was the election process able to go forward.

That is an example of a case where the wrong priority defeated the very process which the maintenance of order should have been aimed to secure, namely, an orderly and proper election. The lesson of such events is that it is of no use to try and do anything at all, unless law and order is first rendered effective. That is the point of this principle.

In another place, a district officer whose duty it is to count the
balance in the government treasury on the first day of every month, found a riot threatening in the city. He made over the treasury counting to his senior assistant, and himself went to deal with the riot. He dealt with the riot effectively; but got into trouble with his Commissioner, who threw the treasury rules at him and said: look at rule so and so, and explain why you neglected your duty. It went up to the government, on the issue of priority. The government took the right view, and decided that as between the statutory prescription that the treasury balances must be counted on the first of the month and the need to maintain order in the city, the need to maintain order in the city came first.

In one very large city, the city of Kanpur, in the early thirties, the district magistrate and his people were engaged in dealing with an extremely serious communal riot, one of the worst riots which that city has seen. But somebody or other at headquarters in Lucknow seems to have kept worrying the district magistrate over the telephone: "Tell us what is happening: send us a report"—that sort of thing. This poor magistrate spent the best part of his day in his office trying to write his reports, while the rioting grew worse and spread. In the subsequent inquiry I think it was pretty well established that writing reports for the government or giving information to the government must take second place to the priority of dealing with the law and order situation on the spot. This latter must have absolute priority.

The emergency in Assam in November 1962, resulting from the threat of the Chinese advance to Bomdila, within a few hours by road from Tezpur, led to a state of emergency at Tezpur town. It was extremely sudden, widespread, very intense, and grave. The district officer there immediately acted upon the principle of the priority of maintaining law and order; I have no doubt that this as much as anything else enabled things in Tezpur to settle down very fast within a day or two. In a situation which could have got completely out of hand, even with the Chinese ceasing fire and stopping their advance, it was prevented from doing so by the local officials acting almost instinctively upon this principle of the absolute priority of law and order.

Therefore, the second principle prescribes that everything must give way to the priority of law and order, until law and order is established with reasonable effect; except of course, only that
which itself helps in establishing law and order as its first purpose.

The third principle is the principle of the rule of law. You will observe that I have placed the rule of law at the third place. There is no particular order of importance of priorities amongst these six; but the first and second stand above everything else, and the third certainly comes immediately after.

The rule of law is a phrase, indeed a concept which we have inherited, derived largely from British constitutional history and practice. For an understanding of this principle, therefore, we must refer to the situation in Britain.

Dicey made a threefold definition of the rule of law. The first aspect of it is the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power. It inhibits the exercise or prevalence of arbitrariness, of prerogative or even of wide discretionary power or authority on the part of the government. And when we say government, we include all the agencies of government.

The second aspect of this threefold definition describes the rule of law as equality before the law; the equal subjection of all classes to the ordinary law of the land, administered by the ordinary law courts, not by just anybody, for instance some functionary of government sitting in his office and saying that the law empowers him to decide certain matters and therefore he will decide them as he pleases. He may decide, but his action will be subject to scrutiny in a law court somewhere, some time or other, and will be measured by some provision of law and equity administered by the ordinary law courts. Every person, official or otherwise is subject to the same law. Subjection to special rules and disciplines, such as in the case of military officials, does not absolve one from subjection to the ordinary law of the land.

As a third aspect of the rule of law, whether the Constitution, be largely unwritten as in Britain, or codified as in the USA and India, the provisions of the Constitution are not so much the source as the consequence of the rights of individuals as defined and enforced by the courts. Thus the Constitution, written or unwritten, is the result of the ordinary law of the land. Which reminds us again that these principles do not derive from something given from above; they cannot derive merely from their being written into the Constitution. They derive from something
much deeper and fundamental, and that is the ordinary law of the land, the common law of the common people.

Britain has had its own history, the results of which we have derived. In Britain, which has no written Constitution, the main constitutional struggle over the centuries was not so much between the courts of law and the king. The main struggle was between parliament and the king as rival claimants to supremacy in the land. It was this struggle between king and parliament for supremacy which produced, almost as a by-product, the great laws which govern human freedom in Britain: Magna Carta, the Bill of Rights, the abolition of the Star Chamber. The barons forced King John to sign the Magna Carta, not because they wanted the rule of law to prevail, but because they themselves wished to share in the sovereign authority in the land and to deprive the king of his sole monopoly of sovereign power.

The Bill of Rights was enacted in 1689. Mark the century: it was the late 17th century, and it was during the 17th century that the East India Company was operating and extending itself in India. Thus in a very direct way, our political processes and our general legal pattern and circumstance reflect the results of the struggles in Britain of the 17th century, which culminated in the Bill of Rights of 1689, and which established uncontestably for all time thereafter the supremacy of parliament. It also tends incidentally to obscure the fact that our history as a whole is somewhat different, and contains also other streams of historical development; and that our constitutional position is very different, in the distribution and balance of the sovereign power, from the position which prevails in Britain.

Now let us examine more closely what the rule of law signifies to us. It signifies, as we have seen, that it is of universal application through the ordinary courts of law. Due process of law is a term which is well known in the United States, and although it does not I believe specifically figure in their Constitution, it is a phrase against which the administration as well as the legislature in that country stumbles again and again. Due process of law there is interpreted by the Supreme Court of the United States, repeatedly, so as to test not merely whether a particular piece of legislation or a particular exercise of executive authority falls within the four corners of the written Constitution of the
United States, but also whether it is reasonable. What is reasonable is never precisely defined. The Supreme Court of the USA thus reserves for itself the freedom to interpret the term "reasonable".

Our courts, and I consider this is a good thing, tend to interpret executive and legislative processes by a somewhat similar test of due process of law. And as we have seen, the agents of law and order themselves, as also the rest of the executive and other authorities, have no authority or right or privilege, or protection, except as provided specifically by law; and by law we mean here the law as interpreted by the term "due process of law".

In fact, the agents of law and order, such as the armed forces, may have some of their rights taken away. For instance, article 33 of the Constitution provides that the armed forces, under the Army Act, may have some of their rights, protections and privileges restricted or abrogated. There is no provision for adding to these. There can be no special investment of authority or protection, except only as the Constitution itself may provide for.

Another aspect of the rule of law in India is that no punishment can be inflicted of a kind not specifically provided by law. This is provided for by Article 20 of our Constitution. I have known people get into trouble with this, even under the old regime. It was as valid a principle before our Constitution was framed as it is now, namely, that no punishment can be given of a kind not specifically provided for by law.

In one case that came before me as district magistrate in the district of Basti (it was known as the case of the indentured labourer), I encountered a practice whereby under some obscure provision of an Act or of a rule under some such Act, if a labourer from a tea estate in Assam left the estate without permission, his employers could follow him, could apply to a court, a magistrate's court, and have him punished by being forcibly sent back to the tea estate. Now the Criminal Procedure Code and the Indian Penal Code provide no such punishment. You can fine a man, you can imprison him, but you cannot force him to go back to his employer. This became somewhat of a test case, to illustrate the principle that, under the rule of law no punishment can be awarded which is not categorically provided for by a specific, and
also valid law. I mention that as an instance of a case long before our own Constitution came into being.

Another aspect of the rule of law is the independence of the judiciary. The judiciary are made independent by our Constitution. But theirs is an independence which is not dependent merely upon the Constitution. The whole body of the laws of this country implicitly provide that the judicial process, and the judiciary, must be independent of the executive and the legislature. This independence inhered in the judiciary before the Constitution codified it.

A judge, or a magistrate sitting in court, or a person exercising a judicial function, cannot be called to account except in accordance with the procedure laid down. The independence of the judiciary is an essential ingredient of the rule of law. Unless the judiciary is independent, the rule of law cannot prevail. For the guardian of the rule of law is the judiciary itself, acting freely and independently of any influence, pressure, or favour. It is an independence which has to be secured to the judiciary and sustained, and jealously guarded. It is an independence also which has to be watched by the ordinary citizen, to ensure that the judiciary functions without fear or favour and is free from influence.

Another aspect of the rule of law is the finality of judicial decisions. The verdict of a court of law is final. No one can upset it. No executive can upset it. If a judge or a magistrate or a judicial officer acquits somebody, you cannot arrest him again, you cannot touch him. If the Supreme Court hands down a decision it can no further be challenged. The final point of judicial pronouncement and decision in this country is the Supreme Court.

The verdict of the court is final; and not merely final, but actually binding and compelling performance through all the processes of government. It cannot be set on one side as a nuisance to be ignored, or belittled in any way. It cannot be ignored; and one sanction behind it is the process for contempt of court. The case histories of contempt of court provide some interesting instances, where officials, often district officials, have failed to take sufficient notice of a court's decision or a court's writ or injunction, or have failed in their duty to take positive action to make the court's order prevail or the court's writ run effectively. They have been hauled for contempt of court.
The only thing that can upset the final verdict of the courts is the amendment of the Constitution itself. Except by amending the Constitution if it can, even the parliament cannot do anything about it. The executive government certainly cannot. No one can, unless the process of amending the Constitution is set in motion. Now, of course, in this country we have at present a large majority of one party, and constitutional amendments may seem to be fairly easy to enact. The Constitution has been amended several times, and as recently as in 1963. That is all very well. But as time passes, and political sophistication increases and spreads, and if there is a sizeable opposition, then we may come upon a situation where it may not be possible for parliament to amend the Constitution simply because the majority party may wish to do so or considers it right to do so. Then indeed, the verdict of the court will be final. As it is, at least one recent proposal of the government, early in 1963, to amend the Constitution so as to enable the Law Minister to be appointed as Attorney-General, had to be dropped because of the opposition it aroused, including opposition within the ruling party itself. Constitutional amendment should not be too easy or facile a process.

Yet another aspect of the rule of law (and the rule of law needs a great deal of understanding in depth), is the right of free access to the courts, and freedom to activate the judicial process. The citizen cannot be stopped from resorting to it. No one can tell you that you cannot go to a court of law. They can do what else they like; this no one can do. If anyone does, he becomes guilty of contempt of court. No one can be stopped from putting the machinery of law into operation. It does not matter what disciplinary rules there are, and what general agreement there may be, against recourse to the law and the courts. There can be no denial to anyone of the protection of Article 32 of the Constitution, which specifically and precisely provides for the right of free access to the courts and the use of the judicial process for every citizen.

We may now consider the fourth principle of law and order, which speaks of the safety of all. The meaning of this principle is exactly what it says: the maintaining of law and order is concerned directly with the safety of everyone, without any distinction or exception whatsoever. We may look at this and its implications
in a little more detail, to try and reach a closer understanding of what inheres in this principle.

Firstly then, this protection for all is absolute. There are no conditions attached to it. Law and order, and the protection of the processes of law and order for everyone is not conditioned by what anyone does or does not do.

Here again we have a principle which seems fairly obvious. But in times of disturbance or excitement or stress, which is the very time when the principles of law and order become important in their application, it is not unknown for this principle to be questioned, even challenged. "So and so is a bad character, or a wrong-doer, and is therefore not entitled to the protection of the law," or "such and such group is suspect, therefore it cannot enjoy the protection of the law to the same extent as the rest of the population until it has given proof of its having earned protection." That is to mention only two kinds of situations which have actually arisen in the past.

The answer in each case is exactly the same. The authorities responsible for maintaining law and order must protect everyone, unconditionally, all the time. Here again the formal principle derives in large part from the system of law and the maintenance of order in Britain.

Also, a country like India knows no lynch law. The whole idea of a lynch law or of lynching is somehow foreign to our thinking, and outside the range of our emotions. A mob may get excited and commit the most terrible cruelties; but I have never known of a case where anything approximating to the so-called and cold-blooded lynch law has occurred in this country. This contrasts sharply with the country from which the term lynch law is derived, the United States of America. Lynch was I believe the name of someone, a colonel or a pseudo-colonel, who started this particular kind of outrage against the negroes. And it is an all too frequent occurrence even today in that country for an organised group or crowd to lynch persons who may have been either convicted for some offence or even only accused of an offence, or indeed even merely suspected of one; or merely because they have aroused someone's antagonism or animosity. It was only a few months ago that there was published in the newspapers the account with full photographic illustrations of a gang of white
citizens breaking upon a jail, seizing the negro who was detained there, dragging him by his feet down the steps of the jail house and along the streets. The event happened before enough people for it to be fully photographed, and the newspapers were full of it; and it was not a long time ago but within recent months. It is the kind of thing that has not happened here, within my own fairly long association with the maintenance of law and order.

If such a thing ever raised its head in this country, then the principle of the safety of all must be applied with all the rigour, with all the severity of the force at the command of those whose duty it is to maintain law and order. The full amount of force which is required must be brought into play to stop it, and to prevent it happening again.

How much force may be required is illustrated again if we look at the happenings in the United States. In some parts of the southern states there, the force required to deal with the situation involved the deployment of federal troops, with the full force and sanction of the national government behind them.

Another sense in which the principle of the safety of all is used is the absolute equality of everyone before the law. This is well-established in our system of law, and generally recognised and repeatedly stated. The Constitution provides for it in specific terms. But we may recall again that as in the case of the other principles, the principle of the safety of all does not so much derive from the constitutional provisions; rather the Constitution states and codifies a principle which already existed. There is a whole section of the Constitution which deals with fundamental rights. These fundamental rights are precisely stated; even though it may be argued that all the fundamental rights of the citizen are not comprehensively listed in the Constitution.

Article 13 of the Constitution provides that the fundamental rights cannot be taken away. The Constitution does not merely make a list of the fundamental rights and leave it at that. It firmly provides that no fundamental rights can be taken away except only under due provision of law. There are indeed legal provisions whereby under certain circumstances certain of the fundamental rights can be suspended or taken away. The legislation dealing with the national emergency arising from the Chinese aggression upon our northern frontiers provided for the suspension of some
of the fundamental rights. But there is no provision of law which gives rise to more anxiety among the people and their representatives, or more opposition, than legislation which tends to take away any of the fundamental rights.

Article 14 of the Constitution provides for equality before the law and the equal protection of the law for everyone. Any classification of persons must only be for legitimate purposes, demonstrably legitimate purposes, for example women, or children, or members of scheduled classes, and so on; or they must be provided for in the Constitution itself. The Constitution does in fact differentiate some classes and groups of citizens, such as scheduled castes, scheduled tribes, even classes like Anglo-Indians, and rulers of Indian states; in each case for certain particular purposes which are defined. Incidentally, I regret to have to admit, and I have always felt it somewhat to my shame, that it includes the members of the civil service, whose special conditions and privileges of service are preserved by the Constitution. However the point to note here is that except for specific provision made in the Constitution itself, or a classification made for a legitimate purpose, Article 14 prescribes complete equality before the law and the equal protection of the law for everyone.

Article 15 sets out that there shall be no discrimination on grounds of religion, race, caste, sex or place of birth. This last element, place of birth, is rather important as a safeguard against regionalism, parochialism and the like.

Article 16 prescribes equal opportunities to all for public employment; while Article 17 abolishes untouchability, an ancient curse which continues still to bedevil us in various ways.

Article 18 equates all citizens by prescribing that no citizen of India shall have any title bestowed upon him.

Under Article 19, all citizens have the right to freedom of speech and expression; to peaceable assembly without arms, to form associations and unions; freedom of movement throughout the territory of India; to reside and settle anywhere in India; to acquire, hold and dispose of property; and to undertake any profession, trade, business or occupation.

Then comes an Article in the Constitution which puts teeth into these fundamental rights. It says that everyone shall have access to the supreme court for the assertion of these fundamental
rights. There is a whole array of writs: the writ of *habeas corpus*, the writ of *mandamus*, the writ of *a certiorari*, to mention three of them.

We see thus how the fourth principle of law and order, the principle of the safety of all, prevails in this country and is provided for in the Constitution. There can be systems where this situation does not exist; for example, in some countries where there is racial discrimination by law, such as in South Africa; or in nazi Germany where the persons of Jewish race were excluded from the safety of the law. In India also in some ways under the old regime the principle of the safety of all was limited in its application, though not on the ground of race; nevertheless the principle broadly applied, as far as it could under a colonial regime.

The next principle we may consider is the principle of the use of force. The principle states that force is essential to the maintenance of law and order.

No one likes to use force, or to have force used upon him. No one who has had to use force will say that he has enjoyed it, unless indeed he be a sadist or pervert. But the application of force in case of need is an essential prescription in the maintenance of law and order.

Now it is true that in an ideal state, in a utopia, force would become unnecessary. Force is certainly undesirable and unpleasant at any time and in any circumstance. In an ideal state of existence, force would be unnecessary, and indeed irrelevant to the social mode of living of the community. But in the world in which we are placed today, and as far as one can foresee, there appears to be no escape from the use of force in the maintenance of law and order. Much confusion in the minds of people would be avoided, if this is recognised as a fact of life.

It has sometimes been said that the use of force by the agencies responsible for maintaining law and order is a confession of failure, and an admission of bad administration. There are those who feel, and sometimes quite sincerely, people often in a position to make their influence felt upon the agencies whose duty it is to maintain law and order, that force should not be used, but only moral persuasion.

It is true that reason and moral persuasion prevail over large areas of human activity and human relationships. They extend
likewise over the large spread of public administration, including the vectors of administration concerned with maintaining law and order. But that is far from saying that all force can be abolished, or that reason and moral persuasion could replace the use of force on every occasion. That indeed would be to postulate an ideal state, a utopia.

Therefore, we must recognise the use of force as an essential principle in the maintenance of law and order. One may reason with an individual, or with a group, and try to use the method of persuasion. Indeed in the very maintenance of law and order, much is achieved by persuasion. But there must be behind the persuasion the sanction of physical strength.

One has only to contemplate the situation of a small section of police constables in the midst of a howling mob, with a riot in violent progress. The constables have the duty laid upon them, not merely to watch and report what is going on, but to intervene and to try and stop the riot. The law lays this duty upon them. What are they to do? This may be an illustration of an extreme case; but anyone who has had to deal with the maintenance of law and order will know that situations all too frequently present themselves, where the sanction of force and the actual use of force is imperative in order to maintain law and order.

No one likes the use of force; but to deny the use of force in the maintenance of law and order is to defeat law and order itself.

We thus see that the proper question to ask is not whether force should be used or not; but to ask: what kind of force? how much force? Who is to decide as to what force, what kind of force, how much force is to be used and how it is to be used? Who takes these decisions? Should it be the state government, or the chief secretary, or the chief minister, or the home minister, or the superintendent of police, or the district magistrate, or the magistrate on the spot, or the commanding officer of a military force which may be present? Which of these is to decide which questions? There can be great confusion, as indeed sometimes happens, about this one single set of questions: who is to decide what force, how much force, what kind of force, in what way to use it. These are the proper questions, and not whether force should be used or not.

The sixth principle postulates the supremacy of the civil autho-
rity. The law, the statutes, the rules made under the law, the Constitution itself, the common law of the people, and custom and practice all point to the principle that the civil authority is supreme.

The one single exception occurs in the declaration of martial law. Then the military commander takes over the functions of the civil power, and for the duration of martial law he replaces the civil power. This is a common law circumstance, and not an arrangement provided by a statute. The Constitution itself does not prescribe or provide for the imposition of martial law; it merely recognises the fact that martial law may be imposed.

What is the significance of this principle? The significance is partly historical; but mainly it concerns the safety and the upholding and preservation of the other principles we have enumerated. It is interesting to see what is happening in other countries.

We may consider Britain first, for it is from Britain that we have derived our main constitutional tradition and practice. In that country, throughout all the struggles for supremacy between Parliament on the one hand and the Crown on the other, throughout all the efforts to establish the rule of law, the courts in Britain have again and again laid down the law, and have interpreted the law to mean that the last word even where martial law has been declared must rest with the civil power, the civil courts. When martial law is declared, and supervenes, the normal courts of justice may be suspended. Nevertheless once the period of martial law is over, and the civil courts start functioning, they become seized of everything that happened during the period of martial law, including the conduct of the military commanders themselves. Indeed, the English, with their great aptitude at improvisation, devised the method of covering a period of martial law by parliamentary acts of indemnity and oblivion. These acts have been passed by the British Parliament from time to time; and apart from providing immunity for acts done during a period of martial law, they also assert the supremacy of parliament in being the only authority which can provide and prescribe such immunity, by act of parliament. One of the last of such acts was in 1920, the Act of Indemnity of that year.

In Britain also there has always been a widespread and healthy
suspicion of all military commanders. The Duke of Wellingdon, the hero of the Napoleonic wars was indeed made Prime Minister; but surely more as a reward than because he was equipped to be the country’s Prime Minister.

Now, military officers have sometimes become political leaders and even ministers in Britain. But when one considers that over the last few decades alone Britain has been through two great world wars, when the whole country and its people were conscripted and millions put in uniform, it is inevitable that many who subsequently sought a career in politics or became ministers would have spent some of their time in the armed forces. But that has no relationship whatsoever to the problem of civil and military authority as such.

In the United States of America there have been generals who have become presidents of the country. The most recent example was of course Gen. Eisenhower, the Supreme Commander of the Allied Forces in the last World War, and who subsequently became President for two terms.

In some way, communities such as the British and the American appear to have a built-in safeguard against the preponderance with a military background. That indeed is a good thing.

Nazi Germany under Hitler achieved the somewhat remarkable success of a civil group, and a civil leader exercising supreme authority, extending over and cowing down one of the most powerful military high commands that the world had seen. This appears to have been possible mainly through the assertion of the leader principle, the imposition of the principle and its universal acceptance in the country. Hitler combined in himself the position of the head of state, the head of government and the supreme commander of the armed forces; with what results, we have seen. Similar to the position in nazi Germany was a situation in fascist Italy under Mussolini, with the same disastrous results to the world and to Italy itself.

What can we derive from all this; what lessons can we learn, what cautions can be set before us? Complacency can be fatal. The fundamental principles of law and order and of good government need constant guarding, constant vigilance, if they are to prevail. Any of the principles can be upset, and suddenly; such as the principle of the supremacy of the civil authority.
Let us, therefore, as a cautioning exercise, endeavour to comprehend a little of the genius of parliamentary democracy in practice in Britain, profit by some of the lessons learnt, and be constantly on guard for the protection of the six principles of law and order, in order that these principles may in turn guard our own security. The watch-dogs of the principles are parliament, the judiciary, and the citizen.
CHAPTER 6

LAW AND ORDER: AGENCIES

The Magistrates

We may now go on to consider the agencies which are concerned with the maintenance of law and order, before going on to examine the methodology of law and order.

The agencies include the central government, the state governments, the judiciary, the magistrates, the police, the military forces, the civil forces such as the home guards, and finally and yet once again the citizen himself, for the conscious effort of the citizen is essential to the maintenance of law and order.

We may consider first the magistrates. For we are dealing with district administration, and the first agency that strikes the attention is the district magistrate, with the other magistrates subordinate to him. The district magistrate and the other magistrates are responsible for the prevention of crime, for the restoration of peace and order with the assistance of the police, and if necessary with the assistance of the military. The magistrates are charged with the duty of overseeing police investigation. They are intimately concerned with the processes involved in these investigations, including particularly the identification of suspected persons, confessions and dying statements, identifications of property, searches, and generally overseeing the activities of the police.

The magistrates make a number of systematic inspections including visits to police stations, examination of the police diaries and other records, and inspection of the police staffs. During their tours in the districts (and there should be much more touring than is done in some cases) the magistrates are expected to make local enquiries as to the general state of law and order, the incidence of crime, the work of the police, and any complaints by the people. There are also frequent and close consultations between the magistrates and the police officials, starting with the district magistrates and the superintendent of police at the top, and down the line.

The magistrates, particularly the sub-divisional magistrates are
concerned with the progress of prosecutions, and the results of prosecutions by the police. The district magistrate receives reports of these results, and makes his comments. In the case of an acquittal, a government appeal can only be filed after the district magistrate has satisfied himself that the police case was a good one, was properly presented in the court, and that the verdict whether by a magistrate or by a judge was perverse. An appeal against an acquittal is not to be lightly undertaken; in recommending that such an appeal be filed in the high court, the district magistrate assumes personal responsibility for the case as presented by the police.

Once a year the district magistrate must make a report known as the annual criminal report of the district. In this report are tabulated and analysed all the statistics having to do with law and order in the district. This report is submitted by the district magistrate not to the government nor to the divisional commissioner who is in the departmental line of authority directly above the district magistrate but to the district judge. Here incidentally we see again the pervasive nature of the principle of the rule of law; we see that the annual criminal report is submitted to the judge; that is, in the line of the judiciary as defined in the Constitution, and not directly in the executive line of government.

The Police

The next agency of law and order is the police; civil police of all kinds, including the armed police and the reserve police force.

The police pattern of the country is derived largely from another of those great law codes of the eighteen sixties, the Police Act of 1861. That piece of legislation, enacted more than a century ago is still the principal statute which governs the police establishments of the country, and in every district.

The police forces in India are organised mainly by states; each state having its own police force. There were special branches of the police assigned to the railways; and except for this, the central government had practically no police at its immediate command. Formerly, the principal police establishment at the centre was the Bureau of Intelligence.

More recently by an Act of Parliament of 1949, provision has
been made for the constitution of an armed central reserve police force.

The duties of the police are set out precisely in Section 23 of the Police Act of 1861. That list is as good today as it was a century ago, and in a very different set of political circumstances. Comparing that section of the old Act with Section 7 of the Central Reserve Police Force Act of 1949 (with nearly a century between the two Acts), we find that the duties of police officers prescribed in the 1949 Act practically repeat the list of duties set out in the older Act.

We may consider, as samples of police organisation, operation and control, the position in two different states, say Maharashtra (formerly known as Bombay) and Uttar Pradesh. (The police manual in force in Maharashtra today is still called the Bombay police manual).

The organisation, functioning, and control in both states are prescribed by, and regulated under the provisions of the Police Act, the Criminal Procedure Code, and other laws and rules. The rules made in accordance with these laws are contained in the police manuals of each state. Above all, every law and rule must be in conformity with the Constitution.

These rules prescribe in great detail the whole of the police organisation in the state. They prescribe the inter-relationships between the different police officials and formations; similarly, relationships between the magistracy and the police. They set out the duties of the different police officials, and also as to how the police should conduct themselves in the prevention, detection, investigation and prosecution of offences, and in the maintenance of law and order. They are instructed in detail how to conduct investigations, inquests, post-mortems; how arrests shall be made, and searches conducted; how they shall deal with special groups such as foreigners, or with vagrants and the like.

The manuals prescribe special rules for the surveillance of bad characters. The term *das numbari* is familiar as part of our vocabulary. It refers to a particular police register, register number 10, in which the bad characters and details about them are listed. Incidentally, “420” or *char sao bees* has also become a part of our vocabulary. In fact I believe that even a film has been produced, with this title. It is derived quite simply from the fact that
Section 420 of the Indian Penal Code deals with the offence of cheating and lays down the penalties for it.

The police manuals also prescribe the records to be maintained by the police at every point, and how each record is to be made and maintained. This includes the recording of information, reports, complaints, statements obtained from witnesses, diaries to be maintained during the course of investigation, and a large number of other records. These records are of special importance, and as we have seen they are subject to inspection and overseeing by the magistrates as to their proper maintenance.

One of the duties of the police is to execute writs issued by the courts, including summonses to accused persons, or to witnesses, warrants of arrest, and search warrants.

As to direction and control, and discipline, the police manuals contain rules for all these matters in great detail.

In the administration of the district, the control and direction of the police force is vested in the district magistrate. This is provided for by law, and the police manuals lay stress upon this.

There are three features of the police administration in the district which need to be emphasised, in considering the functions and responsibilities of the police.

Firstly, any action by any police official must be according to law. Just because a constable wears a uniform and has certain powers to perform certain acts under the law, it does not mean, for instance, that he can arrest anybody at will. He must act in accordance with Section 23 of the Police Act of 1861, Section 7 of the Act of 1949, the Code of Criminal Procedure, and the principles of law and order.

We may notice that one prescription which is repeated in both the 1861 Act as well as the 1949 Act is that it is the duty of every police officer promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice, to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension reasonable grounds exist. This applies to every police officer, of every rank whether he is the inspector-general of police, or the district police superintendent, or an ordinary constable. Every member of the police force is a police officer before the law. We may notice particularly the repetition of the words law-
ful, legal, and competent authority. They qualify everything that a police officer must or must not do.

The second feature to notice is the compulsion to obey. If a lawful order is lawfully given, the police officer has no option but to obey. Disobedience is punishable not merely under the rules of disciplinary action in the department, but as an offence under the criminal law. It is a criminal offence on the part of the police officer to disobey, or not promptly to obey an order lawfully issued. Therefore, if a magistrate or a judge issues a summons and a constable fails to serve it, or his superior police officer fails to pass it on to him for service, unless he can show good faith to the contrary, he becomes guilty of a criminal offence, and not of mere disobedience of orders. We recognise thus the second feature as the legal compulsion to obey a lawful order lawfully given.

The third feature which concerns the functioning of the police force in the district is, as we have already seen, the overriding control of the district magistrate. This has been provided for in the same old Police Act of 1861. Section 33 of that Act sets out that the control of the police in the district shall vest in the district magistrate. That provision remains properly in force today, and is repeated in the police manuals which regulate the police forces in every state. The district magistrate is ultimately responsible for law and order in the district. It is therefore compulsive that he should be in superior control of the police of the district, and for its deployment and use.

Courts of Law

The third agency concerned with law and order consists of the courts of law. We may note in passing that the agencies are not listed in this chapter in any particular order of importance. Each one is important in a different way. In many ways the courts of law exercise an authority which prevails over every other agency concerned with law and order. Thus, in one sense, the courts of law may be regarded as supreme amongst the law and order agencies.

The courts of law under the Constitution are contained within a unitary and fairly tightly-knit pyramid. The highest judicial
forum in the country is the Supreme Court. Its decisions and pronouncements are final, and are not open to any further appeal or questioning, or challenge.

In each state a High Court exercises full jurisdiction, but subject always to the ultimate jurisdiction of the Supreme Court of India.

In the district, the district judge is closely concerned in several ways with matters affecting law and order. He exercises both original as well as appellate jurisdiction over all the judicial work of the magistrates and other judicial officers. He receives the annual criminal report of the district which is submitted by the district magistrate. He comments upon the judicial work of each magistrate and judicial officer.

These are healthy provisions which have come down from the past; it would be a pity if out of some narrow sense of departmentalism, the district administration were to lose the benefit of the district judge's comments upon the judicial work and conduct of the magistrates and other judicial officers, or of his review of the criminal administration of the district.

The magistrates who in their executive capacity are more directly concerned with the maintenance of law and order also themselves constitute courts of law, and come directly within the judicial pyramid. Sitting as a magistrate in his own court, the district magistrate is empowered to hear appeals from the decisions of magistrates of the second and third class. There is often an Additional District Magistrate, who looks after the judicial work of the magistrates and judicial officers, and hears appeals as a district magistrate.

A district is usually divided into several sub-divisions, frequently four sub-divisions, and for each there is a sub-divisional magistrate. Even in those states where there has been a separation of the judiciary, and judicial officers have been appointed to try cases, the sub-divisional magistrate continues to sit as a court, and to try cases under what are known as the preventive sections of the Criminal Procedure Code. These are the sections which deal more directly with the preservation of law and order. Section 107 provides for binding over persons if a breach of the peace is apprehended. Section 109 deals with vagrants and suspicious characters. Section 110 deals with habitual offenders and
bad characters, bullies who may terrorise a neighbourhood, and other such characters. The cases under these sections are, with only minor and somewhat technical differences, tried in court as ordinary judicial cases; and the sub-divisional magistrate in dealing with them constitutes part of the judicial system.

Similarly, the other magistrates in the district, magistrates of the first, or second, or third class, or benches of magistrates, have their powers defined in the Criminal Procedure Code. Besides dealing with law and order situations, they also sit as courts of law and try offenders under different provisions of the criminal law.

Every magistrate as such, of whatever category he may be, whether a district magistrate, or a sub-divisional magistrate, or a first class or second class or third class magistrate, carries a large and pervasive magisterial authority, and responsibility; and his jurisdiction unless it is specifically limited, prevails over the whole district. This pervasive authority and jurisdiction derives in part from the old British institution of the justice of the peace.

At a different level, and indeed at the level of the people themselves, we have the judicial or nyaya panchayats. These nyaya panchayats are in many ways the people’s courts. They appear to me to combine a twofold heritage: one derived from the functioning of the old common law of Britain, and the other from the ancient panchayat raj of our own country.

*The Armed Forces*

We may begin by referring to the Constitution, and the provisions in the Constitution concerning the military armed forces.

There are two Articles of the Constitution, Article 33 and Article 34 which refer to the military, but in quite different ways. Article 33 provides that the rights of personnel serving in the armed forces of the country may be restricted, or abrogated and indeed taken away entirely. Thus the members of the armed forces of every rank and category are liable under the Constitution to be subject to special restriction or restraint. We may note that there is no provision for conferring, or adding to any rights or powers upon anyone in the armed forces, additional to the rights and powers enjoyed by the ordinary citizen. In many ways, the law provides greater powers to members of the police force
in the maintenance of law and order than for members of the armed forces. Here again we see a reflection of the fundamental principle of the supremacy of the civil authority.

It leads us directly to an apparent contradiction, provided by Article 34 of the Constitution. This Article recognises the existence of a situation commonly known as martial law. Let us note again that the Constitution does not provide for the imposition or application of martial law; it simply recognises that a state of affairs may exist when martial law may be imposed.

These two Articles of the Constitution thus relate the armed forces, the military, to the function of maintaining law and order in two different capacities. We are speaking here, as always, in terms of law and order within the district; and not, for instance, of the role of the armed forces in defending the country from external aggression.

In the common role in which the armed forces are related to the maintenance of law and order the civil authority remains supreme. The armed forces may be used, in aid of the civil authorities, and at the request of the civil authorities. Let us remark carefully that we speak here not of the maintenance of law and order by the armed forces, but of the armed forces being called to the aid of the civil power. They must be called to aid, and cannot just walk into a situation and proceed to deal with it.

The armed forces may be called to the aid of the civil power for several distinct purposes, but mostly directly or indirectly concerned with the maintenance of law and order. For instance, in case of a strike which affects some services essential to the safety of the people, such as a strike involving communications, the postal systems, the telegraphs and telephones, or the railways, the armed forces are often called in to help in maintaining the service. Similarly, they may be called in to assist when there are natural or other calamities, such as earthquakes, floods, fires and the like. Should the armed forces be drawn upon to aid civil authorities in development projects? There may be some projects which are of equal concern to the armed forces themselves: such projects include the making and maintenance of roads over the country’s borders, or the restoration and maintenance of vital transport or communication lines in other parts of the country. How far beyond this we should go, in harnessing in peacetime
the resources of the armed forces to general development projects is a matter that is debatable, and on which there can be different views.

The armed forces are under the control of the central government. Therefore the use of the armed forces in aid of the civil authorities must be, and in fact is rendered under the authority of the central government. This is done through arrangements which exist, to maintain equivalent contacts at different levels of the administration. Certain procedures are laid down, for the guidance of the district and other civil authorities, as well as of the different army commands and levels.

This must however be reckoned in the overriding context of such specific provisions of law as Sections 130 and 131 of the Code of Criminal Procedure which prescribe that a magistrate may call upon an officer commanding troops to disperse an unlawful assembly. The civil authority empowered to call in the military is often the district magistrate; but in case of need any magistrate on the spot may request an army officer who may be available to come to his aid in dealing with an unlawful assembly.

The Criminal Procedure Code thus makes specific provision for calling the military to the aid of the civil authorities; and lays down the procedure which must be followed in bringing military force to bear upon a situation.

The troops are used to methods in action which are quite distinct from normal police methods. The police when dealing with an unlawful assembly may be armed with sticks (lathis) or truncheons, and may use these. Or they may be armed with fire-arms, which are used under the orders of a magistrate, if one is present, or the senior police officer present. When we speak of the police using force, we really speak of the use of comparatively light force, even when fire-arms are used, and it is never intended that they should cause more than the absolute minimum of casualties.

On the other hand, the troops are armed with more powerful weapons, and there are more of them. Their whole training is directed to using these more lethal weapons to inflict the greatest possible number of casualties when they are in battle, which is what all their training is ultimately mainly directed towards. They are trained to kill. Their system of orders, their responses, are all in the nature of things such that the forces they bring to bear
upon a situation must tend to be of an entirely different order of severity and intensity from anything that the police would normally use. This is one of the reasons that underlies the rule that great care must be taken to ensure that troops and police do not get mixed up with one another, in dealing with a particular situation, although both may of course normally be present in a serious situation.

It should be an essential feature in any situation in which the military aids the civil power that there should be sufficient mutual contact, knowledge and understanding on the part of the civil authorities and of the military authorities. This should include knowledge about the organisation, procedures and methods in general, knowledge of the ground features such as topography, general economic conditions, social features, lines of communication and of transport, to mention only some of the matters. Ignorance may result in a serious situation, as two somewhat random samples drawn from actual events will illustrate. One is somewhat comic, the other had a tragic consequence.

A tashildar magistrate made a desperate telephone call to the district and divisional headquarters. The law and order situation was bad in his tahsil, and he was faced with a situation when he needed some military aid. As there were no troops immediately available in the tahsil, he had telephoned for some. He asked for a military battalion. Now a battalion of troops is a very large force in terms of dealing with an internal law and order situation. Fortuitously, and because there was trouble in other places also, and the supply of troops was somewhat scarce, it occurred to somebody at the divisional headquarters operations room to enquire as to how many men the tashildar magistrate really thought he needed. So someone rang him up and said “You have asked for a battalion of troops; how strong a force do you really need, and do you know what a battalion means.” The poor tashildar simply had not acquainted himself with the military organisation. He had simply, in the excitement of the emergency, used the word battalion as the first formation that came into his head. When asked, he said that he wanted about 30 men, and that is what he meant when he asked for a battalion. Now 30 men is a platoon, while a battalion can be about 800 men. When there is a fairly widespread situation affecting law and order over an extensive
region, it can make a vital difference as to how the available forces are deployed. And to make a mistake between a body of 30 men and 800 men in military formation and armed can have fatal consequences.

The other instance is where in a serious communal situation the population of a whole village was threatened with massacre. Troops were deployed to deal with the situation. As their commanding officers were unfamiliar with the geography, topography and routes in that area, a senior tahsil official, himself a magistrate, was assigned to guide the body of troops to the village which was under threat. He led them along a canal road, and then simply lost his way, or so it was reported. The troops found themselves at a dead-end, unable to get across country, and had to return. Meanwhile the population of the village were duly massacred. There was a perfectly good road to it; only the troops were guided in the wrong direction.

*The Citizen*

I have said that the citizen constitutes a vital agency in the maintenance of law and order. The citizen’s security and peaceful living can in the last analysis be ensured only by his own active desire and participation in the maintenance of law and order.

In this context we may mention some of the organised bodies of citizens, organised particularly for the maintenance of law and order.

There have been a number of different bodies in different states, variously called home guards, or prantiya raksha dal or the national volunteer force and so on.

All these different bodies have more recently been in the process of being re-formed and re-designated as home guards throughout, in all the states and the union territories. The strength of the home guards is to be of the order of a million in all for the present. They will be in uniform, and organised on a fairly standard pattern. Their functions will include serving as a force auxiliary to the police, they are to help in maintaining security, and in case of a calamity, they also provide the essential services to maintain the life of the community, as well as to serve as an emergency labour force in case of need. In the cities their special duties in-
clude civil defence and emergency relief.

The other organised citizen's body which we may notice here is the village volunteer force, launched on January 26, 1963 (Republic Day) in the midst of the national emergency following the Chinese aggression. The village volunteer force is an attempt to harness the national upsurge which was the most significant feature of the country's reaction to the emergency. It is still too early to assess the results of the effort. Should it succeed in enlisting the active participation of the millions of citizens all over the country, as the scheme envisaged, it may truly be a revolution.

Apart from the organised bodies and groups of citizens, the individual citizen has a part to play. He has a principal right as well as a principal duty. It is the right of the citizen to act in self-defence. Self-defence is very fully illustrated in the Indian Penal Code as well as through case law. A citizen is entitled to defend himself if attacked. Furthermore he is entitled to defend anyone else who may be attacked. This is an entirely different thing from anyone taking the law into his own hands. What we have here is the right to resist actual attack, while the attack, or the imminent threat of attack subsists.

Besides the right of self-defence, the individual citizen has the duty laid upon him both in common law and by statute to render assistance to the authorities responsible for maintaining law and order. This is a duty that the citizen should discharge, within the limits of his ability.

So we go back to the citizen, the citizen who in the final analysis is the one for whose security, law and order is to be maintained at all, who is himself responsible to participate actively in the maintenance of law and order, and to whom finally, as the ultimate sovereign, account must be rendered that law and order is maintained. Surely this literally is what is meant by the phrase: the government of the people, by the people, for the people.
CHAPTER 7

LAW AND ORDER: METHOD-I

We may now go on to consider the methodology of law and order, which is a central purpose of district administration.

Is it possible to distinguish any maxims, to provide some guidelines for those agencies included within the administration of the district who may be concerned with the maintenance of law and order? While expediency provides a significant element in the handling of situations involving law and order, mere expediency can easily degenerate into opportunism or even at the best into a process of trial and error. This erratic, hit-or-miss method in turn tends to defeat the very purpose of maintaining law and order. An attempt is therefore made here to list some maxims or canons of action. This seems to be worth doing, even though we do not attempt to provide here a comprehensive statement of the methodology of law and order.

While these maxims or canons may not carry the fundamental importance of the principles of law and order, yet they carry an importance of their own, and have a role in the successful maintenance of law and order. Indeed this role is significant, and in the case of some of the maxims, vital.

Authority

The first maxim we may consider is the maxim of respect for authority, and of the use of authority.

Respect for authority in the context of law and order methodology needs to be defined, and delimited fairly precisely. Indeed, if we do not succeed in defining and delimiting it, it will be difficult to apply it as a maxim in practice. For a maxim is really a guide line for action and for practice; its effectiveness depends upon the measure of its precision.

Now respect, if I may go back to the standard practice of referring to a dictionary, literally means: heed to, or regard to, or attention to. We may notice the absence of any reference here to mere awe of authority, or fear, or subservience or anything like
that. Fear has no place in this definition of respect for authority, nor has awe, nor a general sense of subservience to the manifestation of authority. This is important to keep before us, especially in a country like India, which has so recently come out of a state of subservience to a foreign power not responsible to the people of the country except in a very limited way, and into a state of being where the people themselves create the authority and vest the apparatus of authority with the ultimate sanction of the peoples’ own will.

Authority is defined as power, right to enforce obedience. For the purpose of our subject, which is law and order, we may further distinguish and delimit authority as lawful authority, and not the mere manifestation of any authority or power. It means the right, the legal right, and the legal power to enforce obedience. It does not mean power alone, or the mere assertion of the right to exercise power or to compel compliance.

Thus we may combine the two terms “respect” and “authority” and say that respect for authority means: heed to, regard of, attention to the power and the right, the legal power and the legal right to enforce obedience. It does not mean fear of power, fear of authority. Mere fear and mere awe, far from its conducing to or assisting in the maintenance of law and order tends by and large to defeat the very purpose.

Nor is mere prestige relevant to the term respect for authority and its meaning. However powerful and however high authority may be, or the person exercising it may appear to be, the respect of authority that we are speaking of has no concern whatsoever with mere status or position as such. We must distinguish it clearly and sharply from general respect for a person or for a group or a collection of persons. We must also distinguish it equally clearly from respect for some status or symbol. For instance, we must respect the national flag, the national anthem; we must necessarily respect all the people, especially older people, or those who occupy a position, not necessarily of power, but of standing. But all this is not respect for authority in the sense, in the specific and precise sense in which we use this phrase in terms of law and order and its maintenance.

Let us look at one or two examples that provide illustrations of the term respect for authority.
A constable on traffic duty must have his authority respected. If some of our cyclists or motor drivers would keep this in mind and not enter into argument (often excited argument) with a policeman on traffic duty, it would help greatly in the general maintenance of law and order and so in the safety of the people using the roads. For ultimately the very purpose of law and order is the safety of the people. The word of the policeman on traffic duty is law. He exercises lawful authority when he directs traffic, and for the purpose of directing traffic, he performs his function with the whole weight of legal sanction behind him. His authority must be respected. Otherwise there will be a traffic jam.

But suppose he steps down from his traffic stand, and goes to the side of the road to have a quick smoke (we all see that happen of course), or he may be thirsty and may go for a drink of water, or he may just go round the corner. From the moment that he leaves his point of duty and takes his attention away from the directing of traffic, he no longer performs the function of traffic duty; he no longer represents nor does he exercise authority to regulate the traffic. And so if he stands on the side of the road, while he is drinking his water or having a smoke, and tries to marshal and guide the traffic, he has no legal backing as a traffic constable. He is not entitled to command that particular, clear and specific respect for his authority. And without that respect, he will not be able to perform effectively his function of directing traffic; so again we will find that traffic becomes snarled and the safety of the people is endangered. He must be at the place of duty prescribed, and nowhere else, and he must give his attention to his duty.

Respect for authority demands rigorous discipline on the part of everyone involved, the agents of authority as well as those whose respect authority must command in order to fulfil the purpose of maintaining law and order.

Mere uniform does not invest anyone with authority, except only to the extent and in the measure that it may clearly be defined by law. An official in any sort of uniform outside his jurisdiction, or not on duty is before the law just like any other citizen, exercising no more or less authority than the ordinary citizen; unless, and only to the extent to which, the law may specifically invest him with authority, as for instance a magistrate's warrant
issued to a constable in accordance with the Code of Criminal Procedure to go and arrest someone.

Consider a magistrate travelling in the district where he is posted. He may be travelling on duty; or he may be going for a picnic. A gazetted officer, say a magistrate in his district, is never off duty. In his capacity as magistrate, he is on duty throughout; but it is duty identifiable as his magisterial or other specific official duty. And any such duty he must perform in accordance with the legal provision for its performance. For instance, a magistrate who is empowered under the Criminal Procedure Code to act as a magistrate only on a bench consisting of himself and one or more other magistrates, cannot deal with a case in court by himself. He does not then represent due authority. A district officer, or an officer of the district administration may be taking a little time off, and be enjoying a picnic or shikar or something like that. He must remember that if he wishes to, or the occasion arises for him to exercise any authority not enjoyed by an ordinary citizen, he must consciously assume the official role and then act in accordance with the law and the rules prescribed under the law. Then and only then and not otherwise does he represent due authority.

This sounds simple and straightforward enough; but one officer after another has had to learn, often the hard way, that it is wrong for him to make a show of authority or try to assert authority, and to try and obtain respect for authority, except in the specific capacity in which he is on duty. The same applies to anybody else other than a magistrate, for instance, a departmental official. An official, and perhaps even a non-official may be called upon to look after an election polling station, for example. As soon as he enters on this duty, he is immediately vested with the full authority and sanction of the processes of election relating to his particular function under the law. But only thus far and no further.

Let us consider a minister representing and exercising authority. Under our system of government, which is a parliamentary democracy governed by the Constitution, a minister both in the central government as well as in a state government represents the total joint responsibility and authority of the government. A minister's responsibility is both joint and several. In his capacity
as minister, accordingly, it is directly open to a minister to ask questions, to enquire about matters concerning any branch of the administration in the district, and at a pinch even to give governmental decisions on the spot.

These are then not his personal decisions but decisions given on behalf of the government as a whole. Those decisions must themselves be accepted as the decisions of the government. It does not matter which minister gives the decision. It is a different matter of course as to how the minister accounts to his colleagues and to his chief. The point to note is that the distribution of portfolios and of work amongst the ministers is purely a matter of convenience; it may be changed and it does in fact change quite frequently. Any contradictions that may arise between decisions given by different ministers is a matter that must be resolved by the head of the government, the prime minister in the case of the central government and the chief minister in the case of a state government.

Our system of parliamentary government is still somewhat new, and older officers particularly have often found it difficult to understand and appreciate this position. They will say: “He is only the minister of transport, or he is only the minister of this or of that, and therefore it does not bind anyone outside his ministry, and in any case what has he got to do with this particular problem?” The fact is that under our system of government, the minister has everything to do with it. In speaking for the government he carries the authority of the government as a whole; and it becomes the duty of the administrative officers to accept and carry out his decisions; and should a contradiction evince itself (as it sometimes does) it is the further duty of the administrative officers to draw attention to it and to submit a reference upon the contradiction so that the government may have due opportunity of resolving it.

Let us consider now the members of the legislature, members of parliament, members of legislative councils, members of legislative assemblies, and members of local bodies. They are the elected or nominated representatives and they represent their constituencies in the parliamentary process.

The legislative, parliamentary process is one of the three principal constituents in the governance of the country, the other
two being the judicial process and the executive process. Each of these processes is linked to the others by clearly defined linkages prescribed in the Constitution. Except for such prescribed linking, each process is self-contained and independent of the others.

The legislative process apart from its obvious function of legislation has also an overseeing element which links it closely to the executive process. A member of a legislature carries a particular position and authority within the legislative process; specific kinds of authority may be vested in him through the linkages prescribed in the Constitution or by law. For example, a member of the Public Accounts Committee or of the Estimates Committee may investigate a matter as part of the functioning of the committee, which in turn is composed of members of the legislature.

But beyond such specific provision, it would appear that a member of a legislature does not as such and outside his participation in the legislative process itself carry any more authority than any other ordinary citizen. There is mentioned elsewhere the instance of a sub-inspector of police in charge of a police station who made his own task somewhat easier (or thought he did) by taking instructions from the local member of the legislature, as to whom he should arrest and whom he should not. It certainly did no good to the maintenance of law and order. I do not think that in the long run it could do the station officer any good either.

I have attempted to examine above some examples of authority, and of absence of authority. The effort has been somewhat laboured, but it seems necessary that the citizen should be enabled to identify due authority and its exercise, so that he knows what he must respect.

A thing to note is that respect of authority exercised in one capacity does not justify the extension of the respect to another capacity or function, even when the same agency performs the different functions. A magistrate sitting in his court carries the whole authority stemming from the judicial process of the country under the Constitution. He enjoys a protection which is in many ways a protection equal to that enjoyed by a judge of the Supreme Court. A magistrate sitting in court issues orders which are compulsive; they are compulsive under the Constitution itself, as part of the judicial process of the land; they are independent of any
authority other than the authority of the judicial process itself. They cannot be taken away from or added to except by law; and his writ runs as effectively as the writ of any court of law. He enjoys also an immunity for his judicial actions which is different in kind from any immunity enjoyed by a governmental agency or functionary as such.

Once he is outside his court, however, a great deal of this authority is shed. He is no longer vested with it, except in a limited way, and for the limited purposes prescribed in the Criminal Procedure Code; as, for instance, taking cognizance of offences, dealing with an unlawful assembly, or with a public nuisance, ordering an arrest in his presence, or a search, and so on. As an official of the executive government, he carries other authority; but it does not have the authority of a court of law.

It is important for the citizen no less than for the functionary concerned to understand and to ensure that there is no slurring over, or glossing over of what is due authority and what is not in any given capacity, and that there is no spilling over of seeming authority from one capacity to the other. This is neither very simple nor very easy. In fact there is a great deal of case law about disputes which have arisen as to whether a particular authority which was exercised or in respect of which there was contempt or defiance was in fact vested in the agency or functionary at that particular time and in those particular circumstances. Resistance to lawful authority can be an offence under the Indian Penal Code, and punishable as such. But the authority must be lawful, and not just any authority, or any functionary professing to exercise authority.

What has been said can at best only provide some guide lines to recognise due and proper authority, and to identify the exercise of due authority. The citizen must watch, if the functionary will not watch himself, any person invested with authority trying to assume more authority than he has, we are all too familiar with the rather silly figure of the public functionary imbued with a sense of his own importance. He invests his own little personality with the garb of some authority, which he regards as something added to his own personality rather than as an extra duty cast upon him; and therefore throws his weight about, not perhaps suddenly, but increasingly unless quickly corrected.
Well, the one sure way of losing respect for authority is for authority to throw its weight about. This is a thing which is worth the attention of individual functionaries of any government, however low they may be; or equally however high they may be. It merits attention and watchfulness by the judiciary; equally it merits the attention of the legislature. This watchfulness must be directed both outwards as well as inwards. A judge might be tempted to overreach himself. The "hanging judge" is one rather pathological instance of this. Legislators have been known to fall into the error of becoming imbued, with a sense of their own supremacy. Fortunately the supremacy of the judicial process under our Constitution provides some safeguards against this.

Quite different from the mere throwing about of one's weight is the proper show of authority and of course the actual use of authority. It is a sound maxim, in the maintenance of law and order, that the show of authority should not be excessive, and that the use of authority should be kept to the minimum necessary for the performance of the function for which a particular authority is vested in a governmental agency. Any demonstration of arrogance tends to reduce the effect of the show of authority; any immediate fear or intimidation which results from a show of undue arrogance tends to provide a reaction which on the balance produces contempt of authority and resistance to it. Above all, and as inherent in the same maxim, there should be no abuse of authority whatsoever.

How do we detect an abuse of authority? How does a citizen judge whether authority is being abused or not? And how does the official functionary watch himself and his fellow officials, and how does he judge his subordinates and influence them against the abuse of the authority vested in them?

The first and straightforward test, and a good one, is as to whether the authority is exercised for the proper purpose for which the law establishing that authority prescribes its use. Here we have to resort to one aspect of rule of law, to test any particular exercise of authority. Such exercise must conform to the law and to the purpose for which the law invests the authority and neither more nor less.

A second sound test appears to be, as to whether the authority was used with discretion or not. Discretion in this context does
not mean merely administrative tactfulness, it does not mean mere diplomacy. These things have little place in the problem of law and order, except only in rare instances where expediency must prevail in the interest of law and order itself. Discretion means due and proper discretion, within the margins prescribed by the law itself, or by some rule made under the law, or by established practice.

It is often a fair test of the use or abuse of authority to check and see whether it is actually exercised by the person in whom the law has vested it, either directly or by delegation specifically permitted under the law. Authority invested by law cannot simply be delegated. There has to be a legal provision for the delegation. Provision for delegation is usually made in the statute or in rules under the statute. Omission to make such provision can lead to difficulty, and authority being successfully challenged.

While there should be no excessive show of authority, and its use should be kept down to the minimum, authority must not apologise for itself. Undue humility can be as bad as undue arrogance. It is a sure way of losing respect for due authority for the official or agency vested with authority, to be unduly apologetic or self-abasing about it. It does no good for a functionary to rub his hands meekly, and to try to stand away from the authority which is vested in him and which he must exercise. There is no surer way of bringing authority into contempt. Authority vested in accordance with the law is nothing to be apologetic about. If a law vests an official with a particular authority, it does so for some certain purpose. It is against the spirit or the fulfilment of that purpose, and indeed itself a contempt of the law vesting that authority, for the agency or functionary to be unduly obsequious or Uriah Heepish about it.

It seems a sound maxim that where authority is brought into play, its use should be quickly terminated. Its performance must be controlled and disciplined. This control and discipline is essential in order for authority to obtain the essential respect.

It is well to remember that respect for authority is something that is quite objective and can be observed and gauged. It is well also to remember that authority should be brought into play only when necessary, and not simply because it is there available and handy. To use authority overmuch or too often is not the best
way of obtaining respect for it; nor by bringing it into play for trivial purposes. *De minimis non curat lex*: the law does not remedy little ills. This is a healthy maxim of law and equity, which could profitably be observed by all who are invested with authority of any kind.

Authority should be sensitive, but not touchy. If a police or other official goes along the road, and a child or perhaps a student puts his tongue out at him, is this contempt of authority? I think that only an undue touchiness would see in this event anything remotely amounting to a contempt or a challenge to authority.

Now this is a trivial and perhaps ludicrous example. But it happens all too often, where an official tends to see respect or contempt for authority in quite the wrong things. This in itself might only provide material for comic relief. Unfortunately, however, authority under imagined disrespect to itself tends to enlarge a situation, often with tragic consequences in terms of law and order.

Furthermore, the very official who tends to see disrespect for authority whenever something displeases him, is the very one who is likely to fail to see and recognize a challenge to authority which ought to be met. Such a failure again can all too often lead to tragic consequences; for a real challenge to authority which is not met tends to increase.

It may seem somewhat remarkable how quickly a change can come about in a district or in a locality, from respect for authority to contempt, and from contempt to respect. This often comes as a surprise to many young officers, especially those who are new in the districts. The young officer (and sometimes an older officer with more experience and less cause) is surprised how quickly the situation changes; how suddenly he is up against a general contempt for authority, or again how equally quickly respect can be restored. It can all happen within a matter of twenty-four hours or less.

The sense of respect as I have said already is immediately discernible, and in a quite objective way. The official knows, and the citizen at large knows, when authority is held in contempt and when it is not. And, by and large, and certainly my own experience over the years in situations both grave and extensive as well as local and small has been that people in general like to
feel the presence of lawful authority. I think that the reason for this feeling for authority (and not for mere overbearing power or force) is that the presence of lawful authority provides a sense of security, a sense of protectiveness in the mind of the citizen.

The truly bad characters, the ruffians who thrive on disorder and lawlessness, constitute a tiny percentage of the population anywhere. The average citizen and his family like to feel a sense of protective authority round them. This I believe is one of the reasons that even where a situation gets out of control, and the authorities fail to bring it under control, the situation tends to come back under control and to a state of normalcy. People get tired very quickly of disorder and of a generally abnormal situation. That indeed is a healthy thing, that the presence and protectiveness of authority is desired by most people.

It seems important to recognise that law and order will tend to be maintained, and will tend to prevail in more or less direct ratio to the respect for authority. The less respect for authority there is, the less will it be the tendency for law and order to prevail; as a corollary, if due respect for authority prevails, law and order will also tend to prevail.

It seems equally important to recognise that each of these, namely, respect for authority on the one hand, and law and order on the other, are each both the cause and the effect of the other. They will both tend to prevail in the same degree. Hence the need for everyone, the official responsible for maintaining law and order, as well as for the citizen, with an equal if not greater stake in law and order, to attend to this.

_Essentials_

The next maxim we postulate and consider says that the administration must be firm in essentials. The question then arises: what are the essentials in the maintenance of law and order? For it is law and order that we are dealing with now.

The answer appears to be that the essentials will vary according to situations. Nevertheless some essentials will not so vary, and must prevail, if law and order is to be maintained. The six principles which have been formulated are amongst the essentials. We have seen that any sacrifice of one or more of the prin-
principles will tend to defeat the maintenance of law and order. Therefore each of the six principles is essential to the maintenance of law and order.

Beyond these six principles, essentials tend to vary according to circumstances and conditions. It is necessary as part of law and order methodology to distinguish the circumstances, and to identify and relate to each different set of conditions those matters which must be regarded as essential. Furthermore this sorting out needs to be done in good time; not when the event is upon one, not when the crisis has developed, but in good time.

This may appear difficult, and certainly it is by no means easy. What may be essential in one set of circumstances may be completely inconsequent or trivial in another. The essentials upon which the law and order authorities must be firm in a communal situation, for instance, can be quite different from those pertaining to the circumstances of a strike. They will vary again in different kinds of economic unrest. When a particular crisis develops, and even during the course of it, it may become necessary, in addition to the essentials which have already been established before the situation developed, to set down specific points upon which the authorities will stand firm and will not give way.

An example of this may be drawn from a general strike which involved the railways and several other vital services throughout the country. In one region it was found that the railway engine drivers and the firemen started resorting to a very simple method of blocking the railway system. A fireman on an engine would drop the engine fire when the train had gone a short way. The result was that the whole line was blocked. The engine driver would stand back and say that he had nothing to do with it; so he would be put on another engine, with another fireman. And the same thing would happen again. If this were allowed to go on, and matters merely left to be investigated as to who was to be prosecuted for what was in fact a serious offence endangering life and property as well as blocking the whole transportation system in a vital area, it would have been impossible to deal effectively with the situation. It was therefore quickly set down as an absolute essential, that fire dropping would simply not be tolerated; and that the authorities would come down heavily on the next instance of this happening. Authority would not, and could not
afford to wait to find out who was right or wrong. The fire dropping stopped.

Thus we see that different circumstances predicate different sets of essentials, which must be distinguished and set down in good time. Difficult as this exercise appears to be, it becomes quite practicable if those who are responsible for doing it do a few simple (but by no means easy) things. One thing to do is to study case histories of past events and situations. This can be of great help in sorting out and classifying in some degree different kinds of situations, the essentials which were observed or not observed on different occasions, and the consequences of that on each occasion. It is well to bear in mind that the essentials tend to be very few in any given situation; what is important is to sort out these few, from the much larger mass of non-essentials. Finally, when a situation or a crisis does develop, close attention to the course of events and a running analysis and interpretation of what is happening from day to day and even from hour to hour helps to identify those matters on which firmness becomes vital to the maintenance of law and order. Timeliness is of the essence of the whole exercise.

Having distinguished the essentials in one’s mind, what then? Merely having them in mind is not enough. They need to be set down; which means written down, and written down precisely. What is essential should be capable of being put down in writing. All the effort involved in the exercise of distinguishing what are the essentials in a given set of circumstances can be defeated if they are not precisely defined and capable of being put down on paper, and indeed if they are not actually written down and again, as was stated when we considered authority in the previous section, the degree of precision here will tend to be the measure of the effectiveness in applying the maxim. Furthermore, the importance of the written word cannot be over stressed. Want of it leads to endless trouble and dispute, more often than not based on perfectly genuine misunderstanding.

Having distinguished the essentials, and set them down, it is necessary that they must be communicated. It is not enough for the district magistrate and his assistant magistrates to know it. The police must know. This seems a simple enough proposition. But it is too often the case that the policeman, and the police of-
A police dealing with a situation and involved in it do not know as to what is to be enforced, and the degree to which they must enforce it. They must know with sufficient precision as to what are the essentials upon which the authorities must stand firm, in order to deal effectively at all with a law and order situation.

Then the people must know, as to what are the essentials. It is for the people that law and order is maintained; and they must know, if they are to play their part and co-operate in maintaining law and order. Law and order simply cannot be maintained over any period of time, without the co-operation and participation of the people.

Let us look at a seemingly trivial instance. At a traffic crossing in a city, when the traffic constable holds up his hand to stop the traffic, the people must know that it is essential that all traffic in that particular direction must stop. This is not a matter merely of enforcing an order upon the people. It is more than that. The people must know that if the order is not obeyed, it is not merely defiance of a lawful order lawfully given. They must know, and not merely by hard experience, that failure to conform to the order to stop will lead to accidents. How often has one stopped on the curb at the red signal stop light at a traffic crossing and heard someone say, "the red stop light is only for the motor cars, not for cyclists or pedestrians like us. Let us cross while the motor traffic waits." Well, several cyclists have been killed in this way, as well as pedestrians who think that they can just cut across without anyone bothering to interfere with them. The people must know that it is essential that at the red light or at the traffic constable's signal they must stop and not cross. That is an essential in traffic rules, seemingly trivial, by no means sufficiently known or communicated or enforced; and the price is a heavy and avoidable toll in human life.

Finally, essentials must be enforced. This is exactly what the maxim of firmness in essentials connotes. An essential ceases to be such if it is not enforced. It is a good exercise, when any matter is distinguished and set down as an essential, to examine as to whether it is enforceable (and not enforceable merely in part), and to foresee as to what would be the result of its not being enforced.
Take the case of a ferry boat plying across a river during the monsoon. A ferry boat is normally tested, or should be, to carry a load considerably in excess of the load which it is permitted to carry. This excess is the essential margin to ensure the safety of the prescribed load. Then if on the occasion of a mela or a fair across a river, a kind hearted ferry man, or more often a money hunting ferry contractor overloads his boat, then there may happen in the middle of the river a tragedy of the kind we all too frequently read in the newspapers about. Several times every year there are boat disasters involving heavy loss of life. So it is necessary, when setting down the permissible load for a ferry boat, to set down also and to enforce as an essential, the prohibition against the loading of boat with more than the permitted number of passengers. The consequences of not doing so should be foreseen, in the shape of the disasters which could and must be avoided.

No amount of inquiry into any particular accident, necessary as this is, can take the place of preventive action by distinguishing what is essential and enforcing it. Any failure to stand firm on what is essential, as well as any compromise on essentials, inevitably tends to be fatal to the maintenance of law and order. Such failure or compromise may resolve the immediate situation; and this indeed is one of the dangers and a temptation that often offers itself. It may appear at the time as if the situation has been tided over, or that it has been "tactfully" dealt with. But if the seeming success or the tactful dealing is due either to failure to enforce or is due to a compromise of one of the essentials which have been set down, then surely and inevitably, the maintenance of law and order tends to be undermined, and the safety of the people endangered.

I have referred to the fact that the essentials which predicate firmness in any particular set of circumstances are to be distinguished from a large mass of non-essentials. It is a pathetic sight in any district especially when disorder threatens to find the officials responsible for law and order running around and making themselves extremely busy attending to trivial detail, non-essential detail, and in the process losing sight of and making themselves incapable of attending to the few essentials, or even keeping these essentials within their sight. Too much attention can be given
to non-essentials, and at the cost of the essentials, with consequent
damage to the maintenance of law and order.

I have referred also to the study of case histories as an aid
in distinguishing essentials in different circumstances and condi-
tions. Case histories provide about the best and indeed the prin-
cipal source of information about different kinds of situations;
and thus provide from past experience guide lines in distinguish-
ing and in establishing essentials suited to different situations.
Mere exercises in logic do not help; nor does reference only to
the books of law or rules and manuals. The study of case histo-
ries is to be commended not only to the functionaries responsible
for the maintenance of law and order but also to the citizen, whose
safety and security is the object, and who can play a positive role
in the maintenance of law and order. The publication of such
case histories, which often result from inquiries into disturb-
ances and the use of force, is to be strongly commended.

Tolerance

We may consider now the proposition as to tolerance, and the
limits of tolerance as a maxim in law and order methodology.

The proposition postulates that it is necessary to have clearly
established limits of tolerance. As in the case of essentials, the
limits of tolerance should be defined with fair precision, should be
capable of being set down and should in fact be set down in writ-
ing as far as possible; they should be known to all who have to
deal with a law and order situation, and they should be known to
the people who may be involved in the situation. A limit of tol-
erance once it is established should be enforced; and it should be
made widely known that it will in fact be enforced. This is some-
thing rather different in kind from mere threats and warnings.

In any situation involving law and order one discovers again
and again that there is an almost inevitable tendency for people
to go to the limit which is set, and a tendency also to stop at that
limit if it is known that the limit will be enforced and that any
crossing of the limit will not be tolerated.

One of the most dangerous things I have known in law and
order situations, particularly a riot, and more especially when dis-
order threatens to be widespread, has been a situation where the
police or the magistrates have not given sufficient attention to establishing the limits of tolerance. "Let us do this and see what happens, then we will consider what further to do; let us see how far they will go and we will try and stop them where we can; let us put our force here or there and then they can come back somewhere else if necessary, if they are pushed". I know nothing more dangerous in a law and order situation, or endangering more the safety of the people, and also the effectiveness of those responsible for maintaining law and order.

If a riotous crowd, or a party bent upon mischief or trouble, or indeed even a party in good faith agitating its claims, feel that they can go further, they will in fact try and go further. They will go on trying to go further until they come up against a limit. If they do not know, or are uncertain as to where or when they will come up against the limit where they will be stopped, they will tend to go on, and to probe and push further and further. This can only lead to trouble.

Therefore it seems to be a sound maxim in the methodology of law and order to set a limit and to make it known that is where the transgressor will be stopped. While any particular limit set will vary with the circumstances of a situation, the important point is that in each particular situation where law and order is endangered the limits should be set fairly precisely, and in good time made known to everyone concerned, and should be backed with a determination to enforce the particular limit.

There is a tendency sometimes on the part of some people to think that there is a fair margin in any limits which may be set as to what people may or may not do or how far they may or may not go. But there is not much room for a margin in the maintenance of law and order. It is one of the hard lessons which any administrator learns. In a negotiation there is plenty of room, and plenty of margin. This is quite natural. The essence of negotiation is that you have something to give and to take, some margins upon which to negotiate at all. But there is practically no such thing in law and order, or so little that it comes to much the same thing. The lines have to be drawn, the limits need to be defined and should be laid down. And any margins of adjustment are so very narrow, as not to exist at all.

Law and order is not a negotiable commodity. It is not like a
sale and purchase; there is nothing much to negotiate about, and very little to give and take. And since law and order is not a negotiable commodity, the negotiating principle of practice of a margin does not in fact work very well in the maintenance of law and order.

It is the ability to establish the limits of tolerance and to enforce them that provides a major test of good administration. Here again we are face to face with something that is more in the nature of the art of administration, and where the books of rules and regulations may not provide the requisite guidance.

As a corollary to the maxim of the limits of tolerance, it is important here again to distinguish the non-essential from the essential. This distinction must be made at the time when the limits of tolerance are designed. In the case of the non-essentials, there are usually comparatively large degrees of accommodation and flexibility available.

I have referred briefly to the need to enforce a limit once it is set. There must be the will and determination, and also the confidence of being able to stop a transgressor from going beyond the limit which is set. There is nothing more fatal than to draw a line beyond which a crowd or a party must not go, and then to fail to enforce it. It may be a line across the road, it may be a curfew order, it may be a prohibition against the carrying of lethal weapons, or indeed anything which in a given situation compels the laying down of a limit.

Once a line has been drawn, if anyone is allowed to go beyond that limit, they will attempt to go through other limits which are set: others will be encouraged to defy and transgress the limits set, until at last sufficient physical force has to be used to stop it or, worse still, the situation gets completely out of hand. The force that has to be used finally may be far more damaging than any force required to stop the transgressor in the first instance from going beyond the limit of tolerance set.

Error

The next maxim deals with error. In the maintenance of law and order, error may be committed by any one or more of a large number of different entities. The government may commit an
error. A minister responsible for law and order or for dealing with a situation involving law and order such as a strike, or for that matter any other minister may commit an error. Parliament itself may commit an error by passing legislation which is tested and set aside finally by the Supreme Court. A court of law may commit an error, for judicial decisions can be faulty, and are in fact sometimes upset in appeal or revision. An executive agency in the district may commit error, including a magistrate, a police official, a departmental official and the like; and the citizen may commit an error.

When we consider the problem of error and what is to be done about it, we must have regard to the possibility of error on the part of any one or more or all those different entities, all concerned with law and order, and all concerned with law and order in very different ways. What guide lines can be found in tackling the subject of error?

The first thing appears to be the need to accept and acknowledge the inevitability of error. People will make mistakes. There is no utopia in sight where human error will be eliminated and will no longer exist. A seemingly simple way to avoid error is to do nothing. But doing nothing may itself be the worst error to commit; and in dealing with law and order it can be the one sure way of becoming engulfed in lawlessness and disorder. Therefore, it is futile to predicate that no mistake shall be made; it would simply be asking for the impossible.

Since error is inevitable, what can be done about it?

Firstly, we may prescribe that there must be on the part of every agency concerned with law and order and the safety of the people, the exercise of due care and attention so as to avoid error as far as possible. No one should be exempt from this, whether he is directly or indirectly concerned with law and order. Due care and attention cannot provide an insurance against all error; but it provides a reasonable safeguard against undue or foreseeable error, and certainly against the repetition of similar error.

Secondly, we may prescribe as one insurance against error the caution of good faith. Good faith is largely a subjective quality in any human action. But the reference here is rather to that which can be objectively tested as a judgement exercised, or a decision made, or an action taken in good faith. The consciousness
of the need to be tested objectively on one's good faith appears to me to be a fair caution against undue error on the part of those involved in dealing with law and order. As we have seen elsewhere, the people at large are quick to judge and to recognize good faith, and to give due credit for it.

When a mistake has been made, is it possible to mitigate its effect? The effect of error may be mitigated in a number of ways. There should be a quick admission of the mistake. Attempts to cover up mistakes, particularly in dealing with law and order, more often than not defeat themselves. It is often worse than useless to try and cover up a serious mistake. For such mistakes cannot usually be covered up. The mistake tends to come out, to reveal itself. Provided due care and attention was exercised, and there was good faith on the part of the official or anyone else committing the mistake, there need not be any hesitation in making a quick admission of it. This applies whether the mistake is made by a magistrate, or a policeman, or the government, or the citizen, or anyone else.

A second way in which the effects of a mistake can be mitigated is a quick inquiry, where such inquiry is likely to furnish a full and fair picture of the circumstances in which the mistake occurred.

No issue of prestige should prevail when dealing with error. "What will happen if my subordinates think I have made a mistake?" The answer is that nothing will happen. We all make mistakes. Nothing happens to the magistrate or to the judge whose judgement is upset in appeal, unless indeed he has been perverse. Nothing happens to parliament when the Supreme Court strikes down a law as being unconstitutional. Very little or lasting damage happens to a minister who stands up and frankly admits an error made in good faith and after due care and attention. There is however this rather peculiar inhibitive feature of false prestige and even groundless fear which tends to avoid, to prevent the admission of a mistake, and which also makes for resistance to inquiry.

Where a mistake has been made, and damage caused through it, quick and sufficient recompense for the error helps in limiting the damage caused. Furthermore it tends to produce an acceptance of and forgiveness for the mistake. It also helps against a repetition of similar mistakes. But by adding to the original mis-
take the further error of trying to cover it up results in the remedy being delayed; the damage caused by the mistake may extend, and what is more, the mistake will tend to repeat itself.

It is part of the maxim that there must be support for error; error as we have defined it, namely as a mistake committed in good faith and despite due care and attention. If error is not supported, it tends to diminish initiative. This in turn tends to reduce the ability to perform the task. Since the task here is the maintenance of law and order, it diminishes the prevalence of law and order itself. The need to support error which we speak of here is not something in terms of moral values at all. It is not so much a matter of ethics. It is an incident of practical methodology. As an essential part of the successful practice of maintaining law and order, error committed in good faith despite due care and attention must obtain support.

What about the attitude of the party, the official or agency committing a mistake? What should be his attitude? In terms of law and order methodology (and again not in terms of moral ethic merely), the proper attitude appears to be to expect support, and if necessary to demand support; not to beg for support or to plead for it, but to expect and require it.

Precisely here, in the attitude displayed, will be found the test that tends to sort out the good from the bad in district administration. It must be remembered, and it is worth repeating, that if I am acting as a magistrate or a police official, I do not require much support, if indeed I require any at all, when I am in the right. The time when I do require support is when I am wrong, when I make a mistake, when I need sustaining, when despite my exercising proper care and attention in all good faith, I have made a mistake or failed. Therefore, unless I have this assurance within myself, and not as something given from above; unless I have the expectation and am prepared to require and demand support when I make a mistake, it will diminish my ability to maintain law and order, to a point where law and order will be endangered.

What about the victims of error? The point for attention there is, as we have seen, quick recompense. One notices how, increasingly, the government insists upon extremely speedy compensation to victims of railway accidents, even before any inquiry is started
This is a good thing; the victims of a disaster need extremely quick and sufficient recompense and even generous relief.

We may finally state the maxim as follows: error is inevitable; due care and attention, and good faith are essential to the avoidance of undue error; the effects of error can and should be mitigated; and error committed in good faith and despite due care and attention must obtain support.

Responsibility

There arises the question of responsibility, and the transfer of responsibility. Can responsibility be shifted? And if it can be shifted at all, can we distinguish a legitimate and proper transfer of responsibility from mere passing the buck? We are all familiar with this latter device. But in terms of law and order, passing the buck is a much more serious thing than, and in many ways qualitatively different from, trying to shift the responsibility in other matters. When is responsibility transferable upwards or downwards or otherwise?

It is a proper feature in the delegation of function and of authority, that responsibility for performance remains with the delegating authority. In other words the one thing that cannot be delegated is responsibility. A new responsibility may be created, and this may take the form of an obligation that the delegate shall be accountable to the delegator. But this does not and cannot in any way diminish the delegating authority's own responsibility. This responsibility is the obligation to provide for and to ensure due performance on the part of the person or agency to whom a function or a power is delegated, or within whose charge a resource is placed. We have here thus a general principle concerning responsibility in the case of delegation of function, of power or of resource.

In some instances the law itself makes specific provision for the transfer of a function or a power from one authority to another, sometimes but not always subordinate to the authority in whom the function or power is primarily vested. This, however, is entirely different from vesting by delegation.

For instance, the Criminal Procedure Code provides that a district magistrate may assign a criminal case or a class of cases
for trial to a particular magistrate on his staff; he is also empowered to transfer cases from one magistrate to another. That happens every day, and is a normal feature in the district. Similarly, a High Court may transfer a case from one court to another either in the same district or in another district.

In each of these instances the responsibility for the proper trial of the case passes to the court or the magistrate to whom it is transferred. It becomes the duty and the final responsibility of the court to which the case is assigned for trial to see to it that the case proceeds according to the laws and the rules and principles that govern the trial of such cases.

Again, the law may sometimes provide specifically, and indeed it often does, for the delegation of a function or a power by one authority to another lower or subordinate authority. In such cases it may be arguable whether responsibility passes also along with the delegation. The true position appears to be that while the primary responsibility is fixed by law upon the agency to whom the function and power is delegated, the responsibility for supervising its proper performance remains with the delegating authority, even where the law by a specific provision enables the function to be delegated. Thus it would not do for the superior authority to plead that the existence of a specific provision of law under which he has delegated a function must be held to absolve him entirely from any responsibility for its proper performance. Attempts to plead such an alibi are by no means rare in administration.

So it happens that while the line of appeal, review or revision in a criminal case may change with the transfer of the case from one court to another, the line in the case of a delegated function or power tends to remain in the original channel established by the particular statute. The various rules of procedure provide many illustrations of this difference.

Responsibility is also sometimes passed on from one agency or level of authority to another by a particular provision of law transferring such responsibility.

A constable obeying a lawful order given by a competent authority is not responsible for the legal validity of his action, so long as it is in accordance with the order given. If he arrests a person on a warrant issued by a magistrate, and it turns out to be an im-
proper arrest, as for instance owing to the fact that the warrant was wrongly issued, the liability for the unlawful arrest does not lie upon the constable making the arrest but upon the magistrate issuing the warrant. This is so even though the law may by another provision empower the constable to make the arrest. So long as he acts upon the warrant and executes it as ordered by the magistrate, the law absolves the constable and places the responsibility upon the competent authority under whose orders he acts. Under the law therefore a warrant of arrest issued by a magistrate completely protects the constable against any complaint of or claim for unlawful arrest.

This however should be distinguished from orders which are themselves not lawful, even though given by a competent authority or designated by statute. For instance, an order to a constable to whip a citizen or to otherwise beat or assault him, or to use force upon him when the citizen is not actually rioting or committing a breach of the peace is not a lawful order as is a warrant of arrest issued by a magistrate. Whoever may give him such an order, whatever may be the standing of his superior officer ordering him, and whether it be a magistrate, or a police officer, or indeed anyone else, a constable carrying out such an order is not protected by the law. He cannot shift his responsibility by pleading superior orders; for the law does not provide anywhere that a constable can whip or beat or otherwise assault or use force upon a citizen even if the constable is ordered to do so. The citizen in a comparatively new democracy such as ours should remember this. There is perhaps a wider consciousness of this in countries like Britain, where freedom through a parliamentary democracy has prevailed for many centuries, compared to the very short period that India has enjoyed independence and constitutional freedom, with its concomitant guarantees of protection for the individual.

There are sometimes special provisions in the law which protect officials and others who act under due authority in dealing with situations involving riots and the dispersal of unlawful assemblies. Such a provision is contained in Section 132 of the Criminal Procedure Code. It is a very specific provision, rigorously circumscribed and related to the maintenance of law and order in situations of emergency such as riots and unlawful assemblies.
The protection so provided must be strictly interpreted, and not be deemed to extend beyond the limits provided in the text of the statute itself; and this is how the courts rightly tend to interpret it. Section 132 clearly limits the protection which it provides to acts done under a particular chapter of the same Criminal Procedure Code, and no more. That chapter deals with unlawful assemblies and their dispersal by force.

It is specially important to be on guard against the plea of superior instruction, particularly when we are dealing with matters of law and order. Administrative history as well as judicial case law provide many instances where a plea of superior instructions has been raised in defence, and has been disallowed. I have referred to the instance where a police inspector in charge of a police station explained that he arrested people, or refrained from arresting them, under the guidance and advice of a member of a legislature. Such extreme instances are fortunately rare. But we must guard equally against the more subtle variations of the same theme, namely, the surrender of decision and authority to someone, or to some agency not in the direct line of authority, and not duly empowered under the law to instruct or advise.

Another instance is that of a weak magistrate, who will sometimes ask his district magistrate for advice and guidance as to what sentence he should inflict in particular cases; or what is even worse, whether he should convict or acquit a person on trial before him. This has happened within my own experience. A magistrate has sometimes, but rarely, I am glad to say, come and asked for advice and guidance, as to how he should deal with a particular case pending before him. No magistrate or other judicial officer entrusted with the trial of a case should attempt to dilute his own responsibility to decide the case according to its merits as they appear to his own personal judgement. It is his own judgement that matters.

Instances have also occurred, though again they are rare, where a superior officer tries to tell a magistrate or to advise him as to what he should do in a case pending before him. No officer, no one at all, even in the direct line of departmental superiority can assume such function or responsibility, to advise or instruct a magistrate or a judge in a matter pending before him. Not even anyone in the line of judicial appeal above him, nor of course
anyone at all outside it can do so. In fact an attempt to do this kind of thing amounts to an offence of contempt of court, and cases have been known of its punishment for such contempt.

The only way in which his own responsibility can be affected must be in one of the ways prescribed by statute, such as the specific provisions made in the Criminal Procedure Code for appeal, review, revision, transfer of cases and the like. And unless there is a clear and specific provision made under the law for transferring the responsibility or any portion of it from a trying magistrate or judge, the responsibility cannot be transferred, or shared.

Every agency concerned with the maintenance of law and order needs to understand, and to act upon the understanding, as to what responsibility can be transferred on any occasion, and to whom and in precisely what way it can be so transferred. Each agency invested with function or authority is a trustee for the exercise of that function and that authority; and this trust vests squarely in him, and not in his superiors or anyone else. To give a trivial illustration, if a constable is given a warrant to execute or a summons to serve, no one may tell him that he should not proceed with executing or serving it. He can be stopped only if the warrant or summons itself is withdrawn from him, and he is then no longer under the law responsible for its execution.

There is one singular situation in which responsibility for law and order passes entirely from the normal executive and judicial lines. This happens when martial law is imposed and the military authorities take over complete control of law and order in an area. The police, the magistrates, the judges, and any other agency normally concerned with law and order are then no longer responsible for it. Their responsibility is cut off entirely, and the whole of it passes to, and is assumed by the martial law authority. They themselves all come under the jurisdiction as well as the mandate of the military commander of the area. This situation lasts until the end of the period of martial law.

Fortunately a state of martial law is extremely rare, and it is intended under the common law to come about only in extreme cases of grave national danger, such as a foreign invasion, or major internal turbulence.

The imposition of martial law removes also from the civil authorities all responsibility, except only in accordance with the
instructions of the military commander. It is the one case where
the superior instructions are all-pervading, in regard to function,
authority, and responsibility.

It is equally a common law principle that the period of such
a state as martial law should be as brief as possible, and that it
must cease immediately after the situation is brought under con-
trol. This appears to be one of the great common law principles
which underlie the rule of law in Britain.

The Presence of Authority

The presence of authority has a direct bearing upon the main-
tenance of law and order. If the authority or the agencies through
which the authority is exercised are absent for too long in an area
of any size, law and order will tend to break down, unless some
legal entity assumes and establishes its authority. This is by no
means a matter of merely academic interest.

On the other hand, it is not necessary, or indeed even desirable
that authority should constantly evince or assert its presence. It
seems to be a sound maxim that the presence of authority should
be sensed, rather than too much invoked or displayed. Too much
display and use of authority tends to be wasteful of the force
available to maintain law and order. Much, indeed most of the
authority, should be held in reserve. But it must be remembered
that too little may be as bad as too much, and may give an im-
pression of weakness or lack of resources.

How much authority should be displayed, how much it should
be seen to be present, without being too much or too little, is a
matter of administrative judgement. For the circumstances will
vary, and no rigid formula can be prescribed. Here, once again,
we have an instance of the art of field administration.

One thing that should be avoided above all is the splitting up
of available resources of authority into little bits in an attempt to
cover as large an area as possible. Few arrangements are more
wasteful or are more ineffective in the maintenance of law and
order than this.

Finally, it may be said that in order to be effective in its prin-
cipal function of ministering to the security of the people, autho-
rity should be pervasive, it should be fairly constant and it must
be such as to command that respect for authority which we have examined earlier.

*Fairness*

The last maxim we may consider is that processes of law and order should be fair and just at every point, and that they should also be seen by the common man to be fair and just.

In order to be fair and just, every process employed in maintaining law and order must abide by the principles of natural justice. These include the right of reasonable hearing, and of being heard. They also include the duty to communicate, however briefly, the reasons sustaining each significant decision and action.

These two elements, the right of hearing and the duty to communicate just and sufficient reason, are given here as samples of natural justice which have an important bearing on the maintenance of law and order and in the observance of the maxim that the processes shall be fair and just and seen to be fair and just. No one would expect that in the middle of a serious riot, and in order to decide as to whether the police should open fire or not, the magistrate present should first provide a hearing to anyone or communicate his reasons to anybody. It is reasonable hearing that is postulated. Over the large majority of events, decisions, and orders concerned with law and order it will be found that circumstances permit reasonable hearing and the communication of a decision with reasons for it. In those instances when it cannot be done, it seems to be a good thing to enquire in each case to see whether the circumstances were such that it could not have reasonably been done.

Quite apart from the relationship to natural justice, the rule of reasonable hearing and communication of decision with its supporting reasons conduces in practice to the more effective maintenance of law and order.

The processes directed towards maintaining law and order tend to operate in fairly close proximity to those who are directly involved and concerned. The people by and large are quick to sense the fairness and justice or otherwise of the action taken by the authorities and agents of law and order. They respond accordingly, and tend to accept or to resist the process in the measure
in which it is seen to be, by and large, fair and just.

Those involved in a law and order situation will often accept a major error and its consequences, provided the intention at every point has been seen to be fair and just. We may see thus that in order to make the maintenance of law and order easier, it is necessary to adhere to and to apply these particular principles of natural justice, the right to be heard and the right to be told, however briefly, the reasons for a decision or order given and Maxims of Action.
CHAPTER 8

LAW AND ORDER: METHOD-II

Prevention, Investigation and Trial

We may proceed now to deal with the prevention, investigation, prosecution and trial of offences; the quantum and nature of the problem of law and order in normal times in terms of the prevention of wrong-doing; the investigation of offences which are committed; and the prosecution of cases in court for different offences.

The size and nature of these aspects of law and order may in some measure be gathered from the figures of crime for the country.

Offences against law and order are broadly classified into those which are cognisable and those which are not. A cognisable offence is one in which the police may normally arrest an offender without a warrant, and which they may investigate of their own accord, and are indeed bound under the law normally to investigate; and if the offender can be found and evidence duly secured against him, to prosecute the offender in a criminal court. Non-cognisable offences on the other hand are those in which, while anyone may make a report to the police, an aggrieved party must make his own complaint before a magistrate. In such a case, only after the magistrate takes cognisance of the offence and directs that the case should proceed further, either by way of investigation or directly in court, can the case proceed at all. There are also some classes of cases which require a complaint to be made by or on behalf of the government or on behalf of some official authority, before a court can take cognisance of the offence.

The cognisable offences include the more serious offences, such as murder, grievous hurt, kidnapping or abduction, robbery, house-breaking, theft, rioting, counterfeiting of currency, and a large number of other offences against the person, or against property, or against the public security.

Taking an average for the four years 1959, 1960, 1961 and 1962, we find that the total number of cognisable offences aver-
aged between six and seven hundred thousand cases a year. That
gives some indication of the volume of the task of the police and
of the magistrates, in normal times of peace and with law and
order in a general state of normalcy. About half of these cases
involve house-breaking and theft. There is an average of about
eleven thousand murders a year, just under six thousand cases
of kidnapping and abduction, about ten thousand cases of robb-
ery, including dacoity, which is robbery by a gang of five or
more persons. Of riots, which as an offence take up much of the
time and attention of the agencies of law and order, there is an
annual average of about twenty-five thousand cases.

Incidentally, we may notice that the annual figures both for
the main classes of crime as well as for the total number of offens-
ces tend to vary within fairly narrow limits from year to year.
There is not a great deal of difference in the numbers of parti-
cular crimes from one year to another. Statistically, this is not
surprising, considering the size and spread of population from
which the total figures are derived: nearly 450 million people
spread over an area of over one million square miles.

The figures we have seen above do not include the non-cognis-
able offences. These offences are large in number, and of course
add to the total work-load of the magistrates, the other courts,
and frequently the police.

Leaving the non-cognisable offences aside altogether, we may
examine briefly the methods employed in dealing with cognisable
offences. These include processes directed firstly towards prevent-
ing crime, secondly, to investigating the crimes which are com-
mittted, and thirdly, to prosecuting wrong-doers in court.

**Prevention**

Let us consider prevention. The Criminal Procedure Code pres-
cribes the action that may be taken by each particular agency or
authority, and how powers which are invested by the Code or
under its provisions may be exercised towards the prevention of
crime. Rules, and collections of rules in manuals such as the
various police manuals in the different states contain very de-
tailed instructions for the guidance of the different officials. But
it is implicit in every manual or set of rules, that every rule which
may be prescribed must itself be in accordance with the law, and both the rule as well as any action taken under it must conform to the parameters of the law. The principal statute in this respect is the Code of Criminal Procedure.

The Criminal Procedure Code prescribes how and in what circumstances security may be demanded for keeping the peace, or for good behaviour, from persons whose actions threaten the peace, or who are habitual offenders, or who may be vagrants or reasonably suspected of preparing to commit a crime. Certain functions and powers are vested in the police; while there is also provision that each case must go before a magistrate, who conducts the trial of the case and gives his orders. These orders in turn are appealable in the judicial line of appeal, reference and revision.

The Code specifies how magistrates should proceed in dealing with a public nuisance. Again, where a breach of the peace is likely to occur in a dispute about land or other immovable property, the Code empowers the magistrate to order the attachment of the property until the dispute is settled peacefully and according to law.

Here we may remark again that even in those states and districts where the separation of the judiciary from the executive has been achieved in a large measure, there is the tendency and the practice continues, for the sub-divisional magistrates and the other so-called executive magistrates to deal with cases under the preventive sections of the Criminal Procedure Code; including those cases where the proceedings to all intents and purposes are the same as a regular trial in court.

The Code lays down that it is the duty of every police official to prevent the commission of a cognisable offence, whatever the offence may be. It empowers police officials, and in fact makes it mandatory upon them, to arrest people in order to prevent a cognisable offence taking place. It is also the duty of the police to prevent injury to public property, even when the offence may not be cognisable. (This is one of those rather rare functions of the police in connection with non-cognisable offences). The Code also lays it as a special duty upon the police to prevent the use of false weights and measures. It is well for the citizen to remember that if the shop-keeper gives him short weight, he is entitled
to call up the nearest police official and ask him to see whether a false weight or measure is being used by the dealer. This provision is not well enough known, or resorted to.

One of the most important sets of provisions in the Criminal Procedure Code deals with unlawful assemblies. Chapter IX of the Code prescribes broadly the methods to be employed for dealing with unlawful assemblies. This includes rioting and civil commotion, involving serious breaches of the peace.

A magistrate or a police officer may order an unlawful assembly to disperse. An unlawful assembly consists of five or more persons, whose actions disturb the peace or imminently threaten to disturb it. We may remark here that any assembly whatsoever of five or more persons becomes an unlawful assembly as soon as five or more members of it disobey the order to disperse. This is so even if they were doing nothing unlawful before they were ordered to disperse. The Code categorically stigmatises an assembly as unlawful from the point at which the assembly disobeys the magistrate's order to disperse.

The Code provides for the use of force to disperse an unlawful assembly. This includes the civil force as well as, where the need arises, the use of armed forces.

The problem of the use of force in general has been considered earlier while dealing with the principles of law and order; I may deal with it again somewhat differently when we consider some specific kinds of situations involving the actual use of force. Here it is sufficient to say that the use of force and the manner of using it is broadly provided for in the Criminal Procedure Code. These provisions of the Code are not merely permissive; in many ways they are compulsive in respect of the use of force. They also govern any detailed rules and instructions which may be given to the police or to the magistrates. No authority, including the government or any of its agencies can make rules or give instructions which are not in accordance with the provisions of the law, in this case particularly, the provisions of the Code of Criminal Procedure.

Section 130 of the Code prescribes the duty of an officer commanding troops to disperse an unlawful assembly when required to do so by a magistrate. In the next Section, Section 131, the Code invests the officer commanding the armed force with the
specific power to disperse the unlawful assembly. And the following Section, Section 132, as we have seen, provides immunity against prosecution for all acts done in accordance with the Code in dealing with unlawful assemblies. The words "in accordance with the Code" are significant and underline again the need for all actions, rules and instructions to conform to the provisions of the law.

It is the normal practice for a district magistrate to prescribe, preferably in writing, instructions to his subordinate magistrates as well as for the guidance of the police, especially on occasions of festivals, processions, fairs and other gatherings. It is also quite a normal practice for rules and instructions to be prescribed from time to time for the guidance of the police for the prevention of offences, the regulation of processions and so on. But both in the case of the police as also the subordinate magistrates, and indeed for everyone concerned, every such instruction must conform to the provisions of the law, in this case also, mainly the Criminal Procedure Code.

It will be noticed how we come back again and again, in everything that is said or done in the maintenance of law and order, to the impact of the rule of law at every point.

Investigation

We may now consider briefly the investigation of crime.

In cognisable cases the police have the duty of investigating each case, except only those which may be specifically excluded from investigation. In non-cognisable cases the police do not normally investigate. But a magistrate may direct the police to investigate any case, including a complaint made before him by anyone. But, in the main, the bulk of police investigation work proceeds from investigation of cognisable offences reported to the police.

This report, known as the first information report (F.I.R.), may be made by anyone, and it is the duty of the appropriate police official to write it down at once. The person making the report may not be the complainant himself, where the offence is cognisable. Anyone can make a report to the police; and in certain serious cases it is the duty of the citizen to make a report.
Now we know how reluctant the average citizen is in our country to make a report to the police about something which does not concern him directly, for fear that he may himself get entangled in the process. One may say that it would be a measure of the citizens’ confidence in the agencies established for maintaining law and order, and the methods employed by those agencies, that the citizens more and more come forward to provide information in the more serious cases of crime or accident.

A police officer investigating a case may require witnesses to attend before him and to make statements. These include any persons who may have knowledge of the facts of the case he is investigating, and not necessarily only those who may be produced as witnesses to testify in court later.

The Criminal Procedure Code contains several provisions on the subject of investigation by the police. Amongst other things it prescribes that a statement made to the police during an investigation must not be signed by the person making the statement; and the use of such statements in evidence in court is very limited. The police are not allowed to offer any inducement whatsoever to anyone making a statement.

The Code provides for the recording of statements and confessions. Section 164 deals with this. It has been a feature of Indian jurisprudence that a confession made to the police is not admissible in evidence in this country. In this respect, the law and the practice has been the opposite of the law and practice in Britain, even during the British regime in India.

In Britain, a statement made to a police officer can be used in evidence against the person making it, provided only that the police officer has, before recording the statement, cautioned the person that the statement is likely to be used against him. In India, besides the Criminal Procedure Code, the Indian Evidence Act, which is another of those great codes of law which have stood the test of nearly a century, also deals with the subject of confessions. Section 25 of the Act provides that no confession to a police officer shall be proved against a person accused of any offence.

Only very recently has the legal force of Section 25 been questioned. Oddly enough it has been challenged as offending against
the fundamental right of all citizens to be treated alike, and on the
ground that an accused person must be treated like anyone else.

This also has a bearing on another provision, where the law
has been different from the law of procedure in Britain. In India
an accused person does not take his stand in the witness box and
testify in his own case. He may make a statement, but not on
oath, and may he questioned by the Court. But he cannot be
cross-examined upon his statement. In Britain however an accused
person has the right to give evidence in court in his own case,
provided he wishes to do so. In fact his reluctance to enter the
witness box may lead to the presumption that he is afraid of being
found out in cross-examination.

Not only is a confession made to the police barred from being
used as evidence, but the Indian Evidence Act further provides
in Section 26 of the Act that no confession made to anyone, and
not only to the police, but even while a person is only in the
custody of a police official, or indeed even when a police official
is present, can be used against him, unless it is made publicly and
in the immediate presence of a magistrate. The only confession
made in the presence of a police official that can be admitted
against the person at all is when the confession is made before
a magistrate. We may note here that not only can the confession
not be held against the person; it cannot be admitted in evidence
at all, so that it cannot even be brought on record in the trial of
the case against him.

There are elaborate rules which prescribe the particular pre-
cautions which a magistrate must take to ensure that a confes-
sion made before him is in fact willingly made, and without in-
ducement or pressure of any kind whatsoever. Confessions are
again and again thrown out by the trial court, in cases where there
has been any doubt created that the confession was recorded
without due care being taken to ensure that it was made willingly
and without any inducement or pressure.

A police officer may make a search during his investigation.
He may search any person reasonably suspected of being con-
cerned in the offence he is investigating. He may also enter upon
and search any premises where his investigation may lead him
to suspect that evidence exists which is connected with the offence.
The police officer investigating a case must keep a full and proper diary of all the proceedings during his investigation. Furthermore he must make progress reports in writing to his superior officer as the investigation proceeds.

We may remark here that the Code itself prescribes the maintenance currently of proper records. It is not merely executive rules made by the government or by a departmental head, but the Code of Criminal Procedure itself which compels the writing of the diaries, of the record of the investigation, and the submission of progress reports in writing. This is directed towards ensuring that the investigation is fairly, properly, and speedily conducted; and also against any possibility of subsequent tampering with the evidence.

There is perhaps a lesson here for those who express some impatience at the trammels of procedure and against the formality of maintaining a record. The Criminal Procedure Code provides an example of simplicity, clarity, and definiteness in procedure and in the maintenance of the record. Those who are responsible for formulating procedures, reports and returns could derive useful lessons from it, before they settle upon inventions and devices of their own as to procedure and record. We may note also in passing that it not infrequently happens that the very persons who impatiently castigate the formalities of procedure and the record are often the very first to point to some omission, often a minor one, in adhering to the procedures prescribed or to maintaining a proper record in the transaction of public business.

The police manuals in the different states contain detailed rules and instructions as to how the police officials should conduct the investigation of an offence. As we have seen in the case of the prevention of crimes, any instructions in these manuals or otherwise have to conform to the provisions of the law. These legal provisions are contained in the Code of Criminal Procedure, the Evidence Act, and the Police Act. Anything done, and any instructions given or rules made, must be in accordance with the law. The rule of law prevails throughout.

We are not attempting to deal here with the procedure for the investigation or prevention of crime in any great detail. What we are trying to do is to extract from the procedures which exist, the content of conformity to those principles which underlie the
methodology concerned with law and order and prescribed for those agencies which are concerned with its maintenance in the district.

*Prosecution*

When an investigation has been completed and there is enough evidence to justify a prosecution, the police present a charge-sheet to a magistrate.

In most cases where the accused person has been taken into custody during the investigation itself, the magistrate is usually already seized of the matter; for the police cannot detain a person for more than twenty-four hours without obtaining a remand in writing signed by a magistrate. This legal provision represents one of the most important safeguards for the citizen against the danger of having his freedom tampered with or taken away except by due legal process. In signing the remand order, the magistrate as a member of the judiciary, and therefore entrusted with the proper enforcement of the judicial process, takes upon himself the responsibility for the custody of the person or persons named in the order of remand.

The magistrate's order of remand usually directs that the person named shall be held in the civil jail; and thus away from the influence or reach of the police. This is what is meant when it is reported in the newspaper that the magistrate has remanded so and so to judicial custody. That is the normal rule and practice.

As we have seen, no police official can enter the civil jail except under the authority of a magistrate, for a duly specified purpose; so that a remand to judicial custody places the person remanded away from the power and influence of the police.

But sometimes, and frequently in the more serious cases where the nature of the case and of the investigation justifies it, the magistrate may remand a person to police custody. This happens, for instance, when the accused person has to be taken to various places where property is involved in the offence or other evidence such as a weapon used in the offence may be hidden.

In such a case the magistrate assumes the responsibility for the proper custody of the person and of his proper treatment while he is in police custody. In a case where a magistrate remands
anyone to police custody, it would be wise on his part to give only very short remands, and furthermore to insist upon having brought before him and seeing with his own eyes the person whom he has remanded. This is a very simple and elementary precaution, on the observation of which the safety and security of the ordinary citizen like any one of us depends. One can only wish that these precautions are always taken; regretably they are sometimes not taken.

There is a pointer in this for the magistrate, who often has a whole bundle of remand sheets placed before him by his court clerk to be signed. However busy the magistrate might be, he should take sufficient time to observe the elementary precaution; for, as we have seen, in signing a remand sheet he assumes responsibility for the detention and proper treatment of the person named in the remand. Indeed it need not take much of his time; a mere quick look at the person brought before him is often quite enough. The knowledge on everybody's part that the magistrate will in fact see for himself every person whose remand order he signs, every time he signs it, will act as a safeguard against tyranny and abuse of power.

Too long a remand in police custody is usually frowned upon by the court. This is as it should be. I have known the prosecution to break down in court because the accused person had remained so long in the custody of the police that a suspicion was created in the mind of the trial court, or in the mind of the appellate court, about the actions of the police during the unduly long period of remand, when that period substantially exceeded the time reasonably needed for a proper investigation of the case.

Usually the remand to custody, whether it be to judicial custody or to the custody of the police, is given for a few days at a time; and even in exceptional cases, no remand is given for more than 14 days at a time. This compels the physical presence of the person in custody before a magistrate at comparatively short intervals throughout the period from the time of his arrest to his final release from custody, or his lodgement in jail on conviction.

The Criminal Procedure Code gives directions as to jurisdiction, and provides as to where a trial or enquiry may be conducted, the conditions requisite for initiating proceedings in a magistrate's or a judge's court, and also gives detailed instruc-
tions as to the conduct of the trial or enquiry in the different courts.

It is the duty of a magistrate who receives a complaint or a charge-sheet, or who takes cognisance of an offence, or receives a case for trial or enquiry from another court, or who signs a warrant of remand or of arrest or issues a summons, to see to it that the proceedings are in accordance with the provisions of the Code, from the time the case comes within his purview and continuously thereafter until the case passes from his purview. There are no less than forty consecutive sections in the Criminal Procedure Code which deal with these particular matters. They provide a model of simplicity and precision in law-making.

The actual trial of a case in the different courts, whether it be a magistrate, a judicial officer, a sessions judge or a district judge or the high court must be strictly in accordance with the procedure prescribed by this Code. No instructions to the contrary can be pleaded, nor ignorance of any of these provisions, by the police, or by the magistrate or by any other court, and any instructions which may be given or received, or which may be provided in any of the rules must be in accordance with the statutory law itself. For the procedures prescribed by the law make for the upholding of the principles of law and order which we have already considered, and provide the compulsive parameters for any rule-making or instructions.

We may recall here again the quite remarkable body of statutory law contained in the great codes which were enacted within a period of a few years when the British Crown took over from the East India Company the government of this country. We have reason to render some tribute to the devising law codes.

It was in 1858 that the Imperial Crown assumed the entire governmental functions for India, taking away from the East India Company all the powers and responsibilities of governance exercised by the Company until then. Within two years of that, in 1860 was enacted the Indian Penal Code which is our principal body of substantive criminal law today. The Indian Evidence Act, a great masterpiece of logic, common sense and jurisprudence was enacted in 1872. The Police Act, which even today in independent India provides us with the main code of law governing and regulating the police, was enacted in 1861, only
three years after the East India Company's power was superseded by the British Crown, and just over a hundred years ago. The principles of criminal procedure were contained in various statutory regulations coming down from about the same time as the other codes of law which we have mentioned; and were finally codified in the Criminal Procedure Code in 1898.

While there have been numbers of amendments of different provisions in these great law codes, the basic provisions of each one of them remain as valid today as they were when they were enacted. Not until we come to the Constitution of India, enacted in 1952, do we find a truly basic change in the legal provisions concerning the maintenance of law and order.

These old statutes provide models of draftsmanship, which are worth keeping before us. The greater the care with which any piece of legislation is drafted, the simpler and clearer it tends to be, and therefore within the understanding of the citizen as well as those agencies and individuals to whom is entrusted the implementation of the laws placed on the statute book. It guards against undue confusion as to the meaning or the intention of a particular provision of law. Furthermore, and importantly, it avoids the necessity of repeated amendments of the law by further legislation. The necessity which compels frequent amendments also has the deleterious side-effect of creating uncertainty as to the final state of the law to which the citizen must conform.

_Emergencies_

The agencies responsible for the maintenance of law and order are frequently concerned with situations of emergency. Emergencies cover a great variety of events.

Let us consider presently only one kind of emergency, riots. And even in this one single category of emergencies, let us consider only one kind of situation involving a riot, namely, communal or sectarian riots. We may look at the list of such riots over a period of eight years from 1954 to 1962, and pick a random sample. We may randomise the sample both as to the individual cases, as well as to the areas where they occurred, all the way from Assam in the north-east and Punjab in the north-west to Madras and to Kerala in the extreme South. Analysing the
random samples so drawn, in order to ascertain the causes which lead to this one single kind of rioting, the communal or sectarian riot, that is rioting between different communities, we find the following causes:

(1) A students' strike. (One would think that a students' strike would have no connection with communal rioting).
(2) Panchayat elections.
(3) An attack on a cow-shed.
(4) A dispute over a foot-path.
(5) An attack on a refugee colony.
(6) A disputed decision in a wrestling bout between members belonging to different sects.
(7) The removal of a few logs of wood.
(8) Attempted installation of an idol by some students in a school.
(9) A dispute over drawing water from a public tap.
(10) A fight between rival bootleggers belonging to different communities.

Now this is, as we have seen, a random sample, a statistically adequate sample, which demonstrates the pattern, or rather the lack of any regular pattern, as to the causes which lead to just the one kind of rioting known as communal or sectarian riots.

We may remark here that things happen rather differently in urban areas as compared to the rural areas. These events provide instructive case histories for the serious student of law and order; but in the space available here, we can only touch upon the skeletal features.

Another kind of emergency which involves law and order is a strike. Here we may draw our sample from the strike of 1960.

The 1960 strike was a general strike by central government employees. A joint council of action professing to act on behalf of the unions and associations which represented about one-third of the total central government civil employees, decided upon and organised the strike.

Now it may be remarked here that strikes as such are not in the normal way illegal. We may ignore here the emotional overtones that the word strike carries. A legal strike is a perfectly valid instrument of action in employer-employee relationships.
There is nothing illegal about a strike, provided it conforms to the rules and regulations under the laws of the land. In view of the prospect that this strike would, if it were successful, tie up the essential services and communication system all over the country, an ordinance was promulgated, declaring certain services as essential; and specifically prohibiting strikes in those essential services. These included the posts and telegraphs, the railways, aircraft and aerodromes, and other transport, communications and services essential for the life and safety of the community. The promulgation of ordinances is provided for under the Constitution.

Thus, when the strike was actually started, the persons involved in it became liable to action under the criminal law; and the strike having come about, it involved action by all the agencies concerned with the maintenance of law and order.

The statistics of the 1960 strike present an interesting picture. There were about 120 cases of sabotage on the railways, and 30 in the posts and telegraphs, 244 cases of rioting, assault and intimidation; 24 cases in which the police resorted to the use of tear gas or lathi charges; the police opened fire in five instances, and five persons died; 170 policemen and 29 volunteers became casualties; nine volunteers lost their lives in accident while guarding the railway track. Besides all this, the bill for the cost of the emergency arrangements and on account of loss of traffic revenue alone was reported at about Rs. 4½ crores; and, in terms of wages lost, a little under Rs. 70 lakhs.

The strike lasted only a few days before it was called off. One notices how, apart from the actual damage, the cost to the community can often be quite high. Here we have the case of a strike where very quick and firm action was taken by the government and by the agencies responsible for the maintenance of law and order, and the strike did not last very long. Nevertheless nine volunteers lost their lives, five people were killed and seven injured in firing by the police, 170 policemen and 29 volunteers were amongst the casualties, and the cost to the community was reported to have been of the order of Rs. 4½ crores.

Firing

Occasions arise in dealing with riotous situations which may com-
pel firing to be resorted to. Firing cannot be indulged in casually or as a matter of course. It is only when the situation is so grave as to justify it that it may be used, and as a last resort. But there are situations when the police must use their fire-arms; indeed not to do so would be wrong, and would almost certainly lead to worse trouble.

It is usual, and to my mind very proper, when force is used on any large scale, and particularly when firing is resorted to in quelling a riot or dispersing an unlawful assembly, that there should be a full enquiry into the circumstances, directed amongst other things to establishing as to whether the firing or other force was justified in the particular case, and furthermore whether only the minimum amount of force necessary to deal with the situation was in fact used. Such enquiries should be made in as public a manner as possible; and it seems a good thing as a rule (although there may be exceptions in very rare cases where the public in- terest or the public security itself prohibits publication) that the results of the enquiry should be made available to the people. This in fact is the present tendency on the part of the government.

There is often a great fear about such enquiries, particularly on the part of police officials; sometimes, unfortunately, on the part of the magistrates as well. These fears are quite unfounded. All the evidence and experience of the past points to the contrary, and leads to the conclusion that such enquiries, properly and quickly instituted and conducted, into the use of force and particularly firing by the police is a good thing in every way.

In the first place, a full and fair enquiry tends to establish the true facts, especially where the truth is often lost amongst the emotions and the confusion of events. The establishment of the true facts about the circumstances in which force was used tends also to help in a proper assessment of the rights and wrongs of what was done or not done in the particular circumstances that prevailed. Then, it reveals any errors of judgment which may have occurred. Errors can and do happen even when everything is calm and settled; in circumstances of stress and excitement there can be a greater likelihood of error. As we have seen, where an error of judgment has been committed and a decision made in good faith, and with due care, that is such due care as it is possible to exercise in the particular context of the decision, there
should be no need for anyone to be afraid for himself.

And so, in revealing the true facts of the case, establishing the rights and wrongs of the events, and revealing any errors of judgment or decision, the enquiry is able to provide the lessons of experience gained, in order that those lessons can be applied in future. Then also, an enquiry so made tends to make for that essential support for the agencies of law and order which they need in order that law and order can be maintained at all.

Having said this about the desirability of an enquiry, we may perhaps illustrate with samples drawn at random from actual reports of enquiry into the use of force, particularly firing by the police. The five cases which are briefly listed are taken at random, and cover a period of about twenty-four months during the years 1958, 1959 and 1960.

In the first of the five cases we have selected, the events took place at Ahmedabad on three consecutive days, the 12th, 13th and 14th of August, 1958. The police had to resort to firing. In October of that year the state government appointed a one-man commission under the Commissions of Enquiry Act, 1952. The commission consisted of Mr. Justice S. P. Kotval of the Bombay High Court.

The terms of reference required the commission to ascertain the circumstances under which the police resorted to firing, to report whether there was an attempt, direct or indirect, on the part of any persons or political parties (we may notice the reference here to political parties) to create, or instigate others to create disorder and to indulge in acts of violence, incendiaryism, looting and destruction of private and public property in the event of the local authorities obstructing the erection of some memorials or removing them after erection; to determine whether the firing was justified or not; and to report on such other matters as might be germane to the specific matters listed.

Mr. Justice Kotval submitted his report to government at the end of April, 1959. The government resolution of July 1, 1959 recites that the government had carefully considered the report with due regard to the evidence recorded and, in the light of the observations thereinafter made, accepted the findings of the commission with a few exceptions. The main conclusion of the report was that the firing was partly justified and partly unjustified. The
details are given in the commission's excellent report, which will well repay study. It is of special interest to note that the government accepted some of the findings but not others.

The next case concerns events which took place at Allahabad on August 28, 1959, when the police resorted to firing. In this case also the state government appointed a one-man commission under the Commissions Enquiry Act of 1952. The commission consisted of Mr. Justice V. Bhargav, Judge of the High Court of Allahabad.

The subject of the enquiry referred to an altercation between the manager of a cinema house at Allahabad and some students on August 26, culminating in a serious riot two days later in the vicinity of the cinema, when it was alleged that an attempt was made to damage and set fire to the cinema hall where a matinee show was then in progress, the riot resulting in serious injuries to several police personnel and members of the public, and the police using force and ultimately resorting to firing resulting in five persons being killed and injuries to others.

The terms of reference for the enquiry called for a report in respect of the entire series of incidents with a view to ascertain the full facts regarding these incidents and the causes which led to them, to assess the responsibility for the unfortunate happenings, and the conduct of the police and the magistracy with regard to the handling of the situation and the quantum of force used. Although the terms of reference here appear to be stated in somewhat more general terms than in the Ahmedabad case of the year before, they indicate fairly the scope of the enquiry, conforming essentially to what has been said already about what such enquiries may usefully cover. The government resolution of April 14, 1960 accepted the findings of the commission, which were to the effect that the firing was justified.

The next case concerns the happenings of the 3rd and 4th November 1959 at Kanpur, where again the police resorted to firing. Here the trouble appears to have started with an allegation that a woman and her escort staying in a dharamshala at Kanpur were picked up by the police and taken to a police outpost at about 10 o'clock at night, and that the head constable molested the woman there. Following this, at about noon the next day, a large crowd collected before the police station of Collectorgunj.
(which is one of the principal police stations in the city of Kanpur, in a densely industrial area). The crowd became threatening, and attacked the police station and the staff quarters attached to it. The excitement and commotion increased and spread, with the result that large-scale disturbances took place in different parts of the city on the 3rd and 4th of November. These disturbances led to serious injuries being caused to a number of police personnel and some members of the public; the police had to use force and ultimately had to resort to firing on several occasions. The firing resulted in as many as nineteen deaths and injuries to others.

Once again the state government appointed a one-man enquiry commission under the same Act. The commission on this occasion consisted of Mr. Syed Siddique Hasan, Administrative Member, Board of Revenue. The terms of reference were very similar to those in the Allahabad case a few months earlier. The commission came to the conclusion that the firing was justified, and that the minimum force necessary to restore and maintain order was used when no option was left. These findings were accepted by the government in its resolution of January 18, 1961. Here again the government ordered that the report and the resolution should be published. Mr. Hasan in his report made several suggestions regarding firing by the police, and for checking and dealing in good time in future with the causes which led to the disturbances. The report is of special value on this account.

The fourth case in our sample concerns the happenings at Dohad, in the district of Panch Mahals in the state of Gujarat. As in the other cases, the state government set up a one-man commission under Mr. Justice R. B. Mehta of the High Court of Gujarat at Ahmedabad. The events with which the enquiry was concerned occurred on the 12th of July 1960, during the general strike of central government employees which we have already noticed in another connection. The police resorted to firing on the morning of that day near the workshop of the western railway at Freelandgunj and again on the afternoon of the same day near the police lines in the same neighbourhood. The commission found that the firing by the police was partly justified and partly unjustified. These findings were accepted by the government, by its resolution of 18 February 1961.
The fifth and last case in our sample also concerns events in the state of Gujarat, on the 2nd of October 1960. The circumstances in which the firing was restored to were somewhat as follows: a violent crowd entered the “khadki” of the Mukhi at about 7.30 in the evening, armed with weapons including spears and sticks, with the intention of causing grievous hurt and possibly death to the Mukhi and the members of his family and to burn his property. These events took place in the village of Shelli in the Kaira district. The police opened fire in order to disperse the violent crowd, to protect the Mukhi and his family and their property. In this case also the state government appointed a one-man commission of enquiry under the same Act of 1952, consisting of Mr. V. R. Shah, District Judge of Kaira. Mr. Shah found that the firing and the extent to which the police resorted to firing were justified; and the government by its resolution of August 1, 1961 accepted these findings.

Enquiries such as these have been useful, and provide a valuable adjunct to the maintenance of law and order. Magistrates, police officials, and the citizens, all of whom are involved in the maintenance of law and order in one way or another, should be encouraged to read these enquiry reports and to draw lessons from them.

We may consider finally such pointers as there may be, or which can be derived from past experience and from the lessons learnt, on the subject of police firing.

The question of police firing has always been very difficult. It has always caused the authorities a great deal of concern, and rightly so: firing by the police is a serious matter.

Are there any guide-posts or principles to which we can refer, about the use of force in general and firing in particular? We may attempt to formulate a few here.

Firstly, the dispersal of an unlawful assembly or any measures dealing with a riotous situation should be strictly in accordance with the methods and procedures prescribed by the law. Thus we anchor ourselves again upon the rule of law.

If a magistrate is present, it is he who must give the order before force is used. Otherwise, except in very rare cases, no one below an officer in charge of a police station should give the order to use force, or to fire, except only in self defence.
All attempts must be made to persuade the crowd to disperse voluntarily. The extent to which this is possible in any particular situation has to be decided by the senior official, a magistrate if he is present. This is a matter in which he must exercise judgment on the spot, for no one can really guide him from elsewhere except in a very general way. On the exercise of this judgment depends often the further turn of events, either towards improvement or towards a worsening of the situation.

Before firing is opened, other methods or kinds of force should be tried, such as arrests, or a lathi charge or both. The use of tear-gas is frequently sufficient to deal with an immediate crisis. The techniques of using tear-gas in dealing with unruly mobs may well be developed and extended; so also the use of the water hose, particularly in cities. These methods have been used successfully in urban areas.

When force has to be used, it ought to be used effectively. I have known nothing more certain in exciting the crowd to the point of loss of self-control than the use of force hesitatingly. There is nothing that a crowd despises more than hesitation on the part of the police or the magistrates. But effective use of force does not and cannot of course mean any sort of brutality or excess.

When the police have to resort to firing, what should they aim at? There has been a good deal of argument in the past as to whether the police should fire over the heads of the crowd or directly into the crowd. While firing over the heads may sometimes frighten a crowd and make it disperse, this is by no means always the actual result. If the crowd is a determined one, and out for real mischief, such as looting and arson, firing over the heads may tend to give the impression that the police do not dare to use their weapons effectively, or are only bluffing. Such a crowd, even if it scatters at the sound of the first fire, often tends to re-form, more intent than ever on mischief. So that to deal with it, even severer firing may have to be resorted to than might have been necessary earlier.

In recent years, the armed police have tended to go over from the old .410 smooth bore musket with a comparatively short range to the .303 rifle. The rifle is a very much more powerful weapon, with a much longer range and greater penetration. Firing a .303
rifle over the heads of the crowd may well result in the bullet going a long way before it is stopped, possibly by hitting someone innocent and quite far removed from the mob. Indeed, one view expressed is that if the police are to fire over the heads of the crowd, they might as well use blank ammunition.

We may conclude about the use of force somewhat as follows:

(1) Do not use force if you can help it.
(2) Use force only under the immediate control of a magistrate.
(3) If firing is resorted to, consider the effects in the particular circumstances of firing above the heads, or into the crowd; and if it is decided to fire into the crowd, then the aim should be kept low, to injure the legs rather than the body.
(4) Use as little force as possible, but use it effectively.
(5) Act throughout in accordance with the rule of law.
(6) Follow up as quickly as possible with an enquiry, preferably a judicial enquiry.

Internal Security

Under the British regime in India, when the purposes of the district administration were in many ways different from what they are now, there used to be a system of internal defence schemes. The schemes covered the whole country, and in considerable detail. The structure and content of those schemes was related to the concept of a garrison in the country, both military as well as civil, of a foreign imperial power, rather than to the idea of the maintenance of security by the country's own government established in power by the people themselves. Several of the procedures and other features of the old internal security schemes underlined this difference. Since Independence, any such schemes would more appropriately be called internal security schemes rather than internal defence schemes.

Any such scheme of internal security has to remain guarded by a shield of secrecy. Necessarily a large portion of any internal security schemes, wherever these may exist, have to be secret, if the purpose is to be secured for which the scheme itself is de-
vised. This indeed is true of many other matters concerning the country's governance as, for instance, intelligence, defence arrangements and dispositions, and many other matters.

At the same time, when we consider that in our present state of national independence, and a system of governance based upon the sovereignty of the people, and with law and order truly the responsibility of the community as a whole and not merely the separate or sole responsibility of the governmental forces directly employed in maintaining law and order, it may be an advantage that there should be a greater sharing of knowledge and information about arrangements for the maintenance of the security of the people. For, as we have seen, it is the community for whom law and order is maintained, for whose protection any internal security schemes should be prepared; and not, as was previously the case, for the maintenance of the security of a foreign ruler or his agents and representatives in India.

Much of the undue secrecy which veils the processes of government, and at which impatience is so often expressed, may be largely due to the hangover of the general condition of excessive secrecy which separated the processes of the former foreign government as compared with the proper degrees of secrecy which might be justified in the case of the people's own government.

In fact this hangover of undue secrecy is not peculiar only to the law and order processes in this country. It tends to prevail in a rather peculiar way throughout the official bureaucratic establishments in a country like India. There is in addition to this the universal characteristic of bureaucracies everywhere in the world, to throw up webs of entanglement and veils of secrecy over official processes.

For those who are more directly responsible for maintaining law and order, such as the police, the magistrates, or the armed forces when called to the aid to the civil power, there must be available, and must be carefully studied by them, the details of any schemes providing for arrangements to deal with security and law and order. Where such a scheme may not exist, it would be the concern of them all, jointly and severally, to have some sort of plan or scheme or set of arrangements, call it what one may, in order to deal with any serious or widespread situation which may arise. We have seen in another context the need for
knowledge about such elementary matters as the local geography, topography, routes and lines of communication and so on. We have also noticed the instance where through lack of this knowledge a whole village was massacred because a tahsildar magistrate guided in the wrong direction the troops which had been summoned to his aid.

Without benefit of knowing about or being able to refer to any internal security schemes where these might exist, we may consider nevertheless as to what any such scheme must be concerned with and what essential matters it must deal with.

Any such scheme must concern itself with dealing with situations arising from external aggression. Here we have the very recent example of the happening in Assam and in NEFA. Or the internal security and peace of a district may be endangered or upset by internal trouble, which may be due to various factors such as communal or sectarian, regional, political, or economic tensions or any combination of them. We have seen in examining the sample of riots that there is a large range of permutations and combinations amongst the causes of disorder. One cannot always foresee the different ways in which law and order may be upset. One can gain a great deal from past experience; and here may be stressed again the importance of studying case histories of past events. There may be large-scale demonstrations organised by a political party or group; or there may be very sudden and widespread riots and disturbances of the kind which occurred on a large scale in 1947. There may be an earthquake, which may upset the whole administrative apparatus and endanger law and order. There may be a sudden strike of the kind which we have considered, the general strike of central government servants in 1960. Again, there may be a large-scale exodus of refugees such as we have experienced in this country, and one hopes will not have to experience again. In the event of war, there may be a threat of air raids or of invasion, and there may be an actual incursion of the enemy into some parts of the country.

In all these situations the official agencies for maintaining law and order are actively involved. So also is the body of citizens, the community at large. The people have an important and even a vital role to play in maintaining, or re-establishing peace and good order.
These preparatory arrangements are essential, whether the country is at peace or at war, and whether there is peace and harmony throughout the country or tension and commotion. Therefore it seems a good thing that everyone should know, even in a general way, that proper and sufficient arrangements do in fact exist; and furthermore, to know something of the general principles which apply to the maintenance of security; for any arrangements taken must conform to some principles.

Firstly then, it is well to remember that it is primarily the responsibility of the civil police to maintain law and order. Therefore, merely seeing a large number of military people in uniform in a locality does not necessarily mean that they have anything to do with law and order there; although of course what they do and the way they conduct themselves may have an important effect upon law and order in the locality. We have an example of this in the happenings in the Tezpur area in Assam in November, 1962.

It is when the situation gets beyond the control of the police, or when the loss of such control is imminent, that the army comes into the picture. How does the army come in? The military force comes in at the specific request of the civil authority. The civil authority, normally the senior magistrate present, continues to retain the control of the situation throughout.

Secondly, the maintenance of law and order depends greatly upon the co-operation between the magistrates, the police, the other civil authorities, particularly those dealing with communications such as the posts and telegraphs and the railways, and the military authorities. It depends equally upon the co-operation of the citizen, wherever he may be engaged, and in whatever way he may be employed. This underlines the need for mutual co-operation, mutual understanding and confidence, and to a considerable extent, and except only in regard to such functions, duties or arrangements which in the interests of internal security must be kept secret, a considerable knowledge about one another's functions and duties.

The police responsibility and authority flows as we have seen along two channels; one being the state government, the inspector-general of police, the range deputy inspector-general of police, the district superintendent of police and so on down the depart-
mental line, while the other line and in many ways the rather more important one, lies through the district magistrate as the head of the district administration and responsible for law and order.

The district magistrate as we have seen (and this fact becomes particularly significant when we are dealing with internal security), is specified by law and in the rules and regulations as the head of the criminal administration of the district. The police force constitutes the instrument with which he is provided by the government to enable him to enforce his authority and to fulfil his responsibility for the maintenance of law and order. We may remark here that the reference is to the district magistrate himself, personally, and not to the magistracy as such or to any of the other magistrates in the district. This conforms to the principle of the identifiable single point of command and responsibility. In normal working, communications between him and the police are conveyed mainly through the departmental head of the police force in the district, the district superintendent of police.

Any scheme of internal security should lay these things down clearly, so as to provide a self-contained point for ready reference.

Thirdly, we might consider as an integral part of any scheme a statement of the essential objectives of any internal security scheme, anywhere. The first priority, of course, is the same priority which we noticed when dealing with the principles of law and order, namely, the maintenance of law and order as long as possible, and its maintenance by the normal machinery of the civil government and when that machinery becomes inadequate, then with the assistance of the armed forces.

The second element in the objectives is related to the need in any internal security arrangements to maintain communications. Here the citizens can render invaluable help when a crisis occurs by not panicking and obstructing the lines of communication. We all tend to rush about with our own little problems when a disaster happens or even threatens. We may do so by flooding the telegraph offices with telegrams, or by choking the telephone system by trying to use the trunk telephone system to get news of people, or the railway lines and the roads by using these for panic movements to escape from one place to another; and exactly when these communication lines are most needed for the de-
ployment of the forces of law and order.

One of the most disastrous of the events that took place in the second world war was when the Germans broke through at Sedan in France early in 1940. The French population was simply not prepared, nor even sufficiently informed about the arrangements, if indeed there were any arrangements, which is doubtful. They had been brought up in the false security of the Maginot Line, and had been further lulled by the so-called phoney period of the first six months of the war when nothing much appeared to be happening. Then suddenly the Germans, basing their great manoeuvre on the principle of mass and speed, broke through with a massive and extremely fast body of armour, tanks, guns and troops. The French population began to flee before this onslaught. Panic built up rapidly, spread even faster than the approaching Germans; and the roads became so cluttered up that it became impossible to deploy any advancing forces at all against the Germans. The German armour simply speeded down the roads and ran over everything that came in its way.

The events of 1947 in this country provide, although in a different and lesser way, several examples of such panic and disorder.

We may see thus the importance of including it as an internal security objective to ensure that the lines of communication are kept reasonably clear. In any such arrangements, the active cooperation of the citizens needs to be enlisted.

A third element in the essential objectives of any internal security scheme must be the protection of those points which are vital. We can identify quite a number of such points, for they can hardly be kept secret. The great Bhakra dam obviously must be one. Such dams are often protected by catenary cables stretched over the top of the dam. We may recall the exploits of the British air bombers during the last war, when after several attempts they succeeded in bursting a major dam, with great damage and loss to the enemy.

Similarly, principal bridges on main lines of communications are another obvious feature; so also other vital installations concerned with communications.

Where there are a large number of such vital or vulnerable points, it becomes a matter of assessing and deciding upon priorities, as to which are to be selected for different degrees of pro-
tection, so that the available resources may be deployed to the best advantage.

A fourth element in the list of internal security scheme objectives might be the provision, in extreme emergency, for the movement or evacuation of people, and for the denial to the enemy of things the capture of which would be to his advantage. The question of evacuation and the question of denial must present to the government, and indeed to everyone, grave problems of decision, and one of the most difficult exercises of judgment. The recent events in Assam may provide for the future some case histories on the subject.

Any preparations or scheme for internal security should set out in a clearly understandable way the form and content of the various civil as well as military organisations. We have noticed already the pathetic and somewhat comic ignorance of a tahsildar magistrate who during a crisis called for a battalion to be sent to his aid, when all that he wanted was a platoon of 30 men.

The civil organisation starts with the central government and continues through the state government, and through the police along one line and through the district magistrate along another, and so on down to ground level. Similarly, the military organisation also starts with the central government. From there the line runs through the armed forces headquarters in Delhi and from there to a number of commands into which the country is divided. Within each command there is an internal pattern of organisation, embracing all the troops in the area covered by the command.

An important feature in the scheme of commands must be the existence of close liaison between the points in the civil organisation and the corresponding points in the military commands. On the maintenance of sufficient and proper liaison in times of normalcy will often depend the effectiveness of resources deployed to meet an actual emergency.

This is rather a sketchy outline of what any scheme of internal security anywhere should comprehend. What internal security schemes there may be, or what each may contain must be secret. But even the sketchy outline given here may perhaps provide some guide lines, and the essential minimum of knowledge which everyone should have, about the arrangements for internal security.
CHAPTER 9

REVENUE ADMINISTRATION-I

We may go on now to consider the revenue administration in the district. We saw when dealing with the component parts of district administration, and the way in which they form a dynamic whole, that the revenue administration is a complex structure in the district. For convenience of treatment we may examine first the land revenue elements of the revenue administration.

Land revenue, and the collection of revenue, provides the function which gives the head of the district the designation by which he is more commonly known than by any other, the Collector. Although there are revenue and other collectors of all kinds, the term in its application to this particular functionary carries overtones of something rather prestigious and powerful. Essentially however, the district collector is exactly what the name says, a collector of revenue. And since his earliest association with this name was as a collector of land revenue, we may start with this subject.

_Land Revenue_

Land revenue is the revenue levied upon the surface of the land; theoretically it is levied upon the produce of the land. In ancient and pre-Mughal times this was literally true. The local king, whoever he might be, was entitled to take a share of the farmer's produce. The farmer in return enjoyed the king's protection from enemies, both external and internal, and sometimes the king's patronage.

The produce of the field would be stacked on the village threshing floor and made into a number of equal heaps, often sixteen for convenience of reckoning. Of these, the share of the king was separated and made over to him or to his functionaries.

We notice two things immediately. The first is the dependence of the revenue upon the actual produce of the land; so that what the king got as his share varied directly with the harvest of each particular season. The second is the direct relationship of the
king with the particular share of the produce which was payable to him. There was no intermediary. The vast system of intermediaries, land holders, zamindars, talukdars, and the rest came much later.

The Mughal period is characterised pre-eminently by the reign of Akbar. Here we may note in passing the circumstance that Akbar was practically contemporary with the first Queen Elizabeth. He reigned from 1555 to 1605. With the help of his minister, the famous Todar Mal, Akbar introduced what may be termed as the modern system of land revenue.

Under Akbar the country saw the spread of the Mughal power and authority in a fairly uniform way, and its spread over an extent which was never again achieved until the present day with the attainment of Independence. Between the time when the Mughal power extended and consolidated itself over practically the whole country, and the present day when the country is once and for all truly united, there were major upheavals all over. These left their marks upon the land revenue system in different parts of the country and, but for the rational uniformity established under Akbar's system, these might have been more disastrous.

The principal reforms of Akbar's reign included the assessment of land revenue as well as its payment in cash instead of in kind. Here we see the first break with the older concept of a fixed percentage of a variable harvest. Furthermore, the revenue was assessed and fixed for a term of years. Indeed it is a counterpart of an assessment on a cash basis to fix it for a period of years; for otherwise there would be little difference from the original state, of the revenue varying with the harvest.

The new system of cash assessments fixed for a period of years was accompanied by the extensive establishment of a fairly unified system of account-keeping and land records. This as much as anything else seems to be a principal cause contributing to the general uniformity in matters of land revenue throughout the country today.

After the peak of the Akbar period, the Mughal regime went into an increasing decline. One result of the increasing weakness of the Mughal power at the centre was the practice of farming out large tracts of land in return for cash payments. The local governors of the Mughal regime began to assume autonomy and
in some cases declared their independence of the centre. Similarly, local chieftains began to assert themselves, an inevitable consequence of weakness at the centre.

These events provided the circumstance of a weakened relationship between the king acting directly or through his own functionaries on the one hand and the actual tiller of the land, the farmer, on the other. A system of intermediaries grew up. The existence of an intermediary helps to make things easier in many ways for the principal, at least for the time being.

Coming to the British period, we may recall that the main purpose of the East India Company was not to govern nor to undertake mere sea-faring adventure in the manner of Queen Elizabeth's other adventurers further to the west, on the Atlantic. The charter with which we are concerned was granted by Queen Elizabeth to a group of London merchants, to trade upon the high seas round the Cape of Good Hope up to the Straits of Magellan, and there to trade peaceably and to defend themselves only upon the high seas. It gave them no authority, and indeed this was clarified subsequently, to establish themselves on any land. They were categorically prohibited from adventuring on the land, except only in strict keeping with the necessity prescribed by their trade under the charter which had been granted to them.

However, the London company's activities led gradually but inevitably to the establishment of British rule over the whole country. History witnessed then, and on a scale unprecedented before; the phenomenon of the flag following the trade. It was not trade that followed the flag in the British association with this country.

In 1689, the Company for the first time deliberately set its sights on dominion and empire. A hundred years after the original charter of Elizabeth, a new company was incorporated. This was no longer limited to the merchants of London as was the original company. The new company was called the company of the merchants of England. It absorbed the old London Company entirely. It was only some time later that the new company came to be known as the East India Company.

The 18th century saw a period of about 50 years, from about 1740, of bitter rivalry between the English and the French in
India. While the Mughal empire slowly crumbled and disintegrated, the French and the English fought their wars with each other on the soil of India.

By 1765 the English Company formally took over the governance of Bengal. Thus the Company’s trading ensign was replaced by the flag of government. Its trading activities, which were its sole function and concern to begin with were replaced by the sole and total function of governing the land and its people.

This process, once it had been set in motion became irreversible. In 1813 a new charter by the British Crown abolished the Company’s monopoly of trade. And twenty years later, in 1833, a fresh British Crown charter took away from the Company its trading activity entirely. It put an end formally to the Company’s trading ventures and activities.

From that point of time the Company became truly an agent of the British government. Indeed the Company was formally invested as the Crown Administrative Agent to govern India. It is to be noted that the Company was to act as the British Crown’s agent to govern and not to trade or to act as a trading agency of the Crown. The Company became the Crown’s trustee, entrusted with the dominion of the new empire.

This governing agency and the accompanying trust of dominion was finally ended after the events of 1857, when Queen Victoria in 1858 took over the direct administration of the government of India through her own ministers and privy council in London.

The sequence of events which has been briefly recited is important to remember and to keep in view; for it enables us to gain an insight into the way in which the history of land revenue has evolved in this country.

As the English company’s jurisdiction extended over more and more territory, the problems which they had to cope with also increased both in number and in kind. Their dominion penetrated more and more areas remote from their great bases at Calcutta, Bombay and Madras. The location of these bases is significant. They were seaports, where ships could come direct from England. They formed three points of a vast triangle, which contains within it a great part of the land mass of India. This territory was almost completely unknown to them, and only gradually did they
reach out from their sea-based centres at Calcutta, at Bombay and at Madras to extend their sway into the great hinterland.

The Company found itself engaged in wars, wars with their French rivals and enemies, and wars with those who opposed the extension of their dominion in the country. These wars required money and resources for their prosecution. Resources were also required for all the other functions of government which the Company took upon itself. Their commitments increased with the extension of their territorial gains. A sequence of maps from the 18th century till the present illustrates in a quite dramatic way how the domain of the company, reaching out from the three widely separated bases at Calcutta, Bombay and Madras extended inland until finally the British dominion covered every part of the country.

The territories over which they extended their dominion needed to be consolidated; and this during a period when communications in any modern sense hardly existed, and living conditions were still very primitive, not only in India but in their own home country, England. Anyone who has read his Dickens, who was writing not so very long ago, will recall the conditions in the East India Company’s home country at a time when they were extending their empire here. Communications internally, and communications between India and England were very primitive indeed, and very slow.

The Company must pacify and keep pacified large new areas. They simply did not have and could not have enough Englishmen to do it all. They must therefore employ, appoint to positions of privilege, pay, tax and in other ways align and bind to their cause and their need the people of the country.

They did it in a number of ways. And in respect of taxes they levied the easiest of all taxes, the tax on land. It is one of the easiest of taxes to levy; for you cannot take away the land itself. You cannot hide it. It does not afford much scope for cheating.

After some early scandals about their factors and agents, the Company appointed collectors to collect these taxes: the land tax collector. The collector was forbidden to engage in trade either for the Company or for himself. Indeed the Company’s officials and agents had previously indulged in trading for their own personal benefit in a big way.
By their new orders the Company established incidentally the rudiments of a civil service. The Company’s new prohibition against private trading came to find a place in the so-called covenant which every Indian Civil Service officer had to sign; there is a paragraph in it which specifically provides that the officer during the period of his service shall not trade or carry on private business in any way whatsoever. That is strict discipline, independent of and additional to the one prescribed in the Government Servants Conduct Rules.

The tax on land being one of the easiest of all to levy, the Company also gave its attention to the question of ease and convenience of assessment and of collection. They settled large areas with individuals. Here they followed somewhat the practices which had spread during the more disruptive years of the declining Mughal regime.

In the earlier stages such settlements tried to follow the classical canons of taxation: definiteness, and little or no variation over as long a period of time with a readily identifiable assessee. Hence, for example, the permanent settlement of Bengal.

Another advantage in taxation is to have a comparatively few large, rather than a large number of small assesses; and, furthermore, on the one hand to sustain them in their capacity and power to make their own collections from the primary producer, and on the other to keep them under your own sway and ready control.

When we come to consider some of the processes we may notice how important the factor of ease of collection is; and how much easier it is when you are dealing with a few large assesses than with a large number of small ones.

This permanent settlement extended over Bengal and Bihar and into what is now part of Uttar Pradesh, including the Banaras division. The permanency contemplated at the time is one of the outstanding characteristics of that settlement which have led to some of the most difficult of the economic problems of those areas.

The British tended to apply a certain degree of uniformity throughout the country. On the other hand and somewhat seemingly contradictorily, realists as they are, they tended to avoid too much uniformity in detail: They created the zamindari, where there was the semblance of a landholder, an intermediary between
the tiller and the state. Mark the word landholder. There is a distinction between a landholder and a landlord. In the country of their origin the British have landlords and tenants. They do not know the concept of the landholder. This is somewhat peculiar to India. Wherever these or other intermediaries existed already (and we have seen it came into existence increasingly during the disruption of the Mughal empire, with local chieftains and local governors as agents of the central Mughal government assuming authority in the different areas in a somewhat autonomous or independent way), the British tended to settle with them as zamindars. This was true in Bengal. It was true also in the Punjab; it was characteristic in fact of the whole of the north of the country, the then Central Provinces, and the then separate provinces of Agra and of Oudh, and also Bihar.

On the other hand there were also large areas where there existed the so-called rayatwari system. The rayat is the cultivator, the farmer tilling independently, under the protection of the ruler and paying him a share of the produce. This system has prevailed in Bombay, in Madras and in Assam, and also in parts of the Punjab; but not so much over other great compact regions like Bengal, Bihar, Uttar Pradesh, Central Provinces and eastern Punjab.

In these somewhat outer areas where the cultivator had continued in direct relationship under the original concept of the king and the farmer the tendency was to make land revenue settlements with the actual cultivators. This is a very rough distinction and too much should not be read into it. There was a great deal of rayatwari in the north, as in the south of the country; an indication perhaps of the stretch of the original ancient concept.

Three administrative processes are directly concerned with land revenue.

The system of land records is the first of these. The second is the process of settling and assessing the revenue; and the third is the collection of revenue.

We may take first land records. The early settlements, such as the permanent settlement in Bengal, were based on very rough and ready assessments of the revenue that should be levied upon large areas taken as a whole. Now this kind of thing is very convenient for some time. It saves a lot of trouble and work in mak-
ing the assessment. But as time goes by it leads, as indeed it led in fact, to a great deal of difficulty and trouble in the field, especially in the administration of the district. For there would be disputes between cultivators, there would be disputes between the zamindar and his cultivators, there would be disputes between two or more shareholders in a zamindari and so on endlessly. And in dealing with almost every dispute one finds, and the district officials dealing with a dispute discover, the significance and vital importance of proper land records.

Now land records in administration is somewhat of a Cinderella amongst the district administration's functions. In fact I may confess, as a hardened old district officer of the old school, that I have often tested the quality of a young officer by seeing whether he gets really interested in land records or not. If he does, it means he is out in the field and getting the feel of his district, and that he spends time camping out and getting to know things. If on the other hand he finds land records something of a bore, or an unavoidable chore, then you may be sure that he is the secretariat type. He does not like to leave his chair, he does not like to go out or perhaps his wife won't go with him or even let him go out enough.

The land record is a base, the foundation of any proper revenue administration in the district; and those whose field of service lies in the district discover this for themselves again and again. They may also discover that, like the original Cinderella, land records is a very lovely creature. She only needs getting acquainted with.

Some of the most fascinating discoveries in the districts have been made by young officers out wandering in the fields looking at land records. Some of the best archaeological discoveries in Bundelkhand for example to my knowledge have been made in the process of dealing with land records.

Soon after the earliest settlements, the lack of any accurate land records began to be felt, and even to force itself upon the attention of the government. So the process, began, and has proceeded ever since, of painstakingly building up the land records, through surveys, and local inquiries and field inspections.

Let us therefore take a closer look at land records and their maintenance.
First and foremost the land, to provide a record of any kind must be surveyed. It must be mapped. Maps vary over a range of scales. A standard scale is sometimes four inches to a mile. Many of the village maps go to sixteen inches to a mile; maps on which every field is shown, almost every tree can be marked, and even the individual houses are sometimes shown. So when we speak of a map we must keep in mind that a map may mean any one of a number of scales, from a quarter of an inch to as much as sixteen inches to a mile, and giving different kinds of detail.

The survey for mapping in India is known as cadastral survey. This simply means a survey made for the purposes of levying a tax. It derives from the Latin; and not merely from the more recent French as some people may think because it is very closely allied to the French term *cadastre*, the continental system of tax assessment. But it is even older than that; and it derives from the Latin *cadastratum*, which is the old Roman system of dividing up land into blocks and making assessments of revenue upon those blocks. (Incidentally we derive a great deal of our law from Roman law: Justinian and Gaius the great lawgivers are in many respects important sources of our legal system).

This cadastral survey then was taken in hand from about the middle of the nineteenth century; and we thus came to have in India the peculiar circumstance that this country had over many decades the reputation of having one of the best, most advanced geographical surveys in the world, while at the same time we were in respect of a geological survey one of the most backward of all modern states.

The geographical survey of India has been rightly regarded as one of the best and most advanced and one of the most accurate that one could find anywhere. The reason for that of course dates back to its cadastral nature. The tax pattern, the administrative arrangements, and indeed the whole economy were based almost entirely upon surface rights; not upon the sub-surface rights, or the mineral development of the country.

These survey maps based on surveys in the field mark the boundaries between states, between districts or other subdivisions, between plots, between holdings.

The surveys also deal with the classification of the different kinds of soils. The soil varies a great deal. Even in the same vil-
lage there may be much variety. Within a village with about two or three thousand acres in all there may be three or four or even more different kinds of soil, or lands with different characteristics, such as land liable to flood, irrigated or dry land, and so on. All these variations affect the rate of revenue assessed.

In the endeavour to keep it fairly simple the tendency in the earlier surveys for purposes of land revenue settlement was to distinguish three broad groups of soil: the best, worst and middling. In a large part of Uttar Pradesh a village might have its most fertile portion classified as "goend", and the least fertile, perhaps a sandy soil, as "palo".

Having made a set of maps it is necessary to enter into a set of registers, known as the record of rights the various details about the individual fields, holdings, and about all the different rights in the land. These rights in the land can be very complex. A piece of land may have a proprietor, with a tenant; there may be a sub-tenant, or a mortgagee, and very often all at the same time. Cases occur where there is a dispute as to whether the person claiming to be landholder is really only a sub-tenant at will, or is really the superior landholder. All these rights have to be recorded in these registers.

These registers include records such as the khatauni, and the khewat. There is a register in which every plot is numbered, the number of each matching the corresponding number in the detailed map. This register also gives the exact area of the plot, its soil, quality, and the crop grown on it in each season. Furthermore, it records as to who is the actual cultivator, or who is in actual possession; whether rightfully or otherwise. This important register is known as the khasra. These registers together with the map form the principal documents upon which the system of land revenue is based. These records have not only to be prepared, they have also to be maintained; and one of the most important functions of the district collector is the proper maintenance of land records. As I have mentioned earlier this is a continuing function and the amount of correcting and verification and re-surveying that is necessary all the time appears quite remarkable to one not familiar with the process.

On a random sample we may consider the annual report of one state, Maharashtra. The Director of Land Records and Set-
tlement Commissioner together with a whole army of functionaries constitutes a department of government for the maintenance of land records. Mainly through the apparatus of the district revenue administration under the collector, this department is responsible for what is prescribed as: to collect and provide the statistical data necessary for the efficient administration of revenue matters connected with the land, thereby to help reduce, simplify and cheapen litigation in the revenue and civil courts; to supervise the preparation and maintenance of the record of rights for the protection of all those who hold interest in land. In this particular state the same department is also responsible for periodical revenue settlement operations throughout the state. That is not always so in other states. The department is required to maintain all the survey and classification records up to date. It does this by carrying out extensive operations, preliminary to the incorporation in the survey records of all changes brought to light.

Now in the actual working of it, there is a tremendous amount of detail. It consists of fresh cadastral surveys, of verifications in the field of entries by a whole hierarchy of officials going right up to the collector of the district, the compiling of various statistics, crop-cutting experiments, settling of doubts and disputes, and much else besides.

The comments of the government upon the year's work on the land records of the state are significant: "This work has been seriously neglected". The scale on which this work has to be done every year, and all the time for this one state alone, may be measured by some figures. There were in this one state nearly 19,000 villages in which there was in existence a record of rights but which had not yet been brought up to date. There were over 2,000 villages in which the record of rights had not even been introduced. And the year we are examining was not so very long ago: 1957-58.

The maintenance of land records as a principal function of the district administration is essential to any system of land administration and revenue administration. The example we have noticed, of Maharashtra, is by no means exceptional. We may take another random sample, this time of a single district: a district in the state of Uttar Pradesh. The state government, commenting upon the report for a recent year, says: "The condition of maps and
records should not be allowed to deteriorate as it has done, mostly due to the employment of lekpals and supervisors and kanungos on duties other than records. Their primary duty is that of maintaining the land records."

A duty was laid upon the village panchayats to look after the village boundaries; and this is what the same government has to say about the districts in Uttar Pradesh for the year 1961: "Gaon Samajs have not been successful in maintaining boundary marks which is an important task entrusted to them". One would think the one thing that a gaon samaj could do is to see that the boundary posts around the village are in order. It is a morning’s walk and no more to go round the village perimeter.

These are comments upon important work that should have been done; regularly, year after year, not some new function or activities devised newly or even recently. Even more, the comments are significant in the implied criticism of a whole attitude, the average official’s approach to this important task. Not only the district land revenue administration to which land records are directly related, but the total administration of the district as a whole would be greatly aided by the proper, accurate maintenance of the land records.

We may glance in passing at two matters which are concerned with land revenue and land records.

There have been programmes in recent years in several states for the consolidation of holdings. These are extremely important programmes. By consolidating scattered holdings the productivity of the land is improved; land which is otherwise held idle through too many little boundary lines is brought under cultivation, and generally it tends to reduce the area of uncertainty and dispute. In the case of consolidation of holdings in one state, Uttar Pradesh, the collector is ex-officio deputy director of consolidation, and as such he supervises the work and he also hears the appeals from the orders of consolidation officers. (Here we have another instance of an executive function combined in the same officials with a judicial, or semi-judicial process).

The other matter which we may glance at briefly is the way in which the rights of the actual tiller of the land have developed. Originally, in ancient times, the village headman let out the land from year to year and the tenant, the occupier, was only a tenant-
at-will. This kind of tenancy-at-will has continued in many places right down to present times. There have been until quite recently many large estates, in district after district, where literally thousands of cultivators and whole groups of villages as a whole (and not just some of the cultivators) have in spite of all the protective legislation which was passed during the British regime continued to be tenants-at-will right up to Independence.

It was a long haul of effort from the occupants-at-will, to a certain measure of security by statute, by law. In fact in Uttar Pradesh the tenants came to be known as statutory tenants because the Rent Act was passed to protect them. The first stages of some protection at least for the tenant led to the evolution of greater degrees of security, for instance, to occupancy tenancy, even to partly inheritable tenancies. But even the occupancy rights of a tenant were only partly hereditary; and were not transferable at all.

From there to the present bhumidari, a hereditary, transferable right has been a long, and in many cases a very bitter struggle between the cultivator and his landlord, with the situation loaded heavily in favour of the landholder; until the great acts of legislation directed at abolishing zamindari and other intermediary rights were undertaken, with the coming of Independence.
CHAPTER 10

REVENUE ADMINISTRATION-II

Land Revenue

Agricultural taxes and tenures are an extremely sensitive area of the economic and social policy of any community. History has demonstrated its sensitiveness almost everywhere. In Britain, the farmers have always been something of a problem together with their farming, and there is a complex system of subsidies of different kinds to agriculturists in that country. In the United States the farming community exercises considerable influence and the political parties have to take into account the interests and the attitudes of the farmers. In that country there are small holders, as well as very large farms, ranches running sometimes over many square miles. In the U.S.S.R., at the other end, one of the most difficult problems after the revolution was the incorporation of reformers into the political economic complex, and we know the troubles that they had in the late twenties and the early thirties when finally the kulak, the peasant farmer, the individual, was more or less eliminated and a system of collective farming was introduced which today prevails in that country. But it was not introduced without difficulty, trouble and even something like a civil war. In China the agricultural village communes are current history, and may provide one of the most difficult areas, one of the most sensitive areas of their internal political texture and administration.

In India, not less than elsewhere, recent history provides examples of this sensitivity. In the struggles for notional Independence, one of the most powerful weapons which was brought into play was the no rent campaign of the Congress party. Indeed anything to do with the land provides not only an area of sensitiveness, but also an opportunity of introducing, or bringing into play, the tools and weapons of political, social and economic struggle and revolution.

And as recently as 1963 we have an account of the land revenue bill of Madhya Pradesh which had been passed by the legis-
lature, but had been pending for six months for the Governor's assent. The bill sought to increase the land revenue by fifty per cent. There was very strong opposition to it. The newspapers reported that the opposition parties united together and urged the Governor not to give his consent to the bill, on the ground (and this is a ground which is often and again urged) that the poor sections of the people already hit hard by high prices could not bear any further burdens of taxes upon the land. That is very recent history and possibly we shall hear in the future more of it, from other states as well.

This factor of sensitivity needs to be borne in mind throughout in any consideration or discussion of the assessment, settlement, and fixing of revenues derived from the land.

We may consider now the problem as to whom to settle with; which is a problem which has faced all administrations in India from the earliest days of land revenue settlement. In ancient India the village headman, the gramani, is mentioned in the Rig Ved. He was the king's agent; or where, scattered as villages often were at the time, a village itself constituted the whole kingdom, the village headman in effect was the king of the village. He it was whose business it became directly to arrange with the cultivator the amounts of land revenue to be paid and it was his business to collect it. As we have seen, the assessment was in kind, one or more heaps of produce out of so many, and it was collected in kind.

This pattern stayed until we come to comparatively modern times, and as we have seen, with the disruption and weakening of the Mughal empire and the extension of the British dominion over increasing areas in the country, the problem confronted the rulers again, as to whom to settle the land revenue with. Because it is no use making an assessment unless there is an assessee. Who was to be the assessee?

We may mark here the convenience of farming out; for this factor of convenience was a major principle in the case of the later Mughal rulers as well as throughout the period of the British regime. One of the most convenient ways is the farm out, to make a deal with a contractor. We may see this happening as a regular course today, in the practice of appointing excise contractors. In district after district the excise is farmed out; often
it is auctioned and goes to the highest bidder. For instance, the production of toddy (tari) in a district like Meerut is still farmed out for a fixed amount each year which is arrived at more often than not by an auction.

Farming out has the great merit of dealing with a few points, large points, points of substance; that is, parties of substance from whom adequate security can be obtained, or is assured, for the payment. But in order to provide further for this security for payment, it is necessary to invest the farmer—not the cultivator but the person to whom the revenue is farmed out for collection—with authority.

The authority of convenience is the semblance of proprietorship. This semblance of proprietorship was a principal form of investing the agent, the farmer, the contractor of land revenue, with the authority and sanction for the collection of the dues, because it was from those collections that he was able to pay the land revenue at all.

The British followed throughout in substance, if not in form, the principle that all land belongs to the Crown, to the state. Therefore, as we have seen, the concept of land revenue assessment in India during the British period comprised a settlement with a landholder, zamindar, not a landlord or true proprietor. And for all the semblance of proprietorship, which was vested in these landholders, the fact remains that they were essentially contractors. The settlement was a contract, a contract to pay so much land revenue. For example, in Oudh after 1857, many large estates were settled with talukdars; and these settlements continued until zamindari was abolished after Independence.

A feature of a contract often is security, collateral security for the performance of the contract. In this concept of a collateral security is rooted the joint liability of khatedars, or shareholders in a zamindari. Therefore as often as not, in fact in almost every case that I have known, the settlement arrangement, or the settlement contract provided for joint and several liability for the payment of the land revenue.

Let us consider now, again very briefly, the actual process of assessing land revenue. The simplest and easiest way to start is in terms of a share of the produce. That is something concrete, and objectively measurable. Indeed this was the original basis of
assessment. In the time of the British, while in the so-called British India portions of the country there was a tendency for land revenue to change over from assessment in kind to a cash basis, in the Indian princely states this practice of the state collecting revenue as a fraction of the produce continued right up to Independence and in fact, in some cases, continues thus today, even though the areas have, with the ending of the system of princely states, been merged in the different states of the Union.

A share of the produce has the merit of bearing a direct relationship to the actual product out of which the tax has to be paid. It has also a semblance of fairness, in the sense that in a bad year when there is a poor harvest the share would be less than when the harvest is better. On the other hand it made for great uncertainty in many other, and less beneficial ways.

During the British period the contract of assessment, that is the settlement, was in cash; and it was fixed over a number of years. In some provinces where the settlement ran for thirty to forty years, as in the then United Provinces of Agra and Oudh, the settlement once made could not be varied during that period, with very few exceptions and only in special circumstances, such as major changes in the cultivated area. Forty years of course is a long time, and very often by the time half the settlement period had passed, circumstances would have changed greatly. This land revenue settlement had the disadvantage of not reflecting changes in circumstances. On the other hand, this cash settlement had the great merit of certainty; certainty for the government and, in some measure, certainty for the landholder, though not so much for the tenant or the actual cultivator.

How much should the assessment be? We may refer back to Manu. Manu tells us that the king was to take one-twelfth to one-eighth of the produce. In case of dire need he might on occasion take up to one-fourth of the produce. Towards the end of Akbar's reign, when cash assessments were introduced, we have assessments of one-third to one-fourth as the normal practice. In those great pillars of support to the British raj, the Indian princely states, the share of land revenue in the produce tended to increase as time went by. If one looks at the figures during the nineteenth century and the earlier years of the present century, one finds assessments up to two-fifths or even three-fifths; which is getting
on to being a very stiff rate of land revenue. The British settlements, in the provinces like the then United Provinces (and now Uttar Pradesh) tended to average round about 10 to 15 per cent. It must be remembered that this is 10 to 15 per cent, not of the value of the landholder's income, but of the value of the produce.

That is a very different thing from the fraction taken from the landholder. In the Bengal Permanent Settlement of 1793 the government, having made this settlement with the intermediary, in fact having created the intermediary, levied for all time in future (for that is what a permanent settlement was intended to be) 90 per cent of the net assets of the landholder after deducting the cost of collection of rent. That will indicate the pressure under which the landholders proceeded to rack rent the tenants.

With the passage of time and the development of the economy, by the year 1900 the land revenue fixed by the permanent settlement represented only about 25 per cent or less of what the landholder collected. The middleman, the intermediary, prospered due to the rise in prices and of the value of the crops, because the intermediary continued as often as not to levy his one-third or one-half batai rent in kind upon the cultivator, the tenant, who was often a tenant-at-will; and of what he collected the intermediary, the landholder, paid one-quarter to the state. Similarly, in the old province of Agra the settlement of 1812 provided for an assessment of 90 per cent of the landholder's net takings in rent. This already by the middle of the nineteenth century represented about 50 per cent, owing to the same changes which took place in Bengal, the rise of prices and the value of the crops.

With the varying value of crops the impact of taxation upon the land, apart from the general burden of rent upon the tenants, has been very varied, and variable. One of the problems of land revenue administration has been and continues to be the levying of an appropriate rate of tax reasonably in keeping with the value of the crops. There are the so-called cash crops of comparatively high value such as sugarcane, cotton, jute, and some oil-seeds, and a number of others.

One method which has been adopted in some states in the recent past is the levy of an agricultural income tax, a tax levied upon income derived from agricultural operations. Before that, incomes from agricultural operations were exempt from income
tax, on the ground that the income from the land was already taxed by means of the land revenue levied, and therefore should not be subject to a double taxation. However, one may see in the levy of the agricultural income tax a means of levying a differential tax burden of the sort, but not entirely matching, the income tax, in that the burden tended to fall more upon the larger estates, the richer holdings and farms.

In addition, the land also had to be taxed to provide for the funds of local authorities and boards such as the district boards. In Uttar Pradesh a 10 per cent levy was customary on the land revenue assessed. This was known as the district board cess or local fund cess, and was, except for its description, regarded as an integral part of land revenue dues and collected as such.

The last thing we may notice about the assessment of the land revenue is that whereas, say a hundred years ago, and even fifty years ago, the proceeds of land revenue formed a major element in the tax income of the state, with increasing industrialisation and the growth of modern industry and commerce, and also the levy of other kinds of taxes, land revenue gradually began to contribute less towards the financial resources of the state. This circumstance is relied upon by the advocates of entirely opposite points of view.

One point of view is that land revenue now plays so small a part in the total financial resources of the state that it is best to leave it alone and not raise the disturbance and opposition (as we have seen agriculture is a very sensitive area), which attend upon any attempts to increase the revenue from the land. That is one point of view.

An exactly opposite point of view urged is to the effect that the assessment of land revenue is by now much too low, and no longer bears any reasonable relationship to the income from the land. Since land revenue is essentially a tax upon the gains derived from the land, it is argued that the land revenue which was assessed some time ago now represents too small a part of those profits. It is further argued that even a comparatively small increase in land revenue would on the one hand greatly add to the resources of the state, for it would be a widespread levy distributed fairly evenly over the whole area; while, on the other, a little percentage increase would not add a great deal to the indi-
vidual burden of the farmer. Further, it would be only right and proper that the income from the use of the land, as well as those who derive that income, should not in our economic and social system be placed in any specially favoured position, but should, on the contrary, share the common burden of financing the activities of the state, particularly those activities concerned with development and economic progress.

One may choose between these different points of view. The practical answers to the problem may well lie somewhere between. But whatever solutions are found, they must take duly into account the circumstance that the land, and everything connected with it, particularly land taxation, has proved in the past, and fairly universally, a most sensitive conjuncture in which any administration has to function.

*Land Revenue Collection*

Since a principal function of a district collector and his staffs is to collect revenue, it may be useful here to see whether we can discover or formulate any principles as guides to action.

Two main principles present themselves immediately. The first is that revenue which is assessed, like all taxes which are assessed, must be collected in full. Any tendency to relax or depart from this principle, or for the collector to permit it to be weakened or watered down, will sooner or later, and probably quite soon, make the collection of the revenue extremely difficult. This will also produce side-effects, making the collection of any taxes increasingly difficult. Therefore, in order to be able to perform the function of collection, the collector and his staffs need to adhere to the principle that the function must be actually and fully performed.

The second principle predicates timely collection of the dues. The easiest way to collect a debt is to collect it when the debtor is in the best position to pay. Not only is it easiest then, but it is also then that the least hardship is caused to the debtor. Failure to collect it then results in one of two things, and as often as not in both: firstly, it makes the subsequent collection more difficult and, secondly, severer measures may be needed to enforce the collection.
In the case of land revenue, the time when the assessee is in the best position to pay is soon after the harvest, when he has collected the produce and realised his investment in the land together with any profit from his farming. It has always been the rule and the practice in the past, for the state in the districts of which I served, that land revenue should be collected within a matter of a few weeks of the new crop reaching the market.

We need a caution here against the over-zealous attempts to force collection too early. Timely collection in terms of our second principle means collection neither too much delayed nor too early. For there is a period always around the harvest season when the cultivator may be not in the strongest, but indeed in the weakest position to pay. By the time the harvest begins to come in, the farmer’s resources have been strained to the utmost; his holding capacity is often greatly weakened, and this at a time when the arrival of the new crops in the market may force prices down for the time being. So that unless he is given sufficient time and opportunity, he may well be forced into distress selling of his produce. The sustenance of the farmer’s holding capacity during a period of falling prices is a major problem in agricultural credit and co-operative organisation.

A third principle that should be observed in the collection of land revenue is that if for any reason it is intended not to collect the land revenue or any part of it in any case, this should be quickly declared, and the collection suspended. If remissions of revenue are to be given, they should be announced and made effective without any delay whatsoever. Such remissions are normally compelled by the occurrence of a calamity of some sort, a flood, a hailstorm, a fire, a drought and so on.

In every such case, it is a mark of good district administration to assume the initiative, to work out the nature and extent of the relief to meet the situation, and to decide and declare the relief to be given, especially by way of remission of land revenue. On the other hand, it is a sure sign of weakness in the district administration for the collector or his staffs to take the attitude that the question of remissions can be considered conveniently after the land revenue collection period is over.

That is entirely the wrong way of setting about it. It has been known in the past, especially where intermediaries such as zamin-
dars and talukdars stood between the cultivator and the state, for the intermediary to encourage this attitude, an attitude which, fallacious as it is, can be made to appear a reasonable and practical one. It has been known to happen similarly, that when finally the land revenue remissions were announced and given effect to, the projection of the relief through equivalent remission in the tenants’ rents would be defeated; for the intermediary would have already collected his rents meanwhile, causing great distress in the process, on the plea that he must collect the rents because no land revenue remissions had been granted until then. The principle of quick relief and quick remission made for better collection as well as for fair and timely collection.

For the actual process of collecting land revenue, we may recall the contract made by the government on the one part and the landholder on the other. The landholder, who was the essential party to the assessment and to the settlement contract was, before the abolition of intermediaries, the party primarily liable for the land revenue. The landholder might be a talukdar as in Oudh, or a large zamindar, singly holding the landholding rights over a whole village, or as in the case of some of the larger estates, anything up to several hundred villages. Or again he might be the landholder of a separated portion of a village; or he might be one of several co-sharers each holding a specified fractional share in an otherwise undivided zamindari.

In this scheme of things, the lambardar occupies a special position, for the collection and payment of land revenue. He is the person who is primarily responsible to ensure the payment of the land revenue. He has a certain status, and it has been customary sometimes for him to have a small percentage of the collections, in consideration of his being held responsible for the collection of the revenue. He is the appointed representative of the body of shareholders. Where there is a single landholder, there is no question but that he must also be the lambardar. But in cases where there are several co-sharers in a landholding, it is to him particularly that the tahsildar will look for payment of the land revenue. He is of course in no sense anything like the gramani of ancient times.

The lambardar’s position, as the person to whom the special liability attaches to pay the land revenue, might appear to be a
somewhat thankless one. Yet the office of lambardar has always been sought after, and is held in honour, particularly in the rayat-wari areas of the country where the system of peasant proprietors prevails, rather than that of large zamindaris.

One of the permanent land records of the village is known as the wajb-ul-arz. It exists in villages in many different parts of the country, and constitutes one of the most fascinating source documents of village history. As its name signifies the wajb-ul-arz contains details of the village customs and practices. The customs recorded in it are not intended merely as records of academic interest; the customs and practices recorded in the wajb-ul-arz have the sanction of customary law, which is enforceable.

The wajb-ul-arz normally sets down the method by which the lambardar is to be appointed. When a dispute arises as to the appointment of a lambardar, and such disputes more often than not raise questions of procedure for the appointment of the lambardar in the particular village, the wajb-ul-arz is usually produced as evidence; and the dispute is usually settled in accordance with the procedure as prescribed in this document. The wajb-ul-arz is almost everywhere quite an old document and forms part of the permanent record which is carried forward from one revenue settlement to the next.

A frequent provision in the wajb-ul-arz is that a lambardar shall be appointed by consent of the majority of the shareholders. The issue which arises in several cases is: What does the term majority mean? Does it mean those who hold the majority of the shares, or does it mean the numerical majority amongst the total number of shareholders? For there may be three shareholders, holding seventy per cent of the particular zamindari between them, and say ten others holding the remaining thirty per cent.

Although the lambardar is the person who in the past has been looked upon as primarily liable for the payment of the land revenue, nevertheless, the liability for the revenue is usually both joint and several. If the lambardar has done his best to pay, and is not himself a defaulter in respect of his own share in the zamindari, the revenue processes are usually directed at the actual defaulters.

These processes, coercive processes as they are called, are a
feature of any administration which has to collect the taxes. The processes are of different kinds, and include the issue of notices to the defaulters, citations to appear before the tahsildar, the attachment of movable property, and more rarely, the attachment of immovable property. They also include in some cases the arrest and detention of the defaulters.

It is an interesting piece of social history to narrate that in some parts of the country, under the British regime, the defaulting zamindar would consider it a point of personal honour that he would not pay the land revenue until the tahsildar had exhausted most of the processes, or until his elephant was attached, or in more modern times, until his car was impounded. In other cases, a zamindar would feel no particular compulsion to pay his revenue until he received a personal letter from the district magistrate or from the divisional commissioner pleading with him to pay up (and only mildly concealing a threat in case of default). In some rather rare cases the zamindar would not pay his revenue until a warrant of arrest was actually issued against him. The rational of this last phenomenon was apparently a somewhat involved one, namely, that the zamindar regarded himself as of equal status with the government and independent, and therefore would yield only to force and nothing else; and by yielding to superior force, his prestige remained secure. In some parts of the country, such as the province of Oudh, the talukdars as the larger zamindari were called (although some talukdars had very small properties, somewhat like the impoverished Peers of Britain) called themselves the barons of Oudh. They sometimes tended to vest themselves with the aura and the trappings of the so-called independent princes of British India.

The principal official of the district administration who is responsible for the collections is the tahsildar. The tahsildar is properly judged by his performance in this respect. He is assisted by one or more naib or deputy tahsildars, and by his fieldstaffs, including the kanungos or circle officers, and the patwaris. The actual place designated for the payment of the revenue is the tahsildar's office. As we have noticed already, the tahsildar is also the sub-treasury officer. But a tahsildar who merely sits in his tahsil waiting for the land revenue to come in would not get very far.
The tahsildar is also primarily responsible for proposing remissions or any relief which may be required, and to report and obtain the orders of the district collector in case it becomes necessary to provide immediate relief by suspending the collection of the revenue in any particular locality. While the collector can suspend the collection of revenue in this way, where any amounts of revenue have to be remitted, that is finally written off, the assessment of relief together with the tahsildar's proposals and the collector's recommendations have to be referred to higher authorities in the state government for their approval.

Let us consider some samples now of district administration performing this function of collecting the revenue. This performance in a district tends to be reflected amongst the different kinds of revenue and other dues for the collection of which the district administration is responsible. For one thing, we may find that the rate of recoveries of land revenue tend to be reflected in the recoveries of taccavi dues and other taxes. Furthermore, we may find that the effectiveness or otherwise in collecting the dues tends to be reflected over a number of districts, and finally over the whole state.

Taking a state as a whole, we find that in one state, out of a total of very nearly Rs. 10 crores of land revenue prescribed for collection in one year, nearly Rs. 1 crore remained uncalled. This 10 per cent is described as "unauthorised arrears". The coercive processes used in that state consisted of notices, fines (a total of about Rs. 7,000 in fines), distraint of movable property (but with only about Rs. 500 worth of property actually sold), and also the forfeiture and sale of occupancy rights in a few cases.

In another state, in a fairly normal year, out of a total land revenue demand of about Rs. 11.5 crores, about Rs. 9.6 crores was actually collected. Taking into account some relatively small amounts written off or remitted (Rs. 2.50 lakhs) and suspended or postponed (about Rs. 19 lakhs), the total collections and the written off or suspended amounts represented just over 85 per cent of the demand, so that over 14 per cent remained uncollected.

From a third state we may draw a random sample of a district, which is also probably fairly representative of the state. It is an
extensively irrigated district. The demand for the year prescribed for collection was about Rs. 1 crore as land revenue and another crore for canal irrigation dues. At the end of the year we find that all but Rs. 61,000 of the land revenue had been collected, and of this about Rs. 10,000 had been suspended or remitted. Of the canal dues, the unrecovered balance was only Rs. 26,000; and against this balance there was a counter-balance of advance collections amounting to Rs. 30,000, so that in effect the actual collections were more than the dues.

How were the collector and his staffs able to achieve this? We find that in the case of land revenue, about 230 summonses or citations to appear were sent out, and also about 230 warrants of arrest were issued.

These samples illustrate, and to my mind illuminate the principles of collection to which I have referred, namely, that the aim must be collections in full, that the collections should be timely, and that relief where it is required, either by way of remissions or suspensions should be quick.

The feature of timely collections is illustrated by the monthly pattern of collections in the district we have considered. The canal dues were collected mainly over the months of November, December and January; and kept pace with the harvesting of the kharif crops. Then there was a break of several months till the rabi harvest began to come in, when the dues were collected again in pace with the harvest.

In another district in a different state, a predominantly urban district, we find that out of a total land revenue demand of about Rs. 5½ lakhs, more than Rs. 3 lakhs remained uncollected at the end of the year. Being a mainly urban district, the income tax due for collection was much larger than the land revenue; in fact larger by a factor of a hundred. Of the Rs. 6½ crores, about Rs. 1½ crores remained uncollected, for various reasons. We see here perhaps an illustration of the principle that performance in respect of one kind of revenue tends to be reflected in the results attained in the effort directed towards other kinds of revenue dues.

As in the case of law and order, so here also in dealing with land revenue, as well as other revenues which are of concern to the district administration, I have not attempted to go into much
of the working detail. Indeed this characterises the whole book, which would otherwise become much too unwieldy and diffuse. Such detail is readily available in printed form for all who have to deal with the revenue administration, or who may wish to examine the subject more closely. In the short space available for the presentation of the subject I have endeavoured instead to examine, albeit very briefly, the essential background of history, the underlying concepts, the present position regarding some of the different aspects of our subject, and some principles (again as in the case of law and order rather tentatively formulated) that might govern sound revenue administration in the district. The treatment of the actual functioning of the district administration in relation to the assessment of revenue, the selection or identification of the assessees, the maintenance of the essential land record, and the collection of the revenue is, and can only be skeletal here.

Land Reforms

Land reforms fall into a number of fairly broad classifications. Each kind of land reform, as also land reforms as a whole, are intended to further the purposes, objectives and principles which are set out in the Constitution. Of these, we may consider two of the main purposes.

The first principal purpose of land reform is directed towards achieving social and economic justice. This is in accordance with the directive principles of state policy prescribed in the Constitution. The second main purpose of land reform is to increase the productivity of the land. Agriculture as our principal industry absorbs a large part of the nation's total resources available for investment. These investments are so large and so widespread, and affect so vitally the well-being of the people, that they rightly demand the greatest attention towards obtaining higher returns from the investments made in agriculture. It is as part of this effort that land reforms must fulfil the second purpose which has been mentioned, increasing the productivity of the land.

Taking the first main purpose, the achievement of social and economic justice, land reforms have been concerned with the security of tenure of the cultivator and the control of rents payable
by tenants; measures against rack renting, and against the eject-
ment of tenants, or the imposition upon them of undue burdens
such as levies and demands for extra payment or services in addi-
tion to the legal rent.

Security of tenure has had a long history of legislation, both
during the British regime and subsequently since Independence.
But we can by no means say that the country has reached a situa-
tion where the security of tenure of the actual cultivator of agri-
cultural land has been universally assured. In quite a number of
the states of the Union even the necessary legislation is still
wanting. In other states, where the legislation has been under-
taken and placed on the statute book, the implementation of the
measures prescribed has not always been fully effective. In fact
it has even been sometimes adversely criticised, as being halting
and ineffective. It is well to remember a feature, which was per-
haps more significant under the old regime than it may be now,
namely, that in the struggle towards attaining some security of
tenure, the two parties primarily involved, the landholder and
the tenant, are very unevenly matched in their economic and
social strength and resources. Any legislation must therefore have
sufficient purpose, direction and sanctions built into it, in order
to achieve the intended purpose.

Long after some of the earlier Acts were passed for securing
tenants against eviction and against rack-renting and oppressive
and illegal levies, the legislation remained merely on paper to
quite an appreciable extent. Whole villages and indeed large
groups of villages belonging to a single landholder would con-
tinue in a state of insecurity, and dependent upon the will of the
landholder and his agents. The tenants living in those conditions
in reality continued to be subject to eviction at will, despite the
legal protection provided by the tenancy legislation.

The legislative measures for the control of rents provided a
moderate extent of security against rack-renting. But even though
several Acts were passed during the British period to control the
rents payable by the different kinds of tenants, and to protect
the tenants against arbitrary enhancements, the protection was
not everywhere fully effective. In Uttar Pradesh a provision made
by statute prescribed that the landholder must grant a receipt for
all amounts paid to him; and furthermore it was his duty to have
all payments entered in a public record maintained by the patwari and known as the siah. Over quite extensive areas however, receipts were simply not given; and of course entries in the siah went by default, for these entries were made at the landholder’s instance. Indeed the landholder would sometimes not hesitate to plead in court, in a suit claiming arrears of rent and for consequent eviction of the tenant, that just because the law provided for the granting of receipts, and the unfortunate tenant was unable to produce a receipt, the case must be divided against the tenant.

Here we have another example, of the kind which has already been noticed in the case of revenue and rent remissions to relieve distress due to calamities: the very provisions made in the law as well as the arrangements prescribed to carry them into effect for the protection and relief of the peasant, were misused so as to deprive him instead.

It was not uncommon for rent to be collected in excess of that prescribed and shown in the record of rights as the proper rent for the holding. Furthermore it was quite common for all kinds of other illegal dues to be levied upon the tenant. There would be grazing dues, some kinds of harvest dues such as the supply of straw, wood and other materials, and there would be begar.

Although begar was officially abolished as illegal a long time ago, the practice existed until quite recently for a compulsory levy by the zamindar upon his tenant to contribute his physical labour in different ways, such as ploughing the zamindar’s own fields, bringing in his harvest, building some structure or other, digging a well for him and so on. On the occasion of the marriage of the zamindar’s son or daughter, there would often be a special levy collected, particularly in the larger estates; and a levy might even be raised to help the zamindar buy an elephant or a car.

Again, in the past in many areas a tenant could not build a house for himself in the village, other than a mud hut. If he wished to build something more permanent, with bricks perhaps, he would need the landholder’s approval, and would often have to pay for it. We may note that a brick house is more difficult for a landholder’s agents to set upon and destroy than a mud hut. And the destruction of a tenant’s home was one of the sanctions
with which a landholder sometimes imposed his burdens upon the tenant.

It was to restrain landholders from doing all these things that the rent control legislation such as the Oudh Rent Act and the Agra Tenancy Act was enacted. But it was only with the final decision to abolish the intermediary altogether, a decision which the new governments in Independent India took in several of the states in the earliest days of Independence, and the legislation that followed upon the decision, that the final solution was found for these economic and social ills which were the concomitant of the landholding system of intermediaries.

Yet there appears to be still a long way to go in achieving land reform over the whole country, even in so elementary a matter as the rent payable by the cultivator. There are still several states where the level of rents is a third of the produce. In some states like Rajasthan, Maharashtra and Gujarat there is now a provision by law that rent shall not exceed one-sixth of the produce. In some other states however, such as Kerala, Orissa and Assam, the rent may be anything up to a quarter of the produce. Rents in kind are still collected. When we speak of the achievements in land reform, and the achievements have been great indeed by any measure, it is a humbling thought to realise that in the middle of the Third Plan, the Planning Commission has to continue pressing the states to hasten the transition from rent in kind to cash rents, and to make it obligatory on the part of the owners to furnish receipts for the rent. Some states do not appear yet to have even this elementary legislative provision placed on the statute book.

We see thus that, in the security of tenure and in the control of rents of agricultural holdings, while we have come a long way, there is still a long way to go.

A second feature in the process of land reforms is the abolition of the intermediaries. I have just referred to the decision to abolish the intermediaries as the principal solution found after Independence to the social and economic ills of the cultivator's condition. As we have also seen earlier, the system of land administration in India during the British period was largely based on a system of intermediaries. Wherever the device was not already readily available, the British created the intermediaries, for
the reasons which we have already examined.

In Independent India on the other hand, the nation stands committed to the policy of eliminating the intermediary between the state and the cultivator. There has been legislation to this end, such as the Zamindari Abolition Acts of Uttar Pradesh and of Bihar. In both those states, many millions of tenants were by this legislation relieved of the burden of the landholders, who were abolished and paid compensation on a graduated scale. In both those states the cultivators, whether they have acquired proprietary rights such as bhumidari or not, are now in direct relationship with the state.

This has been brought about not without struggle, difficulty and opposition. Those who have studied the course of the zamindari abolition legislation, and the administrative arrangements to put it into effect will appreciate the difficulties attending this great land reform. A large amount of administrative work remains to be done even in the states where zamindari has been abolished. And zamindari has not yet been abolished in many parts of the country.

Apart from the peculiar sensitiveness of everything connected with the land, to which reference has already been made, the abolition of zamindari has had to proceed in circumstances of special difficulty. The zamindars represented extremely powerful and long entrenched vested interests. Furthermore, these interests were not only ably represented in the struggles which characterised the abolition of zamindari, but were indeed woven into the very texture of the political and administrative structure of the state. This penetration of vested interests is, as anyone concerned with district administration will come to know, quite something that has to be reckoned with; and reckoned with in the functioning of the administrative apparatus charged under the law with implementing the policy and the legislation. You cannot just ignore them, or brush them aside; nor can you beat your head against them, for you are likely to crack your head. This is worth keeping in mind on the part of those who may express impatience at the speed of progress in land reforms.

But to return to our proper subject and more immediate concern, it may be said that, committed as the nation is to the policy of abolition of intermediaries in land tenures, a very great deal has been achieved, and with a quite remarkable degree of smooth-
ness. It was necessary in the process for the Constitution to be amended, particularly those provisions in the Constitution concerning the payment of compensation to the landholders. But much remains to be done, and in many of the states.

Having abolished the intermediary, the logical next step is to invest the cultivator with the rights of ownership. How is this to be done? Only in a communist revolution of the kind which happened in Soviet Russia could the revolutionary government go round and say to the tenants, "Now the land belongs to you, so take it". It was easier said than done, as they discovered in Russia; for they more or less found a civil war on their hands after the main revolution, and when they proceeded to abolish the kulak, the big farmer.

But there are a number of other ways, and it is from amongst these that the choice lies in a country like ours. For instance, the tenants may be declared to be the owners, and be required to pay compensation to the landholders in a number of instalments. Or the government, having acquired the rights of the landholders on payment of compensation, may transfer the ownership to the tenant, recovering from the tenant in instalments the amount of the compensation which the government had paid out. Another way would be for the government to acquire the landholder’s rights, bring the tenant into direct relationship with the state, and give the tenant the option either to continue as a tenant or to obtain the rights of ownership by paying to the government a lump sum representing a particular multiple, say ten times the annual rent.

Various ways have been adopted in different states. Uttar Pradesh and Kerala have adopted the last of the three alternatives listed above, namely, first abolishing the landholder and paying him his compensation according to a formula prescribed by statute, and getting the tenant into direct relationship as a tenant of the government; and then permitting him as and when he may so desire to buy the proprietary right in his holding. In other states, Gujarat, Rajasthan, Madhya Pradesh and Maharashtra, the government selected the first of the three alternatives, declaring the tenants as the owners of their holdings, and requiring them to pay compensation to the landholders in suitable instalments.

We have now briefly examined the three elements which go
towards securing the first of the two objectives of land reform, namely, social and economic justice; the three elements being security of tenure and control of the rent payable, the abolition of the intermediaries, and the conferment upon the cultivator of the right of ownership in his holding.

The second major objective of land reform is directed towards increasing the productivity of the land.

A major reform to this end consists of the consolidation of holdings. This constitutes one of the most important programmes of field administration undertaken in the country.

The five states in which programmes of consolidation of holdings have made some progress are Punjab, Uttar Pradesh, Madhya Pradesh, Gujarat and Maharashtra. In the other states of the Union, very little has been done so far.

The consolidation of holdings is directly related to the attainment of greater productivity, and greater return from the investments made in the land.

A second kind of land reform, also related to productivity, is co-operative farming. Co-operative farming is in some senses similar to the concept of consolidation of holdings, for it makes for the putting together more compactly of the agricultural area, and thus makes for better farming and better management.

A third reform, which we may consider as having to do both with productivity, as well as with the dispensation of social and economic justice, is the prescription of a ceiling on holdings. A large number of the states have by now on their statute books legislation for ceilings on agricultural holdings. These include Uttar Pradesh, West Bengal, Rajasthan, Orissa, Maharashtra, Madhya Pradesh, Kerala, Assam, Andhra Pradesh, Gujarat and a part of the Punjab. Thus we see that a majority of the states already have legislative provision for a ceiling on holdings; while in the states of Bihar, Madras and Mysore such legislation has been taken in hand.

While the principle of ceilings upon holdings has come to be accepted fairly universally, different states have followed somewhat different formulae, and different limits as to area and size. For instance, Kerala prescribes 15 acres of double crop paddy; in Jammu and Kashmir the ceiling is about 23 acres; Madras has a ceiling of 30 standard acres, and so also have Rajasthan
and Punjab; Orissa, Mysore, and Madhya Pradesh vary between 25 and 28 standard acres; Gujarat has a rather complex pattern ranging from 19 to 132 acres, depending upon irrigation and other factors; while, finally, Uttar Pradesh prescribes 40 acres of a stable quality of land.

But with all the variations and differences from state to state, they all run to a fairly close pattern, namely, round about 30 to 40 acres of average fertile land as being the maximum that any individual should hold. Now in a country like ours, where the village holding is already very low, not much more than about 2 acres as a rule, and rising only to about 7 acres in some districts, there are large densely populated areas such as the eastern districts of Uttar Pradesh, and Bihar and West Bengal, where the village holding is less than half an acre in many places. Set against this, it may be seen that 30 to 40 acres makes a comparatively large holding.

Perhaps the conclusion to draw may be that, whatever may be the experience in other countries, here in India the most urgent need appears to be to accomplish the task of consolidation of holdings all over the country, and to devise extensively ways of cooperative farming and of successful farm management.
CHAPTER 11
ECONOMIC AND SOCIAL ADMINISTRATION

We may consider now the economic and social welfare of the community, as a major concern of the district administration.

The details as to what the district administration has to attend to, regarding agriculture, education, health, industries, and so on are readily available in the appropriate manuals and a large number of public documents which are readily accessible, and we need not therefore repeat them here. Instead, we will look at some of the basic parameters which predicate, and which must govern at every point all that is planned or done for the economic and social welfare of the people. It is these parameters, and the principles of method and of action that may be derived from them, that will concern us here, as some sort of direction finders for the district administration.

In some ways district administration in India has always been concerned with, and indeed been under a compulsion to attend to some minimal degrees of economic and social welfare of the people inhabiting the district.

One of the earliest lessons learnt by the British East India Company administration in India, and brought home again and again to the British rulers and their agents in the country, was that there is a certain irreducible amount of attention demanded for these matters, in order to be able to carry on the business of governing at all. If there was a famine, and the crops failed, no amount of severity could bring in the land revenue; for there was nothing to collect. If people died of epidemic diseases such as cholera, or small-pox, or plague, then, since the germs of disease are somewhat ignorant of racial or class barriers in their relations with the human race, they were quite likely to kill off, as indeed they did, the British officials, their families and their agents, thus weakening the administrative machine and the government itself. It is a melancholy experience, to visit some of the cemeteries in the districts of India, and to read the inscriptions on the graves, testifying to the tender age at which death struck those unfortunate foreigners, often several small graves together of a
whole family wiped out. In fact, the British personnel were more vulnerable, without benefit of natural immunity and resistance to disease, in the days, not so very long ago, before vaccination and inoculation came to be practised.

The attention that the earlier administrations could devote was limited also by the universal ignorance of those days. Britain in the eighteenth, and even in the nineteenth century, knew little of modern sanitation and hygiene, or the prevention and cure of epidemic disease. Nor was there much conception of social or economic justice, apart from the great constitutional safeguards which had come to be established over the centuries, almost as a by-product of the struggle for power between the king and the parliament in Britain.

More latterly, over a few decades before Independence, we have many examples of district officers and other officials interesting themselves actively in local welfare work. But in the main they tended to do so as a hobby rather than a mission or as part of their more proper responsibilities. Some undoubtedly felt deeply about such things. But if there is a conformist body of persons anywhere, it is the bureaucracy. The government servant is frightened of being thought a bit odd or cranky, particularly by his colleagues. So that any effort that lay somewhat outside the district official's more direct responsibility tended to be disguised in various ways as a rather harmless hobby. But even as a hobby some officials found it possible to give some effective attention to the welfare of the people, except in a transient way.

We have the example, one of several in the Punjab, of Mr. Brayne. He did more than most, and devoted years of effort to introduce the welfare of the people into the texture of the administration. He worked in a number of districts, particularly in Gurgaon, a district which adjoins Delhi. His labours made their impact, and even left some mark. Nevertheless when at the end of his service Mr. Brayne was about to leave, he said in what seems to have been a mood of resignation that the effort had been worth it, had been good while it lasted; but he wondered whether anything would come of it. In any case it would have to depend upon the inclinations of the next district officer!

That is the confession of an outstandingly honest and brave man. He was one of the few who recognised perhaps the limi-
tions upon doing anything in the way of social and economic welfare, and yet made a great personal effort. Apart from the limitation imposed by the need to conform, the whole administrative apparatus of which he was a part had to function rigorously within the parameters of British rule in India. These parameters we have examined earlier, and seen a little of what they comprehended, as to their objectives.

With the advent of Independence, the phase change in our political circumstance provided the people as a whole with the opportunity and the challenge to define and to prescribe the social and economic policies and objectives of the nation. To such policies and objectives, set out by the people for themselves, must then be harnessed the whole new apparatus, the legislatures, the executive government, the judiciary and the rest which all go to make up the total governance of the country.

The charter for the economic and social development and progress of the nation is provided in the founding document of the Republic of India. The Constitution devotes sixteen of its Articles to what are described as the directive principles of state policy. The directive principles are fundamental to the governance of the country. This is categorically laid down in Article 37; and the same Article goes on to prescribe it as the duty of the state to apply these principles in making laws.

It is true that the directive principles are not enforceable in any court, in the way that the fundamental rights defined in the Constitution are enforceable. In fact this is specifically stated in the portion of the Constitution which deals with the directive principles. Nevertheless they compel all who are concerned with the country’s governance to abide by them and to strive towards their fulfilment. The sanction that sustains this compulsion is the will of the people; and it is perhaps more than a mere statement of faith to say that the people will duly call for account to be rendered upon the effective application of these principles.

The directive principles of the Constitution concern themselves with the welfare of the people, of the community as a whole as well as of the individual; to secure for every citizen social, economic and political justice; liberty of thought, expression, belief, faith and worship; equality of status and opportunity; and to promote amongst all a fraternity which ensures the dignity of the
individual and the unity of the nation. To these ends it lays upon the state and whichever government may be in office, to direct all its energies towards the establishment of a structure of society wherein these objectives may be effectively realised.

This is no mere pious enshrinement in the Constitution which came into being in 1952. Nor are these things to be taken for granted, having once been set down. It is necessary to keep them constantly before us, and actively to attend to them, and unremittingly; in the highest organs of government, in every legislature, every court of law, every public agency (which includes specifically every person constituting a part of the district administration).

It is worth noticing the fact, and its significance, that in the hour of a national emergency, the President of India, addressing the two houses of parliament jointly at the commencement of the budget session in February 1963, spoke of all these matters contained in the directive principles in detail, drawing the parliament's attention to them. After the constitution of our republic, the President added, we began our long pilgrimage to reach our objective of a democratic and socialist order and adopted planned approaches to this end. This is the people's statement of faith, and their directive to any government that may come into office, at the centre or in any of the states which form the union of India.

A precept is contained in all programmes of social and economic welfare to the effect that the people themselves shall participate in the formulation as well as in the execution of the programmes. This is very largely true whether the activity be at the national level, the state level, the district level or the village level.

The participation thus contemplated is not in the nature of a mere co-operative or advisory association. It is a participation in the full sense, namely, in the sense that the programme is the people's own programme. Indeed, it is not so much the people participating in the programme; rather it is a people's programme in which the functionaries of government participate in different ways. This goes for all government functionaries and agencies exercising any function in the preparation and the implementation of programmes of social and economic welfare.
It is important to keep this fairly clearly in mind; and particularly for people concerned in district administration to keep it before themselves throughout. If this is done, and done fairly effectively, less would be heard of the familiar complaint that the so-called plans and programmes, whether they concern co-operatives or community development, or agriculture and so on are something merely thought up and sought to be imposed upon the people by official functionaries, rather than deriving from the people themselves.

The principles that underlie this concept of the people's participation, as also the methods and indeed the objectives of social and economic welfare are rooted in the nature of our particular form of democracy. Ours is what may be fairly described as a total democracy; a democracy where the authority and function of every part of the governmental apparatus is derived from the people themselves. Here again it is not sufficient to merely take for granted the existence of a total democracy. Some of the most advanced countries today lack it. In India the principle of universal suffrage prevails; and this is codified in the Constitution. On the other hand even a country as advanced as Switzerland still does not permit the women to vote. In fact in a very recent referendum on this particular issue in that country, in 1962, the position was confirmed again, that the Swiss woman is not fitted to vote in election and shall not share the electoral suffrage.

The principle and practice of universal suffrage is by now well established in India. The experience of three general elections at intervals of five years, besides a large number of by-elections and elections to local bodies has demonstrated to the people themselves a high degree of widely shared political sophistication. This, despite the widespread illiteracy and grinding poverty which is still part of our condition of life.

This is a circumstance which a foreigner is often unable to understand; particularly the foreign specialist or expert contained as he himself is within his own subject and circumstance. The stranger in India sometimes cannot understand how our particular system happens to work, or why it works at all.

The fact remains that it does work. That is a thing not to be forgotten at any point during the periods of trial or difficulty in the district. It is easier to state that this total democracy works,
after three general elections. It was not easy to state it before the first general election, when things were still uncertain and even sometimes unsettled, and when it still was more an article of faith than a demonstration of something real. I well recall the first general election in Lucknow, when whole city wards of illiterate, ignorant women, veiled, stood in long endless queues to cast their votes. There was no regimentation, or persuasion; the electioneering had, as prescribed by law, ceased the previous day.

That has continued in subsequent elections, and seems likely to continue. A further mark of political sophistication is provided by the percentage of people voting, and by the voting patterns. The voting pattern in India demonstrates a lively, active participation in the electoral process. The majority of electors tend in many countries to be regarded rather as flocks of sheep. That has been true in Britain, in America and is often true in India. But in countries like these the political leaders come to learn, and learn often the hard way, that they may regard the electors as sheep only at their own peril.

The fact remains that we have in India over a large number of elections including three general elections a statistical demonstration of electoral sophistication. This consists of high percentages of votes cast (not the ninety-nine per cent which one reads about in certain countries, with a mere one per cent or a half per cent saying no, or not voting) but a pretty mixed affair; sometimes with mere hair-line differences, for instance the thirty-two vote majority by which the chief minister of the Punjab was returned at the general election of 1962. These are significant indications, and marks of a healthy working democracy.

Very recently we have the example of the quite remarkable reaction of the people as a whole to the external aggression committed by the Chinese on the northern borders of the country. The people demonstrated in an unmistakable way their will and their own leadership in the guiding of their destinies. Indeed it is not mere imagination to say that we have an example here of the people giving the lead to the leaders. They were not led or guided into unity, and to a united opposition to aggression. The whole thing was spontaneous, it happened before the eyes of all of us; it was so spontaneous, so universal and so complete, that it took a very large number of the country's leaders by surprise.
To my mind what the country did was to demonstrate the leadership of the people themselves as such. The people truly participated in a remarkably direct way, in the governance of the country in the hour of national peril. They did more than merely participate; the people called upon the established leaders to attend to public affairs, properly, efficiently, quickly, and in such a way as to effectively implement the people's will so demonstrated. That is something strikingly significant again, and stresses what has been said before, namely, in the final analysis, in this country it is not so much the people participating in government; it is a matter of the government and its agencies participating with the people, in maintaining their security and in advancing their economic and social welfare.

Thus the challenge of participation in the affairs of the country is not so much a challenge to the people. It is a challenge to those who are responsible for the governmental apparatus, who form part of this apparatus, including the legislatures, the executive agencies, the judiciary and the rest. And again, and specifically in the context of our subject, it is a challenge to the district administration. Let there be no mistake about that. The people are all right. What about the others? What about the legislators? What about the government in office? What about the chief ministers and other ministers? What about those high officials, those senior bureaucrats, and the high technocrats? What about the middle groups, the middle administrators? What about the district officer, the agriculture inspector, the registrar of co-operative societies, the public works engineer, the pradhan of the panchayat, the president of the zilla parishad and the rest who are involved in district administration?

We have seen the provision in the Constitution, and recited again in the President's address to parliament in 1963, directing the government to so devise its plans and programmes as to be in accordance with the directive principles of state policy. How has the government in office attended to it?

It has done so by adopting a policy of planned development extending over the whole of the country's economy, agricultural, industrial, commercial as well as social; by a legislative programme directed increasingly towards a state of society where the inequalities are reduced and tending towards more equal opportunities
for all. It is the stated intention of the government to attend to the problem of the equitable distribution of economic power, to reduce disparities in income, and in the endeavour to do so, to execute programmes making for the greater safety and security of the citizen; to ensure social justice by enacting and by enforcing legislation to protect the weaker sections of the population, the women, children, the less privileged classes; to ensure social and economic security with programmes to increase economic production, above all agriculture and its concomitant irrigation, to increase the supply of power, to advance basic industries, middle industries and small industries, village industries; and generally to attend to economic growth towards a socialist economy. The Plans must, and do indeed, carry the sanction of parliamentary approval.

What does economic growth towards a socialist economy mean, and imply? We have come some way since the Second Plan report of the Planning Commission. In that report there were references to a socialist economy; what it does not mean, and the need to be pragmatic, the danger of becoming doctrinaire.

Our total circumstance, the sheer size and extent of our problems, our low industrial and agricultural base, and the scarcity of resources needed for the kinds of investments that must be made, compel a pragmatism in dealing with current problems and events, even more than is predicated by a more prosperous economic state in reasonably stable equilibrium. Furthermore, in the struggle for economic and social betterment, the very strains which inhere in such a situation tempt towards taking refuge in sterile dogma.

Nevertheless, pragmatic practice must be contained within basic principle and clear doctrine. To sacrifice essential principles for the need of the moment can be dangerous, indeed it tends to defeat the very purpose towards which the resort to rule-of-thumb pragmatism is directed. Let us therefore consider as to what principles must guide the district administration in its approach and attention to the social and economic purposes in the interests of the people of the district.

We may recall here what has already been said when dealing with law and order, namely, that the Constitution expresses, codifies, and enshrines the guiding principles. It does not create the
principles. The true authors, the creators of the principles are
the people themselves. The Constitution codifies them, and so
gives expression to the people's own values, their urges, and their
longing for a state of things where economic, social and political
justice prevails, in a condition of reasonable prosperity for all.

Again, the Constitution cannot of itself guard these principles,
nor forward them. So long as it expresses the general will of the
people, the Constitution rests upon the sanction of the people to
compel due adherence to and performance upon the guiding prin-
ciples. But only for so long as it expresses that will. When it
ceases to rightly or adequately express that will, the Constitution
itself will change. Indeed, it has been changed, for this very reason;
it has been amended several times already since it was enacted
in 1952, so as to render the apparatus for the country's govern-
ance more effective in executing the people's will.

When zamindari was abolished in the states of Uttar Pradesh
and Bihar, so as to eliminate the intermediaries between the culti-
vators and the government, doubts arose as to whether the legis-
lation enacted in those states was *intra vires* of the Constitution.
The legislation was challenged in the courts, and finally the matter
went before the Supreme Court of India.

At the same time it was becoming clear that the abolition of
zamindari could not be stopped. Any attempt to stop it would
go against the express will of the people as codified in the direc-
tive principles of the Constitution. I recall the problem arising,
as to what should be done; for I was at that time associated with
the programme as the Land Reforms Commissioner for Uttar
Pradesh. It was decided by the government that steps must be
taken to amend the Constitution, in order to bring its provisions
into line with the general will of the people; and the Constitution
was so amended by parliament, so as to place beyond all legal
doubt the validity of legislation to abolish zamindari with payment
of compensation as provided in that legislation.

A very recent example is provided by the problem of prohibi-
tion. The question of prohibition has become controversial in
recent years; and the practice as well as the extent to which prohi-
bition is enforced varies considerably from one state to another,
and even within the same state. The main arguments against the
policy of prohibition are that it is causing a heavy loss in govern-
ment revenue by way of excise duties and customs levies; that it involves a large, expensive and wasteful apparatus for its enforcement, especially in places such as Bombay; that it interferes un-
duly with the freedom of the citizen to have a drink should he feel so inclined; and that in any case it is merely the relic of a cranky old man’s prejudice against drinking (the cranky old man being Gandhiji, who got this country its freedom from foreign domination), and that it has been adopted as a state policy only out of sentimental consideration for him, as is said to have been done in the case of the salt excise, and so is out of date.

There has been a recent conference to consider what should be done about it. The conclusion arrived at, and I believe wisely so, is that the policy of prohibition must continue and be extend-
ed. For this policy expresses the general will of the people. It may not express the will of the most vociferous sections of the community; but the very large majority of the people of this country look upon the consumption of alcoholic liquors with dis-
favour and even distaste. A large majority stand for a policy of prohibition. Should any government or party in office come to the conclusion that the policy of prohibition should be abandoned, they will need to change the Constitution; for the directive prin-
ciples clearly prescribe that the state shall take action against the use of alcoholic liquors and dangerous drugs. It is fairly safe to predict that, as far as one can foresee at present, the Constitu-
tion will not be so changed; for the plain reason that it would not be in accordance with the general will of the people.

Within the given set of principles must then be contained the administrative structure and the methodology of economic and social administration.

_Panchayati Raj_

The part of the administrative apparatus which merits some spe-
cial attention at present is concerned with panchayati raj. We may note here that one view about panchayati raj is that it is the logical, historical and inevitable development of the community development programme. Panchayati raj is however rooted in something much more fundamental and far deeper in the history of India.
Panchayati raj, if it is anything, and if it is to mean anything real, must be reckoned to be local self-government in the true sense of the word. It has been rightly stated that during the British regime in India the term local self-government was not used and did not operate in the sense which it more properly conveys. There were government departments for local self-government, there were district boards and municipal boards and other kinds of local boards. But these stemmed from the partial and piece-meal decentralisation of a highly centralised power; they did not represent any true sharing of the sovereign power. This had to await the advent of Independence.

We may take a quick look here at local self-government as practised in some other countries.

In Britain, on which country so many of our institutions are patterned, there has always been a system of local self-governing units; not deriving from a central authority but sprouting up locally and growing through the course of history. There are at present more than seven thousand parish councils, a parish council being a small primary community rather like a village. There are about a thousand district councils, rural as well as urban, and about five hundred borough councils. It is not so long ago that the borough formed a parliamentary constituency; and students of British constitutional history will recall the "pocket boroughs" and the "rotten boroughs" some of which existed only on paper. Election to parliament from such boroughs lay in the personal gift of the landowner who owned the borough. The point to remember here is that the local self-governing bodies in Britain were really individual isolates. Although they tended historically to conform to a common pattern and structure and functioning, there was no real linking amongst them or up and down with a central authority, such as was the case in India during the period of British rule. In the more recent history of Britain however there has been a tendency to centralise in a ministry of the central government powers of overseeing and control in many essential matters. But the origin and the growth of the local self-governing bodies in Britain provides a fairly good example of true local self-government.

In the United States of America there is a complex federal system of government, a federation of about fifty states, each with
its own separately elected and established state government, but at the same time with a powerful federal (though not central) government looking after the affairs of the country as a whole. The system there is very different from that which prevails in India, which is a Union. In the United States of America there seems to be a very loose system of local governments, city governments, town governments, counties and different kinds of districts. The states and the local self-governing entities guard their rights jealously against any attempt on the part of the federal government to interfere or intervene in their affairs; the federal government in turn is consistently reluctant to concern itself with their affairs.

This affects the texture of the social and economic life of that country, especially in matters concerning the people’s economic and social welfare such as education and health; and of course also the political life of the community. Extreme examples of this latter effect are provided in the southern states of the United States of America. Over large areas and indeed in the whole of some of these states although the negroes may form the majority of the population, hardly any negroes are enrolled as voters, and very few indeed are allowed to vote even though the Constitution of the United States provides for equal suffrage, and in spite of the efforts of the federal government to enforce this right of equal suffrage.

In Yugoslavia, there is yet another pattern of self-governing institutions. Throughout the whole of the economic and social constitution of that country prevails a system whereby the people themselves constitute the governing body. This is so, whether it be a factory or a railway, a shipyard or a farm. There is in Yugoslavia what has come to be known in industry as workers’ participation, and what appears to be, in the proper sense of the term, the people’s participation in the management of their affairs. The workers’ participation in that country is not in the form of a mere consultative or advisory system. The workers themselves constitute the management.

Similarly, in a system which I recall being started there about the time of a visit in 1955, there was being set up for the management of the affairs of each district a commune. (It is interesting to note that this term commune is used in communist China; but
it is also used in a country at the other end of the political spectrum, Sweden).

In Yugoslavia the commune is literally the community itself organised by itself as an apparatus of local self-government, to look after its affairs. In some ways the concept and functioning of these communes in Yugoslavia comes very close to panchayati raj or what panchayati raj could well be according to the principles of sarvodaya. This concept predicates the establishment and functioning of panchayati raj in terms of strengthening its institutions at and from the primary level, with a wide distribution of governmental functions, and not mere delegation or decentralisation from a central authority. The significance of this concept becomes clearer when we contemplate the origin of the panchayati system.

The panchayati system in India is an ancient one. As far back as we can see in history, there has always existed the panchyat. The concept as well as the pattern of the panchayati system have been formed and re-formed in different ways throughout the course of history; but there is a continuing thread and a continuing concept and pattern from the ancient to the present.

There have been in India for a long time intra-community panchayats. For example, the Brahman community of a village, or a clan or a group of villagers would have a panchayat of their own. Similarly, the kayasths would have their own panchayat, so would the chamars, the jats, and so on. These panchayats would deal with the disputes and problems amongst the members of the particular community, as a rule disputes concerning their social customs and practices.

We may note here the meaning and significance of the term panchayat. Panchayat means a body of five persons (panch means five). This number is small enough to meet frequently and function effectively; but not so small as to lose touch with the community. It is an odd number, making for avoidance of deadlock in the panchayat.

In dealing with disputes among the members of the community the intra-community panchayat imposes its decisions, and awards punishments such as the social boycott of the offending member. This social boycott in a community can operate as a powerful sanction to compel a member to conform.
But however ancient the panchayat may be as a social, communal or political feature, the ancient panchayat system as a piece of political and administrative apparatus languished during the British period and fell into disuse, except for a casual and peripatetic existence here and there. More recently, after the political reforms of 1919 and 1920, the panchayat system came into operation again; although still far from the full-fledged panchayati raj concept contemplated today.

During the whole course of the country’s struggle for independence, the political leaders of the struggle stood strongly for panchayati raj, for the restoration of the ancient panchayat and its establishment as the governing body of the community. Gandhiji’s approach and interpretation was fundamental; he related it truly to the ancient panchayati system of the country. But it is doubtful whether the average political leader quite understood this.

To the average participant in the national struggle for independence, it seemed to have been more a reaction to the overbearing centralism of a distant imperial power whose local manifestation was rough, ignorant and completely out of tune with the people themselves. He saw India ruled from Whitehall six thousand miles away through the Viceroy at Delhi and the governor at the provincial capital; a complete and remote centralism against which he struggled on the ground. He yearned, in a rather vague way to discover and to establish something rooted somewhere, somehow, amongst the people themselves.

And here amongst the people among whom he struggled, and whom he led towards the goal of independence, the political worker found this concept, this term, the panchayat, ready to hand, and deeply established in the consciousness and tradition of the people. The panchayat became for him the instrument which would provide the basis for the governance of the country in an independent India. Sarvodaya in a large measure derives from this.

The only alternative forms were institutions such as the so-called local self-government institutions established by the British in India; the district boards, the municipal boards and other local boards, all of which signified a decentralisation of a wholly centrally contained authority, and not rooted in the community
and the people themselves. These institutions were in the last analysis performing delegated rather than decentralised functions.

A marked feature of the local self-government institutions during the British regime in India was that these institutions did not reach the village. Between them and the village there was a hiatus. They did not penetrate into the village at all. Yet it was in the villages that the vast majority of the people of the country were living. Indeed it was in the village mainly that the apparatus of district administration came into contact with the people committed to its care. And at that very point there was no local self-government at all.

In the village, the only evidences of the administration were a few individual functionaries: the lambardar whom we have considered in dealing with revenue; the mukhia or village headman appointed by the district magistrate; the patwari, the keeper of the village records and appointed by the collector; and the chowkidar appointed again by or under the authority of the district magistrate and responsible for watch and ward and for reporting crimes and other events. These were the village functionaries, the main manifestations of governmental and administrative authority and responsibility in the village. It was one or another of these through whom the officials of the district administration would function in the village or in matters concerning the people of the village. These four individuals truly contained amongst them the total governance of the village. Except for the patwari the other three would often be entirely illiterate; and in the case of the chowkidar also as a rule desperately poor.

We may now consider briefly the concept upon which panchayati raj is to be built; for, as we have seen, with the past there has been a historical break. I believe that the only true and proper concept upon which panchayati raj can be built so as to represent the people’s will is to constitute panchayat institutions as units of self-government, and nothing less. This is exactly how Gandhiji always regarded the matter. And this is exactly how the Constitution defines it.

Article 40 of the Constitution declares that the state shall take steps to organise village panchayats and endow them with such powers and authority as will enable them to function as units of self-government. There is no mention of community development
or of any particular areas of economic and social effort. The Constitution plainly lays it upon the state to organise village panchayats, and to endow them with sufficient authority and powers to enable them to function as units of self-government. This prescription and the concept which lies behind it needs to be kept clearly before us throughout as the valid and the only proper concept in the setting up and the functioning of panchayati raj institutions. We should specifically distinguish it at every point, from the concept of the panchayat as only a developmental agency.

If the approach to panchayati raj is to be in keeping with the language and meaning of article 40 of the Constitution, there need be no reluctance in entrusting the different panchayat institutions with the requisite authority, the functions and the powers, as also the resources. There is indeed sometimes a hesitation, even resistance, to allowing these institutions to exercise the functions and powers of local self-government, and to provide them with the resources for doing so. Even without going so far as the principles of sarvodaya would logically lead us, there clearly is much left to be done, in actuating, in bringing into real and effective operation, these units of self-government, in accordance with their charter provided in the Constitution.

The Third Plan, referring to the subject of panchayats, states that the concept of rural extension has broadened into panchayati raj. This is true; but in a limited way. Panchayati raj is indeed a broadening of the rural extension concept. It is also the broadening or the further evolution of the programme of community development, as is claimed by some.

But it goes far beyond, and far deeper than all that, as we have seen. It is necessary to stress this, and for those concerned with the administration of the district to keep it before themselves at all times. The need for this emphasis arises from the growing and increasingly urgent need for the district administration, and indeed for everyone, to understand the true meaning of panchayati raj, and to accept this meaning and to fulfil it.

I believe that this is fundamental to the success of programmes as elementary to our existence as agricultural productivity and more food at least enough of it to go round for an increasing population. It is also perhaps vital for the allaying of some of the difficulties and frustrations which continue to dog the steps of the
people’s effort towards a better way of life. We cannot, nor should we for ever have to turn year after year to friendly countries abroad every time we are short of food, or industrial investments, or the things we need to defend ourselves with, or anything else, except on a basis of equal reciprocity in trade. Foreign aid is necessary and indeed crucial; but the point made here is that we cannot depend upon help from abroad all the time and for everything.

Perhaps our way to self-reliance and to success in the development effort in the villages lies through a recognition and adherence to the concept of the panchayat as a unit of self-government, vested with powers and functions, resources and sanctions; in other words, a unit of government itself.

We may consider the two divergent concepts, one deriving from what we have considered as the practice during the British regime, and the other as expressed in the Constitution. The first envisages a central all-embracing sovereign power, delegating, decentralising, from point to point. This is rooted in the ancient theory of the divine right of kings, the ab initio given authority of the sovereign. This ab initio sovereign persona has tended to become identified with the so-called state. The extreme instances of this are the nazi regime under Hitler in Germany and the fascist regime under Mussolini in Italy; and we have seen what this led the world into. It contains a very real and pressing danger.

The other concept is that of an initially fully distributed sovereignty which vests undivided and undifferentiated in the community as a whole. The adherents of sarvodaya would possibly visualise this undifferentiated and undivided sovereignty as crystallising out firstly in the most primary groups, gaon sabhas or the total village community taken together; then being co-ordinated, gathered together, delegated upwards at stages which under our present system we are coming to know as the block level, the panchayat samiti, the zilla parishad, thence to the state government, and so to the central government of the Union. Without labouring overmuch these two opposite concepts as being irreconcilable to each other, in practice nevertheless in the course of daily administration it would appear right that the difference should be kept in view, and at least greater importance given to the second concept than to the first. To quote Gandhiji: “Democracy requires
that everyone, man or woman, should realise his or her own responsibility.” That it seems to me contains the true meaning of panchayati raj; and it was said long before this particular phrase, panchayat raj, came into current use. It underlies the concept of the economic, social and political thesis known as sarvodaya.

There is always a danger of political, economic and social institutions being captured or controlled by not merely undesirable parties but by the very people against whom they have been set up; so as to defeat the very purpose for which the institution is established. This danger is real and constant, and must be guarded against by constant vigilance. It is by no means an empty phrase, that the price of freedom is eternal vigilance.

The apparatus of co-operative societies, encouraged, established and sustained as an integral part of the effort towards economic justice, has sometimes been used by individuals to make private profit, and on a scale beyond anything that would have been possible without taking undue advantage of the co-operative system itself. We must guard against, for instance, private money-lenders even though they may call themselves bankers, getting into the management of co-operative banks or societies, and then attempting to use the society for their own purpose.

Similarly as to panchayats. The more effectively panchayati raj prevails and is established as it should exist, and the greater its relationship to the economic and social life of the community, the greater and more constant will be the care needed to guard against the danger of a panchayat being captured, or misused for private or group aggrandisement.

It is interesting to consider how the Constitution came to provide for panchayati raj. We may recall that the person who almost more than anyone else was responsible for drafting the Constitution was the late Dr. Ambedkar, the then law minister of the central government. It was the great work of his life, the drafting and piloting of the draft Constitution through the Constituent Assembly. Yet, in his draft there was no reference to panchayats at all. It was his view, in which he had been confirmed both by his experience in the states and also during the period of his association with the central government, that the village panchayats are little more than sinks of ignorance and filth, or words more or less to that effect. This attitude of his has been described
by one recent writer (Shri H. P. Mathur) as a typical urban attitude to rural institutions and rural urges. I think that it was perhaps more than that. It is to be remembered that Dr. Ambedkar came of a community which over the ages has been deprived of its due social and economic privileges, which has been held down and repressed during many centuries of our history. He must have seen what anyone who has anything to do with the administration in a district has seen in the past, namely, that local institutions such as the panchayats have been used again and again not as tools of justice to protect the weak against the strong but misused as a weapon to inflict injury upon the weak, underprivileged, the harijan.

However, whatever his true motivation may have been, his resistance to panchayats as an institution seems very nearly to have kept panchayati raj out of the Constitution. Thus this great fundamental concept of local self-government might have been still-born and excluded from the Constitution. There was a good deal of debate on the matter, and finally it was put into the Constitution and included in the directive principles of state policy.

So let us not take panchayati raj too much for granted. These great concepts and institutions, and the principles enshrined in the Constitution need conscientious and constant guarding and great effort for their fulfilment.

**Judicial Panchayats**

A feature of panchayati raj that needs some special consideration concerns the administration of justice, and the place and function of village bodies providing a suitable forum for the trial of cases and the settlement of disputes.

The question is asked, as to whether the panchayat can play any part as a court of justice, whether indeed the panchayat should play any role in administering justice amongst the people.

We may begin by stating at once that any such role, of a panchayat acting as a judicial tribunal, must come within the framework of the Constitution, must abide by the basic principles of the administration of justice, and has of necessity to fit into the pattern of the apparatus of district administration.

There has been published recently an excellent report on the
role, organisation and working of what are called nyaya panchayats (judicial panchayats). But as recently as 1962 when a national seminar was held on panchayati raj, there appeared the following statement: "Two difficult functions to define are those of police and judiciary. But arguments for the panchayati raj system performing both may well be vitiated by the very severe problem of impartiality occasioned as a result of local pressure. It would seem to be widely accepted in a number of countries, from the point of justice and honesty as well as efficiency, that the judiciary and the police should not become a local service, but should remain at least at the state level."

If panchayati raj cannot be trusted with the judicial function, if a panchayat cannot be trusted with settling a petty dispute about somebody's cow trespassing into someone's field and causing a few rupees worth of damage, then perhaps it is equally unsafe to entrust it with the carrying out of functions upon which the whole welfare of the village depends. The panchayat may as well be eliminated altogether, and we may thus go back to direct government, if we can.

Therefore it is worth serious attention to consider the view that, as an integral part of the panchayati raj, village panchayats should perform judicial functions and deal with cases and disputes both civil and criminal. There has been a great deal of argument about this. Even in the days of British rule, there was a well established system of panchayats invested with powers of administering criminal as well as civil justice. Certain cases were within their competence and within their jurisdiction. Yet today one sees this doubting of and challenge to the exercise of judicial functions by a panchayat.

A great deal has been said and a great deal has been written in the past about the administration of justice by panchayats. The following are some of the main arguments which are produced from time to time:

1. Justice (our judicial purists say) should not be administered by an elected body; and panchayats are elected bodies.
2. There is a general sense of a lack of confidence on the part of the public in the panchayats.
3. It is a well established principle of law and of judicial prac-
tice that a judge should not have personal knowledge of the case he is trying; and yet in the case of the panchayat in one state the statute itself prescribed that one of the sitting members must be from the village where the trouble occurred to ensure that there was somebody who knew the facts.

4. Panchayats are often ignorant, usually biased by party factions and frequently corrupt.

5. A panchayat system of administering justice would be against the spirit of the Constitution, for the Constitution prescribes an independent judiciary.

6. Panchayats lack experience and adequate supervision and do not have the benefit of counsel. They do not have the advantage of having lawyers appearing before them to help them to administer justice.

Let us now consider the above criticisms, both individually and together. I think they are based upon a gross lack of understanding about the concepts which underlie the administration of justice itself. They are unreal, and fallacious. They reflect an attitude, a typical lawyer-like attitude, which confines itself to jurisprudence rather than to the ethic of law and justice. And it takes a too narrow view, demonstrates a too limited understanding of the Constitution itself.

Where has the modern system of administration of justice in India come from? It is derived from the system of administration of justice which was established in India by the British. It would be a mistake to think that the modern system of judicial administration in India derives, except in a very tenuous and small way, from anything more remote. The British system of the administration of justice which was established in India is something that was picked up from the British context and planted in India.

What are the characteristics of the British system? It makes for impartiality; on this test it is one of the best judicial systems in the world. It makes for an expert consideration of legal matters; yet it should not be forgotten that even during the British regime, village panchayats as a matter of normal course decided many kinds of judicial disputes both criminal and civil.

In Britain, the system of justice is the end result of a long historical development. The roots of the development do not lie
in the sovereign right or the sovereign functions of the king. That is a thing to mark. The roots of the British judicial system lie in the people of Britain. Those who have studied constitutional history will know that the present mode of the administration of justice in Britain stems from the great founding documents, including Magna Charta and the Bill of Rights, from the recognition of the principles such as habeas corpus, from the abolition of the Star Chamber, the execution of the King of England, Charles I himself, by the authority of the people of the land.

Each of these events, and others like them, are directly related to the administration of justice in Britain. It does not rest upon any formal system of jurisprudence or of codified law. It rests, as it has always rested, squarely upon the will of the people. The events listed above asserted the supreme right of the people, and at the same time and as part of that assertion they denied the divine right of kings.

It is in these things that the administration of justice in Britain today is rooted. And if we may liken the historical growth of the British judicial system to the growth of a bargad tree, we find that it has grown and spread, and struck new roots, and the main stem becomes difficult to identify separately. But if the main stem is not there any more to distinguish apart, the tree continues to exist and grow, and the original roots are very much alive in the present tree.

But it was not the whole of this tree of the British judicial administration that was transplanted in India. It was merely a part of it which was imposed upon this country. In our land the system imposed by the British derived its final authority not from the will of the people either in this country or in the country of its origin; it derived its authority from the imperial power. If the accident of time had caused the transplantation to take place in the days of, let us say, the Star Chamber, some of our constitutional lawyers in India might be arguing today that the Star Chamber or its equivalent is the truly constituted organ of justice and that justice is best administered thus, by an aloof and completely detached instrument executing the sovereign power, the prerogative of the king.

The precept of British law is that a man shall be judged by his peers; and the term 'peers' in British law means his fellow
citizens and not his superiors. Nowhere is it prescribed that his peers shall be learned in the law or experienced in the processes of the law. It is important to keep this in mind. Translated into practice in Britain it appears in the system of trial by jury, "Twelve good men and true." That is the definition of the British jury, that it shall consist of twelve good men and true. It has nothing to do with their efficiency or experience or expert knowledge. The jury's verdict on matters of fact is final; and has a finality in appeal even greater than the decision of the judge himself. The judge's verdict can be challenged in appeal, but the jury's finding of fact stands as final.

How was this jury system transposed into India? By a watered down system known as the system of assessors, except in the few presidency towns. (And it is this kind of watering down that should cause us concern in all that is going on in the name of panchayati raj: we must guard against too much a tendency to water down and weaken the essentials). The assessors were meant not so much as a form of jury trial, or trial by a man's peers, but to help the English judge in India, who was ignorant of local customs and practices and was ignorant even of the language. The assessors did not, unlike the jury in England, give a verdict. They merely gave advice, and it was perfectly open to the judge to reject the advice, which no judge could do in the case of a verdict by a jury.

Let us remember also that in Britain, the final court of appeal today is the House of Lords, which is a wing of Parliament, and not the Privy Council. The final court of appeal for India, for the Indian judicial system under the British regime, was not the same as in Britain. It was the Privy Council. The Privy Council is a legacy of the old Star Chamber, advising the sovereign directly and not through the British Government, not through the prime minister or one of the secretaries of state: their lordships of the Privy Council humbly submitted their recommendation (which was really their judgment) to the Sovereign in Council, and the Sovereign in Council was the Crown in Privy Council.

Then in Britain, and I think in our country too, there is provision for impeachment, and impeachment is before Parliament, and Parliament as such is not an expert legal body, nor particularly aloof and detached from the people. On the contrary it is a creature of the people.
Furthermore, it is worth stressing that even today in Britain, the law is largely uncodified and unwritten. It is the Common Law which is supreme. The name is significant. It is called the Common Law, its technical term is the Common Law. And when a court in Britain cannot find a court ruling or a statute governing a particular set of circumstances, what does the court draw from? It goes back to the Common Law. The definition of Common Law derives from ancient usage and good practices amongst the people. It is the Common Law which rules supreme, its codification consists mainly in the rulings of the courts interpreting the Common Law, but not making the Common Law. Its very name, the Common Law, demonstrates that it is the people’s law and the people’s justice. It is not the law as handed down by the King. It is not even the law handed down by parliament; (even though in Britain the parliament is sovereign in a sense that is fuller than is the case with our own parliament).

When the courts of law in England became the lawyer’s paradise, that every formal legal system inevitably tends to become, and their processes of law began to deny justice through legal quibbles, “this is not in the right form, this plaint was not presented to the right court in the right time”, what happened? There were the established courts of equity. For a period of time in Britain there were parallel courts of law and courts of equity, until by process of legislation they were combined into common courts of justice. Today the law courts in Britain are not courts of law, they are courts of justice. Let the legal purists remember that; and that justice abides as much by maxims of equity as by formal statements of the law. Four of these maxims which are well established and operate in India as well as in the country of their origin are particularly relevant.

The first is the maxim that where equity and the law conflict, equity shall prevail. What gives way? Not justice, not equity. What gives way is the law. More, much more than an expert knowledge of the law, is the overriding sense of justice. This is relevant to panchayati raj as a valid mode of administering justice.

Secondly, justice delayed is justice denied.

Thirdly, no man shall demand justice who does not come with clean hands. (How easy it is, we know, for a person with dirty hands to have a clever lawyer).
Fourthly, de minimis non curat lex: the law does not cope with little things, and rightly so. The Supreme Court and the High Courts and the judges and the magistrates should deal with important cases. Let the small cases be dealt with by the local people's courts.

Justice springs from the people themselves and is derived from their will. Our Constitution establishes the independence of the judiciary. But independence from what? Independence from the executive power, independence from government. It is not independent and it never can be independent from the will of the people, for the people themselves are the creators of the Constitution. Everything can be changed, including the Constitution itself. The Constitution can be changed; it has been changed, and there is not the slightest doubt that it will be changed again and again. What then is the one single continuing entity in the country? What is that which cannot be changed? Nothing at all; except the people themselves. The people continue. They will continue. Nobody can change them. The validity of the Constitution itself will always be in terms of the will of the people, not what some individual or group or institution such as the executive government thinks is good for the people, but what the people think is good for themselves. (There is a moral in that for people who get somewhat impatient and try to get things done, who want to go too fast; also a warning to people who wish things to go too slow). Let us then face the basic fact squarely, that it is the people's justice which the courts must administer. And if it is the people's justice, why not the people's courts?

Where are the people's courts to be found? Exactly in the panchayats, more than anywhere else. There is no better way of establishing the people's courts directly, except the panchayats themselves. The panchayats are best fitted for the purpose, for they are set up by the people themselves directly, and should be so set up. The people cannot be ignored.

No system of administration of justice, which acts in isolation from the people can last—that is not often enough or sufficiently appreciated. We talk too glibly of political parties which cannot last because they have lost contact with the people. It is something much deeper. No system of judicial administration itself, no system of law can prevail or last in isolation from the people them-
selves, any more than can the executive power remain long in the hands of a party which does not represent the will of the people. This is one of the main lessons of history.

It is necessary here to utter a caution against a half-hearted attitude, a “by the way” acceptance of the panchayat mode of administration of justice. A wobbly wobbly attitude about the need for these panchayats will not do. If they were not there, would you create them? We should not put up with them merely because they happen to be there and we happen to have derived them from the British period. The rather defensive point of view taken on their behalf, that now that they actually exist we may as well make the best of the situation, is entirely fallacious; for if these panchayats did not exist, we should have to create them, to perform the judicial functions.

We hear much said about the faulty administration of justice by panchayat adalats. It is quite true. These somewhat ignorant villagers do not have the benefit of lawyers’ advice and lawyers’ arguments. Their decisions are based upon rough and ready assessments of the merits of the case. In some cases the decisions are biased, even dishonest. But what does a statistical analysis of panchayat cases reveal? It reveals that faulty judgments, coming under all these categories of defects, form an extremely minute and insignificant fraction of the vast numbers of cases that panchayats have decided in the past. On the whole, the cases were dealt with expeditiously, effectively, efficiently and with a notion in the minds of the people of a sense of justice done. However, the faults are there, and they are of course very bad.

But let us also look at the characteristics which mark the administration of justice in the other courts which are more favourably placed with lawyers’ legal advice, expertise and experience. What do we find? Cases take not several weeks and many months: cases sometimes take many years to decide. In which courts? In the High Courts and not in the panchayats. Cases in a High Court pending for more than ten years are by no means unknown. It is not unusual for appeals to be pending for several years. This is the story which one finds repeated at every level, from the highest courts to the courts of stipendiary magistrates, civil courts and the rest. It is not so very difficult for a party with the necessary resources, and with clever enough lawyers at his disposal, to com-
pletely tie up his weaker opponent in long and involved judicial proceedings in some of the simplest of cases. The stronger the party in his resources (not in the merits of his case), the greater is the advantage he has over his weaker opponent.

Our country is poor. The vast masses of our people are poor and they are weak. They cannot run to High Courts and district officers' courts. Very few are rich. Even fewer are powerful. Surely it could be asked whether this is not a denial of the people’s justice if our judicial system should involve such delays, and such imbalance between the weak and the poor.

Then, let us examine how appeals go from one stage to another. The proportion of cases tried by any magistrate or any judge upset in appeal will be found to be of an order not very much different than the bad cases decided by the panchayat. And we find not merely cases upset in appeal; we find castigations by superior courts of the presiding officers of courts subordinate to them, a frequent event. There is the case of a district judge who sentenced a man to death and the following was the reason more or less as he recorded it: “There is some doubt in my mind. There is some lingering doubt in my mind about whether the accused committed the murder or not although the evidence is so strongly against him. However, because it is a murder case, if I sentence the man to death, automatically an appeal lies to the High Court; so that in any event the case will go to the High Court and the High Court will have an opportunity of reviewing the merits of the case. I therefore convict the man of murder, and sentence him to death.” This observation was made by a professional judge, a man with many years of expert judicial service, a district judge, who had been used to sentencing people to death, and he had the full benefit of legal talent in the hearing of the case. The High Court did consider the case, and administered the most richly deserved castigation. Here was this man, this senior judge, ready to play with a man’s life, sentencing him to death; and he would be the first to argue that panchayats are ignorant, incompetent, and cannot be trusted to try petty disputes and minor trespasses.

Therefore let us caution ourselves. Let us be humble. Let us not get smug and smugly satisfied about our system of administration of justice. If the panchayats have faults, these faults exist in other courts and perhaps in no less degree.
Certainly the panchayats lack experience. We all lack it, at different times. How do you gain experience except by exercising power and function and responsibility. (One of the main arguments that the British used against this country becoming independent was: How can you run this country? you have no experience). The panchayats will gain experience and confidence in themselves. This, with constructive guidance and assistance given not in a sense of overlordship but in a sense of faithful service by the functionaries of government, will make all the difference in their successful working. They should come under the supervision of magistrates and ultimately of the High Court itself, in the normal way like all judicial tribunals. It is not an easy task, and it needs to be tackled seriously. The panchayats need ways and means of being fitted to their function, and encouraged and helped in their task of administering justice. This can be done mainly by the professional administration staffs, the officers of the district administration and of the various departments. It needs a more conscious effort on their part.

If we do not use the instrument of the panchayats in the administration of justice, it may well happen that these panchayats and village communities will become areas of irresponsible mischief. On the other hand it is a good thing to link the organ of administration of the village level directly with the disciplines of law and justice and of the rule of law, and with the handling and weighing of evidence, and the exercise of judgment. A group of men, such as a village panchayat, which applies its mind, discusses the merits of a case like a private dispute about a piece of land or over a small loan or a petty offence, and delivers a judgment, will be a little better fitted to apply its judgment, its mind to, say, the location of a well or the distribution of seeds or the regulation of irrigation water in the village. There is a very real connection between the two in the conduct of human affairs and in the life and welfare of the community.

Those who live under the rule of law (and even under the British regime the rule of law did prevail in the main, at least the principle of the rule of law had never been denied), need to keep in mind that the maintenance of the rule of law is not something that they can take it for granted or that can be left to take care of itself. The rule of law will not secure itself simply because it is
there. Unremitting, daily, active vigilance is essential. And the involvement of the village level of administration directly with the disciplines of law and justice, and with the principles of the rule of law, is essential to the orderly living of our people and towards keeping all of us within the security of the rule of law and the will of the people. Here exactly subsists the connection between the district administration and panchayati raj.

*Panchayats and Politics*

There has been some considerable conflict around elections and appointments to panchayats, including the zilla parishadhs, the apex bodies in the district. In one State, Uttar Pradesh, the setting up of zilla parishadhs in about fifty of the fifty-four districts in 1963 was attended by public disputes, factional struggles, and legal issues which were carried into the High Court, with writ petitions under the Constitution and in other ways. In the Punjab, panchayat elections early in 1964 were attended by factional and party struggles in several places.

We need not here go into the details of these events. They received wide publicity, and provide splendid material for the documenting of case histories in public administration.

What we need to concern ourselves with here is the more fundamental problem, the problem of politics in relation to the panchayati system. Should panchayat elections be insulated from politics? Can politics really be so excluded? Where does the balance of advantage lie? Should national political parties abstain from using their influence in relation to panchayats and panchayat elections? Can they in practice do so? Can a national party effectively restrain its own local supporters from using the party platform, its resources and its apparatus, in the elections? Again, where does the balance of advantage lie, for the village community, and for the nation as a whole?

What has been the experience so far, concerning panchayats and the play of politics? Here too lies a fertile field of research for the student of case histories in administration. Here we may perhaps attempt the more limited purpose of examining briefly the constitutional, legal and social background and the general
circumstances against which any serious examination of the problem must be set.

The Constitution refers in specific terms to social, political and economic justice. It recognises, and prescribes not only social and economic, but also political justice. As a nation we are a political state. A village community which is a part of the whole, is likewise a political entity. The citizens resident in the village provide the substance itself of the membership of the different political parties. They provide also the fractions which make up the sum of the electoral support for the parties. This is true, whether we consider a national political party or a party mostly confined to one or only some of the States. As a corollary process, the same parties provide the main leadership in the village, to and for the benefit of those members and factions in the villages which form the sum and the substance of the respective parties. This is, of course, a greatly simplified statement of what is in fact a vastly complex situation; but it probably by and large accords with the facts of the situation as a whole.

We may therefore expect to find, as indeed we do find, that any particular political party tends to be supported in the village by the same groups which respectively support especially during elections a particular village party or group. The supports are interdependent as between the individual voter and the person he votes for or supports, and who in turn represents, supports and helps him.

This interdependent support is also complex, and in a village community can be very thoroughgoing. It embraces material, economic, as well as emotional, social and other values; and is often pervaded or conditioned by caste, clan, or sectarian attachments and prejudices.

We might even reason that if the grassroots of the nation are to grow, with a healthy and fulsome growth, then panchayati raj should function as a full, thoroughgoing political, as well as social and economic instrument of the people’s governance of themselves.

The very term panchayati raj connotes rule, and the exercise of the powers of ruling, by the panchayats, set up directly by the people themselves. This comes close to the concept of sarvodaya
as the pervasive pattern and mode of government; and close also to Gandhiji's prescription for panchayati raj.

And once we reach the conclusion that politics are an inevitable concomitant of panchayati raj, and of panchayat elections, we might reason further that for a democracy to function, or even to exist at all, there must be full and free play of the pressures that inhere in any state of political freedom.

Whichever way one may answer the questions concerning the relationship of panchayati raj and politics, the fact remains that the district administration has to function in a conjuncture in which politics and the play of politics subsists with all the things that this implies. To ignore this must surely be to ask for trouble, however tempting it may be for government officials involved in the administration of the district to regard politics almost as a dirty word.

Finally, assuming that panchayats are to function as units of self-government with the requisite powers and authority, it must be the immediate, continuing and daily concern of all agencies in the district administration to attend to the basic needs of the panchayats in order that they may function effectively, as contemplated and indeed is prescribed in Article 40 of the Constitution.

These needs predicate that the functions of the panchayat should be sufficiently embracive. They should extend so that the panchayat may in fact be a unit of full self-government. Only then could one fairly say that the participation of the people in the administration of the district has been achieved. This positive association of the people with the agencies of district administration is one of the principal problems which remain unresolved. Participation does not mean mere support of the district administration, but quite clearly actual participation in district administration as part and parcel of it.

A new consciousness is abroad; and a new approach to panchayati raj as the principal mode of this participation may well provide at least part of the answer. The Balwant Rai Mehta Study Team report and several other reports concerning the different States such as Andhra, Maharashtra and Rajasthan, as well as widespread public debate and discussion are an indication of this new awareness.

Concomitant with the fullness of the panchayat's function and
responsibility is the provision of adequate resources placed at the disposal of the panchayat. It is a truism proved by history over and over again, that responsibility comes with the exercise of responsibility. As in the administration of justice, so in the husbanding and use of resources, mistakes will happen. But again, as in the case of judicial error, mistakes at the panchayat level may on the whole be less expensive than at say a point of decision higher up. Actual financial resources within the control of the panchayat are as essential as any other powers or authority which may be vested in the panchayat to enable it to function effectively as a unit of self-government.

Another set of problems concerns the staffing, servicing, the lines of control and the lines of discipline and training. In all these matters, the agencies of the district administration have a special contribution to make towards the success of panchayati raj. The governmental agencies particularly are staffed by persons who are trained in the essential techniques and disciplines of public administration. Each of them is particularly well placed to assist the panchayat and the panchayati raj apparatus in the villages throughout the district, in the organisation and methodology of self-government at the primary level.
CHAPTER 12

AGRICULTURE AND CO-OPERATIVES

Agriculture

The district administration is intimately and continuously concerned with agriculture. In many ways agriculture, and the agricultural community, form the very basis of the economic and social life of the district; and a very large part of the functions and problems with which the administration is concerned derive in one way or another from agriculture.

Agriculture is our most important and indeed our largest industry. More than 70 per cent of our people derive their living directly from agriculture. It is also our largest earner of foreign exchange. This factor assumes special significance when we consider our dependence upon foreign exchange for the country's development plans.

In fact not less than three-fourths of the whole of our foreign exchange earnings comes from exports of agricultural products. These include jute, tea, coffee, cotton and oilseeds. At one time not so very long ago, India was a major exporter of wheat. It may surprise the younger generation nowadays, when we are accustomed to wheat being imported in millions of tons, to learn that we could ever having been exporting wheat. But some of the older and internationally famous export and import houses of India were concerned in a large way with the export of agricultural products, including large quantities of wheat. Much of those wheat surpluses for export came from areas which were known as the granaries of the country, such as the Punjab. Several of those same areas today depend upon imported wheat to make up their shortages.

As the largest single industry, agriculture provides just about half of the country's gross national product. At the same time we should not omit to note that while as much as 70 per cent of our people are engaged in agriculture, the contribution to the gross national product is only of the order of 50 per cent. Furthermore, the rate of increase of the total agricultural product for the coun-
try has been significantly less than the growth in the case of other industries. The slow rate of increase has been the cause of considerable concern expressed all over the country.

With agriculture constituting so important a part of the total national resources, being our largest industry and the most widespread by far, being also our largest export earner and contributing something like half the total gross national product, it is hardly surprising that agriculture also provides the nation with its main economic, technological, educational, political and administrative problems. We saw earlier how sensitive is the revenue process. Agriculture is no less sensitive.

Yet, with all the efforts and the investments made in securing agriculture from the uncertainties which inhere in its very nature, we continue still, and in very large measure, dependant upon the vagaries of nature. A relatively minor variation in the annual monsoon rainfall, or in its timeliness, can still affect the annual agricultural product more than almost anything else. It is a principal challenge in agricultural productivity to secure our agriculture against the uncertainties of the seasons, and especially against drought. The great irrigation networks are the principal means to this end. And it is a proper function of the district administration to see that the resources which are created for irrigating the land are used to the best and the most productive and economic effect.

Agricultural production must achieve a certain minimum rate of increase. This is particularly so in the case of foodstuffs; and an absolute minimum is projected not so much by any man-made plans, but by such things as the plain facts of population growth. The population of India, which is now about 450 million, is increasing at a rate of about 2 per cent a year. Indeed some estimates indicate that the rate itself has increased to well above 2 per cent, and is increasing. While the efforts towards population control have some effect, the fact remains that the population is growing, and is likely to continue to grow at a rate which must compel an equivalent and matching increase at least in agricultural production. Secondly, a large part of the population has had to live at, and in many cases even below, subsistence level. As the general economy of the country develops, and social awareness asserts itself, together with the spread of education and know-
ledge, the per capita consumption of food tends to increase; while at the same time, there is also a trend to change from the coarser foodgrains such as millets to the more palatable foodgrains such as wheat and rice.

These features, apart from any planning, must compel a continuing minimum rate of increase in agricultural production even if the nation’s standards of nutrition are to be maintained at the absolute minimum. This underlines the importance of the need for everyone concerned with agriculture, and particularly every agency of the district administration, to apprehend the true problem of agriculture, to accept the challenge and to strain every muscle towards meeting it. One may well say that next only to the problem of law and order, agriculture must claim the first priority of attention on the part of the district administration.

The central problem of agriculture in India is the yield per acre or per hectare. What makes this the central problem?

Firstly, the total amount of land available is limited. The area of the land simply cannot be stretched, except in very small marginal ways, such as by reclamation here and there. Secondly, the pace of growth of the population cannot possibly be matched by an equivalent extension of the area under cultivation. No amount of new land brought under the plough can keep pace with the growth of the population over any length of time. Thirdly, even in regard to the land that there is, it is not possible to till every inch of soil. Large waste lands, such as the permanent deserts, will remain out of cultivation in the foreseeable future. Furthermore land must be set aside for forests. Deforestation has in many places already reached a dangerous point. Land must also be set aside for pastures, for water reservoirs and other reserves, and for plantations. As industrial activity extends, more and more land will also have to be taken out of cultivation. In fact an increasingly frequent problem which the district administration is confronted with today results from the need to acquire agricultural lands for factories and other establishments. The lands so acquired even for a single project often cover hundreds, and even thousands of hectares and, frequently, some of the most fertile lands in the area.

It seems to me to be one of the great warnings of history that, failing due and proper conservation measures, all the land will
become a desert. The reduction of fertile and wooded land to a
desert, the areas known as the Dust Bowl, is a comparatively re-
cent and painful experience in America. Its results upon the agri-
cultural productivity of the country were mitigated only by reason
of the fact that it is a very large country, several times the size of
India, with a comparatively small population. Nearer home we
may contemplate Arabia, the whole of which is a desert. An ana-
lysis of the sand there, as in the other great deserts of Africa and
Asia, shows that these were indeed once rich agricultural lands,
with civilisations which have left their great archaeological relics
for modern explorers to discover. We may also contemplate, and
perhaps draw a caution from, the way in which the great desert
belt stretches across the continents: the Sahara, Egypt (with the
exception of the Nile Valley), Arabia, Iraq, Rajasthan and the
Gobi.

A fair part of this country is within this main desert belt. Can
we stop its further encroachment? And can we reclaim at least
a part of it? The latter may be worth making a special effort; the
former, namely, the need to prevent further encroachment of the
desert, may well be a matter of life or death for those large areas
which are threatened by it.

Introducing a soil and water conservation bill in the state as-
sembly in February 1963, the chief minister of Uttar Pradesh
declared that the main problem engaging the government's atten-
tion was to make the seventeen million acres of land productive.
He referred to the fact that 400 million tons of earth are washed
away or swept away each year from the surface of the agricul-
tural areas in that one state alone. He added that in Bundelkhand
the erosion of the soil is so acute that the entire area would turn
into a desert within a foreseeable period.

That perhaps portrays dramatically the need to attend to soil
conservation. Agricultural operations are not always the best
means of conserving the soil, unless special precautions are taken;
and special precautions cost money and effort, and great care at
every stage.

Thus we come back to the central problem of agriculture, the
need to bend every effort to getting more out of each hectare
under cultivation.

What is the margin of increase available for the direction and
target of this effort? The margin is very large. India has the doubt-
ful distinction of having what is about the least outturn per hec-
tare of most of the main crops. From figures published by the
Food and Agriculture Organisation of the United Nations, the
productivity of rice in India is about 1,400 kilogrammes per hec-
tare, for the year 1960-61. For the same year France had 3,000
kilogrammes per hectare, the United States nearly 4,000 kilo-
grammes, Italy and Japan very nearly 5,000 kilogrammes, and of
all countries, the United Arab Republic reported the highest figure,
just about 5,000 kilogrammes per hectare. The margin for in-
crease in the case of rice therefore even on present rates of pro-
duction elsewhere, is the gap between 1,300 kilogrammes and
5,000 kilogrammes; that is more than three times the present rate.

The situation is much the same in the case of wheat. Only here
the margin between the existing rate of production per hectare in
India, and what has already been achieved elsewhere is about four
times. Similar comparisons in the case of crops like groundnuts,
potatoes, and tobacco reveal much the same situation; similarly
also in the case of cotton. It is easy to calculate the figures of
total production which would be forthcoming with even quite
moderate percentage increases in the productivity per hectare.

If we have succeeded in identifying the main problem to which
attention must be directed, what then? What are the keys to agri-
cultural productivity?

There are a number of things which can be done in this direc-
tion. An attempt is made to list them here, at least the more signi-
ficant of them. It is to be emphasised that all these things need
to be done together, at the same time. The omission or neglect
of one must tend to make the rest of them less effective. There-
fore, since each one is essential, the order of their listing does not
indicate their relative importance. Each one is equally important.

(1) Mixed farming. While a certain rotation of crops, and
a system of fallows has been known in the past, that is very dif-
f erent from the kind of mixed farming which makes for a major,
and repetitive increase in farm activity. There are still areas in
the country where for instance a brahman cultivator will not grow
anything except wheat. What is a nice clean sort of crop; and in
keeping with his ideas about his caste status. But wheat is also
one of the most exhausting of crops for the soil; and merely
leaving a field on which wheat has been grown for a couple of years, fallow for the third year, or even to grow a crop of sanai (a legume and therefore mildly enrichening the soil) is not nearly enough. Similarly sugarcane, another crop which has a fairly universal attraction, for it is a rich cash crop, is also one of the most exhausting of all crops for the soil.

A good deal can be done to maintain the soil by using fertilizers. But much more can be done by mixed farming of a kind which includes animal husbandry, with the keeping of cattle, chickens, having fish ponds, and so on. But not so much the keeping of goats. For a goat is one of the most destructive of all the domestic animals, eating young shoots, leaves, and preventing new natural growth establishing itself anywhere. Indeed it may be a fair question to ask, whether a goat keeping economy has not contributed largely to the creation and extension of the present day deserts.

A system of controlled mixed farming has tended to establish itself in some places. But a number of inhibitions and restrictions imposed by the food habits of our people and caste restrictions against certain occupations are real handicaps. These handicaps need to be overcome.

(2) Extension work, of the sort with which we have been becoming familiar over recent years, can do a great deal to help in overcoming these handicaps, by introducing better farming practices. Intensive extension work, freed of any political considerations, and with sufficient numbers of properly trained and equipped workers, who can really assist the cultivator by bringing to him the benefits of research and experience, can be a powerful means towards greater productivity. We have seen that the poorest paid and almost the most ignorant village worker often has to carry the benefits of research and experience to the village, and one worker often has too large an area to cover.

A principal problem remains here, of extension work, namely, to bring to bear upon the village the best experience, the best practices, the best and most practical fruits of research, and in ways which the farmer can understand and accept, and apply the benefit to his farming. Which after all is exactly what the purpose of any extension work must be.

(3) Intensive field programme, such as the community de-
Development programmes have provided a certain base, which is fairly widespread by now, and from which can be projected increasingly improved agricultural practices. A fairly new programme known as the package programme has been started recently in seven or eight districts in different parts of the country. The package programme is intended to bring to bear upon the local agricultural situation in the selected areas an intensive provision of those things which are most needed for agricultural productivity, namely, fertilizers, improved seeds, better implements, irrigation facilities, better cattle and so on. This kind of concentration of effort and of supplies may well prove to be a key to agricultural productivity, to achieve the minimum measure of increase at least which is needed.

(4) Apart from what we have said about extension work and about the intensive package programmes concentrated in certain areas, the agricultural productivity throughout a district requires close attention and continuous, sustained effort to the provision of facilities for irrigation, improved seeds, improved implements and fertilizers. Here the district administration has great scope to display local initiative, and to identify itself closely with the total effort towards raising the average production per hectare for the whole district.

(5) Credit. In the past, one of the principal weaknesses in the growth of healthy agriculture has almost everywhere been the lack of adequate agricultural credit. By the term credit I refer here to healthy credit, and not to the money-lender’s usurious practices which, while rendering immediate relief to the farmer, tended also to cripple him over the long term. There has more recently been a significant growth of institutional credit, especially of the kind represented by co-operative societies.

Agriculture, like any other industry, needs the provision of credit. The credit has to be adequate, and timely; and the terms of the credit both as to the interest rate as well as the manner of repayment must be suited to the needs of agriculture. A mere “banker’s” attitude has to give way to something much more imaginative and in keeping with the needs of the agricultural economy.

This transition has indeed been taking place, to the great benefit of agriculture. Those components of the district administration
which are more directly concerned, such as the officials of the co-operative departments, the central co-operative banks in the districts, and their counterparts in the agriculture department have at hand what is still a comparatively new tool, but a powerful one; agricultural credit based upon newer concepts of the farmer’s needs, and somewhat different even from the older ideas about co-operative credit societies.

(6) Land Reforms. We have dealt already with the principal reforms resulting in the elimination of intermediaries and programmes of consolidation of holdings. Wherever these programmes are still under way in any district, the district administration can, by speeding up the process of these reforms, contribute to the agricultural productivity of the district.

(7) Marketing. The cultivator requires strengthening in his capacity to hold the crop. The cultivator very often has to buy his seed, and invest in other things such as oxen for his plough, at a period when those things are most expensive. At harvest time he is often compelled to sell out, and at a time when prices tend to fall owing to the arrival of the new crops in the markets; and frequently when the falling prices are driven even lower through manipulation by the dealers.

Therefore, one of the ways in which the farmer can be helped to make his land productive is to strengthen him, by enabling him to hold his crop. One way of doing this is to arrange for him to deliver his produce to a warehouse owned by a co-operative society of which he is a member, or a warehouse under governmental control, a cash advance being given to him against his produce. In this context, it is sufficient to quote what the Union Deputy Minister for Food was reported to have declared when inaugurating a warehouse at Trivandrum in February 1963. He is reported to have said that for the success of agricultural projects it is necessary that the farmers should all the time have a guarantee that their interests are safe. Much remains to be done to organise the marketing of agricultural commodities. Only when the number of intermediaries is reduced (the Deputy Minister was apparently speaking not of the intermediaries in the matter of land tenures but about the intermediaries in the process of marketing) will the producer’s share in the ultimate consumer price increase.
Planning. Any planning for the 65 million families of farmers in the country must associate those farmers with the plans in some appropriate, direct, practical way. It has been well said that it is not possible to reach the 65 million farming families from New Delhi. A village farming plan to be practical must be acceptable to the farmers of the village; for it is they who have to do the farming, and thus to put any plan into action.

There is no better way of gaining such acceptance than to associate the farmers of the village intimately from the earliest stage, and throughout thereafter. No amount of planning from the top can substitute for this. Any attempts to do so inevitably lead to waste, to loss of time, and to every kind of frustration; and even when it may give the semblance that things are going well, these all too often reveal themselves in failures on the ground. The farmer cannot be coerced into carrying out a plan which some experts may have drawn up for him elsewhere.

Here again is something for the district administration to concern itself with, and to ensure that the agricultural plan of each village is devised in close association with the farmers, and preferably by the farmers of the village themselves, acting together as far as possible. In this process it will more often than not be found that what the farmers need is not so much superior advice, as practical help in practical ways such as the provision of irrigation facilities, improved seeds, implements, fertilizers, credit, marketing, and warehousing.

Co-operatives

I will take up the subject of co-operation and co-operatives with a story. It is a true story.

A divisional commissioner had in one of his offices a staff of about 150 officials. The time was 1948, and those were days of difficulty, not long after the birth of independence. Several kinds of essential commodities were in short supply, and a number of commodities was rationed; due in large measure to the shortages resulting from the second world war. The staff of the commissioner's office decided to form a co-operative society to cater to their essential needs. Having decided to form a society, and obtained the commissioner's enthusiastic support, they set about
getting their society registered. It took them many months, and much persuasion to get this simple thing done. They were not ignorant villagers; indeed they had amongst them officials of a section which handled progress reports of co-operatives from several districts. Finally, they were able to persuade the appropriate officials, and got their society registered. Shortly afterwards, the government decided that it would be a good thing if those commodities which were in short supply could be distributed to the consumers through co-operatives. It appeared reasonable and appropriate that the staff of the co-operative society should collect the individual ration cards of its members, present a consolidated demand, draw the appropriate rations in bulk and then distribute it amongst the members. This would also be convenient for them, for they all worked in the same office. But this apparently was much too simple and straightforward a thing for the co-operative bureaucracy. The co-operative department officials told the co-operative society that the rationed articles could only be supplied through co-operative societies established in the respective city wards in which each particular ration cardholder lived. Therefore each one must join a co-operative society in his residential ward. This also seemed fairly reasonable; and the members of the staff society said that they would gladly do so. They would join their respective ward co-operatives, and get their rations accordingly. They soon found, however, that under some rule or practice of the co-operative department, no one could be a member of two co-operative societies. So they could not draw their rationed commodities unless they joined the ward co-operatives; and they could not join the ward co-operatives because they were already members of another co-operative society. The only thing left for them to do was to break up the co-operative society which they had themselves set up, and for which they had worked hard and long even to get it registered.

A system of co-operatives, particularly co-operative societies for agricultural credit, has been fairly widespread in the country since many decades before Independence. Under the British regime, co-operatives were generally encouraged, and every province had a department headed by a registrar of co-operative societies. Besides agricultural credit societies there were in some places industrial co-operatives, and also consumers' co-operati-
The intensity of the co-operative enterprises varied in different regions; in some areas there were large numbers of relatively prosperous co-operatives, while other areas had very few or none at all. There was also usually in each district a central co-operative bank, and also a central bank at the provincial headquarters. The collector of the district was frequently ex-officio chairman of the district central co-operative bank.

With a few exceptions, however, the co-operative system as a whole played a relatively minor part in the economic activities of the nation. The nature and extent of the co-operative activities were not such as to conflict in any large way with the main trading interests. It is a matter of opinion as to how far the absence of any major conflict of interest in any large way was responsible for the co-operative system to be able to exist fairly peacefully, and even to extend, albeit very slowly.

The Third Plan states that in a planned economy pledged to the values of socialism and democracy, co-operation should become progressively the principal basis of organisation in many branches of economic life, notably in agriculture and minor irrigation, small industry and processing industries, marketing, distribution, supplies, rural electrification, housing and construction, and the provision of essential amenities for local communities. Even in medium and large industries and in transport, an increasing range of activities can be undertaken on co-operative lines. The socialist pattern of society implies the creation of a large number of decentralised units in agriculture, industry and services. (Third Plan, Chapter XIII).

It goes on to state and analyse the reasons which must impel a rapidly extending co-operative commonwealth, and the effects of the co-operative mode of economic organisation and practice in practically every field, upon the country's social and economic structure as a whole. It then goes on to specify the programmes for co-operative credit and supplies, for marketing and processing, for consumer co-operatives, and industrial and other co-operatives of several kinds.

We have noted while dealing with agriculture, the need for credit in agricultural operations. Co-operative credit has a vital role in the financing of agricultural operations of every kind, ranging from large investments for the improvement of the land, the
purchase and maintenance of tractor units, the installation of irrigation facilities and the like, to the smaller and seasonally recurring items such as seed, loans against the storage of the harvested crops, plough cattle, fertilizers and so on.

Co-operative credit for agriculture has indeed been, as we have seen above, fairly extensive in the country for a long time. In recent years, however, it has received special and powerful backing from the government. There is a specific provision in the charter of the Reserve Bank of India compelling attention to the provision of agricultural credit.

This emphasis on the provision of rural credit has enabled the Reserve Bank to make an important contribution to the co-operative movement as a whole. It has done so by increasing the advances to co-operative banks, and also to the state governments to enable them to invest in the capital of these banks. Following the nationalisation of what is now the State Bank of India (formerly the Imperial Bank) this bank has also come to play an active role in rendering financial credit and other facilities on favourable terms to the co-operatives. The State Bank, with greater flexibility in its emphasis, has been able to sustain co-operative marketing in particular.

Whereas in the year 1950-51 the total amount of co-operative agricultural credit for medium and short-term loans was of the order of about Rs. 20 crores, ten years later, in 1960-61, it had reached a figure of the order of Rs. 200 crores. This represents a sizeable annual multiple of increase; and according to the anticipations of the Third Five-Year Plan, the figure may be of the order of about Rs. 530 crores by 1965-66.

Now, this is getting on to quite large figures. The impact upon the country’s total economy will thus become quite sizeable and significant. On the other hand in a country like India, where one has to deal with very large figures all the time, because of the facts of geography and of population, one must bear in mind the greater importance and significance of, for instance, the credit in use per head of the agricultural population, and the credit in use per hectare of agricultural land. Statistical analysis should be directed at these things, and not only national totals.

A look at the per capita and the per hectare figures is somewhat chastening; and will indicate how far we have yet to go.
We have noticed already the importance of increasing the productivity of the land under cultivation, and the vital role of agricultural credit in increasing the productivity from its present still extremely low level. Taking co-operative credit alone, and assuming the figure of Rs. 200 crores, this works out at about Rs. 5 per capita and about Rs. 7 per hectare. These figures are quite an advance from the half a rupee per capita and just over one rupee per hectare of 10 years earlier. When our average was a rupee per hectare, Ceylon, our small neighbour, had an average of nearly Rs. 8 a hectare; even Thailand had about Rs. 4\(\frac{1}{2}\), Australia had Rs. 17, New Zealand about Rs. 30, the Philippines Rs. 32, and Japan had as much as Rs. 187 per hectare of agricultural co-operative credit to show. All these countries have been advancing also over the same ten years, and the gap between our condition and the figures in some of the countries may already be even larger. There is thus need for caution against any complacency; for even the attainment of the Third Plan targets will still require long and unremitting effort to provide the institutional credit in the measure in which it is essential for obtaining the optimum agricultural productivity.

That to my mind appears to be almost the most important single problem in all the co-operative programmes set before ourselves. Only the most lively interest, and the most zealous and powerful organisational effort in the field, by the district administration in particular, can meet this great challenge. The district is the place where the main effort has to be concentrated.

Co-operative farming is another feature of the programme for the extension of the co-operative system particularly in the agricultural economy of the district. It came as a surprise to many, when about three or four years ago the whole concept of co-operative farming became the centre of a storm of controversy, arousing strong expressions of feeling for and against co-operative farming. Yet the role of co-operative farming had not been seriously questioned earlier; and in fact co-operative farming figured both in the First and in the Second Five-Year Plans. An increasing programme for the extension of co-operative farming has also been included in the Third Five-Year Plan.

The Plan lays down the general organisational pattern of co-operative farming, with emphasis on its voluntary nature, and re-
cites some of the problems which have to be dealt with, such as the optimum size of a co-operative farm, the pooling of the lands belonging to the farmers, the opportunity provided by consolidation proceedings to promote co-operative farming, and other such matters. A number of pilot districts were also selected, and an indication was given that the first phase in the programme might consist of about 3,200 co-operative farming societies being set up as pilot projects, as the working group on co-operative farming had suggested.

Let us look at some figures. And again keep in mind the vast total area of the country we are dealing with, with 70 million families directly occupied with agriculture. Even on an average of only two acres, the total comes to 140 million acres. According to the figures available early in 1963, it appears that in the pilot areas, where a special effort was being made, there was a total of 475 farming co-operative societies, with a total area of about 58,000 acres. In the rest of the country, there were about 650 societies with a total area of about 85,000 acres. This gives us the figure of about 1,125 societies in all, covering an area of about 142,000 acres.

These figures are significant, and again indicate the large area that still remains to be covered. Here again, a great opportunity exists for initiative and enterprise on the part of the district administration.

In order to be successful, as a way of life and as a means to achieving the goals of a peaceful socialist society, it seems necessary that co-operatives and the co-operative method should extend rapidly, and pervade the economic life of every citizen, amongst the urban as well as the rural population. The co-operative system, embracing both producer and consumer, may well be one of the most important, if not the only way of peaceful evolution to a socialist state of the kind which has been projected in the five-year plans, which bear the sanction of parliament and interpret the people's main objectives.

It cannot, and it surely will not come of itself; nor can it be achieved with comparative ease. The technical as well as the organisational difficulties are great; equally so may be the difficulties arising through the conflict of different interests. It should be a principal function of the district administration to grasp these
matters, and the nature and measure of the difficulties; and to stretch without reservation the great effort needed in resolving the organisational and administrative problems involved; and where conflicting interests cannot be reconciled despite all reasonable effort, to choose amongst the rival interests and give due preference to the co-operative system.
CHAPTER 13

HEALTH, EDUCATION AND INDUSTRIES

Health

Public health has problems which are a constant concern of the district administration. There has been a great improvement in public health in general over recent years. It is in the main due partly to the people being informed about hygiene and sanitation; standards of nutrition have improved; hospital facilities have been extended; and fairly thorough-going measures aimed at eradicating malaria and the other epidemic diseases have had their effect.

An objective test of the health of a community is provided by the actuarial calculation of the expectation of life. The expectation of life in India has almost doubled, which is a great improvement by any standards. Formerly, there was hardly any possibility of escaping one or more attacks of malaria, the great scourge which enfeebled a large proportion of the population. Malaria was taken for granted, as a necessary and unavoidable illness. Now it is unusual for more than a very few cases of malaria to occur in areas which formerly were ridden with the disease. Formerly also, apart from the scarcity of medical arrangements, the nation as a whole was deprived of several of the protective foods, such as milk. There is a greater consciousness now of the importance of these protective foods, particularly in the nutrition of children.

But having said this, we are still confronted with the greater part of the problem of public health; for much more is needed by way of medical arrangements especially in the remoter areas, in the observance and enforcement of standards of sanitation, in dealing with epidemic diseases, and in raising further the nutrition standards especially amongst the economically weaker sections of the population.

The district administration is directly concerned with maintaining a constant watch on the health of the district, guarding against any threatened outbreak especially of epidemic diseases; and for ensuring that when any epidemic does break out, and
preferably before it actually happens, adequate arrangements are made for the treatment of those who fall victim to the epidemic, and also, even more urgently, to prevent the epidemic from spreading.

We do not have to search far in the past for examples of epidemics, or for instances in which the district authorities may have been taken unawares. Not long ago there was a serious outbreak of hepatitis in the capital city of Delhi. Many people died, and many more were taken ill, but survived. The infection was traced to the drinking water supply. The city's water system was apparently contaminated by sewage or other infective sources.

Early in 1963, an epidemic of smallpox struck several parts of the country, including the densely populated areas in Madhya Pradesh, Uttar Pradesh and again around Delhi, and also Bengal. Smallpox is another of those epidemic diseases about which there is a widespread notion that the disease has been exterminated, and that there is at present no great danger of an epidemic. The actual experience and the recent events of 1963 are evidence to the contrary. Smallpox spreads fast, and with the increasingly faster means of communications, an epidemic of smallpox, unless it is quickly dealt with and stopped from spreading its mischief, tends to spread faster, further and wider. Incidentally, it was at the time of this particular epidemic in Bengal that the newspaper *Hindustan Times* on February 15 complained in these terms: "The epidemic not only continues unabated, but its virulence is increasing every week, and if past experience is any guide, the epidemic in the city takes its leave officially from February 15. This means that the worst is yet to come. Meanwhile there are reports that smallpox is now spread all over the state. As for Calcutta city, the amazing part of the eradication programme is that those who are in charge of its implementation do not know where to lay the blame."

These two somewhat random, but very recent instances, underline the responsibility of the district administration, particularly the district health and medical staffs, and the other agencies of the administration in the district which can render assistance to the health staffs in combating the epidemic, under the overall guidance and leadership of the different local bodies, and above all the district magistrate.
Legal provision exists under which the district magistrate and his staffs can exercise the necessary regulation and control for this purpose. For instance, on the occasion of a large fair, such as the Hardwar Kumbh Mela, inoculation against cholera can be made compulsory for those who wish to visit the fair. It is the duty of the district magistrate, and of the senior health officer in the district to keep a close watch throughout, to see and recognise any threat of an epidemic, and to take timely action to bring into force the necessary measures under the law. It is just here, in the effectiveness of the watch maintained, and in the timeliness of the steps taken, that all the difference may lie between suppressing an incipient epidemic and its unchecked and disastrous spread.

_Education_

In India, although under the Constitution education is a state subject and hence mainly the responsibility of the states, the union government has assumed certain special responsibilities. The administrative organisation at the union level consists of the Ministry of Education headed by a Minister of Cabinet rank. It evolves national policies in the field of education and is entrusted with the task of co-ordination of facilities, maintenance of standards in respect of university and technical education, besides being directly responsible for the administration of education in union territories, for public schools and institutions of higher learning. The Ministry also plays an active role in the promotion and development of Hindi and is the agency for the collection of information regarding education on an all-India scale. It is also in charge of social welfare and administers the national archives of India.

A marked development in the post-Independence period has been the closer association and co-operation of the central government in the plans for education in the states. Moreover, there are several central government schemes implemented by the Government of India as well as centrally sponsored schemes which are of an all-India applicability but are implemented through the state governments but assisted by funds provided by the centre. Even schemes which are initiated and implemented by the states may be assisted financially by the centre.
An autonomous agency known as the university grants com-
mission has been set up at the centre for the promotion and co-or-
dination of university education and for the determination and
maintenance of standards of teaching, examination and research
in universities. Besides, there has been set up in recent years a
National Council of Educational Research and Training to estab-
lish a National Institute of Education for the development of re-
search as well as regional research institutes.

Since the administration of education is mainly the responsi-
bility of the states, there is in the majority of the states, a separate
department of education headed by a minister and assisted by a
secretary to the state government. Under the direct supervision of
the Education departments, functions the directorates of Educa-
tion, with a Director of Public Instruction at its head. These direc-
torates administer education up to the high school level. Univer-
sity education remains outside its jurisdiction, universities being
autonomous bodies and are governed by their own senates or syn-
dicates. However, in a few states as for instance in Kerala, Madhya
Pradesh and Maharashtra, there are separate directorates in charge
of general education, technical education and collegiate education.

The states are divided into a number of regions or divisions
with a Deputy Director or Regional Deputy Director in charge. A
staff of Divisional Inspectors also assist him at this level. The di-
visions are further divided into a number of districts, which do
not coincide with the revenue districts, being in most cases larger
in number, headed by the District Educational Officers. The respon-
sibility for education at the local level is vested in local bodies
in several states, but the practice varies from state to state. In
Madhya Pradesh a statutory local body known as ‘Janpad’ was
created in 1948 for each Tahsil which is vested with powers of
establishment and maintenance of primary schools. In Bihar there
was a reversal of the policy granting powers of primary education
to local bodies. In Punjab too local powers in this respect have
been withdrawn and concentrated instead at the district level. In
Rajasthan on the other hand Panchayat Samithis at the Block
level were given the control over primary education. In Andhra
primary education is the responsibility of the Zilla Parishad at the
district level. In Madras, the Panchayat Samithis have been grant-
ed control over primary education although inspection and super-
vision is still vested in the state government. In Maharashtra this function is concentrated at the district level.

On the whole the trend is towards decentralisation of the administration of primary education.

*Industries*

There is in every state usually a department of industries, concerned with industries of all kinds, large-scale as well as small-scale industries. There is also a state inspectorate of industries, an inspectorate of electricity, an inspectorate of boilers, as well as other minor departments concerned with various aspects of industrial activity.

The principal responsibility of the district administration in respect of the large-scale industries is mainly to assist in the regulatory and overseeing functions, for which the different departmental arrangements exist. These include the working conditions, the safety and health of the workers engaged in the enterprise, employer-worker relationships (for which there is usually a major department in the state) and general overseeing.

This is of course additional to those functions for which the district administration is more directly responsible, such as law and order, excise and other revenue to which a particular industry may be assessed, relief and enquiry in case of accidents. A special responsibility is also laid upon the collector, about the assessment and payment of workers' compensation for death or injury in the course of a worker's employment.

In some districts there is often a concentration of some particular small-scale industry. There are examples of this all over the country. A district may have a long-standing tradition of excellence in the manufacture of a particular kind of product. There is for instance in the district of Bulandshahr which adjoins Delhi the pottery industry at Khurja. In the district of Moradabad there is the famous brassware industry. Banaras has been famous for its silk and silk embroidery. Several districts in the country are famous for their fine textiles, both silk and cotton; such as Kanjivaram, Surat, Hyderabad, and many others. In Kerala there is a tradition of some of the finest ivory work in the world. Indeed practically every district contains one or more old established in-
districts. Unfortunately many of these languished after the industrial revolution in Europe and with the mass production of consumer goods of different kinds.

The district administration can make a valuable contribution by encouraging and assisting the revival and successful development of many of these old industries, to the economic benefit of the district. Several of the local industries which survived the discouragements of the late nineteenth and the first half of the twentieth century owed their survival and prosperity in many cases to the active interest taken by the collector or by someone else in the district administration.

Besides all this, the aim of the district administration and the effort directed to it should be to sustain rural industries in every village, as an essential and integral part of the rural economy. A village community which is not sustained by at least some industries established in the village is bound to get into an unbalanced economy and sooner or later into a state of economic distress.

When we speak of India as a predominantly agricultural country we must not forget that at a time when the rest of the world, including Britain, was comparatively backward both in agriculture as well as in industrial activity, there was in India an artisan class which pervaded the whole country. It represented many varied technical skills. The products of these skills were shipped abroad, and were in great demand in Britain and elsewhere.

The village community in India was in a state of fair economic equilibrium, because of the widespread distribution of these technical skills throughout the country, and the existence in the village or near it of craftsmen whose products matched the needs of the community. Even as late as the middle of the nineteenth century, just about a hundred years ago, and when the industrial revolution had been in full swing for several decades, with the cotton mills of Lancashire all but exterminating the textile industry of the Indian villages, agriculture occupied just about fifty-five per cent, or a little more than half of the total population. But the trend was already established, and by 1920 agriculture occupied nearly seventy-six per cent of the population.

Here we see that disastrous shift from industry to agriculture in this vast, densely-populated country. Some of the most spectacular consequences of this fatal shift were the great famines of
the late nineteenth and of the earlier twentieth century which decimated whole populations and impoverished and enfeebled the rest.

The economic unbalance resulting from the decrease in industrial activity in the villages can be remedied only by establishing again industrial production in the villages, as an integral and essential part of the village economy. It therefore lies heavily as a responsibility upon the district administration, to see that rural industry is established, that it is adequately sustained, and prospers.

The skills exist; and some of the skills which lie latent amongst the people in the village are a constant source of surprise to those accustomed to a city way of life. The more recent upsurge in the revival of handicrafts, and the increasing demand for the products of these crafts has helped to nourish and even extend some of these skills. But in the more truly utilitarian industries in the village also, the skills which are latent can be so developed and deployed as to compete with most of the factory made products which are required for consumption in the village. Cloth is one example of this; sugar is another. Our people may yet become proud again to wear, and to enjoy the feel of home-spun material; and to go over at least in part to consuming sugar in the form of gur. It would probably be all to the good, by way of a more balanced and healthful diet. Is this a vain hope?
CHAPTER 14

THE EVOLUTION OF DISTRICT ADMINISTRATION

We may conclude this study of district administration with a final and very brief reference to the way in which the district administration has evolved.

In dealing with the various topics concerning the district and its administration, I have referred at various places to the manner in which the different organisational features, the functions and the methods have developed. We have seen this in the case of the revenue, particularly the land revenue elements of the district administration, local government including the panchayat system, and various aspects of law and order. Here we may now conclude with a statement of the main stages through which the district administration as a whole has evolved, taking as our starting point the early British period.

The concept of the district as a unit of administration in India, apart from the fact that it has proved a convenient and practical mode of governance and administration, derives somewhat from the pattern of the French prefecture, with the district officer as the prefect. This relationship has been described by others, and need not be laboured further here.

The first stage during the British period was characterised by the fact that the principal representative of the East India Company in the area marked out as a district was their factor. In the earliest days of the Company, and before the Company took entirely to governing and gave up trading altogether, the factor was the Company’s trading agent. While trading on the Company’s behalf, it was not rare for the factor to do a fair amount of trading on his own account.

As the East India Company’s sway extended further and further towards and into the heartlands of the country, and also as the Company itself became the governing agency of the British Government in London, their principal representative in the district became the collector of land revenue. Trading was replaced by the levy and collection of land revenue. And since the army at the disposal of the East India Company could not be present
everywhere, and law and order had to be maintained with or without the army, the collector of the district also became the official responsible for maintaining law and order. In the process the collector became properly a civil servant of the British Government.

The third phase in the process of evolution was the total establishment in the district of the government's total presence. The district then truly came under the full governance and administration of the imperial power. The collector levied and collected the land revenue and other taxes. As district magistrate, he maintained law and order, and in doing so administered a system of justice which was, because of his own British origin, rooted in the great traditions of justice and equity which had been built up there. To assist him there was a police official, the superintendent of police, commonly known as the captain saheb, an appellation which persists to the present day. It signifies the earlier linkage of the police force with the army. Thus a senior superintendent of police would be known as the major saheb and the inspector general of police, even though he might never have served in the army, would be known as the general saheb. Many of the earlier police officers were indeed drawn from the army. This incidentally is probably one of the reasons why police organisation in India is patterned somewhat on army formations.

Then as we have seen, the need began to press itself upon the government and its agents in the districts for at least some minimal arrangements for medical attention. For without these, the government's own functionaries would be incapacitated, and fall a victim to disease. We may recall that modern medical arrangements and modern ideas of sanitation and hygiene are still comparatively new; a hundred years ago Florence Nightingale and what she stood for was a novel phenomenon, and not very welcome to the military or civil establishments of Britain.

And so, since neither the collector and magistrate, nor the police superintendent could very well undertake a doctor's work, a doctor was added to the district staff. This is the civil surgeon of the district, to distinguish him from the military organisation. But he was, like the police superintendent, also frequently drawn from the medical cadre in the military establishment. A certain degree of welfare mindedness thus came about. One somewhat odd manifestation of this was the fact that the civil surgeon was also made
the superintendent of the district jail; so also were the superintendents of the large central jails in different parts of the country appointed from the same medical cadre, the Indian Medical Service. This arrangement continued more or less throughout the British period; although towards the end of that period the jail superintendent was increasingly drawn from a new and separate departmental cadre of officers specially trained for the purpose.

Thus gradually the district administration grew into a complex apparatus: the collector and magistrate, the superintendent of jails, the civil surgeon, then the district judge, and then the executive engineer for public works; and thus on to include a district inspector of schools, a district agriculture officer, and the rest of the components of the district administration which we have already examined.

The introduction of local self-government institutions, and the new system of government introduced by the British as part of the reforms of 1919 and 1920, soon after the first world war, created a new situation, and led to a new phase in the arrangements for governance in the district, and in the functioning of the district administration. The official apparatus in the district retained its structure for most matters, including those which, under the constitutional reforms introducing dyarchy, those subjects which were more or less transferred to the charge of ministers responsible to the provincial legislatures (but responsible only in a very limited sense).

District administration under the dyarchy was called upon to function in a way somewhat different from before. A number of matters were also rendered over more fully to the charge of the local institutions of self-government, such as the district boards. These included, again in a limited way, education, health, the minor roads and works, and a few other things. Also, as an incident of the division of political powers under the system of dyarchy, the separate departmental lines began to be established more and more. One result of this was that the former overall cohesion of the district administrative apparatus began increasingly to be intermeshed with separate departmental lines, leading also in some cases to a sense of departmentalism, and working in mutual isolation.

The district administration following the reforms of 1919-20
thus came to be somewhat broken up in the method of its functioning. This second period was in many ways administratively the least satisfactory of the patterns of district administration and its functioning, especially in the spell of economic and social development.

However much one may try to separate, and to place in different departmental compartments the different administrative functions and the lines of responsibility concerning each of them, the total administration is in fact one organic whole. We have seen this characteristic of administration while considering the district administration in its component parts, and as a going concern, a dynamic whole.

In spite of the division of political and administrative powers and responsibilities under dyarchy, the residuary representation, the total presence of government as a whole continued in fact to be contained within the old apparatus of the district administration. This apparatus also provided the main line of communication between the local self-governing institutions, such as the district boards, the municipal committees, the town boards and so on, on the one hand, and the provincial government on the other. The district magistrate was also invested with certain powers of supervision, and with some minor sanctions to make his influence felt in the working of these institutions. The divisional commissioner also had somewhat larger powers, and in some cases a certain amount of effective overseeing was achieved. But, by and large, the local institutions of self-government tended to form administrative isolates within the district administration as a whole.

This situation led gradually to the collector of the district becoming increasingly the co-ordinating rather than the unifying agency for the different departmentalised and other components of the district administration. It speaks of the merit of several great district officers who are now gone, that during this period of extraordinary difficulty under the system of dyarchy, the district administration continued as a coherent and fairly well-coordinated apparatus of government in the field.

Finally we come to the present phase, since Independence.

We may consider briefly the seeming paradox of the twin features of continuity and of change which district administration presents.
When we contemplate the social and economic administration in the district one finds that great changes have been taking place since Independence. In many ways the district administration is directed towards objectives and programmes which are new and, as we have seen, quite different from those which prevailed before Independence. Consequently, there are major changes in the structure and the methods of administration.

Panchayati raj is the new vehicle of local self-government and of development in the district. The panchayati raj concept comprehends an administrative structure which covers the whole ground from the village, with its gaon sabha, nyaya panchayat and other groups, through the block level panchayat samiti, with the zilla parishad at the district apex. This is a new experiment in thorough-going local self-government, with its main orientation towards the economic development and social well-being of the people of the district. We may recall that under the pre-Independence system of district administration, there was a cut-off at the village level, in the association of the people with the administration.

The whole of the older district administrative apparatus is now related to the new objectives, and to the new structure of local self-government comprehended within panchayati raj. These involve administrative and organisational consultation and advice, servicing with technical expertise, and a general overseeing of the planning and progress of development programmes.

There has been an increasing sense of the need of the people's participation in the administrative process, in the economic and social administration of the district. This participation, although it is not exactly similar to the concept of workers' participation in the management of industrial enterprises, does however involve a real participation in the process of making decisions in the field. The new relationships which thus pervade the whole of the district administration involve also new modes of communication and lines of control and guidance; they also involve rather new concepts of accountability, and methods of rendering account. No simple organisation chart can truly demonstrate these relationships and administrative linkages.

We see thus, in respect of economic and social administration, a clear historical change, as compared with the state of things-
before Independence. In the pre-Independence era, not only were the social and economic objectives of district administration different from what they are now; there was also the circumstance, both in the district administration as well as in the government as a whole, including its higher echelons, of a fairly complete screening of the administration as a whole from the influence of public opinion and of the play of political influence and activity. As a concomitant of this state of affairs, during the very significant phases of political activity in the country over several decades which culminated in the attainment of the nation’s Independence, which was indeed the principal purpose of that political effort, the political party which has formed the government at the centre as well as in practically all the states of the Union ever since Independence, was no less effectively screened away from the administrative processes and the administrative apparatus.

The effect of that mutual screening has provided some of the major handicaps under which the new parliamentary democracy resting upon the sanction of the people and answerable to the people has had to function in the administration, both at the headquarters of the central and the state governments as well as in the field, in the district. The fundamental political changes resulting from Independence were not accompanied by any matching or equivalent substitution or changes in the former administrative apparatus. It was sometimes said, in the earlier years of Independence, that the new political wine in the old bureaucratic bottles might not work as an administratively viable system. It cannot be gainsaid however, that the great handicap resulting from the former mutual screening between the politician and the administrator has on the whole been got over with a fair degree of effectiveness and even smoothness.

Can this apparent ease be explained? It seems to me that it is due in large measure to the genius which has inspired and provided the framework and the vectors established in the Constitution of India, that the district administrative apparatus, and indeed the administrative apparatus in the other echelons of government, has continued to work; and furthermore that it has been possible increasingly to adapt the apparatus to be an effective tool in the administration of economic development and social welfare. Over large areas of its functioning, public administration in practice in-
volves the application of expertise and specialisation. It is perhaps to the credit of the content and quality of the political entities and processes in this country, and perhaps also to the structure and quality of the district administration, that the newer, and essential working relationships have been evolved effectively and with apparent ease.

The public services in India were unaccustomed in the pre-Independence period to the interlinking of the administrative system with democratic political processes. The idea is still somewhat new to the consciousness of the public services, particularly the older generation. Even now, the very concept, for instance, of election to the office of a public servant is somewhat strange in this country. We may contemplate in this context the situation in so advanced and sophisticated a democracy as is represented by the United States of America. In that country a very large number of public servants, several hundred thousands of them, are in fact elected to office. These include judges and officials responsible for administering law and order. Our administrative system, which is in large measure derived from the British, and is now ordered according to our Constitution is very different.

Nevertheless, there must inevitably be a great deal of interlinking, and inter-penetration between the administrative apparatus, function and process on the one hand and the political process, especially those parts of it which under the provisions of the Constitution represent governmental authority, as well as the people themselves whose very creature the government is, on the other. Indeed, one may say that this is imperative, if we are to have good government as well as good administration.

Here exactly are presented the most challenging opportunities for experiment in district administration and towards building up sound administrative practice. There is much scope for these, in devising organisation and method towards making the complex administrative apparatus as a whole and in its different parts properly sensitive to the feelings of the people and to their needs, and in establishing ways of effective and orderly inter-communication and healthy inter-action between the administrative apparatus and the people, for whose purposes it exists.

We have considered the feature of change since Independence; we may now briefly look at the twin feature of continuity.
We have considered the maintenance of law and order as a central function of district administration. In the organisational structure as also in the methodology for law and order, we have in the district today a system which was familiar before Independence.

This continuity is not surprising. The Constitution of India provides the ultimate frame of reference in all matters of governance, including administration. Every administrative arrangement, and every method used, particularly in the maintenance of law and order and of the security of the community as well as of the individual, must be in keeping with the Constitution. The Constitution of India lays down the principles as well as the parameters of our parliamentary democratic system of government. These principles include the rule of law, and the independence of the judiciary. These are principles which indeed were valid even before Independence, even though they might not have been always adhered to under the colonial government of the day. The great codes of law as we have seen, including the Penal Code, the Evidence Act, the Criminal Procedure Code, and also the principal Acts regulating the police administration have come down to us from the nineteenth century, indeed several of them are a hundred years old.

Thus we see the continuing character of the district administration in respect of law and order. The main responsibility for the maintenance of law and order continues to rest upon the district magistrate. The district magistrate continues to discharge this responsibility with the district police force. And in all the processes thus involved the law, both substantive as well as procedural, continues to be much the same as it was.

The Constitution lays down the principle of the separation of the judiciary from the executive. While it is a measure of one kind of change which has been taking place since Independence, namely, the progress in putting into practice this principle in the different states of the Union, the general character of the district administration in relation to law and order is one of continuity.

When we consider those components and functions of the district administration which are concerned with land records, land management and revenue, we find again that the feature of continuity is more prominent than that of change. The methods as
well as the structure of the district administration in respect of
these functions are much the same as they were before Independ-
ence.

We have seen since Independence the great changes wrought
in land tenures over large parts of the country, through legisla-
tion. A major purpose of these land reforms has been the aboli-
tion of the intermediaries between the tiller of the soil and the
state, to put an end to the old system of landholders. These and
other changes are bringing about fundamental changes in the
agricultural economy. But through all these changes, the district
collector continues, with his staffs, responsible for the mainten-
ance of the land records and is the main agency for revenue
administration in the district.

The district administration has now evolved into a fairly clear
establishment, conforming to the total purpose and apparatus of
government in the district. The purpose is three-fold: the main-
tenance of law and order, the revenue administration, and the
development activities for the economic and social advancement
of the people of the district.

How has this come about and why should it be so? The reasons
appear to be partly historical, partly logical, and partly also prag-
matic. This appears to be a fair conclusion from what we have
seen of the way in which the district administration in India be-
gan, how it has worked in different circumstances, and the ways
in which it has evolved from its early beginnings, to its present
form and structure and methods of working for the specific pur-
poses which we have considered.

There is nothing sacrosanct about any particular arrangement
or organisation in the administration or management of public
affairs, any more than, say, in industrial management. The parti-
cular form of district administration which we have in India has
in its essential features stood the test of time, and continues to
work perhaps as well as any other system that one might devise.
It also appears likely that, as a viable organisation, it will con-
tinue to work. In this apparatus of district administration, the
central, pivotal point is the collector of the district. This has been
so for many decades, and it is so today. Over the foreseeable
future also, the collector appears likely to be called upon to pro-
vide, for convenience of administration as much as for anything
else, the central pivot of the district apparatus.

The district administration provides the principal points of contact between the citizen and the processes of government, and is truly the cutting edge of the tool of public administration. In the development of this tool, and in any changes that may be brought about in order to suit it to the changes and to the changing purposes of administration, it must maintain one essentially continuous feature, namely, a rigorous adherence to the principles of sound government and of sound administration. The governing parameters for both these are to be found in the Constitution.

It is an interesting exercise in research, to compare other patterns of field administration, which exist elsewhere, with the form of district administration in India. As we have seen earlier, there is scope for trial and experiment in organisation and method. By and large, however, it will appear that the particular overall pattern of district administration as it has evolved to the present is probably the most convenient one for our circumstances. It has the great merit of containing within itself certain built-in safeguards against too much disruption, or too much adventurism; it has provided a vehicle, a mode of government in the field, which has enabled in the past, and will probably enable in the future, different political textures within which the country's governance is contained, to operate in the field viably and coherently.
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**CONVERSION TABLE**

<table>
<thead>
<tr>
<th>Conversion</th>
<th>Equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 inch</td>
<td>2.5 cm</td>
</tr>
<tr>
<td>1 foot</td>
<td>0.3 m</td>
</tr>
<tr>
<td>1 mile</td>
<td>1.61 km</td>
</tr>
<tr>
<td>1 metre</td>
<td>39.4 in</td>
</tr>
<tr>
<td>1 kilometre</td>
<td>0.62 mi</td>
</tr>
<tr>
<td></td>
<td>1094 yd</td>
</tr>
<tr>
<td>1 acre</td>
<td>0.4 ha</td>
</tr>
<tr>
<td>1 square mile</td>
<td>2.6 ha</td>
</tr>
<tr>
<td>1 hectare</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>1 ton (2240 lbs)</td>
<td>1016 kg</td>
</tr>
<tr>
<td>1 metric tonne (1000 kilograms)</td>
<td>0.9 ton (2208 lbs.)</td>
</tr>
<tr>
<td>1 seer</td>
<td>0.9 kg</td>
</tr>
<tr>
<td>1 maund (40 seers)</td>
<td>37.3 kg</td>
</tr>
</tbody>
</table>
GLOSSARY OF TERMS USED IN THIS BOOK

_Begar:_ Forced labour; a levy formerly made by the landholder for personal services to be rendered by his tenant. Begar was expressly forbidden, during the course of tenancy reform.

_Bhumidari:_ The new designation established by the land reforms legislation since Independence, to define the right of the peasant proprietor in his land. Bhumidar = peasant proprietor.

_Block:_ A term used to mark out a compact group of villages, often about 100 villages, to form a unit for community development or agricultural extension programmes.

_Chowkidar:_ Village watchman.

_Crore:_ Ten million.

_District:_ A geographical area demarcated for administrative purposes.

_Harijan:_ Formerly a member of the so-called lower castes, or “untouchables”. Untouchability has been abolished after Independence, and its practice is now punishable as a criminal offence. The Constitution classifies these underprivileged communities as scheduled castes or scheduled tribes, with legal provision for the protection and advancement of their interests.

_Kanungo:_ A field official of the land revenue administration, under a tahsildar.

_Khasra:_ One of the primary annual land records. It contains details of all the village lands, identifying every plot with a corresponding number in the village map; its area, description of the soil and other physical characteristics; the crops grown each season on each plot; and names of the tenants or other occupiers.

_Khatauni:_ Another primary annual land record. The register of rights of each holding, with details of the plots in each holding, and the rent.

_Khewat:_ The record of proprietary, or landholders’ rights, describing the share of each, and other details.

_Lambardar:_ A landholder appointed partly through election by all the co-sharers, usually with a special responsibility for the land revenue.

_Lekhpal:_ Literally, a writer: the village patwari.
Lakh: One hundred thousand.

Nyaya Panchayat: A village panchayat which tries petty cases, criminal and civil.

Nazul: Land belonging to government, managed through the district collector or a local self-governing body such as a municipal board.

Patel: A field official of the revenue administration.

Patwari: The keeper of the village land records.

Panchayat: Literally, a council of five. An ancient concept, deeply rooted and constantly used as a device for settling local or community affairs.

Pradhan: Chief, leader, chairman, headman.

Panchayat Samiti: A term introduced in the system of panchayati raj, to designate the corporate body at the block level.

Panchayati raj: A new system being introduced in the States of the Union, constructed upon the concept of the peoples' local self-government in the district.

Sarvodaya: A theory or concept of total government by the people, starting with primary units at the village or equivalent level; and radically different from the concept of a central power delegated or distributed downwards.

Sub-division: One of the administrative units into which a district is geographically divided, containing usually one, sometimes two tahsils. (The term is also used for functional sub-divisions in some departments, such as public works and irrigation). Usually resident at the district headquarters.

SDO: A sub-divisional officer in charge of a sub-division.

SDM: A sub-divisional magistrate, in charge of the criminal administration of a sub-division. The office of S.D.O. and S.D.M. is usually combined.

Siaha: The register in which payments of rent are recorded by the patwari.

Tahsil: A portion of a district divided off for purposes of land records, revenue, and land reforms administration.
**APPENDIXES**

*Tahsildar:* The officer in charge of the tahsil, resident at the tahsil headquarters.

*Talukdar:* A large landholder; particularly the former “barons of Oudh”.

*Takavi:* Loans to agriculturists given by the government through the collector, for farming needs, improvements on the land, and relief of distress.

*Wajb-ul-arz:* The record of village custom and practice, having the force of law except in case of conflict with statutory law.

*Zilla parishad:* A term introduced in the system of panchayati raj, to designate the corporate body for the whole district, replacing the former district board.

*Zilla pramukh:* The chairman or president of the zilla parishad.

*Zamindar:* Landholder.
SOME STATISTICS

(These figures have been derived from various published sources, including statistics published by the Government of India)

Total area, India: about 1,300,000 sq. miles or 820 million acres

Cultivated area: about 330 million acres or 40% of total area
(Of the cultivated area, just over one-fifth, or 20% is irrigated).

Number of Districts: 331
Number of villages: about 500,000

POPULATION

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(in millions)</td>
<td>361</td>
<td>397</td>
<td>439</td>
<td>492</td>
</tr>
</tbody>
</table>

Density per sq. mile (in 1961): 380
Rural population as percentage of total population (in 1961): 82 per cent

GROWTH RATE

(decennial) per cent increase since previous census.

<table>
<thead>
<tr>
<th>Census year:</th>
<th>1911</th>
<th>1921</th>
<th>1931</th>
<th>1941</th>
<th>1951</th>
<th>1961</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5.7</td>
<td>0.3</td>
<td>11</td>
<td>14.2</td>
<td>13.3</td>
<td>21.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>per capita income per year:</td>
<td>Rs. 284</td>
<td>Rs. 306</td>
<td>Rs. 326</td>
<td>Rs. 385</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Irrigated area:</th>
<th>(million hectares)</th>
<th>20.8</th>
<th>22.7</th>
<th>28.3</th>
<th>36.4</th>
</tr>
</thead>
</table>

Cultivable area per capita: about 1 acre.
Net area sown per capita: about .8 acre.
Percentage of area irrigated to area sown: about 18 per cent.
(Individual states range from 41 per cent in the case of Madras and Punjab, 25 to 30 per cent in Andhra Pradesh, Bihar and Uttar Pradesh, to less than 10 per cent in the other states).
## APPENDIXES

### PRODUCTION INDEXES

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Agricultural (1949-50 = 100)</td>
<td>96</td>
<td>117</td>
<td>140</td>
<td>176</td>
</tr>
<tr>
<td>2. Industrial (1950-51 = 100)</td>
<td>100</td>
<td>134</td>
<td>194</td>
<td>329</td>
</tr>
<tr>
<td>3. Foodgrains produced (million tons)</td>
<td>51</td>
<td>67</td>
<td>81</td>
<td>102</td>
</tr>
<tr>
<td>4. Productivity index (1949-50 = 100)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Foodgrains Non-food</td>
<td>92</td>
<td>103</td>
<td>118</td>
<td>117</td>
</tr>
</tbody>
</table>

### CONSUMPTION

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Per capita calories per day</td>
<td>1,800</td>
<td>1,950</td>
<td>2,100</td>
<td>2,300</td>
</tr>
</tbody>
</table>

### EDUCATION

Children at school, in 1961, as percentages of total in each age group:

<table>
<thead>
<tr>
<th></th>
<th>6-11 years</th>
<th>11-14 years</th>
<th>14-17 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>62</td>
<td>24</td>
<td>11</td>
</tr>
<tr>
<td>Boys</td>
<td>81</td>
<td>36</td>
<td>18</td>
</tr>
<tr>
<td>Girls</td>
<td>42</td>
<td>12</td>
<td>4</td>
</tr>
</tbody>
</table>

### INCOME

(general, Rs. crores)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Income</td>
<td>4,890</td>
<td>4,520</td>
<td>6,900</td>
<td>6,850</td>
</tr>
<tr>
<td>Percentage of Agricultural Income to total National Income</td>
<td>51.3%</td>
<td>45.3%</td>
<td>48.7%</td>
<td>46.8%</td>
</tr>
<tr>
<td>Total National Income</td>
<td>9,530</td>
<td>9,980</td>
<td>14,160</td>
<td>14,630</td>
</tr>
</tbody>
</table>
### WORKING FORCE

<table>
<thead>
<tr>
<th>(millions)</th>
<th>140</th>
<th>188</th>
</tr>
</thead>
<tbody>
<tr>
<td>of which Agricultural Workers</td>
<td>97</td>
<td>131</td>
</tr>
</tbody>
</table>

### EXPECTATION OF LIFE AT BIRTH

<table>
<thead>
<tr>
<th></th>
<th>1901-11</th>
<th>1911-21</th>
<th>1921-31</th>
<th>1931-41</th>
<th>1941-51</th>
<th>1951-61</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>23.3</td>
<td>20.9</td>
<td>26.6</td>
<td>31.4</td>
<td>31.7</td>
<td>45</td>
</tr>
</tbody>
</table>

### HEALTH SERVICES

For each 100,000 of population in 1962, approximately:
- Hospitals: 1
- Dispensaries: 2.30
- Hospital beds: 45
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Indian Penal Code.
Code of Criminal Procedure.
Civil Procedure Code.
Indian Evidence Act.
Police Acts
Zemindari Abolition Act.
Land Reforms Act.
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