

**THE SADAR DEWANI AND NIZAMAT ADALAT FOR THE  
WESTERN PROVINCES**

In a despatch of the 9th November 1814<sup>1</sup>, the Directors had suggested the desirability of a separate Sadar Dewani Adalat, but they failed to make it clear whether they envisaged the formation of two separate Courts at the Presidency, each with its own judges, or the establishment of a second Sadar Court in the Western Provinces. A visit to those provinces by the Governor General, Lord Hastings, in 1815 convinced him of the expediency of constituting a separate Sadar Court more accessible to the local population, and in the same year both James Stuart, a judge of the Court, and Courtney Smith, at that time one of the judges of the Provincial Court of Appeal at Benares, strongly advocated the establishment of a second Court<sup>2</sup>. The matter however remained in abeyance until 1827 when the Bengal Government, in response to a reminder from the Directors that their despatch of November 1814 had remained unanswered, expressed itself unequivocally in favour of the establishment of a Sadar Court in the Western Provinces.<sup>3</sup> There were two main reasons. In the first place the fact that the existing Court was over a thousand miles from the more distant parts of the Presidency was itself a cause of hardship and expense to the civil litigant and of unnecessary delay in the disposal of criminal references by the Nizamut Adalat; and, secondly, the plan would afford substantial relief to the overburdened Court in Calcutta<sup>a</sup>. But by this time the shortcomings of the Cornwallis system had become manifest and the need for extensive change was recognised. Proposals for reform included the transfer of the criminal work done by the circuit judges to Commissioners of Revenue and Circuit, the abolition of the provincial courts of appeal and the transfer of the appellate work of those courts to the Sadar Dewani Adalat<sup>b</sup>. These proposals

1. Judl. Letter to Bengal, 9th November 1814, para. 66.

2. Judl. Letter from Bengal, 22 Feb. 1827, paras. 110-112; P.P., 1831-32, vol. XII, 235.

3. Crim. J.C. (W.P.), 19 Jan. 1827, no. 35, P/138/37; Judl. Letter from Bengal, 22 Feb. 1827, para. 114.

*a* The Government also wished to be relieved of the burden of having to act as the final judicial authority in those areas (which included the Saugor and Nerbudda Territories and Delhi District) to which the Court's jurisdiction had not been extended: Crim. J.C. (W.P.), 19 Jan. 1827, no. 35, P/138/37.

*b* These proposals were shortly to become law. Commissioners of Revenue and Circuit were appointed in 1829 and the powers of the judges of the six provincial courts as judges of circuit were abolished: Regn. 1 of 1829. Regn. 5 of 1831 provided that on its introduction in a zillah or city the jurisdiction of the local civil judge was extended to all suits of whatever value, and that of the provincial court of appeal ceased. When the Regulation had been introduced in all districts within the local jurisdiction of a provincial court

reinforced the argument in favour of a second Sadar Court, for not only would the number of civil appeals to the highest court be increased but the Sadar Dewani Adalat would become directly responsible for the general superintendence of the subordinate civil courts, a duty which until then had been mainly performed by the provincial courts. It was also urged that the replacement of the judges of circuit by commissioners would make even more necessary the close superintendence over the subordinate courts exercised by the Nizam Adalat, a supervisory power which, it was said, could not effectively be exercised over the entire territory by a court sitting in Calcutta<sup>c</sup>.

The majority of the judges were opposed to the suggested abolition of the provincial courts of appeal and remained unconvinced of the need for a second Sadar Court. They considered that a more satisfactory solution would be to increase the number of the judges of the existing Court. Sealy and Blunt (who had been an officiating judge) were in favour of the establishment of a second Court but not at the expense of the abolition of the provincial courts of appeal. The other judges took a different view. Judge Ross attached no weight to the fact that the proposed new court would be more accessible to the public. He did not consider that the attendance of the parties was necessary at the hearing of an appeal or gave any advantage which was not otherwise obtainable; if it did then justice could not be equally administered without placing the Sadar Court within the equal reach of every person subject to its jurisdiction<sup>d</sup>. The majority of the judges considered that so close was the connection in the Indian mind between judicial and executive authority that a court of last resort situated elsewhere than at the seat of Government would not be looked up to with that respect and confidence which was essential: such a court would be, in the Chief Judge's phrase, "a thing out of nature"<sup>4</sup>. In Judge Rattray's view the confidence with which the existing Court was regarded was due in large part to "its being fixed in the capital and holding its sittings under the eye of the Supreme Government"<sup>5</sup>, and accordingly however well the business of a mofussil court might be conducted the native community would never look upon the judges as other than subordinate officials.

of appeal the Governor General in Council was empowered to abolish the appellate court, the pending business being transferred to the Sadar Dewani Adalat: Regn. 2 of 1833, ss. 4, 5.

<sup>c</sup> "Under the former arrangements, the defects or omissions of one judge of circuit were in some degree neutralised or amended by his colleagues; while it is one of the disadvantages of the new system, that any deficiency in a commissioner cannot be so readily corrected": Butterworth Bayley's Minute of the 5th November 1829: Sel. Ctte Rep., P.P., 1831-32, vol. XII, at p. 452.

<sup>d</sup> Minute, n.d., *ibid.*, at p. 459. If the judges sitting in appeal confined themselves to the record of the proceedings there was, in the opinion of James Mill, no occasion for the attendance of the parties or witnesses "and the distance of the appellate court from the abode of the parties is therefore a matter of indifference". Evidence, *ibid.*, at p. 122.

4. Minute, n.d., Sel. Ctte Rep., P.P. 1831-32, vol. XII, at p. 455.

5. Minute, 16 Dec. 1829, *ibid.*, at p. 487.

The Court's objections were of no avail, and on the 1st January 1832 the Sadar Dewani and Nizamat Adalat for the Western Provinces, was established at Allahabad<sup>e</sup>. The civil and criminal divisions of the Court, the Sadar Dewani Adalat and the Nizamat Adalat, had within the territories subject to their jurisdiction the same powers and duties as the Sadar Dewani Adalat and Nizamat Adalat at Calcutta. The Court exercised jurisdiction over the province of Benares and the Ceded and Conquered Provinces<sup>f</sup>. The Nizamat Adalat also had jurisdiction over the province of Kumaon and the Saugor and Nerbudda Territories<sup>g</sup>. In 1832 the administration of civil and criminal justice, and of the police, in the Delhi territory was vested in the Court<sup>h</sup>.

The new Court retained certain links with the Court at Calcutta. If only one judge of the new Court was available or if there were only two judges and they were not in agreement on a matter which required the concurring opinion of two judges, the question was to be referred to a judge of the Calcutta Court<sup>i</sup>; and in order to avoid the law being differently interpreted by the two courts (the fear of which had been expressed by objectors to a second court) the Government had directed that the two Courts should consult each other on points of difficulty, and that in the event of a question of law arising upon which they were unable to agree it should be referred to the Government for decision<sup>b</sup>.

In 1832 the administration of civil and criminal justice in the Delhi Territory was also vested in the Allahabad Court<sup>i</sup>.

<sup>e</sup> Regn. 6 of 1831, s.3. The Court was allotted the building formerly used by the Central Board of Revenue, but held its first sitting, on the 7th March 1832, in the house of one of the judges as the courtroom was not ready. It had no copies of the regulations or reports and it was not until June that it was authorised to purchase the law books it required: Civ. J.C. (W.P.), 6 Dec. 1831, no. 5; 20 Mar. 1832, no. 3; 26 June 1832, no. 1: P/151/69, 77, 77.

<sup>f</sup> The districts within the Court's civil and criminal jurisdiction were those which constituted Divisions 1 to 9 described in s. 3 of Regn. 1 of 1829. Over these districts the jurisdiction of the Sadar Dewani and Nizamat Adalat at Calcutta was formally rescinded, and that Court's criminal jurisdiction over the province of Kumaon was transferred to the new Court. Regn. 6 of 1831, ss. 2, 6 and 9.

6. Regn. 6 of 1831, s. 10.

7. Regn. 5 of 1832, s. 2.

<sup>g</sup> Regn. 6 of 1831, s. 7(1). The judge to whom the question was referred could record his judgment without requiring the attendance of the parties or their vakils: *ibid.*, s. 7(2).

<sup>h</sup> Civ. J.C. (W.P.), 6 Dec. 1831, no. 5, P/151/69. Such references seem to have been very rare, but one did occur in 1833: Civ. J.C. (W.P.), 12 Apr. 1833, nos. 3 and 4, P/151/83.

<sup>i</sup> Regn. 5 of 1832. The Delhi Territory consisted of the City of Delhi and adjacent territory on the right bank of the Yamuna, the revenues of which had been assigned to the Mogul Emperor, Shah Alam. The Regulations were not, at this time, extended to the Territory. Civil and criminal courts had however been established, and the Commissioner of the Territory and the officers under him were directed to conform to the principles and spirit of the Regulations: Regn. 5 of 1832, s. 3; Crim. J.C. (W.P.), 2 Sep. 1833, no. 16, P/140/42.

**JUDGES**  
of the  
**SADAR DEWANI AND NIZAMAT ADALAT AT ALLAHABAD**  
**1882—1834**

	<i>Season of appoint- ment to the Ser- vice</i>	<i>Age on appoint- ment as Judge</i>	<i>Service as Judge</i>	<i>Office held on appointment</i>
1. Cudbert Sealy			1832—1837	Judge, Sadar Court, Calcutta.
2. Montague Henry Turnbull			1832—1840	Judge, Sadar Court, Calcutta
3. Alexander John Colvin	1804	46	1832—1839	Judge and Magistrate, Allahabad
4. Walter Ewer	1801	46	1833—1839	Commissioner of Re- venue and Circuit, 10th (Sarun) Division
5. William Lambert	1804	44	1833—1841	Commissioner of Re- venue and Circuit, 12th (Patna) Division
6. William Fleming Dick	1804	45	1833—1838	Magistrate and Collec- tor, Agra

