

V. THE GOVERNMENT OF INDIA ACT OF 1800.

(39 and 40 Geo. III, C. 79).

An Act for establishing further Regulations for the Government of the British Territories in India, and the better Administration of Justice within the same. (28th July, 1800).

I. * * * Be it enacted * * * that, from and after the passing of this Act, it shall and may be lawful for the Court of Directors of the said Company for the time being, to declare and appoint what part or parts of the said territorial acquisitions, or of any other now subject to the Government of the said Presidency of Fort Saint George, or the said Presidency of Bombay, together with the revenues arising therefrom, and the establishment of Civil Servants connected therewith respectively, shall from thenceforth hereafter be subject to the Government of either and which of the said Presidencies, or of the Presidency of Fort William in Bengal, and from time to time, as occasion may require, to revoke or alter in the whole or in part such appointment, and to make such new distribution of the same as to them shall seem fit and expedient, subject nevertheless, in all cases, to the Superintendence, Direction, and Control of the Commissioners of India, in like manner as any Acts or Orders of the said Court of Directors are now by law subject; and all such territorial acquisitions, and the Revenues arising therefrom, and the establishment of Civil Servants connected herewith, shall, from and after the time, and subject as to such time to the conditions and limitations, to be by the said Court of Directors limited and appointed for such purposes respectively, be to all intents and purposes whatsoever, annexed to and made subject to such Presidency and to the Court or Courts of Judicature established or to be established therein respectively.

II. * * * Be it enacted that it shall and may be lawful for His Majesty, His Heirs and Successors, by Charter or Letters Patent under the Great Seal of Great Britain, to erect and establish a Supreme Court of Judicature at Madras aforesaid, to consist of such and the like number of persons, to be named from time to time by His Majesty, His Heirs and Successors, with full power to exercise such Civil, Criminal, Admiralty and Ecclesiastical jurisdictions, both as to Natives and British subjects, and to be invested with such powers and

authorities, privileges and immunities, for the better administrations of the same, and subject to the same limitations, restriction, and control within the said Fort Saint George and Town of Madras, and the limits thereof, and the factories subordinate thereto, and within which now are or hereafter may be subject to or dependent upon the said Government of Madras, as the said Supreme Court of Judicature at Fort William in Bengal, by virtue of any law now in force and unrepealed, or by this present Act, does consist of, is invested with, or subject to, within the said Fort William, or kingdoms of Provinces of Bengal, Behar and Orissa.

III. Provided always that the Governor and Council at Madras and the Governor-General of Fort William aforesaid, shall enjoy the same exemption, and no other, from the authority of the said Supreme Court of Judicature to be there erected, as is enjoyed by the said Governor-General and Council at Fort William aforesaid, from the jurisdiction of the Supreme Court of Judicature there already by law established.

XII. And be it further enacted, that if the Governor-General of Fort William in Bengal for the time being, or the Governor of the said Presidency of Fort Saint George, and of the said Presidency and island of Bombay respectively for the time being, shall happen to be absent from any Council to be assembled for the said respective Presidencies * * owing to indisposition or any other cause whatever, and shall signify such his intended absence to such Council, to be assembled, then and in every such case the senior Member for the time being who shall be present at the Council so assembled, shall preside at such Council, in such manner, and with such full powers and authorities, during the time that such Council shall continue to be assembled, as such Governor-General or Governor might or would have had in case such Governor-General or Governor were himself actually present at such Council: Provided nevertheless, that no Act of any Council so held shall be valid to any effect whatsoever, unless the same shall be signed by such Governor-General or Governor respectively, if such Governor-General or Governor shall at the time be resident at the Presidency at which such Council shall be so assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that, in case such Governor-General or Governor, not being so prevented as aforesaid, shall decline or refuse to sign such Act of Council, he and the several Members of the Council who shall have

signed the same, shall mutually exchange with and communicate in writing to each other the Grounds and Reasons of their respective opinions, in like manner, and subject to such Regulations and ultimate responsibility of such Governor-General or Governor respectively, as are by the said Act passed in the thirty-third year of the reign of His present Majesty, provided and directed in cases where such Governor-General or Governor respectively shall, when present, dissent from any measure proposed or agitated in such Council respectively; Provided also, that nothing herein contained shall be taken or construed to prevent such Governor-General, in case he shall be absent from his own Government of Bengal, to nominate a Vice-President and Deputy Governor of Fort William, according to the Provision for that purpose in the said Act passed in the thirty-third year of His present Majesty.

20. And whereas the Province or District of Benares has been ceded to the said United Company, and been annexed to the said Presidency of Fort William in Bengal, since the establishment of the said Supreme Court of Judicature, at Fort William aforesaid, and it is expedient that the same should be subject to the jurisdiction of the said Court, in like manner as the kingdoms or Provinces of Bengal, Behar and Orissa, and that the said Province or District, and all other Provinces or Districts, which may hereafter be at any time annexed and made subject to the said Presidency, should be subject to such Regulations as the Governor-General and Council of Fort William aforesaid have framed or may frame for the better Administration of Justice among the native inhabitants and others within the same respectively; be it, therefore, further enacted, That (from March 1, 1801) the power and authority of the said Supreme Court of Judicature in and for the said Presidency of Fort William aforesaid, as now and by virtue of this Act established, and all such Regulations as have been or may be hereafter, according to the powers and authorities, and subject to the provisions and restrictions before enacted, framed and provided, shall extend to and over the said Province or District of Benares, and to and over all the Factories, Districts and Places, which now are or hereafter shall be made subordinate thereto, and to and over all such Provinces and Districts as may at any time hereafter be annexed and made subject to the said Presidency of Fort William aforesaid.

VI. THE INDIAN BISHOPS AND COURTS ACT OF 1823.

(4, Geo. IV. C. 71).

VII. And whereas His late Majesty King George the Second did by His Letters Patent bearing date at Letters Patent Jan. 26. 26 G. 2. Westminster the eighth day of January in the twenty sixth year of His reign, grant unto the United Company of Merchants of England trading to the East Indies His Royal Charter, thereby, amongst other things constituting and establishing Courts of Civil, Criminal and Ecclesiastical Jurisdiction at the United Company's respective settlements at Madraspatam, Bombay or the Island of Bombay and Fort William in Bengal; And whereas the said Charter, in as far as it represents the Administration of Justice at Bombay, has been altered and changed by virtue of an Act passed in the thirty seventh year of His late Majesty King George the Third, intituled an Act for the better Administration of Justice at Calcutta, Madras and Bombay; and for preventing British subjects from being concerned in loans to native Princes in India; and by Letters Patent granted by His said late Majesty King George the Third, and bearing date at Westminster on the Twentieth day of February in the thirty eighth year of His reign, amongst other things, for the establishment of a Court called "The Court of the Recorder of Bombay." And whereas the said Charter of the eighth day of January in the Twenty sixth year of the reign of His Majesty King George the Second, so far as it respects the Administration of Justice at Fort William in Bengal has been altered and changed by virtue of an Act passed in the thirteenth year of His said late Majesty King George the Third, intituled an Act for establishing certain Regulations for the better Management of the affairs of the East India Company, as well in India as in Europe, and by divers subsequent statutes; And whereas the said last mentioned Charter so far as it respects the Administration of Justice at Madras, has been altered or changed by virtue of the said Act of the thirty seventh year of His said late Majesty King George the Third and also by an Act of the Thirty Ninth and Fortieth years of His said late Majesty, intituled an Act for establishing certain Regulations for the Government of the British territories in India, and the better Administration of Justice within the same; And whereas it may be expedient, for the better Administration of Justice in the said settlement of Bombay, that a Supreme Court of Judicature

should be established in Bombay in the same form and with the same Powers and Authorities as that now subsisting by virtue of the several Acts before mentioned at Fort William in Bengal, Be it, therefore, enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Charter or Letters Patent under the Great Seal of Great Britain, to erect and establish a Supreme Court of Judicature at Bombay aforesaid, to consist of such and the like number of Persons, to be named from time to time by His Majesty, His Heirs, and Successors, with full power to exercise such Civil, Criminal, Admiralty and Ecclesiastical Jurisdiction both as to Natives and British Subjects, and to be invested with such Powers and Authorities, Privileges and Immunities, for the better Administration of the same, and subject to the same Limitations, Restrictions and Controul, within the said Town and Island of Bombay, and the Limits thereof, and the Territories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the said Government of Bombay, as the said Supreme Court of Judicature at Fort William in Bengal, by virtue of any Law now in force and unrepealed doth consist of, is invested with, or subject to within the said Fort William, or the Places subject to or dependent on the Government thereof: Provided always, that the Governor and Council at Bombay, and the Governor-General at Fort William aforesaid, shall enjoy the same exemption and no other from the Authority of the said Supreme Court of Judicature to be there elected, as is enjoyed by the said Governor-General and Council at Fort William aforesaid for the Time being from the Jurisdiction of the Supreme Court of Judicature there already by Law established.

XVII. And be it further declared and enacted, That it hath been and is and shall be lawful for the Supreme Court of Judicature at Madras, within Fort Saint George and the town of Madras and the Limits thereof, and the Factories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the Government of Madras; and that it shall be lawful for the said Supreme Court of Judicature at Bombay, to be created by virtue of this Act, within the said Town and Island of Bombay and the Limits thereof, and the Factories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the said Government of Bombay; and the said

Supreme Courts respectively are hereby required, within the same respectively to do, execute, perform^d and fulfil all such Acts, Authorities, Duties, Matters and Things whatsoever, as the said Supreme Court of Fort William is or may be lawfully authorized, empowered or directed to execute, perform and fulfil within Fort William in Bengal aforesaid, or the Places subject to or dependent upon the Government thereof,

VII. THE CHARTER ACT OF 1833.

(3 and 4 Will. IV, C. 85.)

A.

AN ACT FOR EFFECTING AN ARRANGEMENT WITH THE EAST INDIA COMPANY, AND FOR THE BETTER GOVERNMENT OF HIS MAJESTY'S INDIAN TERRITORIES, TILL THE THIRTIETH DAY OF APRIL ONE THOUSAND EIGHT HUNDRED AND FIFTY-FOUR.

19. And be it enacted, That it shall and may be lawful for His Majesty by any Letters Patent or by any Commission or Commissions to be issued under the Great Seal of *Great Britain* from Time to Time to nominate, constitute, and appoint, during Pleasure, such persons as His Majesty shall think fit to be, and who shall accordingly be and be styled Commissioners for the Affairs of *India*; and every Enactment, Provision, Matter, and Thing relating to the Commissioners for the Affairs of *India* in any other Act or Acts contained, so far as the same are in force and not repealed by or repugnant to this Act, shall be deemed and taken to be applicable to the Commissioners to be nominated as aforesaid.

20. And be it enacted, That the Lord President of the Council, the Lord Privy Seal, the First Lord of the Treasury, the Principal Secretaries of State, the Chancellor of the Exchequer for the time being shall, by virtue of their respective Offices, be and they are hereby declared to be Commissioners for the Affairs of *India*, in conjunction with the Persons to be nominated in any such Commission as aforesaid, and they shall have the same Powers respectively as if they had been expressly nominated in such Commission, in the

His Majesty may appoint Commissioners for the affairs of India.

Ex-officio Commissioners.

Order in which they are herein mentioned, next after the Commissioner first named therein.

21. And be it enacted, That any Two or more of the said Commissioners shall and may form a Board for executing the several Powers which, by this Act, or by any other Act or Acts, are or shall be given to or vested in the Commissioners for the Affairs of India; and that the Commissioner first named in any such Letters Patent or Commission, for the time being, shall be the President of the said Board; and that when any Board shall be formed in the Absence of the President, the Commissioner next in order of nomination in this Act or in the said Commission, of those who shall be present, shall for that Turn preside at the said Board.

Two Commissioners may form a Board; Who shall be President.

22. And be it enacted, That if the Commissioners present at any Board shall be equally divided in Opinion with respect to any matter by them discussed, then and on every such occasion the President, or in his Absence the Commissioner acting as such, shall have Two Voices or the casting Vote.

President to have the casting Vote.

25. And be it enacted, That the said Board shall have and be invested with full Power and Authority to superintend, direct, and control all Acts, Operations, and Concerns of the said Company which in anywise relate to or concern the Government or Revenues of the said Territories, or the Property hereby vested in the said Company in Trust as aforesaid, and all Grants of Salaries, Gratuities, and Allowances, and all other Payments and Charges whatever, out of or upon the said Revenues and Property respectively, except as herein-after is mentioned.

The Board to control all acts concerning India, and the sale of property.

35. And be it enacted, That the said Court of Directors shall from Time to Time appoint a Secret Committee, to consist of any Number not exceeding Three of the said Directors, for the particular purposes in this Act specified; which said Directors so appointed shall, before they or any of them shall act in the Execution of the Powers and Trusts hereby reposed in them, take an Oath of the Tenor following; (that is to say), "I (A.B.) do swear, That I will,

Directors to appoint a Secret Committee, who shall take oath.

according to the best of my Skill and Judgment, faithfully execute the several Trusts and Powers reposed in me as a Member of the Secret Committee appointed by the Court of Directors of the *India* Company ; I will not disclose or make known any of the secret Orders, Instructions, Dispatches, Official Letters or Communications which shall be sent or given to me by the Commissioners for the Affairs of *India*, save only to the other Members of the said Secret Committee, or to the Person or Persons who shall be duly nominated and employed in transcribing or preparing the same respectively, unless I shall be authorized by the said Commissioners to disclose and make known the same. So help me God."

Which said Oath shall and may be administered by the several and respective Members of the said Secret Committee to each other ; and, being so by them taken and subscribed, shall be recorded by the Secretary or Deputy Secretary of the said Court of Directors for the Time being amongst the Acts of the said Court.

36. Provided also, and be it enacted, That if the said Board shall be of opinion that the Subject Matter of any of their Deliberations concerning the levying War or making Peace, or treating or negotiating with any of the Native Princes or States in India, or with any other Princes or States, or touching the Policy to be observed with respect to such Princes or States, intended to be communicated in Orders, Dispatches, Official Letters or Communications, to any of the Governments or Presidencies in India, or to any Officers or Servants of the said Company, shall be of a nature to require Secrecy, it shall and may be lawful for the said Board to send their Orders, Dispatches, Official Letters or Communications, to the Secret Committee of the said Court of Directors to be appointed as is by this Act directed, who shall thereupon, without disclosing the same, transmit the same according to the Tenor thereof, or pursuant to the Directions of the said Board, to the respective Governments and Presidencies, Officers and Servants ; and that the said Governments and Presidencies, Officers and Servants shall be bound to pay a faithful Obedience thereto, in like Manner as if such Orders, Dispatches, Official Letters or Communications had been sent to them by the said Court of Directors.

If the Board are of opinion that any matters require secrecy they may send official communications through Secret Committee.

38. And be it enacted, That the Territories now subject to the Government of the Presidency of Fort William in Bengal shall be divided into Two distinct Presidencies, one of such Presidencies, in which shall be included Fort William aforesaid, to be styled the Presidency of Fort William in Bengal, and the other of such Presidencies to be styled the Presidency of Agra ; and that it shall be lawful for the said Court of Directors, under the control by this Act provided, and they are hereby required, to declare and appoint what Part or Parts of any of the Territories under the Government of the said Company shall from Time to Time be subject to the Government of each of the several Presidencies now subsisting or to be established as aforesaid, and from Time to Time, as Occasion may require, to revoke and alter, in the whole or in part, such Appointment, and such new Distribution of the same as shall be deemed expedient.

39. And be it enacted, That the Superintendence, Direction, and Control of the whole Civil and Military Government of all the said Territories and Revenues in India shall be and is hereby vested in a Governor-General and Counsellors, to be styled "The Governor-General of India in Council."

40. And be it enacted, That there shall be Four Ordinary Members of Council. Members of the said Council, Three of whom shall from Time to Time be appointed by the said Court of Directors from amongst such Persons as shall be or shall have been Servants of the said Company ; and each of the said Three Ordinary Members of Council shall at the Time of his appointment have been in the service of the said Company for at least Ten Years ; and if he shall be in the Military Service of the said Company, he shall not during his Continuance in Office as a Member of Council hold any Military Command, or be employed in actual Military Duties ; and that the Fourth Ordinary Member of Council shall from Time to Time be appointed from amongst Persons who shall not be Servants of the said Company by the said Court of Directors, subject to the Approbation of His Majesty, to be signified in Writing by His Royal Sign Manual, countersigned by the President of the said Board ; provided that such last-mentioned Member of Council shall not be entitled to sit or vote in the said Council except at Meetings thereof for making Laws and Regulations ; and it shall be lawful for the said Court of

Directors to appoint the Commander-in-Chief of the Company's Forces in India, and if there shall be no such Commander-in-Chief, or the Offices of such Commander-in-Chief and of Governor-General of India, shall be vested in the same Person, then the Commander-in-Chief of the Forces on the Bengal Establishment, to be an Extraordinary Member of the said Council, and such Extraordinary Member of Council shall have Rank and Precedence at the Council Board next after the Governor-General.

41. And be it enacted, That the Person who shall be Governor-General of the Presidency of Fort William in Bengal on the Twenty-second Day of April one thousand eight hundred and thirty-four shall be the First Governor-General of India under this Act, and such Persons as shall be Members of Council of the same Presidency on that Day shall be respectively Members of the Council constituted by this Act.

Governor etc. on 22nd April, 1834 to be so under this Act.

42. And be it enacted, That all vacancies happening in the Office of Governor-General of India shall from Time to Time be filled up by the said Court of Directors, subject to the Approbation of His Majesty, to be signified in Writing by His Royal Sign Manual, countersigned by the President of the said Board.

Filling of vacancies in these offices.

43. And be it enacted, That the said Governor-General in Council shall have Power to make Laws and Regulations for repealing, amending, or altering any Laws or Regulations whatever now in force or hereafter to be in force in the said Territories or any Part thereof, and to make Laws and Regulations for all Persons, whether British or Native, Foreigners or others, and for all Courts of Justice, whether established by His Majesty's Charters or otherwise, and the Jurisdictions thereof, and for all Places and Things whatsoever within and throughout the whole and every Part of the said Territories, and for all Servants of the said Company within the Dominions of Princes and States in alliance with the said Company; save and except that the said Governor-General in Council shall not have the power of making any Laws or Regulations which shall in any way repeal, vary, suspend, or affect any of the Provisions of this Act, or any of the Provisions of the Acts for punishing Mutiny and Desertion of

The Governor-General in Council empowered to legislate for India, except as to matters herein mentioned.

Officers and Soldiers, whether in the Service of His Majesty or the said Company, or any Provisions of any Act hereafter to be passed in anywise affecting the said Company or the said Territories or the Inhabitants thereof, or any Laws or Regulations which shall in any way affect any Prerogative of the Crown, or the authority of Parliament, or the Constitution or Rights of the said Company or any Part of the unwritten Laws or Constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any Degree the Allegiance of any Person to the Crown of the United Kingdom, or the Sovereignty or Dominion of the said Crown over any Part of the said Territories.

44. Provided always, and be it enacted, That in case the said Court of Directors, under such Control as by this Act is provided, shall signify to the said Governor-General in Council their Disallowance of any Laws or Regulations by the said Governor-General in Council made, then and in every such Case, upon Receipt by the said Governor-General in Council of Notice of such Disallowance, the said Governor-General in Council shall forthwith repeal all Laws and Regulations so disallowed.

If the Court of Directors disallow the laws, Governor-General in Council to repeal them.

45. Provided also, and be it enacted, That all Laws and Regulations made as aforesaid, so long as they shall remain unrepealed, shall be of the same Force and Effect within and throughout the said Territories as any Act of Parliament would or ought to be within the same Territories, and shall be taken notice of by all Courts of Justice whatsoever within the same Territories, in the same Manner as any public Act of Parliament would and ought to be taken notice of; and it shall not be necessary to register or publish in any Court of Justice any Laws or Regulations made by the said Governor-General in Council.

All such laws and regulations to be of the same force as any Act of Parliament.

46. Provided also, and be it enacted, That it shall not be lawful for the said Governor-General in Council, without the previous Sanction of the said Court of Directors, to make any Law or Regulation whereby Power shall be given to any Courts of Justice, other than the Courts of Justice established by His Majesty's Charters, to sentence to the Punishment of Death any

Restricting the power of punishing with death European subjects, etc.

of His Majesty's natural-born Subjects born in Europe, or the Children of such Subjects, or which shall abolish any of the Courts of Justice established by His Majesty's Charters.

47. And be it enacted, that the said Court of Directors shall forthwith submit, for the Approbation of the said Board, such rules as they shall deem expedient for the Procedure of the Governor-General in Council in the Discharge and Exercise of all Powers, Functions, and Duties imposed on or vested in him by virtue of this Act, or to be imposed on or vested in him by any other Act or Acts; which Rules shall prescribe the Modes of Promulgation of any Laws or Regulations to be made by the said Governor-General in Council, and of the Authentication of all Acts and Proceedings whatsoever of the said Governor-General in Council; and such Rules, when approved by the said Board of Commissioners, shall be of the same Force as if they had been inserted in this Act: Provided always, that such Rules shall be laid before both Houses of Parliament in the Session next after the Approval thereof.

48. Provided always, and be it enacted, That all Laws and Regulations shall be made at some Meeting of the Council at which the said Governor-General and at least Three of the Ordinary Members of Council shall be assembled, and that all other Functions of the said Governor-General in Council may be exercised by the said Governor-General and One or more Ordinary Member or Members of Council, and that in every Case of Difference of opinion at Meetings of the said Council where there shall be an Equality of Voices the said Governor-General shall have Two Votes or the casting Vote.

49. Provided always, and be it enacted, That when and so often as any Measure shall be proposed before the said Governor-General in Council, whereby the Safety, Tranquillity or Interests of the British Possessions in India, or any Part thereof, are or may be, in the Judgment of the said Governor-General, essentially affected, and the said Governor-General shall be of opinion either that the Measure so proposed ought to be adopted or carried into execution, or that the same ought to be suspended or wholly

The Court to submit to the Board rules for the procedure of the Governor-General in Council. Rules to be laid before Parliament.

Quorum of Governor-General and Members in Council.

Manner of proceeding when any measure is proposed whereby the safety or peace of India may be essentially affected.

rejected, and the Majority in Council then present shall differ in and dissent from such Opinion, the said Governor-General and Members of Council are hereby directed forthwith mutually to exchange with and communicate to each other in writing under their respective Hands, to be recorded at large on their Secret Consultations, the Grounds and Reasons of their respective Opinions; and if after considering the same the said Governor-General and the Majority in Council shall still differ in Opinion, it shall be lawful for the said Governor-General, of his own Authority and on his own Responsibility, to suspend or reject the Measure so proposed in part or in whole, or to adopt and carry the Measure so proposed into Execution, as the said Governor-General shall think fit and expedient.

50. And be it enacted, That the said Council shall from Time to Time assemble at such Place or Places as shall be appointed by the said Governor-General in Council within the said Territories, and that as often as the said Council shall assemble within any of the Presidencies of Fort St. George, Bombay, or Agra, the Governor of such Presidency shall act as an Extraordinary Member of Council.

51. Provided always, and be it enacted, That nothing herein contained shall extend to affect in any way the Right of Parliament to make Laws for the said Territories and for all the inhabitants thereof; and it is expressly declared that a full, complete, and constantly existing Right and Power is intended to be reserved to Parliament to control, supersede, or prevent all proceedings and Acts whatsoever of the said Governor-General in Council, and to repeal and alter at any Time any Law or Regulation whatsoever made by the said Governor-General in Council, and in all respects to legislate for the said Territories and all the inhabitants thereof in as full and ample a Manner as if this Act had not been passed: and the better to enable Parliament to exercise at all Times such Right and Power, all Laws and Regulations made by the said Governor-General in Council shall be transmitted to England, and laid before both Houses of Parliament, in the same Manner as is now by Law provided concerning the Rules and Regulations made by the several Governments in India.

Council to assemble at any place in India.

Act not to affect the right of Parliament to legislate for India. Express reservation, Laws, etc. to be laid before Parliament.

52. And be it enacted, That all Enactments, Provisions, Matters, and Things relating to the Governor-General of Fort William in Bengal in Council, and the Governor-General of Fort William in Bengal alone, respectively, in any other Act or Acts contained, so far as the same are now in force, and not repealed by or repugnant to the Provisions of this Act, shall continue and be in force and be applicable to the Governor-General of India in Council, and to the Governor-General of India alone, respectively.

All enactments relating to the Supreme Government to apply to the Governor-General.

56. And be it enacted, That the Executive Government of each of the several Presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra shall be administered by a Governor and Three Councillors, to be styled the "The Governor in Council of the said Presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra, respectively;" and the said Governor and Councillors respectively of each such Presidency shall have the same Rights and Voices in their Assemblies, and shall observe the same Order and Course in their Proceedings, as the Governors in Council of the Presidencies of Fort Saint George and Bombay now have and observe, and that the Governor-General of India for the Time being shall be Governor of the Presidency of Fort William in Bengal.

The Executive Government of the Presidencies to be administered by a Governor and three Councillors.

57. Provided always, and be it enacted, That it shall and may be lawful for the said Court of Directors, under such Control as is by this Act provided, to revoke and suspend, so often and for such Periods as the said Court shall in that behalf direct, the Appointment of Councils in all or any of the said Presidencies, or to reduce the Number of Councillors in all or any of the said Councils, and during such Time as a Council shall not be appointed in any such Presidency the Executive Government thereof shall be administered by a Governor alone.

Directors may revoke the appointment of Councils or reduce the number of Councillors.

58. And, be it enacted, That the several Persons who on the said Twenty-second Day of April one thousand eight hundred and thirty-four shall be Governors of the respective Presidencies of Fort Saint George and Bombay, shall be the first Governors of the said Presidencies respectively under this Act; and that the Office of

Governors of Fort St. George and Bombay; Governors of Agra, and vacancies in Presidencies to be filled up by Court.

Governor of the said Presidency of Agra, and all vacancies happening in the Offices of the Governors of the said Presidencies respectively, shall be filled up by the said Court of Directors, subject to the Approbation of His Majesty, to be signified under His Royal Sign Manual, countersigned by the said President of the said Board of Commissioners.

59. And be it enacted, That in the Presidencies in which the Appointment of a Council shall be suspended under the Provision hereinbefore contained, and during such Time as Councils shall not be appointed therein respectively, the Governors appointed under this Act, and in the Presidencies in which Councils shall from Time to Time be appointed the said Governors in their respective Councils, shall have all the Rights, Powers, Duties, Functions, and Immunities whatsoever, not in anywise repugnant to this Act, which the Governors of Fort Saint George and Bombay in their respective Councils now have within their respective Presidencies; and that the Governors and Members of Council of Presidencies appointed by or under this Act shall severally have all the Rights, Powers, and Immunities respectively, not in anywise repugnant to this Act, which the Governors and Members of Council of the Presidencies of Fort Saint George and Bombay respectively now have in their respective Presidencies; provided that no Governor or Governor in Council shall have the Power of Making or Suspending any Regulations or Laws in any Case whatever, unless in cases of urgent Necessity (the Burthen of the Proof whereof shall be on such Governor or Governor in Council), and then only until the Decision of the Governor-General of India in Council shall be signified thereon; and provided also, that no Governor or Governor in Council shall have the power of creating any new Office, or granting any Salary, Gratuity, or Allowance, without the previous Sanction of the Governor-General of India in Council.

60. Provided always, and be it enacted, That when and so often as the said Court of Directors shall neglect for the Space of Two Calender Months, to be computed from the Day whereon the Notification of the Vacancy of any Office or Employment in India, in the appointment of the said Court shall have been received by the said Court, to supply such Vacancy, then and in every such

Powers of Governors of Presidencies.

If Court of Directors neglect for two months to supply vacancy in any office, the King to appoint.

Case it shall be lawful for His Majesty to appoint, by Writing under His Sign Manual, such Person as His Majesty shall think proper to supply such Vacancy ; and that every Person so appointed shall have the same Powers, Privileges, and Authorities as if he or they had been appointed by the said Court, and shall not be subject to Removal or Dismissal without the Approbation and Consent of His Majesty.

61. And be it enacted, That it shall be lawful for the said Court of Directors to appoint any Person or Persons provisionally to succeed to any of the Offices aforesaid, for supplying any Vacancy or Vacancies therein, when the same shall happen by the Death or Resignation of the Person or Persons holding the same office or offices respectively, or on his or their Departure from India with Intent to return to Europe, or on any Event or Contingency expressed in any such provisional Appointment or Appointments to the same respectively, and such Appointments again to revoke. Provided that every provisional Appointment to the several offices of Governor-General of India, Governor of a Presidency, and the Member of Council of India, by this Act directed to be appointed from amongst Persons who shall not be servants of the said Company, shall be subject to the Approbation of His Majesty, to be signified as aforesaid, but that no Person so appointed to succeed provisionally to any of the said Offices shall be entitled to any Authority, Salary or Emolument appertaining thereto until he shall be in the actual Possession of such Office.

62. And be it enacted, That if any vacancy shall happen in the office of Governor-General of India when no provisional or other successor shall be upon the spot to supply such Vacancy, then and in every such case the Ordinary Member of Council next in rank to the said Governor-General shall hold and execute the said office of Governor-General of India and Governor of the Presidency of Fort William in Bengal until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto ; and that every such acting Governor-General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor-General of India, and shall be entitled to receive the Emolu-

Power for the Court to make provisional appointments to any offices. Provisional appointments of certain offices to be approved by His Majesty.

In case of vacancy in the office of Governor-General and no successor upon the spot, the ordinary member of Council next in rank to act as such.

ments and Advantages appertaining to the office by him supplied, such acting Governor-General foregoing his salary and allowance of a Member of Council for the same period.

63. And be it enacted, That if any Vacancy shall happen in the office of Governor of Fort Saint George, Bombay, or Agra when no provisional or other successor shall be upon the spot to supply such Vacancy, then and in every such case, if there shall be a Council in the Presidency in which such Vacancy shall happen, the Member of such Council, who shall be next in rank to the Governor, other than the Commander-in-Chief or officer commanding the forces of such Presidency, and if there shall be no Council, then the Secretary of Government of the said Presidency who shall be senior in the said office of Secretary, shall hold and execute the said office of Governor until a Successor shall arrive, or until some other person on the spot shall be duly appointed thereto; and that every such acting Governor shall, during the time of his continuing to act as such, receive and be entitled to the Emoluments and Advantages appertaining to the office by him supplied, such acting Governor foregoing all salaries and allowances by him held and enjoyed at the time of his being called to supply such office.

64. And be it enacted, That if any Vacancy shall happen in the office of an Ordinary Member of Council of India when no person provisionally or otherwise appointed to succeed thereto shall be then present on the spot, then and on every such occasion such Vacancy shall be supplied by the Appointment of the Governor-General in Council; and if any Vacancy shall happen in the Office of a Member of Council of any Presidency when no person provisionally or otherwise appointed to succeed thereto shall be then present on the spot, then and on every such occasion such Vacancy shall be supplied by the Appointment of the Governor in Council of the Presidency in which such Vacancy shall happen, and until a Successor shall arrive the Person so nominated shall execute the office by him supplied, and shall have all the powers thereof and shall have and be entitled to the Salary and other Emoluments and Advantages appertaining to the said office during his continuance therein, every such temporary Member of Council foregoing all Salaries and Allowances by him held and enjoyed at the time of his being appointed to such office;

Provided always, that no person shall be appointed a temporary Member of Council who might not have been appointed by the said Court of Directors to fill the Vacancy supplied by such temporary appointment.

65. And be it further enacted, That the said Governor-General in Council shall have and be invested by virtue of this Act with full Power and Authority to superintend and control the Governors and Governors in Council of Fort William in Bengal, Fort Saint George, Bombay, and Agra, in all Points relating to the Civil or Military Administration of the said Presidencies respectively, and the said Governors and Governors in Council shall be bound to obey such Orders and Instructions of the said Governor-General in Council in all Cases whatsoever.

The Governor-General in Council to have the Control over the Presidencies.

66. And be it enacted, That it shall and may be lawful for the Governors or Governors in Council of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively, to propose to the said Governor-General in Council Drafts or Projects of any Laws or Regulations which the said Governors or Governors in Council respectively may think expedient, together with their Reasons for proposing the same; and the said Governor-General in Council is hereby required to take the same and such Reasons into consideration, and to communicate the Resolutions of the said Governor-General in Council thereon to the Governor or Governor in Council by whom the same shall have been proposed.

Drafts of laws proposed by Governors to be taken into consideration by Governor-General in Council.

67. And be it enacted, That when the said Governor-General shall visit any of the Presidencies of Fort Saint George, Bombay, or Agra, the Powers of the Governors of those Presidencies respectively shall not by reason of such visit be suspended.

Powers of Governors of Presidencies not to be suspended.

68. And be it enacted, That the said Governors and Governors in Council of the said Presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively shall and they are hereby respectively required regularly to transmit to the said Governor-General in Council true and exact Copies of all such Orders and Acts of their respective Governments, and also Advice and Intelli-

Communications to be transmitted by Governors to Governor-General in Council.

gence of all Transactions and Matters which shall have come to their Knowledge, and which they shall deem material to be communicated to the said Governor-General in Council as aforesaid, or as the said Governor-General in Council shall from Time to Time require.

69. And be it enacted, That it shall be lawful for the said Governor-General in Council, as often as the Exigencies of the Public Service may appear to him to require, to appoint such one of the Ordinary Members of the said Council of India as he may think fit to be Deputy Governor of the said Presidency of Fort William in Bengal, and such Deputy Governor shall be invested with all the Powers and perform all the Duties of the said Governor of the Presidency of Fort William in Bengal, but shall receive no additional Salary by reason of such Appointment.

70. And be it enacted, That whenever the said Governor-General in Council shall declare that it is expedient that the said Governor-General should visit any Part of India unaccompanied by any Member or Members of the Council of India, it shall be lawful for the said Governor-General in Council, previously to the Departure of the said Governor-General, to nominate some Member of the Council of India to be President of the said Council, in whom during the Absence of the said Governor-General from the said Presidency of Fort William in Bengal, the powers of the said Governor-General in Assemblies of the said Council shall be reposed; and it shall be lawful in every such Case for the said Governor-General in Council, by a Law or Regulation for that Purpose to be made, to authorize the Governor-General alone to exercise all or any of the Powers which might be exercised by the said Governor-General in Council, except the Power of making Laws or Regulations: Provided always, that during the Absence of the Governor-General no Law or Regulation shall be made by the said President and Council without the Assent in Writing of the said Governor-General.

74. And be it enacted, That it shall be lawful for His Majesty, by any Writing under His Sign Manual, countersigned by the President of the said Board of Commissioners, to remove or dismiss any Person holding any Office, Employment

or Commission, Civil or Military, under the said Company in India, and to vacate any Appointment or Commission of any Person to any such Office or Employment; provided that a Copy of every such writing, attested by the said President, shall within Eight Days after the same shall be signed by His Majesty be transmitted or delivered to the Chairman or Deputy Chairman of the said Company.

75. Provided always, and be it enacted, That nothing in this Act contained shall take away the Power of the said Court of Directors to remove or dismiss any of the Officers or Servants of the said Company, but that the said Court shall and may at all Times have full Liberty to remove or dismiss any of such Officers or Servants at their Will and Pleasure; provided that any Servant of the said Company appointed by His Majesty through the Default of Appointment by the said Court of Directors shall not be dismissed or removed without His Majesty's Approbation, as herein-before is mentioned.

76. And be it enacted, that there shall be paid to the several Officers herein-after named the several Salaries set against the Names of such Officers, subject to such Reduction of the said several Salaries respectively as the said Court of Directors, with the Sanction of the said Board, may at any Time think fit; (that is to say,)

Salaries of Governor-General etc., fixed; to be in lieu of all fees, etc. Acceptance of gratuities a misdemeanor. Passage money fixed.

To the Governor-General of India, Two hundred and forty thousand Sicca Rupees :

To each Ordinary Member of the Council of India, Ninety-six thousand Sicca Rupees :

To each Governor of the Presidencies of Fort Saint George, Bombay, and Agra, One hundred and twenty thousand Sicca Rupees.

To each Member of any Council to be appointed in any Presidency, Sixty thousand Sicca Rupees :

And the Salaries of the said Officers respectively shall commence from their respectively taking upon them the Execution of their respective Offices, and the said Salaries shall be the whole Profit or Advantage which the said Officers shall enjoy during their Continuance in such Offices respectively; and it shall be and it is hereby declared to be a Misdemeanor

for any such Officer to accept for his own Use, in the Discharge of his Office, any Present, Gift, Donation, Gratuity, or Reward, pecuniary or otherwise whatsoever, or to trade or traffic for his own Benefit or for the Benefit of any other person or persons whatsoever; and the said Court of Directors are hereby required to pay to all and singular the Officers and persons hereinafter named who shall be resident in the United Kingdom at the Time of their respective Appointments, for the Purpose of defraying the Expenses of their Equipment and Voyage, such Sums of Money as are set against the Names of such Officers and Persons respectively; (that is to say,)

To the Governor-General, Five thousand Pounds :

To each Member of the Council of India, One thousand two hundred Pounds :

To each Governor of the Presidencies of Fort Saint George, Bombay, and Agra, Two thousand five hundred Pounds : Provided also, that any Governor-General, Governor, or Member of Council appointed by or by virtue of this Act, who shall at the time of passing this Act hold the Office of Governor-General, Governor or Member of Council respectively, shall receive the same Salary and Allowances that he would have received if this Act had not been passed.

77. Provided always, and be it enacted, That if any Governor-General, Governor, or Ordinary Member of the Council of India, or any Member of the Council of any Presidency, shall hold or enjoy any Pension, Salary, or any Place, Office, or Employment of Profit under the Crown or any Public Office of the said Company, or any Annuity payable out of the Civil or Military Fund of the said Company, the Salary of his Office of Governor-General of India, Governor or Member of Council, shall be reduced by the Amount of the Pension, Salary, Annuity, or Profits of Office so respectively held or enjoyed by him.

78. And be it enacted, That the said Court of Directors, with the Approbation of the said Board of Commissioners, shall and may from Time to Time make Regulations for the Division and Distribution of the Patronage and Power of Nomination of and to the Offices, Commands, and Employments in the said Territories, and in all or any of the Presidencies thereof, among the said Governor-General in Coun-

Governor-General and Governors to forego pensions and other salaries.

Directors to make regulations for the distribution of patronage in India.

cil, Governor-General, Governors in Council, Governors, Commander-in-Chief and other Commanding Officers respectively appointed or to be appointed under this Act.

79. And be it enacted, That the Return to Europe or the

Departure of Governor-General, etc. for Europe, to be a resignation. Resignation in India to be by deed. Salary to cease on departure or resignation. As to officers dying during absence.

Departure from India with Intent to return to Europe of any Governor-General of India, Governor, Member of Council, or Commander-in-Chief, shall be deemed in Law a Resignation and Avoidance of his Office or Employment, and that no Act or Declaration of any Governor-General, or Governor, or Member of Council, other than as aforesaid, excepting a Declaration in writing under Hand and Seal, delivered to the Secretary for the Public Department of the Presidency wherein he shall be, in order to its being recorded, shall be deemed or held as a Resignation or Surrender of his said Office; and that the Salary and other Allowances of any such Governor-General or other Officer respectively shall cease from the Day of such his Departure, Resignation, or surrender; and that if any such Governor-General or Member of Council of India shall leave the said Territories, or if any Governor or other Officer whatever in the Service of the said Company shall leave the Presidency to which he shall belong, other than in the known actual Service of the said Company, the Salary and Allowances appertaining to his Office shall not be paid or payable during his Absence to any Agent or other Person for his Use; and in the event of his not returning, or of his coming to Europe, his Salary and Allowances shall be deemed to have ceased on the Day of his leaving the said Territories, or the Presidency to which he may have belonged; provided that it shall be lawful for the said Company to make such payment as is now by Law permitted to be made to the Representatives of their Officers or Servants who, having left their Stations intending to return thereto, shall die during their Absence.

80. And be it enacted, That every wilful disobeying, and

Disobedience of Orders and breach of trust by officers or servants of the Company in India, misdemeanors.

every wilful omitting, forbearing, or neglecting to execute the Orders or Instructions of the said Court of Directors by any Governor-General of India, Governor, Member of Council, or Commander-in-Chief, or by any other of the Officers or Servants of the said Company, unless in Cases of Necessity (the Burthen of the Proof of which Necessity shall

be on the Person so, disobeying or omitting, forbearing or neglecting, to execute such Orders or Instructions as aforesaid); and every wilful Breach of the Trust and Duty of any Office or Employment by any such Governor-General, Governor, Member of Council, or Commander-in-Chief, or any of the Officers or Servants of the said Company, shall be deemed and taken to be a Misdemeanor at Law, and shall or may be proceeded against and punished as such by virtue of this Act.

87. And be it enacted, That no Native of the said Territories, nor any natural-born Subject of His Majesty resident therein, shall, by reason only of his Religion, Place of Birth, Descent, Colour, or any of them, be disabled from holding any Place, Office, or Employment under the said Company.

No disabilities in respect of religion, etc.

94. Provided always, and be it enacted, That the Bishop of Calcutta for the Time being shall be deemed and taken to be the Metropolitan Bishop in India, and as such shall have, enjoy, and exercise all such Ecclesiastical Jurisdiction and Episcopal Functions, for the Purposes aforesaid, as His Majesty shall by his Royal Letters Patent under the Great Seal of the said United Kingdom think necessary to direct, subject nevertheless to the general Superintendence and Revision of the Archbishop of Canterbury for the Time being; and that the Bishops of Madras and Bombay for the Time being respectively shall be subject to the Bishop of Calcutta for the Time being as such Metropolitan, and shall, at the Time of their respective Appointments to such Bishopricks, or at the Time of their respective Consecrations as Bishop, take an Oath of Obedience to the said Bishop of Calcutta in such Manner as His Majesty by His said Royal Letters Patent shall be pleased to direct.

The Bishop of Calcutta to be Metropolitan in India.

109. And be it enacted, That every Power, Authority, and Function by this or any other Act or Acts given to and vested in the said Court of Directors shall be deemed and taken to be subject to such Control of the said Board of Commissioners as in this Act is mentioned, unless there shall be something in the Enactments conferring such Powers, Authorities, or Functions inconsistent with such Construction, and except as to any Patronage or Right of appointing to Office vested in or reserved to the said Court.

All powers of Court of Directors to be subject to control except patronage.

110. Provided always, and be it enacted, That nothing herein contained shall be construed to enable the said Board of Commissioners to give or cause to be given Directions ordering or authorizing the Payment of any extraordinary Allowance or Gratuity, or the Increase of any established Salary, Allowance, or Emolument, unless in the Cases and subject to the Provisions in and subject to which such Directions may now be given by the said Board, or to increase the Sum now payable by the said Company on account of the said Board, except only by such Salaries or Allowances as shall be payable to the Officers to be appointed as herein-before is mentioned to attend upon the said Board during the winding up of the Commercial Business of the said Company.

Board of Control prohibited from directing the grant of allowances.

115. And be it enacted, That it shall be lawful for any Court of Justice established by His Majesty's Charters in the said Territories to approve, admit and inrol Persons as Barristers, Advocates, and Attornies in such Court without any License from the said Company, any thing in any such Charter contained to the contrary notwithstanding: Provided always, that the being entitled to practise as an Advocate in the Principal Courts of Scotland is and shall be deemed and taken to be a Qualification for Admission as an Advocate in any Court in India equal to that of having been called to the Bar in England or Ireland.

King's Courts authorized to admit Advocates and Attornies without the Company's license.

116. And be it further enacted, That the Court of Directors of the said Company shall, within the first Fourteen sitting Days next after the First Day of May in every Year, lay before both Houses of Parliament an Account, made up according to the latest Advices which shall have been received, of the annual Produce of the Revenues of the said Territories in India, distinguishing the same and the respective Heads thereof at each of their several Presidencies or Settlements, and of all their annual Receipts and Disbursements at Home and Abroad, distinguishing the same under the respective Heads thereof, together with the latest Estimate of the same, and also the Amount of their Debts, with the rates of Interest they respectively carry, and the annual Amount of such Interest, the State of their Effects and Credits at each Presidency or Settlement, and in England or Elsewhere, accor-

Accounts to be annually laid before Parliament.

ding to the latest Advices which shall have been received thereof, and also a List of their several Establishments, and the Salaries and Allowances payable by the said Court of Directors, in respect thereof; and the said Court of Directors, under the Direction and Control of the said Board of Commissioners, shall forthwith prepare Forms of the said Accounts and Estimates in such Manner as to exhibit a complete and accurate View of the Financial Affairs of the said Company; and if any new or increased Salaries, Establishments, or Pensions shall have been granted or created within any Year, the Particulars thereof shall be specially stated and explained at the Foot of the Account of the said Year.

B

EXTRACTS FROM THE DESPATCH* (ACCOMPANYING THE GOVERNMENT OF INDIA ACT, 1833) FROM THE COURT OF DIRECTORS OF THE EAST INDIA COMPANY TO THE GOVERNMENT OF INDIA, NO. 44, DATED THE 10TH DECEMBER, 1834.

1. In considering the alterations which have been made by the Act of last session¹ of Parliament in the constitution of the Indian Government, it seems to us of importance, that a very full communication should take place between your Government and us, of the views we respectively entertain of the operation of the new enactments, and of the mode in which the powers entrusted to us can best be employed for fulfilling the benevolent intentions of the legislature.

2. You are already apprized of what has been done to constitute in the first instance the several Governments, and of the appointments which, for that purpose, it has been deemed expedient to make.

3. Of the Commercial changes, the Financial results, and Military arrangements which will be required in the new state of the Government, our observations and instructions have been or will be, transmitted to you, in the appropriate departments. At present our remarks will relate to the great change made in the legislative powers of the Supreme Government, the relation in which the Supreme Government, will

* Tradition ascribes this piece to the pen of JAMES MILL. His son, J. S. MILL, was the author of the protest by the Company against the transfer to the Crown in 1858.

stand to the Subordinate Governments, the effect of the new arrangements on the two great departments of internal administration, Justice and Revenue, the increased facilities granted to Europeans of settling and holding land in the country, the measures prescribed with regard to slavery, the removal of disabilities to office, the provisions regarding ecclesiastical affairs and the sending home of estimates of vacancies in the Civil Service. Before we proceed, however, to observe on these several points, we think it expedient to draw your attention to some of the general views and intentions of the Act with respect to them. By so doing we shall render more distinct and perspicuous the particular observations into which we shall afterwards enter, and may at the same time afford you some useful suggestion in carrying into effect the provisions of the Act in matters on which, on this occasion at least, we do not think it necessary to give you any specific instructions.

4. The changes which the Act contemplates in the government and political constitution of British India are partly prospective and partly immediate. The state of things at which it aims in prospect is that which is comprehensively described in the preambulatory part of the 53rd Clause, when a general system of justice and police, and a code of laws, common (as far as may be) to the whole people of India, and having its varieties classified and systematized, shall be established throughout the country. The preparation of such a system and such a code must be set about immediately; and it is principally with a view to that object, and for the purpose of collecting and arranging the necessary materials, and of advising the Government as to the disposition of them that the Law Commissioners are to be appointed. But with whatever celerity those Commissioners proceed, their task cannot be completed in a day. The Act indeed asserts, or rather assumes, it to be expedient that the general system on prospect—"should be established in the said Territories *at an early period*": but 'early' is a word of relation. No time should be lost by delay: none should be worse than lost by precipitation. The careful observance of these two conditions will practically determine the length of time required.

5. Thus, however, besides that ultimate state of things to which the Act looks forward, it contemplates an intermediate period; a period of enquiry, of consideration, of preparation, in

some degree even of experiment; and it is to this interval that several of its provisions relate. As the labours of the Law Commissioners are intended to fill up the whole of this interval, one principal care of the Government will be to guide the course and promote the efficiency, of those labours; and this is plainly contemplated by the Act which, however, does not limit itself to this view of the subject. Without awaiting the result of the enquiries and deliberation of the Commissioners it proceeds at once to change the constitution of the Indian Government, by investing the Governor-General in Council with legislative powers of a new and independent kind, by extending the operation of those powers over the subordinate Governments, and by so modifying the structure of the Supreme Council internally as to adapt it to the discharge of its altered functions.

6. At first sight this change may perhaps appear premature. It may seem that the more natural course would have been to leave the Government, for the present, nearly as it is, or at least to withhold from it the extensive powers of legislation which it is to exercise under the Act; and, when the Commissioners shall have so far completed their enquiries and deliberations as to make it practicable to adopt a general scheme of law, judicature and police, then, and no sooner, to alter the constitution of the Government with an especial reference to that new sphere of action which it will have to enter.

7. But reflection will, as we believe, shew that the legislature has judged wisely, or rather has only obeyed a moral necessity in introducing immediately and without delay, the important alterations to which we have referred.

8. Although some time may elapse before the whole people of India, native and foreign, can be placed under one common system, yet it is highly desirable that approximations should previously be made to that result. In this view, it will often be advantageous to act on the suggestions of the Commissioners partially and experimentally; thus, facilitating as well as accelerating the introduction of the system in question. But in order to act on this plan, it is obviously necessary that the local Government should have the means of legislating freely and with effect; that it should be able to shape its course according to its own view, both of the results to be ultimately accomplished, and of the circumstances to be intermediately

consulted ; and at any rate that some of the anomalies which at present belong to the frame of the Government should be from time to time removed.

9. There were, however, other considerations which, much more strongly than these, dictated such alterations in the Government as should enable it to legislate for a great community. The Act unsealed for the first time the doors of British India to British subjects of European birth. Hitherto the English in India have been there only on sufferance. Now they have acquired a right, however qualified, to live in the country and even to become occupants of land, and there is every prospect of a considerable increase of their numbers. It is therefore necessary that the local Governments should have full means of dealing with them, not merely in extreme cases, and by a transcendental act of authority, but in the current and ordinary exercise of its functions and through the medium of laws carefully made and promptly and impartially administered. On no other condition could the experiment of free ingress of Europeans be safely tried.

10. While new legislative powers are conferred on the Supreme Government, the legislative powers hitherto possessed by the Subordinate Governments are to be modified and abridged. On this topic we need hardly refer to the discussions which have of late years taken place both in India and in England on the best mode of constituting the Indian Governments ; the decisive consideration with the legislature probably was the necessity of strengthening the Supreme Government in consequence of the free admission of Europeans into the interior of the country.

11. In whatever way the Europeans may disperse themselves throughout India, they will be united together by a powerful sympathy and will in fact maintain a constant communication. It is therefore both just and natural that they should live under the control of the same laws ; nor would it be easy to legislate in reference to a part of them without keeping in view the whole body. It is specially to be recollected that the task of legislating in India for Europeans naturalized in the country and not dependent on the Government is altogether new and experimental. The difficulties of this task may have been overrated, but undoubtedly they are not slight or evanescent, and they would be much aggravated if the different Governments were all armed with co-equal and

independent legislative powers, and if they were to proceed to exercise such powers at their discretion respectively, and perhaps with very different views and according to inconsistent principles. While, therefore, it is important in reference to the admission of Europeans into the interior, that the subordinate Governments, commanding as they do different regions of the empire, should have their executive capacities and even that a new station should be added to them in the north of India, yet there seem good reasons for collecting and uniting all the functions of legislation in one central and metropolitan government.

15. The first principle is that no law, except one of an occasional kind, or arising out of some pressing emergency, should be passed without having been submitted to mature deliberation and discussion.

16. * * * In this country the length and publicity of the process by which a law passes from the shape of a project into that of a complete enactment, and the conflict of opinions through which the transit must be made constitute a security against rash or thoughtless legislation. There may indeed be exceptions, for there are cases in which the pressure of popular feeling forces a law prematurely into existence.

* * * When deem it of great moment, therefore, that you should by positive rules provide that every project or proposal of a law shall travel through a defined succession of stages in Council before it is finally adopted; that at each stage it shall be amply discussed; and that the intervals of discussion shall be such as to allow to each Member of Council adequate opportunity of reflection and enquiry.

18. * * * Provision must of course be made for extreme cases, and in the last resort the ultimate power specifically reserved by the 49th Clause of the new Act to the Governor-General of acting singly and on his own responsibility, will afford a refuge from the possible evil of distracted counsels and infirm resolutions. But the occasions which compel the use of these extreme remedies rarely occur in well-governed states; and in general, we are persuaded that in a punctual, constant, and even fastidious adherence to your ordinary rules of practice, you will find the best security, not only for the efficiency, but also for the despatch of your legislative proceedings.

19. While thus considering the deliberative part of your duties, our attention is necessarily led to one important alteration which the Act has made on the constitution of the Supreme Council. We allude to the appointment of the fourth ordinary member of Council, as described in the 40th Clause.

20. In the first and simplest view of this remarkable provision, the presence and assistance of the fourth counsellor must be regarded as a substitute for that sanction of the Supreme Court of Judicature which has hitherto been necessary to the validity of regulations affecting the inhabitants of the Presidencies, but which under the new system, will no longer be required. It is, however, evident that the view of the legislature extended beyond the mere object of providing such a substitute.

21. The concurrence of the fourth member of Council may be wanting to a law, and the law may be good still, even his absence at the time of enactment will not vitiate the law, but Parliament manifestly intended that the whole of his time and attention, and all the resources of knowledge and ability which he may possess, should be employed in promoting the due discharge of the legislative functions of the Council. He has indeed no pre-eminent control over the duties of this department, but he is peculiarly charged with them in all their ramifications. His will naturally be the principal share, not only in the task of giving shape and connexion to the several laws as they pass, but also in the mighty labour of collecting all that local information, and calling into view all those general considerations which belong to each occasion, and of thus enabling the Council to embody the abstract and essential principles of good government in regulation adapted to the peculiar habits, character, and institutions of the vast and infinitely diversified people under their sway.

22. It will be observed that the fourth member is declared not to be entitled to sit or vote in the Council, except at meetings for the making of laws and regulations.

23. We do not, however, perceive that you are precluded by anything in the law from availing yourselves of his presence without his vote on any occasion on which you may think it desirable; and on many, if not all, of the subjects on which your deliberation may turn, an intimate knowledge of what passes in Council will be of essential service to him in the dis-

charge of his legislative functions. Unless he is in habits of constant communication and entire confidence with his colleagues, unless he is familiar with the details of internal administration, with the grounds on which the Government acts, and with the information by which it is guided, he cannot possibly sustain his part in the legislative conferences or measures with the knowledge, readiness, and independence essential to a due performance of his duty.

24. * * * * It should, we think, be open to every member of Council, to propose any law or regulation for adoption, and his proposal should be taken into discussion, even though he should, at the outset, stand alone in his opinion. In deliberative assemblies differently and more numerous constituted no proposition can be entertained which is not seconded, as well as moved. The reasonableness of the rule is obvious, but in the deliberations of a small and select body, we do not think that the same condition should be enforced.

25. * * * * Another point, not less important, is to provide that in the work of legislation, you shall as far as may be practicable avail yourselves of external aid. Persons who are not members of your body may afford you valuable assistance, either by suggesting laws that are required, or by pointing out what is improbable or objectionable, in the drafts or projects of laws under consideration.

26. With respect to the suggestion of new laws, the Act (by Clause 66) expressly requires you to take into consideration the drafts or projects of laws or regulations which any of the subordinate Governments may propose to you. * * * The Act also, we need not say, contemplates constant communications from the Law Commissioners which communications are intended, to furnish the grounds or the materials for legislation. Useful intimations may also be derived from the Public Boards, from the Judges of the Supreme Court, from all persons, whether Native or European, invested with a judicial character or holding official stations of eminence, from all Colleges and other constituted bodies, perhaps from the Native heads of villages, or even private individuals of personal weight and influence. We do not mean that these Parties should by law be entitled to call on the legislature to discuss such suggestions, or to come to any decision respecting them. No such right belongs to those who petition to the Houses of Parliament

in this country. We mean only that their suggestions should be received and should even be invited.

27. Not less material is the other object to which we have adverted, that of taking the opinions of the community, or of influential persons, on the projects of law under consideration ; an advantage which in England is secured by the publicity of the discussions in Parliament, and by the time which the passing of an Act requires ; but which can be obtained in India only by making special provision for it.

28. * * * All, therefore, that we should require would be that, with such exceptions as you may deem requisite with a view to the progress of current and ordinary legislation, the project of intended laws shall be so made known to the Public as to afford opportunities to the persons or classes whom they may particularly affect, to offer their comments or complaints to the legislature ; and that the rule which you at any time prescribe to yourselves for the purpose shall be submitted to the consideration of the Authorities at home.

30. * * * The laws are now printed in English, in the language of the Courts, and in whatever is the prevalent language of the country. And copies of them are furnished to the several functionaries of Government. It would, however, be desirable, that they were more generally made known to the people. It will deserve your consideration what measures can be taken for that end. One thing at any rate can be done. Cheap copies in the language of the country ought to be everywhere ready for sale to all who have the desire to possess them.

33. Heretofore you have been invested with executive powers of superintendence over the legislation of the subordinate Presidencies. But as those Presidencies have had the right of legislating for themselves, your superintendence has been exercised only on rare and particular occasions. Now their legislative functions, with a reserve for certain excepted cases, are to be subordinate to those of the Supreme Government. The whole responsibility rests on you ; and every law which has an especial reference to the local interests of any of those Presidencies, and every general law in respect of its particular bearing and operation on such local interests, ought to be pre-considered by you with as deep and as anxious attention as if it affected only the welfare of the Presidency in which you reside. You may indeed, as we have already observed, receive

from the subordinate Presidencies suggestions or drafts of laws and these it may frequently be expedient, to invite. But in no instance will this exempt you from the obligation of so considering every provision of the law as to make it really your own, the offspring of your own minds, after obtaining an adequate knowledge of the case. We say this knowing as we do, how easily the power of delegating a duty, degenerates into the habit of neglecting it ; and dreading lest at some future period, under the form of offering projects of laws, the subordinate Presidencies should be left to legislate for themselves, with as little aid from the wisdom of the Supreme Government as when the power of legislating was ostensibly in their own hands.

37. In contemplating the extent of legislative powers thus conferred immediately on our Supreme Government, and in the second instance on ourselves, in considering that in the use of this power the difference between the worst and the best of Governments mainly depends—in reflecting how many millions of men may, by the manner in which it shall in the present instance be exercised, be rendered happy or miserable—in advert-
 ing to the countless variety of interests to be studied and of difficulties to be overcome, in the execution of this mighty trust, we own that we feel oppressed by the weight of the responsibility under which we with you are conjointly laid. Whatever means or efforts can be employed on the occasion, whatever can be effected by free and active discussion, or by profound and conscientious deliberation ; whatever aids can be derived from extrinsic council or intelligence, all at the utmost will be barely commensurate with the magnitude of the sphere to be occupied, and of the service to be performed. We feel confident that to this undertaking your best thoughts and care will be immediately and perseveringly applied ; and we invite the full, the constant, and the early communication of your sentiments in relation to it. On our part, we can venture to affirm that no endeavour shall be wanting in promoting your views ; and perfecting your plans. Others also who are in a situation, by advice or exertion, to assist in the work, will contribute to it, we hope, to the extent of their power, and we trust that by the blessing of Divine Providence on our united labours, the just and beneficent intentions of this country, in delegating to our hands the legislative as well as the executive administration of the mightiest, the most important, and the most interesting of its transmarine possessions will be happily accomplished.

39. For this subject we particularly refer you to the 43rd, 46th, 81st, 82nd, 83rd, 84th, 85th and 86th clauses of the Act.

40. These Clauses bring into view the legislative duties which will be imposed on you by the free admission now to be afforded to British subjects into the interior of India, among the first of which duties will be the obligation of providing, as directed by the 85th clause, for the protection of the natives from insult and outrages in their persons, properties, religions and opinions.

41. The importance and indeed the absolute necessity of extending to the natives such protection we need not demonstrate. Though English capitalists settling in the country, if they are governed by an enlightened sense of their own interests, will see the importance of acquiring the confidence of their native neighbours by a just and conciliatory course of conduct, yet even some of this class may yield to the influence of worse motives. Eagerness for some temporary advantages, the consciousness of power, the pride of a fancied superiority of race, the absence of any adequate check from public opinion, the absence also in many cases of the habitual check supplied by the stated and public recurrence of religious observances—these and other causes may occasionally lead even the settled resident to be less guarded in his treatment of the people than would accord with a just view of his situation. Much more may acts of outrage or insolence be expected from casual adventurers cut off possibly from Europe by the consequences of previous misconduct, at all events, released from the restraints which in this country the overawing influence of society imposes on all men not totally abandoned. The greater necessity is there that such persons should be placed under other checks.

43. Whatever provision may be made against occasional abuse, the views of Parliament in opening the interior of India, to Europeans are to be carefully kept in recollection. The Clauses which effect this great alteration in our Indian policy, are not *restraining* but *enabling* enactments. The legislature has avowedly proceeded on the principle that generally speaking and on the whole, the increased entrance of Europeans into the interior of India, their increased power of blending their interests with those of the country, and their increased opportunity of freely associating with the natives, will prove bene-

ficial to the native people, and promotive of their general improvement and prosperity. That which the legislature has thus assumed is also to be assumed by us and by you. Your laws and regulations, therefore, and also all your executive proceedings in relation to the admission and settlement of Europeans, like that law of the Imperial Legislature out of which they grow, must generally speaking and on the whole be framed on a principle not of restriction but of encouragement. The conditions which you shall see fit to impose on private persons coming from Europe for the highly proper purpose of placing and keeping them within the supervision of an all-seeing Police, must not be more than necessary for that object. The regulations which you shall make with the just and humane design of protecting the natives from ill-treatment must not be such as to harass the European with any unnecessary restraints or to give him uneasiness by the display of improper distrust and suspicion. Laws passed in such a spirit tend to produce the very mischiefs which they aim at preventing. To the evil-minded they suggest evil; they furnish the discontented with materials or pretexts for clamor, and they irritate the peaceably disposed into hostility.

57. The means which the present Act affords you of applying the remedy referred to are set forth in the 43rd, 45th and 46th Clauses. By the first of these, the laws and regulations which you make under the Act are to bind all Courts of Justice whether chartered by the King or not, and their jurisdictions, and also all places and things throughout the territories of British India. By the 45th Clause your Laws and Regulations are to be taken notice of by all Courts of Justice within those territories and they need not be registered in any Court. By the 46th Clause you are restrained from making without our previous sanction any Law or Regulation which shall empower any Courts other than those chartered by the king to sentence British subjects, or their children to death, or which shall abolish the Courts so chartered. In respect to the last-mentioned clause we certainly should not without much consideration give our sanction to the important changes there referred to; and for the present those changes may be regarded as out of view. * * * * Your Laws and Regulations no longer require to be authenticated by registration in the Supreme Courts, and they, notwithstanding bind those Courts and must be noticed by them without being specially pleaded or proved. This is the known privilege of sovereign legislation. Beyond

this you are expressly authorized to make laws for the jurisdiction of the Supreme Courts, a most material qualification as we conceive of the inability to abolish them; since in virtue of this authority you may reduce the extent or circumscribe the sphere of their judicial power in any degree consistent with their retaining their essential character.

58. With regard to British-born subjects, when the Act says that you shall not pass laws making them capitally punishable otherwise than by the King's Courts, it does by irresistible implication authorize you to subject them in all other criminal respects and in all civil respects whatever to the ordinary tribunals of the Country. We know not indeed that there is any crime for which within this Clause, they may not be made amenable to the Country tribunals, provided that the law in giving those tribunals jurisdiction over the crime, shall empower them to award to it some other punishment than death.

59. From these premises there are some practical inferences to which we must call your attention. First we are decidedly of opinion that all British-born subjects throughout India should forthwith be subjected to the same tribunals with the Natives. It is of course implied in this proposition that in the interior they shall be subjected to the Mofussil Courts. So long as Europeans, penetrating into the interior held their places purely by the tenure of sufferance, and bore in some sense the character of delegates from a foreign power, there might be some reason for exempting them from the authority of those judicatures to which the great body of the inhabitants were subservient. But now that they are to become inhabitants of India, they must share in the judicial liabilities as well as in the civil rights pertaining to that capacity, and we conceive that their participation in both should commence at the same moment.

60. It is not merely on principle that we arrive at this conclusion. The 85th Clause of the Act to which we have before referred, after reciting that the removal of restriction on the intercourse of Europeans with the country will render it necessary to provide against any mischiefs or dangers that may thence arise, proceeds to direct that you shall make laws for the protection of the Natives from insult and outrage—an obligation which in our view you cannot possibly fulfil, unless you render both Natives and Europeans responsible to the same judicial control. There can be no equality of protection where justice is not equally and on equal terms accessible to all.

61. In laying down this proposition however we must guard against misconception. Though an Englishman be made amenable to the same tribunal with the Native, and though his rights be placed under the same supervision and protection, it does not follow that those rights are to be determined by the same rule. It is not necessary for example that the property of an Englishman should descend by the Indian rather than by the English Law of Succession. In cases of marriage the same tribunal may observe one rule in respect to the Englishman, another in respect to the Mussulman, and a third in respect to the Hindoo. Even in criminal cases, where such distinctions are least desirable, they may yet sometimes be necessary, since it is conceivable that what would operate as a severe penalty to a Hindoo, would be felt as none by an Englishman. But variances like these do not affect the main principle. The maxim still remains that justice is to be distributed to men of every Race, Creed, and Color, according to its essence, and with as little diversity of circumstances as possible.

62. Secondly, in looking forward to the effect of making Englishman triable by the Mofussil Courts you will do well to take into your renewed and very serious consideration a question often mooted, and even partially discussed, though as yet undecided. We mean whether or not the use of Juries in Criminal Trials should be introduced into the Provinces. We would not blindly yield to the opinion or the prejudice that it is the inalienable right of an Englishman under a Criminal accusation to be tried by a Jury. The only inalienable right of an accused Englishman is justice;—and if he resides in the Interior of India, he must be content with such justice as is dispensed to the Natives. But the prospect of an increased residence of Englishmen in the Interior, considering their known attachment to the principle of this Institution, forms an additional reason for the consideration of the expediency or in expediency of adopting it generally.

63. Even, however, if it be so adopted, it is neither necessary nor expedient that the Jury Trial which may be established in India, should be an exact copy of that which subsists in England. Whatever may be the prejudices of Englishmen we strongly deprecate the transfer to India of all the peculiarities of our Criminal Judicature. We are not satisfied that these peculiarities are virtues. There is no inherent perfection in the number twelve, nor any mysterious charm in an enforced un-

animity of opinion, and legislating for the Indian people, we should be apt to seek for precedents in the ancient usages of India rather than in the modern practice of England. The system of Criminal Judicature which you adopt must be formed with an especial regard to the advantage of the Natives, rather than of the New Settlers, not because the latter are in themselves less worthy of consideration, but because they are comparatively few, and Laws and Institutions exist for the benefit not of the few but of the many.

76. We have now completed all that we deem it necessary to say at present regarding the legislation to be exercised, and the laws to be made, in India. We will proceed to consider the new relation in which you will be placed with reference to the subordinate Governments, not by means of your legislative supremacy but in other respects.

77. The words of the 39th Clause are very comprehensive : 'The superintendence, direction, and control of the whole civil and military Government of all the said territories and revenues in India shall be vested in the said Governor-General in Council.'

78. The powers here conveyed, when the words are interpreted in all their latitude, include the whole powers of Government. And it is of infinite importance that you should well consider and understand the extent of the responsibility thus imposed upon you. The whole civil and military Government of India is in your hands, and for what is good or evil in the administration of it, the honour or dishonour will redound upon you.

79. With respect to the exercise of your legislative powers in the several Presidencies, what we have adduced of a general nature on that subject will, for the present, suffice.

80. With respect to the other powers which you are called upon to exercise, it will be incumbent upon you to draw, with much discrimination and reflection, the correct line between the functions which properly belong to a local and subordinate Government* and those which belong to the general Government ruling over and superintending the whole.

* The only Local Governments which then existed were the Presidencies of Madras and Bombay. The Bengal Presidency was at that time directly under the Governor-General in Council.

81. When this line is improperly drawn, the consequence is either that the general Government interferes with the province of the local Government, and enters into details which it cannot manage, and which preclude its consideration of more important objects; or that it withdraws its attention from the evidence of many things which may be right or wrong in the general course of the local administration, and thus partially deprives the State of the benefit of its superintendence and control.

82. It is true that the former Acts of Parliament, which made the Local Government of Bengal a supreme Government, gave the Governor-General in Council a control and superintendence over the other Presidencies as complete and paramount as it was possible for language to convey, and this we must assume to have been the intention of the Legislature. In practice, however, the Supreme Government made little exercise of its superintending authority, and the result has been that even that little exercise of it has been generally made when it was too late to be made with real effect, namely, after the subordinate Government had taken its course; thus losing the character of control and responsibility, and retaining only that of *ex post facto* intervention—a sort of intervention always invidious, and in most cases nothing but invidious, because what was already done, however open to censure, was beyond the reach of recall or correction.

83. It is evidently the object of the present Act to carry into effect that intention of the Legislature to which we have alluded. Invested as you are with all the powers of Government over all parts of India, and responsible for good government in them all, you are to consider to what extent, and in what particulars, the powers of Government can be best exercised by the local authorities, and to what extent, and in what particulars, they are likely to be best exercised when retained in your own hands. With respect to that portion of the business of Government which you fully confide to the local authorities, and with which a minute interference on your part would not be beneficial, it will be your duty to have always before you evidence sufficient to enable you to judge if the course of things in general is good, and to pay such vigilant attention to that evidence as will ensure your prompt interposition whenever anything occurs which demands it.

84. In general it is to be recollected that in all cases where there are gradations of authority the right working of the

system must very much depend on the wisdom and moderation of the supreme authority and also of the subordinate authorities. This is especially true of a system so peculiar as that of our Indian Empire. It was impossible for the Legislature, and it is equally so for us in our instructions, to define the exact limits between a just control and a petty, vexatious, meddling interference. We rely on the practical good sense of our Governor-General in Council, and of our other Governors, for carrying the law into effect in a manner consonant with its spirit, and we see no reason to doubt the possibility of preserving to every subordinate Government its due rank and power, without impairing or neutralising that of the highest.

85. The subordinate Governments will correspond directly with us as formerly, but we think that you should immediately receive copies of all their more important letters to us, both as part of the evidence of their proceedings which you should have before you, and that we may have the benefit of the observations which you may have to make, and which we desire that you will always despatch to us with the smallest possible delay.

86. It will be for you to determine what part of their records, or what other documents, it will be necessary for you regularly to receive as evidence of the general proceedings of the subordinate Governments, and as an index to the other documents which you will have occasion to call for when anything occurs which you desire to investigate.

96. Nothing is fixed by the Legislature with regard to the seat of Government in the Agra Presidency. The City of Agra is pointed out by the name adopted, and by the obvious advantage of elevating to this distinction, a capital of great antiquity and celebrity, but the consideration of preponderant convenience is not therefore excluded. The points of chief importance are, the salubrity of the place, its locality with respect to the territories which the Presidency is to comprise, and the expense which will be required in Buildings and Roads. Comparative advantage in these respects should determine the choice.

97. The Legislature has left the seat of the Supreme Government, both permanent and temporary, to its own choice. The important circumstance, however, of making the Governor-General local Governor of Bengal, renders it necessary that his habitual residence should be in the place where he can best perform both sets of his duties, that is, in Bengal. We have no doubt, therefore, that you will concur with us in thinking the

seat of the Supreme Government should be at Calcutta, where your records are now deposited, and where the requisite Buildings, public and private, already exist.

98. It is true the Governor-General may appoint a Deputy as Governor of Bengal. But this arrangement would need to be permanent, if the seat of the Supreme Government were not in Bengal ; and in that there would be considerable difficulty. The Governor can appoint as his Deputy, only one of the Ordinary Members of the Supreme Council. But if one of the four Ordinary Members of the Supreme Council is taken away, three only remain. By express enactment also it is established, that three Ordinary Members shall be present to constitute a Legislative Council. But the inconvenience of being unable to transact business without the presence of every Member of the Council must be obvious, especially in India, where the health of Europeans is so precarious.

100. There is one function of Government, with respect to which it may be a question in what hands it should be lodged ; we mean the regulation and management of the external relations. With respect to the great questions of peace and war, there is no room for deliberation. It is very obvious they should be determined wholly by the superintending Government which alone has under its eye the whole of the relations of the State. We think indeed that the diplomatic interests of the State will be placed with most advantage entirely in the hands of the Supreme Government ; and the patronage connected with that department will of course follow the duties. It does not follow, nor do we mean, that if, from proximity, or any other cause, a particular Residency, or a particular negotiation, can be better superintended by a local, than the general Government, the general Government should not delegate that superintendence.

103. By clause 87 of the Act it is provided that no person by reason of his birth, creed, or colour, shall be disqualified from holding any office in our service.

104. It is fitting that this important enactment should be understood in order that its full spirit and intention may be transfused through our whole system of administration.

105. You will observe that its object is not to ascertain qualification, but to remove disqualification. It does not break

down or derange the scheme of our government as conducted principally through the instrumentality of our regular servants, civil and military. To do this would be to abolish or impair the rules which the legislature has established for securing the fitness of the functionaries in whose hands the main duties of Indian administration are to be reposed—rules to which the present Act makes a material addition in the provisions relating to the college at Haileybury. But the meaning of the enactment we take to be that there shall be no governing caste in British India; that whatever other tests of qualification may be adopted, distinctions of race or religion shall not be of the number; that no subject of the King, whether of Indian or British or mixed descent, shall be excluded either from the posts usually conferred on our uncovenanted servants in India, or from the covenanted service itself, provided he be otherwise eligible consistently with the rules and agreeably to the conditions observed and exacted in the one case and in the other.

106. In the application of this principle, that which will chiefly fall to your share will be the employment of natives, whether of the whole or the mixed blood, in official situations. So far as respects the former class—we mean natives of the whole blood—it is hardly necessary to say that the purposes of the legislature have in a considerable degree been anticipated; you well know, and indeed have in some important respects carried into effect, our desire that natives should be admitted to places of trust as freely and extensively as a regard for the due discharge of the functions attached to such places will permit. Even judicial duties of magnitude and importance are now confided to their hands, partly no doubt from considerations of economy, but partly also on the principles of a liberal and comprehensive policy; still a line of demarcation, to some extent in favour of the natives, to some extent in exclusion of them, has been maintained; certain offices are appropriated to them, from certain others they are debarred—not because these latter belong to the covenanted service, and the former do not belong to it, but professedly on the ground that the average amount of native qualifications can be presumed only to rise to a certain limit. It is this line of demarcation which the present enactment obliterates, or rather for which it substitutes another, wholly irrespective of the distinction of races. Fitness is henceforth to be the criterion of eligibility.

107. To this altered rule it will be necessary that you

should, both in your acts and your language, conform ; practically, perhaps, no very marked difference of results will be occasioned. The distinction between situations allotted to the covenanted service and all other situations of an official or public nature will remain generally as at present.

108. Into a more particular consideration of the effects that may result from the great principle which the legislature has now for the first time recognised and established we do not enter, because we would avoid disquisition of a speculative nature. But there is one practical lesson which, often as we have on former occasions inculcated it on you, the present subject suggests to us once more to enforce. While, on the one hand, it may be anticipated that the range of public situations accessible to the natives and mixed races will gradually be enlarged, it is, on the other hand, to be recollected that, as settlers from Europe find their way into the country, this class of persons will probably furnish candidates for those very situations to which the natives and mixed race will have admittance. Men of European enterprise and education will appear in the field ; and it is by the prospect of this event that we are led particularly to impress the lesson already alluded to on your attention. In every view it is important that the indigenous people of India, or those among them who by their habits, character, or position may be induced to aspire to office, should as far as possible, be qualified to meet their European competitors.

Thence, then, arises a powerful argument for the promotion of every design tending to the improvement of the natives, whether by conferring on them the advantages of education, or by diffusing among them the treasures of science, knowledge, and moral culture. For these desirable results, we are well aware that you, like ourselves, are anxious, and we doubt not that, in order to impel you to increased exertion for the promotion of them, you will need no stimulant beyond a simple reference to the considerations we have here suggested.

109. While, however, we entertain these wishes and opinion, we must guard against the supposition that it is chiefly by holding out means and opportunities of official distinction that we expect our Government to benefit the millions subjected to their authority. We have repeatedly expressed to you a very different sentiment. Facilities of official advancement can little affect the bulk of the people under any Government, and perhaps least under a good Government. It is not by holding

out incentives to official ambition, but by repressing crime, by securing and guarding property, by creating confidence, by ensuring to industry the fruit of its labour, by protecting men in the undisturbed enjoyment of their rights, and in the unfettered exercise of their faculties, that Governments best minister to the public wealth and happiness. In effect, the free access to office is chiefly valuable when it is a part of general freedom.

VIII. THE CHARTER ACT OF 1853.

(16 & 17 Vict. C. 95.)

A.

AN ACT TO PROVIDE FOR THE GOVERNMENT OF INDIA.

(20th August, 1853.)

15. The provisions of the said Act of the Third and Fourth Years of King William the Fourth relating to the Division of the Presidency of Fort William in Bengal into Two Presidencies, and to the Measures consequent thereupon, which have been suspended under the Authority of the Act of the Session holden in the Fifth and Sixth Years of King William the Fourth, Chapter Fifty-two, shall remain suspended until the Court of Directors, under the Direction and Control of the Board of Commissioners for the Affairs of India, shall otherwise direct ; and during the Continuance of such Suspension the Provisions of such last-mentioned Act, authorizing the Appointment of a Lieutenant Governor for the North-Western Provinces, then under the Government of the Presidency of Fort William in Bengal, and the Appointments and Arrangements made thereunder, shall remain in full force.

16. It shall be lawful for the said Court of Directors, under such Direction and Control as aforesaid, if and when they think fit, at any Time after the passing of this Act, to declare that the Governor-General of India shall not be Governor of the Presidency of Fort William in Bengal, but that a separate Governor shall be appointed for such Presidency, and in such Case a separate Governor shall be

The provision of 3 & 4 W. 4. c. 85 for creating a Presidency of Agra which has been suspended by 5 & 6 W. 4. c. 52., to remain so until the same be revoked.

A separate Governor may be appointed for the Presidency of Bengal :

from Time to Time appointed for such Presidency accordingly, in manner provided by the said Act of the Third and Fourth Years of King William the Fourth, in the Case of Vacancies happening in the offices of the Governors of the Presidencies of Fort Saint George and Bombay ; and from and after the Appointment of such Governor, the Power by the said Act vested in the Governor-General of India of appointing a Deputy Governor of the said Presidency of Fort William in Bengal shall cease ; and unless and until a separate Governor of such Presidency shall be constituted as aforesaid, it shall be lawful for the Court of Directors, under such Direction and Control as aforesaid, if and when they think fit, at any Time after the passing of this Act, to authorize and direct the Governor-General of India in Council to appoint from Time to Time any servant of the said Company who shall have been Ten years in their Service in India to the Office of Lieutenant-Governor of such Part of the Territories under the Presidency of Fort William in Bengal as for the Time being may not be under the Lieutenant Governor of the said North-western Provinces, and to declare and limit the Extent of the Authority of the Lieutenant Governor to be so appointed.

17. It shall be lawful for the Court of Directors of the said Company, under such Direction and Control, if and when they think fit, to constitute One new Presidency within the Territories subject for the Time being to the Government of the said Company, and to declare and appoint what Part of such Territories shall be subject to the Government of such new Presidency ; and unless and until such new Presidency be constituted as aforesaid, it shall be lawful for the said Court of Directors, under such Direction and Control as aforesaid, if and when they think fit, to authorize (in addition to such Appointments as are herein-before authorized to be continued and made for the Territories now and heretofore under the said Presidency of Fort William) the Appointment by the said Governor-General in Council of a Lieutenant-Governor for any Part of the Territories for the Time being subject to the Government of the said Company, and to declare for what Part of the said Territories such Lieutenant Governor shall be appointed, and the Extent of his Authority, and from Time to Time to revoke or alter any such Declaration.

Power to Directors to create one new Presidency or to authorise Governor-General to appoint a new Lieutenant Governorship.

in the meantime a Lieutenant Governor may be appointed.

18. It shall be lawful for the said Court of Directors, under such Direction and Control as aforesaid, from Time to Time to declare and appoint what Part or Parts of the Territories for the Time being subject to the Government of the said Company shall be or continue subject to each of the Presidencies and Lieutenant-Governorships for the Time being subsisting in such Territories, and to make such Distribution and Arrangement or new Distribution and Arrangement of such Territories into or among such Presidencies or Lieutenant-Governorships as to the said Court of Directors, under such Direction and Control as aforesaid, may seem expedient.

Power to alter from time to time the limits of Presidencies and Lieutenant-Governorships.

19. The Provisions of the said Act of the Third and Fourth Years of King William the Fourth, as amended by this Act, and all other Provisions now in force for the Administration of the Executive Government of the Presidencies of Fort Saint George and Bombay respectively, and authorizing the Revocation and Suspension of the Appointment of Councils and the Reduction of the Number of Councillors in such Presidencies respectively, and as to the Powers, Duties, Functions, and Immunities of the Governors of such Presidencies respectively, and of such Governors in their respective Councils, and concerning or applicable to the Appointment and provisional Appointment of Governors and Members of Council of the said Presidencies respectively on Vacancies, and otherwise providing for Vacancies in the office of any such Governor, and concerning the Removal and Dismissal of such Governors and Members of Council, and the Revocation of Appointments and provisional Appointments of Governors and Members of Council of such Presidencies, and concerning the Salaries and Emoluments of such Governors and Members of Council, shall extend and be applicable in like manner to and in the Case of any new Presidency to be established as aforesaid under this Act, and also to and in the Case of the Presidency of Agra, in case the same be constituted under the Provisions of the said Act of the Third and Fourth Years of King William the Fourth; and the said Provisions concerning Appointments of Governors and Members of Council on Vacancies, as amended by this Act, shall extend and be applicable to and for the first Appointment of a Governor and Members of Council of such new Presidency and the Presidency of Agra aforesaid.

The enactments as to existing Presidencies to extend to new Presidencies.

20. Every Appointment by the Court of Directors of any Ordinary Member of the Council of India, or of any Member of the Council of any Presidency in India, shall be subject to the Approbation of Her Majesty, to be signified under Her Royal Sign Manual countersigned by the President of the Board of Commissioners for the Affairs of India.

All appointments of Members of Council to be approved of by Her Majesty.

21. So much of the said Act of the Third and Fourth Years of King William the Fourth as provides that the Fourth Ordinary Member of the Council of India shall not be entitled to sit or vote in the said Council, except at Meetings thereof for making Laws and Regulations, shall be repealed.

As to excluding Fourth Ordinary Member from certain Meetings.

22. For the better Exercise of the Powers of making Laws and Regulations, now vested in the Governor-General of India in Council, the several Persons here-in-after mentioned shall, in addition to and together with such Governor-General and the Members of the said Council, under the said Act of the Third and Fourth Years of King William the Fourth, be Members of the said Council of India for and in relation to the Exercise of all such Powers of making Laws and Regulations as aforesaid, and shall be distinguished as Legislative Councillors thereof ; (that is to say,)

Legislative councillors added to the Council of India for making Laws and Regulations ;

One member for each Presidency and Lieutenant-Governorship for the Time being established in the said Territories, to be appointed from Time to Time by the Governor of such Presidency and the Lieutenant-Governor of such Lieutenant-Governorship respectively, from among the Persons having been or being at the Time of their Appointment in the Civil Service of such Company within such Presidency or Lieutenant-Governorship, and who shall have been Ten Years in the Service of the said Company :

The Chief Justice of the Supreme Court of Judicature at Fort William in Bengal, or the Chief Justice or Chief Judge of any Court of Judicature hereafter to be constituted in the said Territories to or in which the Powers of such Supreme Court may be transferred or vested :

One of the other Judges of such Supreme Court, or One of the Judges appointed by Her Majesty of any such future Court as aforesaid, to be named by the said Governor-General.

And it shall be lawful for the Court of Directors, if they think it expedient, under the Direction and Control of the Board of Commissioners for the Affairs of India, to authorize and direct the Governor-General of India to appoint from Time to Time, in addition to such Legislative Councillors as aforesaid, Two Persons, to be selected by the said Governor-General, having been Ten Years in the Service of the Company, to be Legislative Councillors of the said Council under this Act : Provided always, that the Legislative Councillors added to the Council of India by or under this Act shall not be entitled to sit or vote in the said Council, except at Meetings thereof for making Laws and Regulations.

but only to vote at meetings for that purpose.

23. It shall be lawful for such Governor-General to appoint any Member of the said Council to be Vice-President thereof at Meetings of the said Council for making Laws and Regulations who shall preside therein at such Meetings in the Absence of such Governor-General, and in the Absence of such Vice-President the senior Ordinary Member of the Council of India there present shall preside therein ; and the Powers of making Laws or Regulations vested in the said Governor-General in Council shall be exercised only at meetings of the said Council, at which such Governor-General or Vice-President or some Ordinary Member of Council, and Six or more Members of the said Council shall be assembled, the Chief Justice, or Chief Judge, or such other Judge of the Supreme Court or such other Court as aforesaid, or The Fourth Ordinary Member of the said Council of India, being One ; and in every Case of Difference of Opinion at Meetings of the said Council for making Laws and Regulations, where there shall be an Equality of Voices, the Governor-General, or in his Absence the Vice-President, and in the absence of the Governor-General and the Vice-President such senior Ordinary Member of Council there present and presiding, shall have Two Votes or the Casting Vote.

Appointment of a Vice-President of Council to preside at meetings in absence of Governor-General ; Quorum for legislative business.

24. Provided always, That no Law or Regulation made by the said Council shall have Force or be promulgated until the same has been assented to by the said Governor-General, whether he shall or shall not have been present in Council at the making thereof.

Governor-General's assent requisite to validity of laws.

26. No Law or Regulation made by the Governor-General in Council shall be invalid by reason only that the same affects any Prerogative of the Crown, provided such Law or Regulation shall have received the previous Sanction of the Crown, signified under the Royal Sign Manual of Her Majesty, countersigned by the President of the Board of Commissioners for the Affairs of India.

No law, etc. invalid by reason of its affecting any Prerogative of the Crown.

33. 'And whereas by the said Act of the Third and Fourth Years of King William the Fourth it is enacted, that the President of the Board of Commissioners for the Affairs of India, but no other Commissioner as such, and the Secretaries and other Officers, shall be paid by the said Company such fixed Salaries as His Majesty shall, by any Warrant or Warrants under His Sign Manual, countersigned by the Chancellor of the Exchequer for the Time being, direct : ' Be it enacted, That such fixed Salary of the said President of the Board of Commissioners shall in no Case be less than the Salary which shall be paid to One of Her Majesty's Principal Secretaries of State ; and that only One of the said Secretaries to the said Board shall be capable of being elected for sitting and voting in Parliament.

Salary of President of Board of Control.

35. There shall be paid to the several Officers herein-after named the several annual Salaries set against the Names of such Officers respectively, subject to such Reduction as the Court of Directors, with the Sanction of the said Board, may from Time to Time think fit ; (that is to say,)

Salaries.

To the Commander-in-Chief of the Forces in India, One hundred thousand Company's Rupees, in lieu of all other Pay and Allowances ;

To each Lieutenant-Governor, One hundred thousand Company's Rupees :

To each Ordinary Member of the Council of India, Eighty thousand Company's Rupees :

To each Legislative Councillor of the Council of India (not holding any other Office), Fifty thousand Company's Rupees :

The several Salaries aforesaid to be subject to the Provisions and Regulations of the said Act of the Third and Fourth

Years of King William the Fourth, concerning the Salaries thereby appointed : Provided always, that the Salary of any such Officer appointed before the passing of this Act shall not under this Enactment be reduced.

B.

EXTRACTS FROM SIR CHARLES WOOD'S SPEECH.

In moving (June 3, 1853) for leave to bring in a Bill for the Government of India, SIR CHARLES WOOD, in the course of a long speech, said :—

"I need not trouble the House with any lengthened remarks upon the subject of the position of the Governor-General, because, according to the concurrent testimony of all the witnesses, there is not much change required. LORD DALHOUSIE is of opinion that no change is necessary. The questions that have arisen on more than one occasion as to the relative powers of the Governor-General and his Council have been settled by the opinions of the law officers here, and the orders which have been sent from the Court of Directors ; and it seems quite unnecessary to make any change in this respect. The only alteration in the position of the Governor-General which we propose to make is this. It appears from the whole of the evidence, that, entrusted as he is both with the Government of India and the Government of Bengal, he has more duties to attend to than he can fairly discharge. We propose, therefore, to relieve him of the administration of the province of Bengal. But we do not propose that any change should be made in the general control which he exercises over the whole of the Indian Government. Complaints have been made by some witnesses on behalf of the other Presidencies, of the unnecessary check on useful expenditure which they say is imposed upon them by the Governor-General. But this does not appear to be borne out by the facts. If the Governor-General was likely unfairly to favour one Presidency more than another, it would naturally be the one under his own immediate superintendence—that of Bengal. But the very reverse is the fact. It seems from a return which was prepared of the comparative expenditure for public works (and this was the question as to which the complaints were made), that the greatest expenditure for this purpose was in the North-western Provinces, the next in Madras, the

next in Bombay, and the least of all in Bengal. I do not think, however, that under any circumstances this is a matter for legislation, but is clearly a matter of discretion, which must be left to the Government in India to settle. Perhaps the existing limit on the expenditure to be incurred by the Governors of the minor Presidencies might be somewhat extended ; but it should not be forgotten that the wasteful expenditure of these Presidencies before the Act of 1833, was one of the main reasons stated by LORD GLENELG for the change in the Government of India, rendering absolutely necessary the control on the part of the Supreme Government.

Another point has been raised as to the absence of the Governor-General from Calcutta without his Council. That, again, I think, is a matter for discretion, and not for legislation. There are cases where it is desirable that the Governor-General should leave Calcutta. When LORD HARDINGE, for example, went up with the army, it was clearly for the benefit of India that he should do so ; and when LORD DALHOUSIE went up to the Punjab, it was also clearly for the interest of India that he should be there and not at Calcutta ; and there can be no doubt that his presence on the spot contributed essentially to the speedy and successful settlement of those districts. When the Governor-General goes away from Calcutta on such occasions, he generally takes with him, as it is called, the political and military powers, which enable him to direct the political movements in India ; but he leaves with his Council at Calcutta all the powers necessary for conducting the general administration of India. This portion of the duty of the Supreme Government they are perfectly competent to perform, and the inconvenience and interruption to business is avoided, which would inevitably result from moving the Council and all its attendant functionaries from the permanent seat of Government at Calcutta. No doubt, it is desirable that the Governor-General should be as much at Calcutta as possible ; but this is a matter, as I before said, which must be left to the discretion of the Governor-General and Council, for no fixed regulations can be laid down which might not subject both the Governor-General and the Empire to considerable inconvenience.

With regard to the Executive Council, we propose no change except that the members shall be named by the Court of Directors, with the check of the approbation of the Crown ; and that the fourth Ordinary Member, or the "legislative coun-

members shall have seats in the Executive Council, there will be this further advantage, that they will supply information to the Governor-General and his Council in their executive capacity as to all matters connected with those parts of the country from which they come. The members of the civil service will bring with them that intimate acquaintance with the manners and customs of the people of India which is so requisite towards promoting sound legislation. There will also be the advantage of having in the Council three persons of legal education from England, two of the Judges of the Supreme or other Superior Court, and the Legislative Councillor. I hope that the result of this will be to introduce that improved spirit of legislation with which it is probable all those going from this country to India will be thoroughly imbued ; and with this admixture of English legal knowledge and skill, and of the intimate acquaintance possessed by the Indian civil servants of the customs and manners and wants of the different parts of India, we trust that a legislative body will be constructed fully equal to the discharge of its high and important duties. We propose to give the Governor-General a veto on their legislation, which he possesses indeed now when absent from his Council, but not when present.

IX. THE GOVERNMENT OF INDIA ACT, 1854.

(17 and 18 Vict., c. 77.)

AN ACT TO PROVIDE FOR THE MODE OF PASSING LETTERS PATENT AND OTHER ACTS OF THE CROWN RELATING TO INDIA, AND FOR VESTING CERTAIN POWERS IN THE GOVERNOR-GENERAL OF INDIA IN COUNCIL. (7TH AUGUST 1854.)

"Whereas Doubts may arise as to the mode of passing Letters Patent and other Acts of the Crown relating to India in certain cases where Her Majesty's Pleasure is to be signified under Her Royal Sign manual, and it is expedient to remove such Doubts, and to provide an uniform Mode of proceeding in such cases : And whereas it is expedient to provide for the Administration by the Governor-General of India in Council of such Parts of the Territories for the Time being under the Government of the East India Company as it may not be advisable to include in any Presidency or Lieutenant-Governorship, and to vest in such Governor-General of India in Council

THE GOVERNMENT OF INDIA ACT, 185

the Powers now vested in the Governor of the Presidency of Fort William in Bengal :” Be it enacted and declared, there by the Queen’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same as follows :

3. It shall be lawful for the Governor-General of India in Council, with the Sanction and Approbation of the Court of Directors of the East India Company, acting under the control and direction of the Board of Commissioners for the Affairs of India from time to time, by Proclamation duly published, to take under the immediate Authority and Management of the said Governor-General of India in Council any part or parts of the Territories for the Time being in the possession or under the Government of the said Company, and thereupon to give all necessary Orders and Directions respecting the Administration of such part or parts of the said Territories, or otherwise to provide for the Administration thereof : Provided always, that no Law or Regulation in force at any such Time as regards any such Portion of Territory shall be altered or repealed except by Law or Regulation made by the Governor-General of India in Council

The immediate Government of any Part of the Indian Territories may be vested in the Governor-General of India in Council.

4. It shall be lawful for the said Governor-General of India in Council, with the like Sanction and Approbation, from time to time, to declare and limit the Extent of the Authority of the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-west Provinces, who is now or may be hereafter appointed.

Governor-General may limit the Powers of Governors herein named.

5. All Powers now or at any time vested in or exercised by the Governor in Council, or Governor of the Presidency of Fort William in Bengal, or in or by the Governor-General of India in Council in respect of such Presidency, and which for the time being shall not have been transferred to the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-west Provinces, shall be vested in and may be exercised by the Governor-General of India in Council, and the Governor-General of India shall no longer be the Governor of the said Presidency of Fort William in Bengal.

Certain Powers transferred to the Governor-General in Council.

INDIAN CONSTITUTIONAL DOCUMENTS.

In the construction of this Act "India" shall be construed to mean the Territories for the time being in the possession and under Government of the East India Company.

X. THE GOVERNMENT OF INDIA ACT, 1858*.

(21 and 22 Vict., C. 106.)

A.

AN ACT FOR THE BETTER GOVERNMENT OF INDIA.

[2ND AUGUST, 1858]

Whereas by the Government of India Act, 1853, the territories in the possession and under the Government of the East India Company were continued under such Government, in trust for Her Majesty, until Parliament should otherwise

* It was in connection with the order for Second Reading of The Government of India (No. 3) bill that Mr. Bright made the following remarks:—

"I would propose that, instead of having a Governor-General and an Indian empire, we should have neither the one nor the other. I would propose that we should have Presidencies, and not an empire. If I were a minister, which the House will admit is a bold figure of speech—and if the House were to agree with me—which is also an essential point—I would propose to have at least five Presidencies in India, and I would have the governments of those Presidencies perfectly equal in rank and in salary. The Capitals of those Presidencies would probably be Calcutta, Madras, Bombay, Agra, and Lahore. I will take the Presidency of Madras as an illustration. Madras has a population of some 23,000,000. We all know its position on the map, and that it has the advantage of being more compact, geographically speaking, than the other Presidencies. It has a Governor and a Council. I would give to it a Governor and a Council still, but would confine all their duties to the Presidency of Madras, and I would treat it just as if Madras was the only portion of India connected with this country. I would have its finance, its taxation, its justice, and its police departments, as well as its public works and military departments, precisely the same as if it were a state having no connection with any other part of India, and recognized only as a dependency of this country. I would propose that the Government of every Presidency should correspond with the Secretary for India in England, and that there should be telegraphic communications between all the Presidencies in India, as I hope before long to see a telegraphic communication between the office of the noble Lord (Lord Stanley) and every Presidency over which he presides. I shall no doubt be told that there are insuperable difficulties in the way of such an arrangement, and I shall be sure to hear of the military difficulty. Now, I do not profess to be an authority on military affairs, but I know that military men often made great mistakes. I would have the army divided, each Presidency, having its own army, just as now, care being taken to have them kept distinct; and I see no danger of any confusion or misunderstanding, when an emergency arose in having them all brought together to carry out the views of the Government."

provide, subject to the provisions of that Act, and of other Acts of Parliament, and the property and rights in the said Act referred to are held by the said Company in trust for Her Majesty for the purpose of the said Government :

And whereas it is expedient that the said territories should be governed by and in the name of Her Majesty, Be it enacted etc.

1. The Government of the territories now in the possession or under the Government of the East India Company and all powers in relation to Government vested in, or exercised by, the said Company in trust for Her Majesty, shall cease to be vested in, or exercised by, the said Company ;

And all territories in the possession or under the Government of the said Company, and all rights vested in, or which if this Act had not been passed might have been exercised by, the said Company in relation to any territories, shall become vested in Her Majesty, and be exercised in her name ; And for the purpose of this Act India shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid.

2. India shall be governed by and in the name of Her Majesty ; And all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the Government of India ; And all the territorial and other revenues of or arising in India and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the Government of India alone, subject to the provisions of this Act.

3. Save as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the Government or revenues of India, and all such or the like powers over all officers appointed or continued

Territories under the Government of the East India Company to be vested in Her Majesty.

and powers to be exercised in her name.

India to be governed by and in the name of Her Majesty.

Secretary of State to exercise powers now exercised by the Company.

under this Act, as might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India in relation to such government or revenues, and the officers and servants of the said Company respectively, and all such powers as might have been exercised by the said Commissioners alone ;

And any Warrant of writing under Her Majesty's Royal Sign Manual which by the Government of India Act, 1854, or otherwise, is required to be counter-signed by the President of the Commissioners for the Affairs of India, shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State.

Counter-signing of warrants, 17 & 18 Vict., C. 77.

6. In case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of India to such Principal Secretary of State and his Under-Secretaries respectively the like yearly salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively.

Salaries of one Secretary of State and his Under Secretaries to be paid out of the revenues of India.

7. For purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of India ; And henceforth the Council of India, now bearing that name shall be styled the Council of the Governor-General of India.

Council of India established.

8. Within fourteen days after the passing of this Act the Court of Directors of the East India Company shall from among the persons then being Directors of the said Company or having been theretofore such Directors, elect seven persons to be with the persons to be appointed by Her Majesty as hereinafter mentioned the first Members of the Council under this Act. * * * * *

9. Every vacancy happening from time to time among the Members of the Council appointed by Her Majesty, not being Members so appointed by reason of the Refusal or Neglect of the Court of Directors or the Refusal to accept office hereinbefore mentioned, shall be filled up by Her Majesty, by Warrant under Her Royal Sign Manual, and every other

vacancy shall be filled up by the Council by election made at a meeting to be held for that purpose.

10. The major part of the persons to be elected by the Court of Directors and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be Members of the Council, shall be persons who shall have served or resided in India for ten years at the least, and (excepting in the case of late and present Directors and Officers on the Home establishment of the East India Company who shall have so served or resided), shall not have last left India more than ten years next preceding the date of their appointment; And no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing Members of the Council be persons qualified as aforesaid.

11. Every Member of the Council appointed or elected under this Act shall hold his office during good behaviour; Provided that it shall be lawful for Her Majesty to remove any such Member from his office upon an address of both Houses of Parliament.

12. No Member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament.

13. There shall be paid to each Member of the Council the yearly salary of one thousand two hundred pounds out of the revenues of India.

14. Any Member of the Council may, by writing under his hand, which shall be recorded in the minutes of the Council, resign his office, and it shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to grant to any person who, having held the office of Member of the Council for the period of ten years or upwards shall so resign by reason of infirmity disabling him from a due execution of the duties of the office, a retiring pension during life of five hundred pounds: Provided, that if, at any time hereafter it would appear to Parliament expedient to reduce the number or otherwise deal with the Constitution of the said Council, no Member of the Council who has not served in his office for a period of ten years shall be

entitled to claim any compensation for the loss of his office or for any alteration in the terms and conditions under which the same is held.

19. The Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India. But every order or communication sent to India shall be signed by one of the Principal Secretaries of State; And, save as expressly provided by this Act, every order in the United Kingdom in relation to the Government of India under this Act shall be signed by such Secretary of State; And all despatches from Governments and Presidencies in India, and other despatches from India, which if this Act had not been passed should have been addressed to the Court of Directors or to their Secret Committee, shall be addressed to such Secretary of State.

20. It shall be lawful for the Secretary of State to divide the Council into Committees for the more convenient transaction of business, and from time to time to re-arrange such Committees, and to direct what departments of the business in relation to the Government of India under this Act shall be under such Committees respectively, and generally to direct the manner in which all such business shall be transacted.

21. The Secretary of State shall be the President of the Council, with power to vote; And it shall be lawful for such Secretary of State in Council to appoint from time to time any Member of such Council to be Vice-President thereof; And any such Vice-President may at any time be removed by the Secretary of State.

22. All powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present; And at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside; and in the absence of the Secretary of State and Vice President, one of the Members of the Council present shall be chosen by the

Members present to preside at the meeting : And such Council may act notwithstanding any vacancy therein. Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct : Provided that one such meeting at least be held in every week.

23. At any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a Member of Council, or other than any question with regard to which a majority of the votes at a meeting is hereinafter declared to be necessary, the determination of the Secretary of State shall be final ; And in case of an equality of votes at any meeting of the Council, the Secretary of State, if present and in his absence the Vice-President, or presiding Member, shall have a casting vote ; And all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a Member of the Council, shall require the sanction or approval in writing of the Secretary of State ; And in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion and the reasons for the same be entered in the minutes of the proceedings, and any Member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner.

24. Every order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State under this Act, shall, unless the same has been submitted to a meeting of the Council be placed in the Council room for the perusal of all members of the Council during seven days before the sending or making thereof, except in the cases hereinafter provided ; And it shall be lawful for any Member of the Council to record in a minute book to be kept for that purpose his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

25. If a majority of the Council record as aforesaid their opinions against any act proposed to be done the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto.

Procedure at meetings.

Orders, &c., to be open to the perusal to Members of Council who may record their opinions.

Secretary of State acting against the opinions of the majority to record his reasons.

26. Provided that where it appears to the Secretary of State that the despatch of any communication or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every Member of the Council, except in the cases hereinafter mentioned.

Provision for cases of urgency.

27. Provided also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the Affairs of India, through the Secret Committee of the Court of Directors to Governments or Presidencies in India, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in India, by the Secretary of State without having been submitted to a meeting, or deposited for the perusal of the Members of the Council, and without the reasons being recorded, or notice thereof given as aforesaid.

Orders now sent through Secret Committee may be sent by Secretary of State without communication with the Council.

28. Any despatches to Great Britain which might, if this Act had not been passed, have been addressed to the Secret Committee of the Court of Directors, may be marked "secret" by the authorities sending the same; And such despatches shall not be communicated to the Members of the Council, unless the Secretary of State shall so think fit and direct.

As to communication of secret despatches from India.

29. The appointments of Governor-General of India and Governors of Presidencies in India now made by the Court of Directors with the approbation of Her Majesty, and the appointments of Advocate-General for the several Presidencies now made with the approbation of the Commissioners for the Affairs of India, shall be made by Her Majesty by Warrant under Her Royal Sign Manual;

Appointments to be made by or with the approbation of Her Majesty.

The appointment of the Lieutenant-Governors of provinces or territories shall be made by the Governor-General of

India, subject to the approbation of Her Majesty; and all such appointments shall be subject to the qualifications now by law affecting such offices respectively.

30. All appointments to offices, commands and employments in India, all promotions, which by law, or under any regulations, usage or custom, are now made by any authority in India, shall continue to be made in India by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively;

Appointments now made in India to continue to be made there.

But the Secretary of State in Council, with the concurrence of a majority of Members present at a meeting, shall have the like power to make regulations for the divisions and distribution of patronage and power of nomination among the several authorities in India, and the like power of restoring to their stations, offices, or employments, officers, and servants suspended or removed by any authority in India, as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the Affairs of India, as if this Act had not been passed.

Power of Secretary of State in Council as to appointments, etc. in India.

32. With all convenient speed after the passing of this Act Regulations shall be made by the Secretary of State in Council, with the advice and assistance of the Commissioners for the time being, acting in execution of her Majesty's Order in Council of twenty-first May one thousand eight hundred and fifty-five for regulating the admission of persons to the Civil Service of the Crown, for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf) who may be desirous of becoming candidates for appointment to the Civil Service of India to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations under the superintendence of the said last mentioned Commissioners or of the person for the time being entrusted with the carrying out of such regulations as may be, from time to time, established by Her Majesty for examination, certificate, or other test of fitness in relation to appointments to junior situations in the Civil Service of the Crown; And the candidates who may be certified by the said Commissioners or

Secretary of State in Council to make regulations for the admission of candidates to the Civil Service of India.

other persons as aforesaid, to be entitled under such regulations shall be recommended for appointment according to the order of their proficiency as shown by such examinations; And such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil Service of India by the Secretary of State in Council;

Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting then, within fourteen days after the next meeting thereof.

Regulations made by Secretary of State to be laid before Parliament.

33. All appointments to cadetships, naval and military, and all admissions to service not herein otherwise provided for, shall be vested in Her Majesty; And the names of persons to be from time to time recommended for such cadetships and service shall be submitted to her Majesty by the Secretary of State.

Other appointments and admissions to service vested in Her Majesty.

37. Save as hereinbefore provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such regulations, which, if this Act had not been passed, might have been exercised by the Court of Directors or Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council; And all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid.

Regulations as to appointments and admissions to service.

38. Any writing under the Royal Sign Manual, renewing or dismissing any person holding any office, employment, or commission, civil or military, in India, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy of the Court of Directors shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council.

Removal of officer by Her Majesty to be communicated to Secretary of State in Council.

39. All lands and hereditaments, movables, stores, goods, chattel, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments, which the said Company shall be seized or possessed of, or entitled to, at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of India.

40. The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments or any interests therein, stores, goods, chattels and other property, and to enter into any contracts whatsoever, as may be thought fit for the purposes of this Act ;

And all property so acquired shall vest in Her Majesty for the service of the Government of India : and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seal of three Members of the Council.

41. The expenditure of the revenues of India, both in India and elsewhere, shall be subject to the control of the Secretary of State in Council ; And no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council.

42. * * * * All the bond, debenture and other debt of the said Company in Great Britain, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges and expenses, which if this Act had not been passed would after the

time appointed for the commencement thereof have been payable by the said Company out of the revenues of India, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing and all expenses, debts and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of India, and all payments under this Act, shall be charged and chargeable upon the revenues of India alone, as the same would have been if this Act had not been passed, and such expenses, debts and liabilities lawfully contracted and incurred by the said Company ; and such revenues shall not be applied to any other purpose whatsoever ; And all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues. * * *

43. Such part of the revenues of India as shall be from time to time remitted to Great Britain, and all monies of the said Company in their treasury or under the care of their cashier, and all other monies in Great Britain of the said Company, or which would have been received by them in Great Britain if this Act had not been passed, and all monies arising or accruing in Great Britain from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act ; And all such monies, except as hereinafter otherwise provided, shall be paid into the Bank of England, to the credit of an account to be opened by the Governor and Company of the Bank of England, to be intituled "The Account of the Secretary of State in Council of India" ; And all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three Members of Council and countersigned by the Secretary of State or one of his Under Secretaries ; and such account shall be a public account : Provided always, that the Secretary of State in Council may cause to be kept from time to time, under the care of their cashier, in an account to be kept at the Bank of England, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company.

46. The Secretary of State in Council shall, with respect to all Actions, Suits and all Proceedings by or against the said Com-

pany pending at the time of the Commencement of this Act, come in the place of the said Company and that without the necessity of substituting the name of the Secretary of State in Council for that of the said Company.

52. It shall be lawful for Her Majesty, by Warrant under Her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be Auditor of the Accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such Warrant, and every such auditor shall hold office during good behaviour; And there shall be paid to such auditor and assistants out of the revenues of India such respective salaries as Her Majesty, by Warrant as aforesaid, countersigned as aforesaid, may direct; And such Auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in Great Britain of all monies, shares and property applicable for the purpose of this Act; and the Secretary of State in Council shall, by the officers and servants of the establishment produce and lay before such Auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto; And such Auditor shall have power to examine all such officers and servants in Great Britain of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such monies, shares, and property, and for that purpose, by writing under his hand, to summon before him any such officer or servants; And such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case if there shall be, in which it shall appear to him that any money arising out of the revenues of India has been appropriated to other purposes than those of the Government of India to which alone they are declared to be applicable; and shall specify in detail in his reports all sums of money, shares and property which ought to be accounted for, and are not brought into account, or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities, which may appear in such accounts, or in

Audit of accounts in Great Britain.

the authorities, vouchers, or documents having relation thereto ; And all such reports shall be laid before both Houses of Parliament by such Auditor, together with the accounts of the year to which the same may relate.

53. The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting, next after the first day of May in every year, lay before both Houses of Parliament an account for the financial year preceding the last completed of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of India, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of India, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in England or elsewhere applicable to the purposes of the Government of India, according to the latest advices which have been received thereon, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof ; And if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within a year, the particulars thereof shall be specially stated and explained at the foot of the account of such year ; And such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in India in such form as shall best exhibit the moral and material progress and condition of India in each such Presidency.

54. When any order is sent to India directing the actual commencement of hostilities by Her Majesty's forces in India, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and, if Parliament not sitting at the end of such three months, then within one month after the next meeting of Parliament.

55. Except for preventing or repelling actual invasion of Her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's forces charged upon such revenues.

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers.

63. In case the person who shall be entitled under any provisions for appointment to succeed to the office of Governor-General of India upon a vacancy therein, or who shall be appointed absolutely to assume the office, shall be in India (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment, as the case may require), but shall be absent from Fort William in Bengal, or from the place where the Council of the Governor-General of India may then be, and it shall appear to him necessary to exercise the powers of Governor-General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment and his intention to assume the said office of Governor-General; And after such proclamation, and thenceforth until he shall repair to Fort William or the place where the Council may assemble, it shall be lawful for him to exercise alone, all or any of the powers which might be exercised by the Governor-General in Council, except the power of making laws and regulations; And all acts done in the exercise of the said powers, except as aforesaid shall be of the same force and effect as if they had been done, by the Governor-General in Council; Provided that all acts done in the said Council after the date of such proclamation but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor-General; And when the office of Governor-General is assumed under the foregoing provision, if there be at any time before the Governor-General takes his seat in Council, no Vice-President of the Council authorised to preside at meetings for making laws and regulations (as provided by section 22 of the Government of India Act, 1853), the senior ordinary member of Council therefore sent shall preside therein, with the same powers as if a Vice-President had been appointed and were absent.

Governor-General may exercise his powers before he takes his seat in Council.

64. All Acts and provisions of law in force or otherwise concerning India shall, subject to the provisions of this Act, continue in force and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof; And all enactments applicable to the officers and servants of the said Company in India, and to appointments to office or admissions to service by the said Court of Directors, shall, subject to provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in India and to appointments to office and admissions to service under the authority of this Act.

65. The Secretary of State in Council shall and may sue and be sued as well in India as in England by the name of the Secretary of State in Council as a body corporate; And all persons and bodies politic shall and may have and take the same suits, remedies and proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the said Company; And the property and effects hereby vested in Her Majesty for the purposes of the Government of India, or acquired for the said purposes, shall be subject and liable to the same judgments and executions as they would, while vested in the said Company, have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company.

66. All treaties made by the said Company shall be binding on Her Majesty; and all contracts, covenants, liabilities and engagements of the said Company made, incurred or entered into before the commencement of this Act, may be enforced by and against the Secretary of State in Council in like manner and in the same Courts as they might have been by and against the said Company if this Act had not been passed.

68. Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity; but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of India.

Existing provisions to be applicable to Secretary of State in Council.

Secretary of State in Council may sue and be sued.

Treaties shall be binding on Her Majesty, and contracts, &c. of company may be enforced.

Members of Council not personally liable.

B.

EXTRACTS FROM VISCOUNT PALMERSTON'S SPEECH ON FEBRUARY 12TH, 1858.

In 1858 three Bills were introduced for the Better Government of India. VISCOUNT PALMERSTON in moving for leave to bring (February 12, 1858) in (the first) Bill for the Better Government of India, said :—

"I rise, Sir, in pursuance of the notice which has been given by Her Majesty's Government, to ask leave to introduce a Bill of first-rate importance. I rise to ask leave to introduce a Bill for transferring from the East India Company to the Crown the government of Her Majesty's East Indian dominions. In making that proposal I feel myself bound, in the first place, to say that I do not do it in any spirit of hostility to the East India Company, or as meaning thereby to imply any blame or censure upon the administration of India under that corporation. I believe the East India Company has done many good things in India. I believe that its administration has been attended with great advantage to the population under its rule. And it is not on the ground of any delinquency on the part of the Company, but on the ground of the inconvenience and injurious character of the existing arrangements, that I propose this measure to the House. It is perhaps one of the most extraordinary facts in the history of mankind that these British Islands should have acquired such an extensive dominion in a remote part of the globe as that which we exercise over the continent of India. It is indeed remarkable that those regions, in which science and art may be said to have first dawned upon mankind, should now be subject to the rule of a people inhabiting islands which at a time, when these eastern regions enjoyed as high a civilization and as great prosperity as that age could offer, were in a state of utter barbarism. That is a remarkable circumstance ; but still more remarkable is it that these extensive dominions should have been gained not by the power of a nation as a nation, but by an association of individuals, by a mercantile community, supported, indeed, to a certain degree by the power and resources of their country, but mainly indebted for success to their own energy and enterprise. These two circumstances are undoubtedly singular in the history of the world, but it is quite as remarkable, quite as singular, that

a nation like this, in which the science of government is perhaps better understood than in any other, in which the principle of popular representation has so long been established, should have deliberately consigned to the care of a small body of commercial men the management of such extensive territories, such vast interests, and such numerous populations. One could easily imagine that a wilderness in the northern part of America, where nothing lives except fur-bearing animals and a few wild Indians but little removed from the lower creation, might be confined to a company whose chief functions should be to strip the running animals of their fur, and to keep the bipeds sober ; but that a great country like this should deliberately consign to the management of a mere commercial company, of a set of irresponsible individuals, a great territory, occupied by different races, professing diverse religions and should place in their hands the determination of all the questions of peace and war and of international relations with independent princes, which must necessarily arise, is, I believe, a circumstance unexampled in the history of mankind. But this country never designedly did any such thing. The existing state of things grew up gradually from a very small beginning. The original settlers began with a factory, the factory grew into a fort, the fort expanded to a district, and the district to a province, and then came collisions with less civilized neighbours, injuries to be resented, attacks to be repelled, and conflicts which always ended in victory and extension of territory. So, gradually, from one transaction to another, grew up that state of things in which the East India Company found itself invested with vast commercial privileges and with most important political functions. This state of things continued up to the year 1784, when there was an infusion of responsibility in respect of its political administrative functions into the affairs of the Company by the establishment of the Board of Control. Matters went on under this new arrangement for a number of years, during which the Company continued, subject to a slight interference from the Board of Control, to discharge its political functions, and at the same time to exercise all its commercial rights. One would have imagined that in a country like this that first step would have been followed up ; that before anything else was done the reflective British nation would have pursued the course inaugurated in 1784, and that as the effect of the measure then adopted was to limit to a certain degree the political functions of the Company, the next step would have been to take them

away altogether, and to leave the Company in its original position as a trading association. However, it happens that in this country commercial matters often attract more attention and excite deeper interest than political affairs, and the next step was, not to meddle further with the political functions of the Company, but to take away all the commercial privileges which originally constituted the foundation of its existence. Accordingly in the year 1833 the Company altogether ceased to be a commercial association, and became, one may say, but a phantom of its original body. It lost the commercial character for which it was originally founded, and continued to be merely a political instrument, by means of which the administration of India was carried on. Now, Sir, I venture to think that the arrangement so made was a most inconvenient and most cumbersome arrangement. (The principle of our political system is that all administrative functions should be accompanied by ministerial responsibility—responsibility to Parliament, responsibility to public opinion, responsibility to the Crown,) but in this case the chief functions in the government of India are committed to a body not responsible to Parliament, not appointed by the Crown, but elected by persons who have no more connection with India than consists in the simple possession of so much India stock. I think that that of itself is a most objectionable arrangement. In this country we are slow to make changes. The indisposition to make changes is wise and useful. As a general principle it is wise, and nations do themselves great mischief by rapid and ill-considered alterations of their institutions. But equally unwise and equally injurious is it to cling to existing arrangements simply because they exist, and not to admit changes which can be made with advantage to the nation. What can be more cumbersome than the existing system of Indian administration which is called by the name of the "double Government"? In the debates of 1853, when the last India Bill was passed, the right honourable Gentleman the Member for Buckinghamshire (MR. DISRAELI) asked who was the Government of India, and to whom he was to look as the authority responsible for the administration of that vast empire. Why, Sir, there is no responsibility, or rather there is a conflict of responsibility. (The Directors possess a power paramount, as the right honourable Gentleman said, to every thing else, the power of recalling the Governor-General, by which any great system of policy may be at once interrupted. And they have this power, although the Governor-General must have been appointed by the Crown, and the appointment sanctioned by the

Directors. The functions of Government and the responsibility have been divided between the Directors, the Board of Control, and the Governor-General in India; the Board of Control representing the Government of the day, responsible to this House, responsible to public opinion, appointed by the Crown, and exercising functions delegated by it; the Court of Directors, elected by the gentlemen and ladies who happen to be holders of India Stock, many of whom are totally ignorant of every thing relating to Indian interests, and perhaps knowing nothing about Calcutta, Bombay, or Madras, except what they learn from the candidates for the directorship as to the presidency to which the cadetship is to belong which is promised in return for their votes. The Directors are undoubtedly in general, men of great experience and knowledge of India, but they are elected by a body of persons who have no peculiar faculty for choosing persons qualified to govern a great empire in the East. Then comes the Governor-General, invested with great, separate, and independent powers, and among these three authorities it is obvious that despatch and unity of purpose can hardly by possibility exist. I won't trouble the House by going into a detailed explanation of the method in which business is done, because it is very well known to those Honourable Members, who have given their attention to Indian affairs, that before a despatch upon the most important matter can go out to India it has to oscillate between Cannon Row and the India House; that it is proposed by one party, altered by the other, altered again by the first, and sent back to the other; and that the adventures of a despatch between these two extreme points of the metropolis are often as curious as those *Adventures of a Guinea* of which we have all read.) It is obvious that this system of check and counter-check must be attended with great inconvenience to the public service, and be productive of great delay. Take, for example, a body of twenty gentlemen generally agreeing in their views and make ten of them sit at the east end of the town and the other ten in Westminster. Propose to them any question of average difficulty and importance, and the probability is that the two parties will come to different conclusions, not being able to exchange opinions and arguments and to arrive at a common result. (So it is with the Board of Control and the Court of Directors.) The result in cases of material difference must necessarily be a middle term, satisfying the opinions of neither, carrying into effect the principle of neither, unsatisfactory therefore to both, and probably less advantageous to the public service than the opinion of either

would have been had it been entirely adopted. Therefore, I say that this system of check and counter-check may be carried too far. There is no doubt that certain checks are requisite in every political machine; but you may multiply your checks and counter-checks to such an extent that the functions of the machine, which are intended only to be controlled, are paralyzed for every useful purpose. Then what, let me ask, is the position in which Her Majesty's Government stand in this House? When Indian questions are discussed, it is the constant habit of those who take part in the debate, criticizing and impugning what has been done, to hold Her Majesty's Government responsible for everything that occurs. But Her Majesty's Government cannot be fairly answerable for things over which they have not a perfect control, and which they cannot entirely direct. It frequently happens indeed, that the Government of the day are made responsible for acts which were done without their consent, and probably in some cases much to their dissatisfaction. * * * I say, then, it is most desirable that this complicated machine should be simplified and reduced in fact and form to that which it is imagined to be, but which it practically is not. I may be asked why we take this moment for proposing a change of system. The inconveniences of different systems of administration are forced upon the attention of the Government and the country from time to time by peculiar emergencies. * * * I say then, that as far as regards the executive functions of the Indian Government at home, it is of the greatest importance to vest complete authority where the public have a right to think that complete responsibility should rest, and that whereas in this country there can be but one governing body responsible to the Crown, to Parliament, and to public opinion consisting of the constitutional advisers of the Crown for the time being, so it is in accordance with the principles and practice of our constitution, as it would be in accordance with the best interests of the nation, that India, with all its vast and important interests, should be placed under the direct authority of the Crown, to be governed in the name of the Crown by the responsible Ministers of the Crown sitting in Parliament, and responsible to Parliament and the public for every part of their public conduct, instead of being, as now, mainly administered by a set of gentlemen who, however respectable, however competent for the discharge of the functions entrusted to them, are yet a totally irresponsible body, whose views and acts are seldom known to the public, and whether known or unknown, whether approved or disapproved, unless one of the Directors happens to have a

seat in this House, are out of the range of Parliamentary discussion. Again, as regards our interests in India I may state at once that the Bill which I am about to propose to the House is confined entirely and solely to a change in the administrative organization at home, and that we do not intend to make any alteration in the existing arrangements in India. In fact, if Parliament were to adopt the measure which we are about to propose, the only difference, as far as India is concerned, would be, that the next despatch would go out signed by the President and the Council for Indian affairs, instead of by the Court of Directors, and that the reply would be addressed to the President of the new Board, instead of the Chairman of the body sitting in Leadenhall Street. Now, I believe there can be no doubt that, so far as the impression on the minds of the people of India is concerned, the name of the Sovereign of a great empire like this must be far more respected, far more calculated to produce moral and political impressions, than the name of a Company of merchants, however respectable and able they may be. We have to deal, in that country, with Princes, some ruling independently and some in a state of modified dependence upon us, and with feudal chiefs proud of their position, cherishing traditionary recollections of a wide empire, and of great Sovereigns to whom their ancestors owed allegiance. How can we expect such men to feel any great respect for a mere Company of merchants? The respect they feel, the allegiance they yield, would be increased tenfold if the one were given and the other tendered to the Sovereign of a great and mighty empire. I believe, in fact, that what gives force to the Company in India is not the fame or authority of the Company itself, but the knowledge which the people have that behind the Company, and strengthening it, is the power of the British Empire, and that, although the ruler may be an officer of a commercial association in name, the real power which they have to look up to is the power of the Sovereign of this great country. I am, therefore, satisfied that the transfer of the Government of India to the Crown would, as far as its effect upon the people of India is concerned, be equivalent to a large reinforcement of troops; that the impression which would be produced would be most advantageous, and would tend to consolidate and strengthen the moral and political influence of England in these vast regions of the world. What, then, is the arrangement which we are about to propose? We wish to alter things as little as we can consistently with the great object which we have in view. That object is to make the responsible advisers of the Crown answer-

able for the Government of India as well as for that of all other possessions of the Crown beyond seas. We wish that the affairs of India should be administered by Ministers responsible to Parliament for the manner in which that country is governed. We propose, therefore, that the functions of the Court of Directors, and, of course, of the Court of Proprietors, shall cease; that there shall be substituted for those bodies a President, assisted by a Council for the Affairs of India; that that President, of course, shall be a member of the Government, and shall be the organ of the Cabinet with reference to all matters relating to India; but, as men who have distinguished themselves in public life in this country, and who are likely from time to time, as changes of Administration occur, to be placed at the head of that department, cannot be supposed to possess that detailed local knowledge which is essential to the wise government of the country, we propose that the President shall be assisted by a Council composed of persons named by the Crown, with the condition that they shall either have been Directors of the East India Company, have served for a certain period in India either in a civil or military capacity, or have resided there a certain number of years unconnected with the local administration. We propose that that Council shall consist of eight members, that the members shall be appointed for eight years, and that two shall retire by rotation every second year, in order that successive Administrations may have the means of renewing the Council from time to time by the introduction of persons returning from India with fresh knowledge and ideas. We think that while, on the one hand, the permanency of a Councillor for eight years will make him an independent adviser of the President, he will not, on the other, by being appointed for life, block up the way to the accession of other persons who may from time to time appear more capable of serving the country. Of course, as the proposal is to transfer to the Government of the day full responsibility for the management of Indian affairs, and as the President will be the organ of the Cabinet upon Indian matters, just as the Secretary of State for the Colonies and the Secretary of State for Foreign Affairs are the organs of the Government in regard to the departments under their respective care, the decision of the President must be final in all matters which may be treated of in the Council. But, nevertheless, we propose that, if the Councillors differ in opinion from the President, they shall have the right to record that difference, together with their reasons, upon the Minutes of the Council, so as to be able to justify themselves afterwards for the advice they

have given. The full power of the President, however, will not extend to matters involving increased expense to the Indian revenue; and, for purposes of that sort, it will be necessary that he shall have the concurrence of four Councillors to any proposals which he may have to submit. In the temporary absence of the President a Secretary of State will be able to act for him, and four members of the Council will be a quorum for the transaction of business. We propose that the Council shall have the power of distributing among themselves the business which comes to them, so as to allot different departments of business to different members of Council, who will, of course, make reports to the Council itself. We propose that the President shall be placed on the footing of a Secretary of State, and that the Councillors shall have a salary of £1,000 a year each. We propose that all powers now vested in the Court of Directors shall be transferred to this Council, and, therefore, that all appointments which have hitherto been made by the Court of Directors or by other parties subject to the approbation of the Crown, shall be made by the Crown direct, but that all appointments in India which have hitherto been made by the local authorities shall continue to be made by those authorities; so that no part of the local Indian patronage will be transferred to the Government of this country. We propose that the President shall be able to appoint one Secretary, who shall be capable of sitting in this House. It will be convenient that a Cabinet Minister holding that situation shall have the assistance of a Secretary conversant with the business which may come under discussion; but we do not propose that the Councillors shall be capable of sitting in Parliament. We think there would be great inconvenience in such an arrangement; that they would become party men; that they would necessarily associate with one side or the other in this House, and that, with changes of Administration, the relations between the President and the Councillors might then become exceedingly embarrassing. One point which has always attracted the attention of those who have considered these matters, and which has created even a very considerable constitutional difficulty, in any attempt to decide what would be the best system of Government for India, has been the question of patronage. Many men have said that they think the "double Government" a cumbrous and antiquated machine, which ought to be done away with. That was the opinion in 1853 of a great number of those honourable Members who took part in the discussion, but it was always said. "How can we manage

with the patronage? We do not wish to increase the patronage of the Government, and we fear that this transfer of power would greatly augment the patronage of the Home Government." Now, I have already said with regard to local appointments, all these appointments which have hitherto been made either by the Governor-General or by other authorities in India, will continue exactly as before to be made by them, the members of the local Council being named by the Governor-General instead of being named hence. An arrangement was made in 1853 by which all appointments to writerships were given up to open competition. That arrangement we shall of course maintain. Writerships, therefore, are beyond the range of patronage, * * *

It is proposed, with regard to local military services, that the troops shall be paid out of the revenues of India, and that their services shall be limited to Asia so long as they are paid out of the Indian revenue. At present I believe, the range of service for the Company's troops is co-extensive with the limits of the Company's charter, as far as any place eastward of the Cape. It is proposed that, if at any time a part of the local army shall be employed out of Asia, the troops shall then not be paid out of the Indian revenue. It will be left for this House to determine whether a force so employed shall be paid out of the revenue of this country, and whether their employment is consonant with what the interests of India may be. This will be a sufficient check against the employment of the Indian troops without the consent of Parliament. It is proposed that, whereas we transfer to this President of the Council the functions of the Court of Directors, and Board of Control, both of which will be abolished, the functions and powers of the secret Committee, which govern matters, involving great discretion and temporary secrecy, should be vested in the President, as representative of the responsible Minister of the Crown. But we propose that in any case in which orders shall be sent to India involving the immediate commencement of hostilities, communications thereof shall be made to Parliament within one month, if Parliament be then sitting, or within one month, after Parliament shall next meet. That interval will allow a sufficient time to elapse to prevent injury to the public service from the too early publication of orders so issued; while it will, at the same time, give Parliament an early opportunity of calling upon the Government for explanation of the causes which had led to such orders. Of

course, it will be necessary that there should be an effective audit of the revenues of India and their application. (It is required by this Bill that the revenue shall be applied solely for the purpose of government in India.) It is proposed that an Auditor shall be appointed, with the power of appointing assistant Auditors, for the purpose of examining minutely the account of receipts and expenditure of Indian revenue, and that the accounts, when audited, shall be laid before Parliament for its consideration. Of course, power will be given to the President of the Council to issue to the Company such sums as may be necessary to defray the expenditure required for paying their dividends and keeping their books, until the Company determine whether they will or will not avail themselves of the option given them of being paid in a certain time for their stock. This then, Sir, is, generally speaking, the outline of our measure. Of course, the details will come under the consideration of the House, if it should, as I trust it will, give us leave to bring in the Bill, and when the Bill shall be in the hands of honourable Members, they will then have to consider the details, such as I have described, as well as some other points, to which I have not thought it necessary to advert. But the question now to be considered is simply the great and large question, whether or not we shall transfer to the executive and responsible Ministers of the Crown the direction of the affairs of our Indian territories, or whether that direction shall be left, as heretofore, under the cumbrous and complicated system described as the ("double Government," which, in my opinion, is full of embarrassment, and not calculated to accomplish the purposes good government ought to have in view, and which, though continued heretofore, because no great events have called on Parliament to reconsider it, ought, I think, to be abolished without further delay. Now, I do not think I shall be met by objections to this principle itself, because, when I recollect what has passed on former occasions in this House, and when I know what is the general opinion of the country on the point, I cannot persuade myself that we shall meet with any strong opposition to the general principle on which the measure is founded. When I look back to what passed in 1853, I find some of the leading Members of this House expressed strong opinions that the time must come, at no distant period, when an entire change ought to be made, and that the introduction of Government nominees into the East India Direction was only the first step to further and ulterior measures ; and the only doubt was, whether a full measure ought

not at that time to be adopted. But, whatever may have been the opinion of Parliament at that time, I am much mistaken as to the signs and indications of opinion in the country now if the nation at large has not made up its mind that this "Double Government" ought to cease. I am convinced that this is the opinion of the country; and great disappointment would be felt if this House should negative the Bill upon an objection to the principle itself on which it is founded. We shall, no doubt, be met by a Motion for delay, and be told that this is not the time for discussing the measure; that India is unsettled; that we should wait, until a better moment, a calmer period, and until the difficulties in India are over. Why, that plea for delay is invariably the plea set up by those who are anxious to oppose that which they cannot resist directly, but which they wish to get rid of by the intermediate policy of proposing delay. Why, Sir, what is the force of any argument of that kind? They say, "Do not alter the machine of Government at a time when India is unsettled and in difficulty, when you have not fully and finally got rid of the mutiny, and when you have not entirely re-established authority in every part of the Country." What does that argument amount to when it is analyzed? It is said, "Do not change your Government now, because there is in India that to be done which is difficult to be accomplished, and which, therefore, it might require great power to accomplish." Will then, any man pretend that a single Government at home will not be a much more effectual instrument for the purpose than a "Double Government"? Will any man pretend to tell me, that with a view to rapidity of discussion and execution, unity of purpose, and responsibility to the public, a Government administered by the responsible advisers of the Crown would not be a far more efficient instrument for everything to be done here than the existing conflict of checks and counter-checks, the system of previous communications and subsequent communications, of objections to a despatch and its transfer by cabs from one part of the town to another, by which delay was created, so that a despatch, which ought to go out to-morrow, might not go out for a month, or be ready until it was too late to send it out. Why, no reasonable man will venture to get up and tell the House that the present machine can be so effective and so powerful a machine for administration at home as the machine we propose to substitute for it. Will any man acquainted with India tell me that the name of the Company—which is now pretty well seen through

by all the Natives in India, can have half, or the tenth part of the powerful influence the name of the Crown would carry with it? I declare it is non-sense to say that the Indian chiefs would not feel ten times more respect for the Rajah of England than for the name of any unknown Company. Well, then, I say, if we look to England, the machine we propose to substitute is a much more powerful machine, and if we look to India it is a machine infinitely more influential than the existing one. Then we are told that there is a state of difficulty in India, and what is the proposal of those who want delay? They say, that in order to overcome this difficulty, and to restore tranquillity in India which we are told is a matter of great difficulty, and will require great strength and power to effect, we should prolong the existence of the present weak instrument, instead of substituting for it a stronger, more powerful, and more effectual machine. In that argument there is no sense, I submit. However, we shall be told by some that the Government of India is a great mystery—that the unholy ought not to set foot in that temple—that the House of Commons should be kept aloof from any interference in Indian affairs—that if we transfer the Government to the Ministers responsible to Parliament, we shall have Indian affairs made the subject and plaything of party passions in this House, and that great mischief would arise therefrom. I think that argument is founded on an overlooking of the fundamental principles of the British constitution. It is a reflection on the Parliamentary government. Why, Sir, what is there in the management of India which is not mainly dependent on those general principles of statesmanship which men in public life in this country acquire here, and make the guidance of their conduct. I do not think so ill of this House as to imagine that it would be disposed, for factious purposes, or for the momentary triumph of party, to trifle with the great interests of the country as connected with the administration of our Indian affairs. I am accustomed to think that the Parliament of this country does comprise in itself, as much administrative ability, and as much statesmanlike knowledge and science as are possessed by any number of men in any other country whatever; and I own, with all respect for the Court of Directors, that I cannot bring myself to think that the Parliament of England is less capable of wisely administering the great affairs of State in connection with India than the Court of Directors in Leadenhall Street. I am not afraid to trust Parliament with an insight into Indian affairs. I believe, on the contrary, that if things have not gone

on so fast in India as they might have done—if the progress of improvement has been somewhat slower than might have been expected, that effect has arisen from the circumstance that the public of England at large were wholly ignorant of Indian affairs, and had turned away from them, being daunted by the complications they imagined them to be involved in; and because Parliament has never had face to face, in this and the other House, men personally and entirely responsible for the administration of Indian affairs. No doubt a good deal has been done in the way of substantial improvement of late years, but that which has been done, I may venture to say, has been entirely the result of debates in this and the other House of Parliament. And, so far from any discussion on India having worked evil in India, I believe that the greater part of those improvements which the East India Directors boast of in that publication, which has lately issued from Leadenhall Street, has been the result of pressure on the Indian administration by debates in Parliament and discussions in the public press. Therefore, so far from being alarmed at the consequences which may arise from bringing Indian affairs under the cognizance of Parliament, I believe that a great benefit to India, and through India to the British nation, will result therefrom. Therefore, I say, I see no reason, either on the score of principle or on the score of the augmentation of patronage, or on the score of time, or constitutional danger, why we should not at once pass the measure which it will be my duty to present to the House. Sir, I trust that Parliament will feel that great power is not given to nations without corresponding duties to be performed. We have, by an almost miraculous train of events, been intrusted with the care of the destinies of 150 or 160 millions of men—with the government, directly or indirectly, of a vast empire larger in extent than the whole face of Europe, putting the Russian empire out of the question. That is a task which involves great responsibility. Do not imagine that it is the intention of Providence that England should possess that vast empire, and that we should have in our hand the destinies of that vast multitude of men, simply that we may send out to India the sons of gentlemen or of the middling classes to make a decent fortune to live on.* That power has been entrusted to us for other and better purposes; and, without pointing to anything particular, I think it is the duty of this nation to use it in such a manner as to promote, as far as they can, the instruction, the enlightenment, and the civilization of these great populations which are now subject to our

rule. We have lately had our attention called to scenes of barbarity in India, which would make any man shudder, but are we wholly irresponsible for those scenes? If, during the century for which we have exercised power in India, we had used that power to enlighten and civilize the people, do you think their nature would not, in some measure at least, have been changed, and that the atrocious crimes which they have committed would not have been as repugnant to their feelings as they are to those of the people of this country? We ought to bear these things in mind—to remember that we have a great duty to fulfil in India, and I am sure that that duty will be best discharged if we commit its performance to the hands of men, who will be accountable to Parliament for their conduct and who feel themselves bound to acquaint the public of this country, step by step, with the arrangements which they make. I am confident, if Parliament should adopt the measure we are about to propose, that while on the one hand it will add to the strength of our position in India, while it will increase the power of this country, and render our influence more firm and secure, it will, on the other hand, enable us more efficiently to perform those important duties which, in my view, it was intended that we should discharge when the great Indian empire was transferred to our control. Sir, I beg to move for leave to bring in a Bill for the better Government of India.

C.

EXTRACTS FROM THE SPEECH OF THE EARL OF DERBY IN THE HOUSE OF LORDS ON JULY 15, 1858.

On July 15, 1858, the EARL OF DERBY, in moving the second reading of the (third) Government of India Bill (which subsequently received the Royal Assent on August 2, 1858), said :—

My Lords, in rising to move the second reading of this Bill I cannot but express the deep regret which I feel that this task should have devolved upon me rather than upon my noble Friend and late colleague (the EARL OF ELLENBOROUGH), whose intimate knowledge of everything connected with Indian affairs would have enabled him to speak with a weight and authority which certainly I cannot command. But my noble Friend, unfortunately, is no longer a Member of Her Majesty's Government, and it therefore becomes my duty to state to your Lordships, as shortly and as clearly as I can, the main principles and provisions of the Bill to which I ask you to give a second reading this evening. Without attempting in the slightest degree to derogate from the importance of the measure, I cannot conceal from myself that a far greater degree of interest and attention has been attracted to it than would perhaps have been called forth by its intrinsic importance, in consequence of the political circumstances which accompanied its introduction and its progress through the other House of Parliament. This additional advantage, however, has accrued from that circumstance—that the Bill has received a greater degree of care and of patient investigation in the other House than possibly it might otherwise have obtained.

My Lords, I must, in the first place, observe that I think the title of the Bill is open to the objection of being somewhat infelicitous. It is not, as it purports to be, a Bill for the better government of India. It is a Bill which will, I hope, tend to the better government of India ; but the government of India must, as cannot be too often repeated, be on the whole carried on in India, and this Bill does not pretend to deal with all those complicated and difficult questions which will no doubt, within the next few years, frequently engage the anxious consideration of Parliament and of the country. It does not pretend to deal with the revenue, with the finance, with the land regulations,

with the condition of the Natives, and the possibility of extending their admission into the public service after this unhappy revolt shall have been suppressed. It does not profess to deal with any of these grave and extensive questions; and although such questions will no doubt engage the attention of Parliament, at future periods, and although Parliament will doubtless feel it to be both its right and its duty to lay down broad principles of action with regard to most of them, I cannot help expressing my opinion, that with regard to the details of the government of India, the less interference there is on the part of Parliament the better prospect will there be of securing the happiness and contentment of the people of India. I need not remind your Lordships that at the commencement of the present Session Her Majesty's Government announced that it was their intention to legislate during that Session with respect to the affairs of India. Without entering into the merits of the particular legislation which they proposed, I must remark that I was certainly of opinion at the time—and that opinion was shared by many—that although it might be necessary within a very short time to deal with this question, the period when the Government were engaged in suppressing a serious revolt was not the most convenient one for the consideration of a measure affecting the government of the country. But that opinion was overruled by a large majority in the other House; for, when a Right Hon. Friend of mine (MR. DISRAELI) thought it his duty to take the somewhat unusual course of moving that leave should not be given to introduce the Bill, on the express ground that it was not the time for legislation—thus especially preventing his motives from being misconstrued, and his opposition from being regarded as directed against any of the provisions of the measure—a majority of, I believe about two to one, in a tolerably full House, decided that it was expedient and desirable that a Bill for the regulation of the Home Government of India should be introduced in the course of the present Session; and you will observe that this Bill is not, in fact, for the “government of India,” but for the improvement of the machinery by which, in this country, Indian Government may be superintended and controlled.) In consequence of that decision the noble Viscount, lately at the head of Her Majesty's Government, introduced a measure to carry into effect the views of himself and his colleagues. Very shortly after that, circumstances occurred which caused the resignation of the noble Viscount, and a consequent change of Government. In several of the provisions of the Bill of the late Government—indeed, in

most of them—I, and those with whom I have the honour to act, cordially concurred ; but there were at the same time provisions of no minor importance on which we held entirely opposite opinions. It then became a question with us whether we should take the course of proceeding with the Bill of the noble Viscount, and propose in Committee such Amendments as we might think necessary. But it was the opinion of Her Majesty's servants—and, I think, it was a correct opinion—that a measure of such vast importance as one regulating the machinery for superintending the Government of India, ought to be conducted and carried through, not by any private Member, but on the responsibility of the Government as a whole. The consequence of that was, that under the auspices of my noble Friend (THE EARL OF ELLENBOROUGH) a Bill was introduced and laid upon the table shortly before the Easter recess. In the course of the observations which I shall have to make it may be my duty to contrast some of the provisions of that Bill and of the Bill now before your Lordships with those of the measure introduced by the late Government ; but at present I shall only say that the course which we pursued—although I think it was the necessary and proper course—had this inevitable consequence,—that there being, as it were two rival Bills on the table of the House of Commons, there might, in the then state of political excitement, occur this unfortunate result, that the House would be called upon to decide between those Bills, not with regard to their respective merits, but with regard to the persons and parties by whom they were introduced ; and that, consequently, the affairs of India, which required the most careful and dispassionate consideration of Parliament, might be made—what I was most anxious to avoid—a battle-field for contending political parties. In those circumstances the noble Lord the Member for London (LORD JOHN RUSSELL) made a suggestion, which was, I think, as wise and patriotic as it was certainly just and conciliatory, and it tended to relieve Parliament from what might have been a very serious embarrassment. LORD J. RUSSELL suggested—and the Government at once adopted the suggestion ; indeed, to a certain extent it had already been anticipated by us—that, instead of proceeding to match, as it were, one Bill as a whole against the other, we should enable the House to consider one by one in Committee Resolutions, the principles of which were involved in each, and out of those Resolutions to frame a measure which might receive the sanction of the Legislature. The Government, therefore, acting on that suggestion, prepared a series of Resolutions, which were submitted.

seriatim to the consideration of the House of Commons ; and it is only doing that House the barest justice to say, that during the whole of my experience in Parliament I have never known a question which has been treated by that House with more patience, with more deliberate attention, with greater temper, and with more entire absence on all sides of party feeling or acrimonious discussion. The result of that course of proceeding is, that there has been sent up to your Lordships' House a measure—not carried by a bare majority, not depending for its success upon this or upon that political party, but a measure to a great extent the work of the House of Commons itself, and to which all parties concurred in giving their tribute of praise—the noble Viscount at the head of the late Government uniting with the noble Lord the Member for the City of London in according to the third reading not his hesitating but his cordial approval, and expressing his wishes for its success before your Lordships' House. My Lords, I now proceed very shortly to lay before your Lordships the principles and chief provisions of this Bill. * * *

When it was determined that a change should take place in the Home Government of India, there was one principle which could not but meet with uniform and unanimous assent—namely, that it was absolutely indispensable that a transfer of the nominal as well as the real authority should be made directly from the Company to the Crown, and the affairs of India should thenceforth be conducted in the name of the Crown. My noble Friend (THE EARL OF ELLENBOROUGH) who is not desirous of any very extensive change, laid the greatest stress on the necessity of that transfer, and dwelt upon the beneficial effects which it was likely to produce in India. Now, as before intimated, I consider that the Government of the East India Company, both here and in India, has been marked by singular prudence and ability, and I should be very sorry if this Bill was considered—what it was represented to be at a meeting held at the India House yesterday—a Bill of Pains and Penalties against the Directors. It is nothing of the sort. I believe no men could have conducted business better under the system which they found in operation than the Directors of the East India Company have done. But the complaints against the system itself, the encumbrances connected with its machinery, the delay which unavoidably attended the most important transactions, make it quite obvious that in any remodelling which may take place, India must be put on the same footing as the other possessions of the Crown, and be administered by

a Minister responsible to Parliament. I may add that, in point of fact, the transfer of authority to the Crown is more nominal than real, because, although the Court of Directors have been in a position to exercise certain powers of obstruction and delay I believe that, (with the single exception of the power of recalling the Governor-General,) there was no single act which they were enabled to perform without the assent of the President of the Board of Control. Not only does the President of the Board of Control possess the power of altering or of vetoing the instructions proposed by the Court of Directors, but he has the power, and it has been sometimes exercised, of sending out instructions diametrically opposed to those which the Court intended. There is a question whether the Court might not have interposed delay, and even persisted, until compelled by a mandamus; but in point of fact they have generally been obliged to yield to the suggestions of the President of the Board of Control. We all remember that my noble Friend below me (THE EARL OF ELLENBOROUGH) who has on various occasions been at the head of the Board of Control, told the Committee that when he was in office the government of India was in his hands altogether. Upon the subject, then, of the transfer of the powers of the Court of Directors to a responsible Minister of the Crown, and of carrying on all business both here and in India in the name and by the direct authority of the Crown, there was no difference of opinion between the two parties into which the House of Commons was divided. Nor was there any difference of opinion on this point—that although it was expedient that the business should be conducted by a high Ministerial officer, under whatever denomination he might be known, who should, like the holders of other offices in the Government, be appointed by the Crown and responsible to Parliament, yet, inasmuch as it is impossible to conceive that any person so appointed would have sufficient knowledge and experience to discharge duties so various and so complicated as those connected with the administration of all the different provinces of India, it was necessary for the good Government of India, to associate with the Minister a Council more or less numerous by whom he might be assisted and advised. It was with regard to the constitution of that Council that there existed the main difference of opinion between Her Majesty's late Government and Her Majesty's present Government. Her Majesty's late Government proposed that the Council should consist of eight members who should each hold office for six years, all nominated by the Minister of the Crown, and two of whom should retire from

office each alternate year. Now, the present Government was of opinion that, although in that manner the President of the Board of Control might surround himself with many able and experienced advisers, due provision was not made for securing to the Council that character of independence which was absolutely essential to the proper discharge of its functions. It was quite clear that when one-third of the members of the Board had been only recently appointed by the actual President of the Board, and another third would soon vacate their offices, and were hoping, perhaps, to be re-appointed by the same Minister, there would be great temptation presented to the Council to defer, more than they ought to do, to that Minister, and to refrain from freely expressing their opinions. It was, moreover, the opinion of the members of the present Government that a Council of eight members would not be sufficiently numerous, having regard to the great extent of the duties which would have to be performed, and we thought that eighteen—the present number of the Directors—were not more than were required by the business of India. The Council of India we thought out not to be—as the Directors may have been before—a screen between the Minister and Parliament, but a body of men well acquainted with the affairs of India, to give the Minister advice, which on his own responsibility, he might be at liberty either to accept or reject. I have heard it said that, according to the peculiar character of the President of the Board of Control, the Council, as proposed to be constituted would be either his masters, his advisers, or his puppets. It must, no doubt, depend on the character and the self-reliance of the head of any great Department how far he is influenced or controlled, how far he is guided, by those who filled permanent situations, and to what extent he is the master of his own Department. For my own part, I certainly hope and believe that the Council proposed by the Government under this Bill will be found neither the masters of the Secretary of State nor his puppets, but that they will prove that, which their qualifications prepare them to be, most valuable advisers to the Minister in all matters relating to India. But, to secure the independence of the Council we considered that one portion of it should be, as at present, elected, and the other portion nominated by the Crown. We were also of opinion that both the elective and the nominated portions of the Council should have a longer term of service than was provided for by the Bill of the late Government, and that this would be of great importance as tending to increase their independence. Accordingly, it is

proposed in the Bill Before the House that the members of the Council, whether elective or nominative, shall hold their offices during good behaviour ; there being a proviso that at the expiration of ten years' service, if they are disabled by infirmity, they shall be entitled to retire upon suitable pensions. When we came to consider the elective principle, we found, I must confess, considerable difficulty. My noble Friend (THE EARL OF ELLENBOROUGH) who is not now a Member of the Government, but for whose proposition we are all responsible, laid before Parliament, on behalf of the Cabinet, a very elaborate scheme, a scheme involving considerations which ought, as it appeared to me, to be borne in mind by any Government when dealing with such a subject. My noble Friend proposed so to constitute a Council that it should be a representation of the civil and military services of India—not merely of India, but of the three Presidencies ; because the qualifications which enable a man to give very valuable opinions with regard to Bengal may be utterly useless in relation to Madras or Bombay. The only objection which I have heard to the noble Earl's proposition is this—not that it was wrong in itself, but that it was imperative, and would be found to fetter too much the hands of the Crown, who might under it be compelled to choose inefficient men and to pass over the most competent. There was another proposition of the Government which did not meet with seeming great favour ; I mean the proposition by which they endeavoured to obtain, what it was very difficult to secure, a representation of the commercial interests connected with India in the Council. We proposed in that Bill to supply that deficiency by giving the appointment of four of the Councillors to the constituencies of the largest towns connected with the trade to India. That proposal was, I believe, a good one in itself ; but it did not meet with such an amount of support in Parliament, or in the country, as would justify us in insisting on its adoption. The conclusion at which we then arrived was, that with a view to secure the three great requisites of intelligence, experience, and independence in the Councillors, it was necessary that a portion of their body should be elected, that another portion should be nominated, and that all the parties elected should have served, or should at least have resided, for a considerable period in India, and should, consequently, have possessed opportunities of obtaining a knowledge of the feelings and of the wants of the people of that country ; while they were to hold office during the pleasure of the Crown, but should, of course, be removable, like other public servants, on an Address from both Houses of

Parliament. But when we came to apply the principle of election we found that we had considerable difficulties to encounter. It could not be argued with hardly more than plausibility that the Court of Proprietors, as at present constituted, possessed any such interest in the affairs of India as to entitle them to elect the Councillors; and yet there was no other body besides the Court of Proprietors to whom that duty could be committed. The functions of the Court of Proprietors, as your Lordships are aware, are limited to the mere receipt of the dividends on their stock; and even under the system of Indian Government which has hitherto prevailed, although they could pass Resolutions, they had no means of giving effect to any decisions at which they might arrive. It was proposed that there should be added to the Court of Proprietors all those persons who had for a certain period been engaged either in the civil or in the military service of India. But it was found that such a constituency would be very difficult to bring together, that it would be inconveniently large, and that it would in point of fact aggravate those disadvantages of the present system which prevent some of the most competent and most high-minded men from entering on the career necessary to ensure their return as Members of the Court of Directors. Such men will not now go through a canvass for the appointment of Directors, and still less would they go through a canvass of a more extensive body for the purpose of being elected Members of Council. Under these circumstances, and after much consideration, Her Majesty's Government determined on adopting an arrangement under which one-half of the Councillors should be elected and one-half should be nominated by the Crown, and under which the elected members should be chosen by the existing Court of Directors, in conformity with a suggestion which had been thrown out by a noble Earl not now present (EARL GREY) at the commencement of the Session. Some arguments were certainly advanced against that scheme, but on the whole it met with no considerable opposition; and I believe it was the best escape which could be devised from the difficulties in which the question was involved. This Council, so constituted, would be entitled to tender its advice to the Secretary of State. And when I say "Secretary of State," I must add that, although the name which may be given to the head of the Indian Government may not be a matter of much importance, we thought that in the formation of such an office it would be more advisable and more in conformity with constitutional practice to give the name of Secretary of State to a high officer upon whom Her Majesty is