

PREFACE

In 1858, when the East India Company's rule in India came to an end, the courts which the Company had established in the Presidencies of Bengal, Madras and Bombay exercised jurisdiction over some 95 million people dispersed over an area one fifth the size of Europe. In each Presidency the Company had created a hierarchy of courts at the head of which was the chief or Sadar Court. In its early days a Sadar Court was the Presidency Government in judicial guise, for the members of the Presidency Council were the judges of the Court. Then, at the beginning of the 19th century, a far-reaching change was made. Save for a partial exception in Madras and Bombay, members of Council were replaced as judges of the Sadar Courts by civil servants. Although the latter were employees of the Company they sought from the first, in the terms of their judicial oath, to administer justice without fear, favour, promise or hope of reward. The successful administration of justice by men without formal legal training and on so great a scale seems to deserve more attention than it has so far received.

The constitutional history of the Sadar Courts, the judges of those courts and how they conducted their judicial business, the nature and extent of their administrative duties and their relations with the Company, are the subject of this enquiry. The period reviewed is from the end of the 18th century to 1834 when the Charter Act of the previous year came into force. The account is factual, the object is the modest one of adding to the foundations upon which the legal historian can build.

References to the early Regulations made by the Governments of the three Presidencies and to the records of their proceedings preserved in the India Office Library and Records are numerous but unavoidable. In order to lighten the burden on the reader those footnotes which are linked to a statement in the text by a small numeral contain, and contain only, a reference to the authority for that statement and may therefore be ignored unless such authority is sought for. The authority for a proceeding or consultation includes, at the suggestion of Mr J.B. Harrison, a note of the volume in the India Office Library in which it is to be found.

I am greatly indebted to many friends for advice and help, especially to Mr J.B. Harrison and Mr A.S. Cook for their assistance in the preparation of the maps and to Lord Denning for the Foreword he has been kind enough to contribute. I have received much assistance from the officials of a number of libraries, and in particular I would like to thank the Director of the India Office Library and Records, the Librarians of the Privy Council, the Inner Temple and the Middle Temple Libraries, and the staff of those Libraries, for their unfailing courtesy and help. And I am especially indebted

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