



country, affecting the rights of persons and property. It related chiefly to the giving security to those rights, by affording to our native subjects the means of obtaining redress against any infringement of them, either by the Government itself, its officers, or individuals of any character of description.

"Every Government in the world, from the most free to the most despotic, consists of the same elements. In each of these, there must necessarily be a power to make laws, a power to administer these laws, and a power to conduct what is termed the executive branch of public affairs. The difference between the two descriptions of government consists chiefly in the union or separation of these powers in the same or different hands. In the despotic Government, all authority—the making of laws, the administration of them, and all the duties of the executive branch, are lodged in the same hands. In a free Government these powers are lodged in different hands, so as to ensure the enactment of good laws and the just administration of them, and to provide for the due conduct of the executive duties. The despotic Government may be compared to the natural world in a state of chaos—the well-regulated Government to the natural world with all the elements assigned to their proper purposes. In this distinction consists the difference between an Asiatic or Turkish Pashalik and British form of Government, and each is known by its different effects on the lives, properties, and persons of the people.

"Lord Cornwallis made no innovations on the ancient laws and customs of the people. On the contrary, the main object of the constitution which he established was to secure to them the enjoyment of those laws and customs with such improvement as times and circumstances might suggest. When he arrived in the country the Government was, in fact, a pure despotism, with no other check but that which resulted from the character of those by whom the Government was administered. The Governor-General not only was the sole power for making all laws, but he exercised the power of administering the laws in the last resort, and also all the functions of the executive authority. The abuses to which such a system of government is liable from corruption, negligence, and want of information, are too well known to require being particularised. It is, in fact, from the want of a proper distribution of these authorities in different hands that all abuses in government principally proceed.



"His lordship's first step was to make it a fundamental law (see Regulations XLIII., 1793) that all laws framed by the Government should be printed and published in the form prescribed by that Regulation, and that the Courts of Judicature should be guided by the laws so printed and published, and no other. It had before been the practice to carry on the affairs of the Government, and those of individuals, by a correspondence by letter with all the subordinate officers."*

In this Barlow repeated what he had often emphatically insisted upon at the time. It was his wont to declare that improvement was one thing—innovation another; and that he had only improved upon the laws of the Moguls.†

Lord Cornwallis governed India with enlarged powers. The "Regulating Act" had invested the Governor-General with no power independent of his Council; and Pitt's India Bill, which passed into law in 1784, though it had given to the Court of Directors the power of nominating and recalling the Governor-General‡ and Councillors, had introduced no further change into the constitution of the supreme Govern-

* *MS. Memoranda.*

† "By improvement," he wrote, "I understand the gradual correction of defects in the existing Laws or Regulations, and the providing by new regulations for cases which have never before occurred. The new is thus in a manner the offspring of the old, always arising out of it, and preserving a close relation; but innovation proceeds in a different way. It sets out with rejecting all connexion with the past, and adopts principles and measures that can never assimilate with it."—[November 26, 1795.] And in the same letter he says: "The Regulations of 1793-4-5 are filled with injunctions for the observance of the Hindoo and Mahomedan law in all matters to which they have invariably been applied, and contain all the specific rules affecting private rights and property, about which alone the people can be immediately interested, that have passed during the last twenty years, with alterations and amendments to render them better fitted to the intended

purpose. The distribution of the three powers (which constitutes one of the essential differences between the present and past arrangements) is calculated to ensure to our subjects what they never enjoyed before, the full benefit of all laws and regulations; and from the mode in which it operates renders the introduction of any principles or measures, which would afford ground for the objections urged by the favorers of the Mogul system, next to impracticable."—[*MS. Correspondence.*]

‡ The recall clause in Pitt's India Bill runs thus—"And be it further enacted, that it shall and may be lawful to and for the King's Majesty, his heirs and successors, by any writing or instrument under his or their sign manual, countersigned by the Secretary of State, or for the Court of Directors of the United Company, for the time being, by writing under their hands, to remove or recall the present, or any future Governor-General," &c.—[*Act 24 George III., chap. 25.*]



ment than that of the reduction of the number of Councillors from four to three, on the occurrence of the first vacancy. But two years afterwards, a Bill was introduced to "explain and amend certain provisions" of this Act. It enacted that no person (except the Governors or Commanders-in-Chief) should be appointed to the supreme or subordinate Councils who had not "been twelve years at the least, in the whole, resident in India, in the civil line of the Company's service;" and it empowered the Governor-General and minor Governors in extraordinary cases to act without the concurrence of the Council, inasmuch as that such power would tend greatly "to the strength and security of the British possessions in India, and give energy, vigor, and despatch to the measures and proceedings of the executive Government." This was in effect a public recognition of the utter failure of the system under which Francis* and his colleagues had been sent out to India to "regulate," by their ignorance and impetuosity, the proceedings of a really capable Governor-General, who had graduated in the Indian service; and though the restraint of Council has since the passing of this Act been sometimes a little too loosely regarded, the new provision was a salutary one. Under this Act (26th George III., chap. 16) it was decreed that all acts of the supreme or minor Councils should be "expressed to be made" by the Governor-General, or by the Governor or President "*in Council*"—a nomenclature, expressive of the supremacy of the Governor, which has been maintained to the present day.†

It was under this Act that Lord Cornwallis governed our Indian possessions. In 1793 a new Charter Act

* Francis, who had been by this time returned to Parliament, endeavoured to introduce a Bill of his own, intended to upset that which Dundas had framed—but he was unsuccessful.

† A subsequent Act of the same year (1786) decreed or explained that the

Court of Directors should have the power of appointing their Governors and Councillors without the approbation of the Crown.—[26th George III., chap. 25.] This was subsequently confirmed by the Charter Act of 1793.—[33rd George III., chap. 52.]



was passed, continuing the Company's privileges for twenty years; and in this the powers and responsibilities of the Governor-General and minor Governors were more clearly defined. It was then provided that they should have no power to act without the concurrence of their Councils in matters of purely civil government—that is, in the words of the Act, in any matter which shall come under their consideration “in their judicial capacity”—“or to make, repeal, or suspend any general rule, order, or regulation, for the good order and civil government of the United Company's settlements, or to impose of his own authority any tax or duty within the said respective Governments or Presidencies.”* By this Act the Governor-General was empowered, during his absence from the Presidency, to appoint one of the members of his Council Vice-President, and Deputy-Governor of Bengal, with authority coincidental with that exercised, in Council, by the Governor of one of the minor Presidencies.

Those minor Presidencies, under the Act of 1773, had been left very much in the same constitutional state as they were prior to the passing of the Bill. They were at this time three in number—“the Presidencies of Madras, Bombay, and Bencoolen;” their chief officer was designated President; the number of their Councillors was arbitrary, not limited by Act of Parliament; and they were directed and required to pay due obedience to the Governor-General and Council, who had the power of suspending them from office. But the Act of 1784 had decreed that “the Government of the several Presidencies and settlements of Fort St. George and Bombay shall, after the commencement of this Act, consist of a Governor or President, and

* Act 33rd George III., chap. 52, clause 51.—By clause 55 of this Act, the Court of Directors are empowered, with the approbation of the Board of

Commissioners, “to suspend all or any of the powers hereby given to the Governor-General to act upon his own sole authority.”



three Councillors only"—of whom the Commander-in-Chief was to be one. And this is the constitution of the minor Governments as established in the present day. At the same time it was enacted that the Governor-General and Council of Fort William should have "power and authority to superintend, control, and direct the several Presidencies and Governments in all such points as relate to any transactions with the country powers, or to war or peace, or to the application of the revenues or forces of such Presidencies and settlements in time of war;"* and that this subordination to the Supreme Government might be complete, another change was introduced, which compelled the minor Governments to obey the orders of the supreme authority, notwithstanding any doubts that they might entertain of such instructions coming within the limits assigned by the wording of the statute. By the subsequent Charter Acts of 1793, this subjection to the chief Presidency was confirmed; and the Act of 1833 more distinctly and minutely defined it. The general authority of the Supreme Government is declared in one clause†—and in another it is expressly enacted 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 burden of the proof whereof shall be on such Governor or Governor in Council), and then only until the decision of the Governor-General in Council shall be signified thereon; and provided also that no Governor or Governors 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."‡

* The Governments of the minor Presidencies had be-

* Act 24 Geo. III., chap. 25, clause 31.

† Act 3 and 4 Will. IV., chap. 85,

clause 59.

clause 65.



fore this possessed the power of framing laws or regulations for themselves, but this clause of the Charter Act of 1833 deprived them wholly of this power, and rendered their humiliation complete. The passing of this Act is one of the most important events in the whole history of Indian administration. The commercial privileges of the Company were no longer recognised, and the new Bill related, therefore, entirely to matters of government. Under the Acts existing previous to this date, it has been seen that there were three Governments, each similarly constituted, with a Governor (or Governor-General) and three Councillors, of whom the Commander-in-Chief was one. The new Act left the minor Governments with their old constitutions,* but remodelled the Supreme Government, and erected two other subordinate Governments—the Governments of Agra and Bengal.

Under this Act the Supreme Council of India was to consist, and does now consist, of a Governor-General, appointed by the Court of Directors, with the approbation of the Crown, and four ordinary members of Council, three of whom were to be servants of the Company, civil or military, of ten years' service, appointed by the Court of Directors, and the fourth, a member not of the Company's service, to be appointed by the Court with the approbation of his Majesty, and "not to be entitled to sit or vote in Council, except in meetings thereof for making laws and regulations."† The Commander-in-Chief might also be, and always has been, an extraordinary member of this Council—that is, he has always drawn the salary, and sometimes he has taken his seat. The effect of the new law was to constitute the Supreme Council of two members of

* The Act, however, conferred on the Court of Directors authority, with the consent of the Board, to reduce or to abolish the Councils of the minor Governments.

† Known as the legislative member of Council, and selected always from the legal profession at home.

the Bengal civil service—one member of the Indian army, and a member of the legal profession from home. Sometimes the Governor-General presided over it—sometimes the Commander-in-Chief bestowed himself upon it; but these functionaries were more frequently at a frontier station superintending an unhappy war, or refreshing mind and body under the bracing influence of the cool breezes of the northern hills.

Under this Act I have said two new Governments were erected, that is, the old Presidency of Fort William in Bengal was “divided into two distinct Presidencies, one of such Presidencies in which shall be included Fort William, to be styled the Presidency of Fort William, in Bengal, and the other of such Presidencies to be styled the Presidency of Agra.” The administration of the Lower Provinces of the Bengal Presidency was entrusted to what is called the Bengal Government, and its precise limits were to be defined by the Court of Directors. The Governor-General was to be *ex-officio* Governor of Bengal, with power to appoint one of his Councillors to act for him, in the capacity of Deputy-Governor, with three members of Council. The Presidency of Agra was to consist of the Upper Provinces of the old Bengal Presidency; and its affairs were to be administered by a Governor and Council of three.* The Court of Directors, however, had the power of determining, with the sanction of the Board, whether there should or should not be Councils in the subordinate Presidencies;† and the original design of the Bengal and Agra Governments was revised. It was deemed expedient that these new Presidencies should have no separate armies—no separate civil establishments; and therefore it was conceived that Councils were unnecessary. By a subse-

* Clause 56, Act 3 and 4 Will. IV., chap. 85.

† Clause 57, Act 3 and 4 Will. IV., chap. 85.



quent Act,* "to authorise the Court of Directors of the East India Company to suspend the execution of the provisions of the Act of 1833, so far as they relate to the creation of the Government of Agra, the Governor-General was empowered to appoint any member of the Company's service, of ten years' standing, Lieutenant-Governor of the North-Western Provinces of India. And such has been the system pursued up to the present time. The two Governments of Bengal and the North-Western Provinces administer, without a Council, but with a separate Secretariat, the civil affairs, and have the general domestic superintendence of, all that tract of country, which previously constituted, and in respect of military arrangements does still constitute, the Presidency of Bengal. But they have no military or political authority, and no financial control except in subordination to the Supreme Government. In fact, the system is one of extreme centralisation, and the Governor of Bombay or Madras, or the Governor of Bengal, being also Governor-General of India, cannot lawfully entertain an additional Cooley, on a salary of seven shillings a month, without the recorded assent of the Governor-General in Council.

But that which most of all imparted a distinctive character to the new Act, was the earnestness with which it addressed itself to the great matter of Indian legislation. It recognised the necessity of constructing a comprehensive code of laws for the protection and restraint of our Anglo-Indian subjects, of all colors and all creeds;† it vested, as I have shown, the sole

* 5 and 6 Will. IV., chap. 25.

† "It is expedient that, subject to such special arrangements as local circumstances may require, a general system of judicial establishments and police, to which all persons whatsoever, as well Europeans as natives, may be subject, should be established in the said territories at an early period, and that such laws as may be applicable in

common to all classes of the inhabitants of the said territories, due regard being had to the rights, feelings, and peculiar usages of the people, should be enacted, and that all laws and customs having the force of law within the same territories should be ascertained and consolidated, and as occasion may require amended."—[Preamble to clause 53, 3 and 4 of William IV., chapter 85.]



power of legislating for all parts of India in the Supreme Council, and it not only imparted to that Council a distinctive legislative character and a presumed legislative efficiency such as it had never known before, but it afforded, by the establishment of a body of Law Commissioners, certain external legislative aids which were calculated to contribute largely to the success of its codifications.

This Law Commission, of which the legislative member of Council was generally President,* was to consist of not more than five members, selected by the Court of Directors with the approbation of the Board of Control. It was to be their care "fully to inquire into the jurisdiction, powers, and rules of the existing courts of justice and police establishments, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or military, written or customary, prevailing and in force in any part of our territories;" and "from time to time to make reports, in which they shall fully set forth the result of their said inquiries, and shall from time to time suggest such alterations as may in their opinion be beneficially made in the said courts of justice and police establishments, forms of judicial procedure and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the said territories." In a word, it was their duty to supply the materials of legislation; and considering the extent of the country, and the diversity of its inhabitants, it would be difficult to over-rate the magnitude of the task.

Excellent as was the intention, and apparently sound in theory as was this provision of the Legislature, there

* This was a matter, I believe, of private arrangement. It is not "so mission was principally composed of the Company's civil servants; and nominated in the bond." The Commission dwindled down at last to one member.



were many grave reasons to doubt, if not to despair, of its practical success. And some of the ablest members of the Court of Directors looked upon the experiment as one from which it would be expedient to abstain. They questioned the wisdom of this centralisation of the legislative power; and contemplating the many varieties of our Indian subjects—of a people with different languages, different creeds, different social institutions, different social usages, different tempers, and different intelligences, they could not bring themselves to think that an uniform code of laws, applicable to all these varieties of mankind, could be framed by any number of men with the head of a Bentham or a Romilly, and the heart of a Wilberforce or a Howard. But, as a body, the Court of Directors, bowing to the behests of the Legislature, accepted the scheme, for better or worse, and wrote out to the Supreme Council, exhorting them to do their best to give it beneficial effect. Nothing could be more liberal than the spirit of their instructions. They exhorted the Legislative Council to legislate for the people; and urged them to spare no pains to obtain for themselves the aid of all the wisdom and experience of the country, to whomsoever it might belong, as the basis of their legislative enactments.*

* The following extracts from this letter will indicate the tenor of their instructions:—"We shall say no more of the necessity of deliberation among yourselves. 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 improvable or objectionable, in the drafts or projects of laws under consideration. 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; but on this point we shall afterwards have occasion to observe more particularly. 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



It is possible that this scheme of uniform codification would soon be forgotten—buried in that “Limbo of Vanity,” where all decayed errors and rotten fallacies are stowed away—but for one circumstance connected with it. It will be remembered by future generations, wherever the English language is spoken or understood, that the great historian of England, whose captivating pages charm the young and fascinate the old with equal power, was sent out to India, in the year 1834, to take his place in the Council to which sixty years before another great writer had imparted an evil reputation. That Macaulay was for some years an Indian legislator will be held in popular remembrance long after the duties of the legislative member of the Supreme Council of India, and the labors of the Law Commissioners, have ceased to be matters known to any but the laborious student of remote Indian chronologies, who perhaps, in those days when the “New Zealander stands on the ruined arch of London Bridge,” and the Anglo-Saxon races of America and Australia are contending for the empires of India, China, and Japan, or are amicably partitioning these vast territories among them, more as missionaries than as conquerors, may be writing, after the manner of Gibbon, a history of the “Decline and Fall of the British Empire in the East.”*

I would speak tenderly of the labors of the Commission. Some able English lawyers, and some of the ablest of the Company’s servants, have been connected with it. They carried to their work as much zeal and

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 the Houses of Parliament in this country. We mean only that their sugges-

tions should be received, and should even be invited.”—[*The Court of Directors to the Supreme Council of India, December 18, 1834. MS. Records.*]

* It was, I believe, for some time a question whether Robert Grant or Macaulay should be the first legislative member of Council.



industry, as ability and experience. Such men as Amos and Cameron, Macleod, Elliott, and Millett, were not likely to address themselves carelessly to their new duties, or to toil on without profitable results. They have at least brought together an immense mass of serviceable information—the raw materials of legislation; and what they have done will go far to lighten, as indeed it has already lightened, the labors of those whose duty it is to send out the fabric, full fashioned, from the legislative loom. The mistake that was made, was made by the British Legislature. It prescribed duties, the adequate performance of which, according to the intent signified in the Act of Parliament, was simply an impossibility. The Law Commission were expected to prepare a comprehensive code of laws—to suit men of all denominations living in the territories of the East India Company—Englishmen, Eurasians, Portuguese, Armenians, Parsees, and every variety of Mahomedan and Hindoo. But it was felt after a time that the work entrusted to the Commissioners could not be performed in all the integrity and completeness of the original design. People looked impatiently for results before results were forthcoming. The Court of Directors had written out to the Supreme Government, that with respect to this matter of codification “no time should be lost by delay—none should be worse than lost by precipitation.” Doubtless, there was some precipitation at the outset; and afterwards there were apparent delays, the result of an earnest desire on the part of the Commissioners to sift all subjects of inquiry to the bottom. The Commissioners did their duty, but it was only in the nature of things that the Commission should have disappointed public expectation, and left the design of the Legislature unfulfilled. It was suffered therefore, little by little, to die a natural death; and it must be acknowledged that it has left



behind it only an impression that it was a failure, as costly as it was complete.*

I think that this condemnation is far too sweeping. It is not to be denied that the Act of 1833, under

* I may advantageously give here the substance of the evidence given before the Lords' Committee in 1852, by Mr. C. Hay Cameron, lately legislative member of the Supreme Council of India, and President of the Law Commission, relative to the performances of that body. "Practically, the functions of the Law Commission have ceased. Some years ago the Government discontinued filling up the vacancies as to the now legal members of the Commission, and its existence would have been entirely terminated, but for doubts which began to be entertained whether it was competent for the Government to dispense with its maintenance as directed by the Act. But it not being considered necessary to incur the expense of paid Commissioners, certain members were requested to act as Commissioners without additional salary, simply that the Act might be complied with, and that the only remaining paid Commissioner might be enabled to complete and submit to Government some reports on which he was engaged. Mr. Cameron stated, that when the Law Commission was nearly extinct (consisting only of two members, himself and another), it proceeded, by reference from the Governor-General in Council, to examine the criticisms upon Mr. Macaulay's Penal Code, made by all the judges of the Supreme Court and the judges of the Company's Sudder Courts, which criticisms, it is said, had accumulated to an unmanageable bulk. Upon these the Law Commission reported, recommending that the code, as revised by that Commission, should be passed into law. Permission for the Commissioners to travel into various districts, for the purpose of instituting inquiries into slavery and other subjects, was sought, but not obtained. Plans were proposed for a Model Criminal Court for the trial of offences not of the gravest character; as well as for a Model Civil Court and a plan of civil procedure, under which the administration of law and equity was to be united, and the whole case brought under the cognisance of one judge,

while small-cause judicature was not to be committed to inferior judges, but all causes, whatever their amount, were to be cognisable in the same Courts. In regard to appeals, the scheme of the Law Commission was to have a general Court of Appeal in each Presidency, consisting of the judges of the Supreme Courts and the judges of the Sudder Courts, which should receive appeals both in civil and criminal cases, and from all the Courts in the country. The Mahomedan law was to be codified, the Hindoo law was to be codified, and a third civil code, the *lex loci*, was to be applicable to all but Mahomedans or Hindoos. This was much wanted, as, beyond the jurisdiction of the Supreme Courts, there is difficulty in knowing how to deal with foreigners. The course of the Company's Courts is to inquire what is the law of the country of every man that comes before them. If a Frenchman, they consult French authorities; if a Portuguese, Portuguese authorities; and so with regard to all foreign nations. The condition of the Armenians, who consider themselves a separate nation, is also peculiar, and the position of the East India or half-caste population seems unsettled. Then in cases between persons of different nations, as when one party is a Frenchman and the other not, increased difficulty arises. There was also to be a single penal code, the Mahomedan law, in this respect, being swept away, and that substituted applying to all classes of persons without exception, but varying the penalties according to the diversities of birth, class, and circumstances. The Courts of first instance all over the country were to administer the three codes of civil law, and the new code of criminal law. Subsequently, the Law Commission proposed a Small Cause Court, with jurisdiction extending to 1000 rupees, but it was not adopted. Certain parts of the *lex loci* code, which protected converts from Mahomedanism or Hindooism from loss of ancestral or other property which they previously incurred, have since become law."



which the legislative member of Council was appointed, and the Law Commission established, found the laws of India in a very confused and anomalous state, and that now, after twenty years, it still leaves much anomaly and confusion behind it. But there is little room to doubt that, since the passing of that Act, there has been a great improvement in the character of Indian legislation. The labors of the Law Commission may not have resulted in any very large number of substantial acts, but they have had a sensible effect upon the working of the legislative forge; and much of what the Commissioners have done has been infused into the Acts which, from time to time, have passed the Legislative Council.* And I am certain that all future Indian legislators will derive extensive benefit from the materials which they have amassed. Nor must it be forgotten, when speaking of the general progress of legislation, that since the establishment of the Legislative Council, the people of India, Europeans and natives, have had a larger share in the manipulation of the law. A draft of every new Act is now published; the community are thus invited to comment on its provisions, and often the result of these commentaries is discernible in the modification, or even the withdrawal, of the proposed law, when it has been found to be obnoxious to the people.

Looking now to general results, it would appear that this system of extreme concentration of power in the hands of the Supreme Government has imperfectly fulfilled the intentions of the Legislature. It has

* With regard to the criminal code, Mr. Prinsep, no great admirer of the Law Commission, but a great authority, said in his evidence before the House of Commons, in 1851, "A code of criminal laws has been prepared, but has not been passed. It is, no doubt, frequently

referred to, and extracts are made from it in any cases of importance that arise where a law is required for the purpose; and several of its chapters have so been incorporated, I believe, into the laws that have been passed from time to time."

borne, indeed, the accustomed fruits of centralisation.* It has dispirited and enervated the local Governments. It has thrown upon the central authority an accumulated burden, under which it has not made much progress in the work of provincial improvement. I speak especially with reference to the Governments of Madras and Bombay. The Bengal and Agra Governments are immediately under the eye of the Governor-General. He passes from one to the other, traverses the whole tract of country from Peshawur to Pegu, and has a kindly paternal interest in the welfare of all those provinces, which, in spite of the divided administration, still integrally constitute the one great Presidency of Bengal. The vast progress, therefore, which has been made, under the Government of the North-Western Provinces, can hardly be admitted as an argument in favor of this excessive centralisation. We must look for arguments on the southern and western coasts; and I fear that we shall not gather, from the apparent results, any very satisfactory proofs that the tendency of the system is to kindle much administrative zeal, or to develop much internal improvement.

* I think that Mr. Helps has so fairly stated the advantages and disadvantages of centralisation in the following passage, that I am tempted to quote it. It is written with especial reference to a "free Government," but it equally applies to such a Government as that of India:—"How much depends upon the happy admixture of local and central authority. If there be too much local power, how much time will elapse before the results of collected wisdom and the experience of the shrewdest men in public affairs will be carried into the local administration . . . how

completely the imperial ideas are likely to be sacrificed to petty privileges and near-sighted interests. On the other hand, if the central power prevails too much, the minds and energies of the small communities dependent on it are weakened by disuse; at the centre itself too much influence falls into the hands of faction, so that sullenness becomes the arbitress of national affairs; and, moreover, there is danger of everything being sacrificed to any one idea or fancy prevailing at the seat of Government."

—[*Friends in Council, Book II.*]



CHAPTER IV.

Establishment of the East India Company—Early Management of its Affairs—
Becomes a Joint-Stock Company—Its successive Charters—Progress of the
Interlopers—The English Company—Union of the two Companies—Territorial
Rights—The Regulating Act—Pitt's India Bill—The Charter Acts of 1793,
1813, and 1833—Present State of the Company.

HAVING rudely traced in the preceding chapter the progress of British administration in India up to the present time, I proceed to give some account of the Home Government—of the authorities and agencies which direct the movements of the local Governments, and to which the whole body of Indian administrators are responsible—the Authorities and Agencies which are now known as the Court of Directors of the East India Company and the Board of Control, but which for more than a century and three-quarters were all included in the former.

The bells which rang out the year 1600 rang in the first East India Company. It was incorporated, by a charter from Queen Elizabeth, under the name of "the Governor and Company of Merchants of London trading into the East Indies." It was a very small beginning. A few English traders—ironmongers, clothiers, and other substantial people of that kind—headed by the Lord Mayor, subscribed 30,000*l.*,* and, as soon as they obtained their charter, began to or-

* The precise amount was 30,133*l.* set down opposite to the name of
—subscribed by 101 different parties. Messrs. Corkain and Co.—[*India House*
The highest subscription was 3000*l.*, *Records.*]

ganise their system of management, and to adopt measures for the equipment of their fleets. First seventeen—then twenty-four—Directors, or, as they were called, “Committees,” were chosen, and from among them a Governor was elected—the first being Sir Thomas Smith, Alderman of London—to serve for a single year. The Company in the first instance had not even the dignity of a Joint-Stock. The adventures were promoted by private subscription, and the profits divided in the proportions of the sums subscribed by individual shareholders.

The business of the Committees at this time consisted mainly in the equipment of their ships, the purchase of goods likely to have a ready “vent” among the Indians, and the supply of bullion wherewith to procure the rich produce of the Eastern world. Occasionally, at long intervals, came in a letter from the commander, or “general” of one of their expeditions, setting forth the doubts which perplexed his mind, and the difficulties which beset his career—how their efforts, in one quarter, to establish a factory had proved fruitless, and that there was “no way but to remove and go;” how, in another direction, “the bloodthirsty Turks” had come down upon them, “murdered their distrustless naked men, and seized their goods;” how the Portugals had obstructed their trade until they had turned round and “checked their insufferable saucy insolence by taking one of their bragging frigates;” how the drunken Flemings had hindered them less openly in another place, and how our own people had been drinking with the said Flemings, and trusting them over-much; how their goods would not vent among the Gentiles; how the Gentiles, in their dealing, contrived to overreach them, and how they were compelled to submit to heavy losses, or else to carry back their damaged goods.* The



record of these things still survives in quaint homely English, and in spite of some obscurities of style and penmanship, render the Indian correspondence of the beginning of the seventeenth century as patent to the historian as the effusions of "our Governor-General in Council" at the beginning of last month.

There were other anxieties than these to disturb the Committees in the infancy of the Company's existence— anxieties generated by popular complaints at the very doors of their council-chamber. The trade went on briskly enough in one department of commerce, but very flatly in another. It was nearly all buying—little or no selling. English produce did not "vent" among the Gentiles. It was necessary, therefore, to export large quantities of bullion. This was nearly proving fatal to the Company at the very outset of their career.* There arose a cry in London that the India Company was draining the country of its wealth. Men spoke loudly against the system in places of public resort, and wrote wordy pamphlets against it. It is curious, now that the English traders have well-nigh absorbed the whole of India, whilst the prescient exclusiveness of Japan has preserved its integrity inviolate, to read that, two centuries and a half ago, the Company were seriously meditating the abandonment of their trade with the former country, and confining their efforts to the establishment of commercial intercourse with the latter.

For nearly a century this London Company continued nominally to enjoy the exclusive privilege of trading with all parts of Asia, Africa, and America, beyond the Cape of Good Hope eastward of the Straits of Magellan. During that century eight successive charters were granted by different monarchs to the London Com-

* "The Honorable Company, as they write to us, make doubt of continuing their East India Trade, being daily murmured at and scandalised for shipping away so much money yearly for

India, Bantam, &c., and their large and hopeful intimations now lately given them of the Japan trade."—[*Factory Correspondence. India House Records.*]



pany.* The second of these charters, granted under the reign of the first James, conferred upon them exclusive privileges in perpetuity—or at least as long as they could be continued without prejudice to the interests of the nation. Under this second charter, in the year 1612, the Company became, by a resolution of its members, a joint-stock; money was no longer subscribed arbitrarily for the promotion of a particular adventure, but was thrown into a general fund, to be managed according to the discretion of the Governor and the Committees. In 1617-18 there were nearly a thousand proprietors of India Stock, who in that year had subscribed 1,600,000*l.* towards a new fund. There was hopeful assurance in this. But increase of trade did not bring increase of profit; and in 1626-27 they had a debt of 200,000*l.*, and their shares were selling at a discount of 20 per cent.

The charter of 1609 continued in force for more than half a century. But those were not days when kingly faith stood on a very lofty eminence. The needy Stuarts and their profligate courtiers made what they could out of the Indian trade, and many were the injuries inflicted upon the Corporation by the hands of the denizens of Whitehall. Just at the close of the first James's reign that dissolute "Steenie," the Duke of Buckingham, in his capacity of Lord High Admiral, extorted 10,000*l.* from the Company, as a *douceur*, to obtain his sanction to the despatch of a fleet. Some years afterwards, Charles, in one of those pecuniary straits which always drove all sense of justice out of him, bought up all the Company's pepper on credit, sold it for cash, and never paid for it after all.

These, however, were mere temporary, accidental hindrances. A heavier blow was aimed at the Com-

* That is, under date December 31, April 12, 1686; October 7, 1693; and 1600; May 31, 1609; April 3, 1661; April 13, 1698. October 5, 1677; August 9, 1683;



pany, when back-stairs influence induced the needy Stuart to strike at the monopoly which had been granted by his predecessors, and to issue a license authorising a private association to embark on those fields of commercial enterprise which had hitherto been deemed, in their relations to English trade, the exclusive domains of the Company.

It has been observed, in the preceding chapter, with no love of paradox, that the enmity of the Portuguese, and the treachery of the Dutch, were long the defences of the London Company. If any further proof of this be needed, it may be found in the fact that, when the English and Portuguese patched up a sort of covenant, which promised to shield the former against the outrages of their unscrupulous rivals, and gave them, moreover, access to their ports, competitors for a share of the Indian trade rose up in London, and haunted the back lobbies of Whitehall. The Indian trade was now likely to become more profitable, and less dangerous. So it seemed to the gentlemen of London that a share of it was worth grasping. They had left the Company to breast the storm alone; but now that there was a glimpse of fine weather and smooth seas, the West-end people began to sound the depths of Charles's fidelity, and to bait their hooks with the promise of a share of the contemplated spoil. A convenient gentleman of the bed-chamber, named Endymion Porter, acted as the go-between. Sir William Courten and others obtained a license for a new Association, and the King received a share in the venture.

For this violation of the charter, granted to the London Company, it was necessary to find an excuse. It was alleged, therefore, and duly set forth in the preamble to the grant, that "the East India Company had neglected to establish fortified factories, or seats of trade to which the King's subjects could resort with safety—



that they had consulted their own interests only, without any regard to the King's revenue—and, in general, that they had broken the conditions upon which their charter and exclusive privileges had been granted to them."

It has always been the fate of the Company to be subjected to charges of the most opposite and inconsistent character. One day they are charged with doing too little—another, with doing too much. The "Lord Ambassador," whom King James had sent out to the Court of the Mogul, had recommended the Company to establish as few factories as possible, and not to fortify them at all; and now, in a public document, presumably expressing the sentiments of the King, the Company were charged with the offence of "neglecting to establish fortified factories." The Company, indeed, were in no hurry to fortify. Sir Thomas Roe had told them that the Portuguese had "never made advantage of the Indies since they defended them;" and that "the Dutch, who had sought plantations by the sword," had found that "their dead pays consumed all their gain." Profiting by these cogent hints, the Company had never forgotten that their position in India was that of traders, and not of princes. Territorial acquisition and military defence formed no part of their policy. And as it was at the outset of their career, so has it been from generation to generation. It is nothing to say that no such empire as the British Empire in the East has ever been built up by the exercise of so little deliberate aggression, but that nothing even remotely resembling it is to be found in the history of the world.

But although the sun of royal favor brought Courten's Association into life, that great chartered party of Interlopers achieved no very brilliant success. They endeavoured to carry everything before them—*more Lusitanorum*—by a series of rapid *coups de main*.



But the aggressive hostility of the Dutch, who treated them as pirates, cramped their energies, and contracted their efforts. They encountered many difficulties, and were assailed by many disasters. But more than all the malice of their enemies, did their own unscrupulous conduct hasten their undoing; and when an arrangement was made by which they were swamped into the legitimate body of the London Company, they were nearly at their last gasp. A failure such as this had a natural tendency to discourage private adventure in the Indian seas. Domestic dissensions, too, which filled men's minds, and evoked their bodily activities, shut out all thought of foreign speculation; and when new homes beyond the seas were dreamt of by men weary of intestine strife and oppression, their imaginations turned to the gentle clime and the green savannahs of the western world, where, with their wives and little ones around them, they might live and pray in quietude and peace.

The civil wars did not promote the Company's trade,* but their tendency was to keep down competition, and so far they benefited the Company. But when the King's head had been brought to the block, and the

* Mr. Bruce, a staunch Royalist, says, under the year 1644-45, that the King of Persia refused the usual *firman* to the Company because our agents did not take off the wonted quantity of silk. "It is a memorable proof," he adds, "of the effects of the political distractions in England at this period, that the agent was compelled to explain to the King of Persia the reason of this change to be, the distracted state of the Government in England, in which the rigid and austere manners of the Republicans had rendered silks (an article of former luxury) less an article in demand than under the polished manners of a Court—a melancholy example of the effect of political anarchy on commercial prosperity." It is not very clear from this whether, in Mr. Bruce's estimation, the "political anarchy" of

the times, or the "austere manners of the Republicans," had the disastrous effect upon the commercial prosperity of the country. The passage is not very logical as it stands. It would seem, however, that Mr. Bruce intended to build up an argument in favor of absolutism, for he goes on to say, "If the convulsed and austere manners of England thus struck at the prosperity of the Company's trade in Persia, it is a remarkable contrast to that, at the same juncture, that the settled, though absolute Government of Turkey, was favorable to the introduction of the Company's trade; because, under such a Government, articles of foreign import found a ready sale for the luxuries of the great, whilst this luxury facilitated the exports of Turkish produce."



monarchy for a time suspended, it was natural that the general vindication of liberty should embrace liberty of trade, and that the Company's monopoly should be in danger. During the first years of the Commonwealth, however, the war with the Dutch kept this experiment in abeyance, and it was not until the peace had been completed that the Company found that their exclusive privileges were again threatened. It was not even then that their charter was endangered by a general demand for license to trade with the continent and islands of India, but that some of the members of their own proprietary body urged their right to be emancipated from the trammels of the Joint-Stock, and under the name of Merchant-Adventurers, set forth their grounds for desiring to substitute for the existing system "a free regulated trade." An eager controversy then ensued; argumentative petitions from both sides were laid at the feet of the Protector, and for a time it seemed that the chances of the contending parties were pretty equally balanced. Certainly, as we regard with the eyes of modern enlightenment the arguments which were thus paraded by the two disputants, the Merchant-Adventurers have the best of the controversy. But the Free-trade arguments of 1813-33, which are here foreshadowed, do not apply with equal force to the great commercial question raised in 1654-55. The reasoning of the Company in favor of the United Joint-Stock was not unsound in its application to the existing state of things, and when the question at issue was referred in 1656 to a committee of the Council of State, that body, after hearing evidence, delivered a private opinion in favor of the Joint-Stock, but left it to the Council to pronounce an authoritative decision.* The Council

* Mr. Mill says: "These contending pretensions were referred to a committee of the Council of State, and they, without coming to a decision, remitted the subject to the Protector and

Council, as too difficult and important for the judgment of any inferior tribunal." There is here discernible something of the *suppressio veri*. The historian ought to have stated that the



declared in favor of the "United Joint-Stock, exclusive of all others," and Cromwell ratified the decision.

But in the mean while—*pendente lite*—the Merchant-Adventurers had subscribed 46,000*l.*, fitted out a fleet of three ships, appointed a committee of management, and obtained a commission from Cromwell to trade with the East Indies. Courten's Association had been broken up, but it had left a trail of piratical spawn behind it. The troubles of the Company and their servants had been great ever since the evil "Khutput" of Mr. Endymion Porter had covered the Indian seas with these reckless corsairs, and now a new tribe of chartered Interlopers were pouring in, seemingly with a fair chance of superseding the Company altogether. But the decision of the Council of State brought the Merchant-Adventurers back to their old allegiance; they fused themselves again into the general Joint-Stock, and the only interlopers left on the seas were pirates without charter or commission.

But the days of the Commonwealth, adverse, doubtless, to corporations and monopolies, were numbered. The people of England, though erring and straying, for a little space, from their monarchical ways, like lost sheep, were eager to return to their old allegiance to a royal master; and the Restoration was at hand. They were willing to try another of the false Stuarts, and Charles the Second was proclaimed.

To the Company this seemed a propitious event. It was natural that the restored monarch should have looked with a benignant eye on all kinds of legitimacies, real or supposed—upon all vested interests and corporate privileges, and especially those which had

committee reported that they had heard evidence on both sides, and that their private opinion was, that the trade ought to be conducted on an United Joint-Stock, but that, as the subject was one of so much difficulty and importance,

they deemed it expedient to refer it, with the papers, to the Council of State, for their formal decision. This is duly stated in "Bruce's Annals," to which Mill refers in the margin.



been violated by the sacrilegious hand of the lawless Protectorate. The opportunity was a good one—not to be neglected by the Company; and they sought renewed protection from the Crown. They sought for such a recognition and confirmation of their privileges as would secure them against all intrusion, chartered or unchartered; and they obtained for themselves a new charter, which promised at least all that they desired.

It promised them “for ever, hereafter,” “the whole entire and only trade and traffic to and from the East Indies.” It established them as a body politic and corporate in perpetual succession. It gave them the power to change and alter whatever might be for the common interest and weal of the Company; to hold general courts, to make by-laws, and to establish a constituency, each adventurer voting according to his stock. It gave them full control over all their plantations, forts, factories, and colonies in the East Indies. It empowered them to make peace and war with any prince or people not being Christians, to build fortifications, and to send out soldiers and military stores. It further gave them the power to seize and ship off to England all unlicensed persons invading the Company’s privileges; in fact, it conferred upon the Company a strict monopoly with very large powers; and it acknowledged what in the time of the new King’s sainted father had been authoritatively denied, that the Company had for a long series of years been enjoying the liberties and exercising the privileges granted to them by Elizabeth and James “for the honor and profit of the nation.”*

This was the Company’s third charter. It continued without alteration or infringement until October, 1677.

* Letters patent from King Charles II. to the East India Company, April 3, 1661, in what, by a pleasant constitutional fiction, was called “the thirtieth year of his reign.”



It had been granted, as I have said, under letters patent from the second Charles; but about this time the legality of such charters began to be questioned, and people openly declared that nothing but an Act of Parliament could legalise the monopoly which the Company sought to enjoy. It was urged, moreover, that they had forfeited their privileges, by divers acts of omission and commission; but the popular clamor seems to have had little effect either on the fortunes of the Company, or the favor of the King; for letters patent were again issued, under date October 5, 1667, confirming to the Company "all rights, liberties, and franchises" granted by former charters. It gave them also the further power of establishing mints in any of the Company's settlements, and to issue money of any kind, so long as it was not called by the name of the current coin in other parts of his Majesty's dominions.

In 1683, the Company received their fifth charter from the Crown.* The "Interlopers" had, by this time, risen to a height of daring which the Company's powers were insufficient to repress. They applied, therefore, for additional powers to seize on the ships and the merchandise of these lawless intruders, to try them, as pirates, by martial law, and to execute them upon conviction. The charter was granted. It empowered them to seize the ships and goods of Interlopers, within the limits of their exclusive trade—to hold forts, factories, and plantations—to make war—to

* Mr. Wissett, in his "Compendium of East Indian Affairs, collected and arranged for the use of the Court of Directors," says, under this year (1683): "The Company's trade having been materially injured by the proceedings of the Interlopers, Charles II. granted the Company a new charter (the fifth in his reign)," &c., &c. It is fortunate that there is much more trustworthy information than this in Mr. Wissett's

volume. The Charter of 1683 was the fifth charter granted to the Company since its first establishment in the reign of Queen Elizabeth. There were three charters granted by Charles II., the last of which was little more than an act for the suppression of the Interlopers. There were besides these the grants of the Islands of Bombay and St. Helena; but they are not properly to be described as charters.



muster forces—to execute martial law—to erect Courts of Judicature, and to appoint Judges thereof, who were “to determine according to equity and good conscience and the Laws and Customs of Merchants.” But this charter was not sufficient; and three years afterwards another was granted to the Company, giving them further power “to make war on such Indian princes as may hurt the Company,” if satisfaction for injuries should not be obtained in a peaceable way, and authorising to use their ships in a martial manner, to appoint Admirals, Vice-Admirals, Rear-Admirals, Captains, &c., who may raise and muster seamen and soldiers on board their ships. All the wrongs which the Company had sustained at the hands of the native princes were attributed to the Interlopers, who were recited to have instigated the Mogul’s people to make war upon the lawful traders.

These charters granted by the Stuarts related almost entirely to the foreign management of the Company’s affairs, but the next, which was conferred on them in 1693 (3rd and 4th of William and Mary, chapter 15), related to their domestic arrangements. Various rules and orders for the Company’s observance were prescribed by the Crown. Every subscriber to the Joint-Stock was to be a member of the Company. A proprietor of 1000*l.* stock was to have one vote in the General Court. No proprietor was to hold more than 10,000*l.*, or to have more than ten votes. Each Director or Committee-man was to be possessed of 1000*l.* stock, and the Governor and Deputy-Governor of the Company were to possess 4000*l.* stock. The Governor (and in his absence the Deputy-Governor) was to have a casting vote in all Courts. And the Company were to be required to export to India goods “the growth and produce of England,” every year, of the minimum value of 100,000*l.*



But these regulations were not altogether pleasing to the Company, so they besought the King to modify them. Letters patent were accordingly issued, on the 13th of April, 1698 (this was the eighth charter), by which the qualification of voters, in General Courts, was materially altered. The possession of 500*l.* stock was to confer one vote—1000*l.* was to give two votes—3000*l.* four votes—4000*l.* five votes—a much lower qualification than exists at the present time—and it became necessary for a Director to possess 2000*l.* stock at the lowest.

This was the last charter granted to the old London Company, which, for the space of nearly a century, amidst all sorts of difficulties and discouragements, had maintained itself, with singular courage and constancy; but whose existence was now threatened by the promise of a charter to a new Company, made up, in no small measure, of the Interlopers whom the old corporation had resisted and assailed with so much vigorous severity, and against whom, it has been seen, the principal provisions of more than one of their recent charters had been directed. The London Company were at the mercy of the King. In 1693 they had subjected themselves, by the non-fulfilment of their engagement to pay a 5 per cent. duty on their capital stock, to the entire loss of their charter; and though it had been confirmed to them by an act of grace, a condition had been attached to its renewal, that the Company's privileges should be terminable at any time, after three years' notice. The King wanted money. The Government, indeed, of that period was in a chronic state of financial embarrassment; and some instructive chapters of English history might be written from existing materials, in the shape of the correspondence of those whose chief business it was to provide money for the requirements of the State and the exi-



gencies of the Court. It is no strange thing, therefore, that now the temptation offered by the project of a new India Company, willing to bid high for its commercial privileges, should have been unresisted by the King. The new Company offered to lend 2,000,000*l.*, at 8 per cent. interest, to the Government—and the old Company's charter was terminable upon three years' notice. The time seemed now to have arrived, therefore, for the suppression of the London Company, and the elevation of the new English Company upon the ruins of its venerable predecessor.

Brief mention has been made in the preceding chapter of the struggle which then ensued. The reader is acquainted with the result. The United Company of Merchants trading to the East Indies then entered on an existence which endured for a century and a quarter. The charter of 1698, under letters patent of William III., granted to the English Company, and subsequently transferred to the "United Company," supplies some of the materials of the present constitution of the Courts of Directors and Proprietors.* Twenty-four Directors were to be chosen, between the 25th of March and the 25th of April, every year, by the members of the Company—or, as they are now denominated, Proprietors of East India Stock. The qualification for the Direction was the possession of 2000*l.* Every proprietor of 500*l.* stock was entitled to one vote, and no proprietor had more than one. The Directors were chosen only for one year. Thirteen were sufficient to constitute a Court. It was incumbent upon them to convene a General Court of Proprietors four times in the year, and these Courts were empowered to make by-laws, for the better regulation of the Company.

* The charter decreed that the Company should "for ever hereafter freely trade unto and from the East Indies, &c."



The Directors of the United Company, as it has been shown, were, at first, elected every year. Every week, on proceeding to discuss the business before them, they appointed a new chairman. In 1714, this practice passed into desuetude. A resolution was adopted, to the effect that a chairman and a deputy-chairman should be elected annually, and sit throughout the entire year. And on the 14th of April, being the first Court-day after the election of Directors, Chairs were appointed by ballot. This arrangement has remained unchanged up to the present time. The chairman and deputy-chairman are elected every year; but the general body of Directors are no longer subject to annual election. In 1773, an Act was passed (13th of George III., chapter 63) for the better management of the Affairs of the East India Company, which contained some important provisions affecting the constitution both of the Court of Directors and the Court of Proprietors. It was enacted that, at the next general election, instead of twenty-four Directors being chosen for one year, six should be elected for one year; six for two years; six for three years; and six for four; and that at the expiration of every year, six new Directors, and no more, should be chosen. The effect of this provision has been to constitute a body of thirty Directors, of whom six, forming a sort of non-effective list, go out every year by rotation. For although it is competent upon the proprietors, at such annual elections, to choose six new members, the power is never exercised. The Court of Directors, as thus established by the Act of 1773,* the well-known "Regulating Act," of which some mention has been made in the preceding chapter, has survived to the present day.

* The Act recited the reason of the change—viz., that the annual election of Directors "had not answered the good purposes intended thereby, but on the contrary, by limiting the duration of their office to so short a time, evidently tended to weaken the authority of the Court of Directors, and to produce instability in the councils and measures of the said Company."



The last eighty years have seen no change in its constitution.

By the same Act, the qualification of proprietors underwent a revision, which has seen no subsequent change. The possession of 500*l.* stock had qualified a proprietor to vote; but this system, as the Act recited, had "been productive of much inconvenience," as tending "to promote the mischievous practice of making collusive transfers," and was, therefore, to be amended. No member was to be thenceforth qualified to vote, unless the proprietor of 1000*l.* stock. Two votes were conferred by the possession of 3000*l.* stock; three votes by 6000*l.*; and four votes by 10,000*l.* These, as I have said, are the qualifications in force at the present time.

At this time, the East India Company continued to enjoy the privilege of exclusive traffic with the East Indies, under the charter of 1698, which conferred these privileges upon them in perpetuity—or for as much as perpetuity is worth in letters patent. But, in 1781, when Indian affairs were pressing impetuously upon the attention of the Legislature, an Act (21st of George III., chapter 65) was passed, confirming these privileges for a fixed period of ten years, at the end of which the Company were entitled to three years' notice of an intention to resume them.

Up to this date, it has been seen that the Home Government of India was vested entirely in the East India Company. The control which Parliament had hitherto sought to establish was a control over the Indian Governments. They had sent out from England new men—men without Indian antecedents, and unconnected with Indian interests—to regulate the proceedings of the local administration, by a fusion of the English or Parliamentary element into the authorities and agencies in operation at the seat of the



Supreme Government. But the experiment was a failure. The control was at once too great and too little—too great in evil, too little in good. It clogged the wheels of Government; it threw the affairs of the administration into confusion; and really regulated nothing except the continual supply of internal strife. It was evident that this was not the kind of check to be advantageously interposed between India and bad government. So Parliament began seriously to think of some new scheme for the better ordering—not so much of our Indian possessions, as of the Home Government to which the welfare of those Indian possessions was entrusted.

The idea of the Board of Control took shape slowly and gradually in the minds of our English legislators. In this year, however, the small end of the wedge was introduced by Parliament. In the Charter-Act of 1781 a clause was inserted which gave one of the Secretaries of State a controlling authority over the Company's affairs. It was enacted "that the Court of Directors should deliver to the Lords of the Treasury copies of all letters and orders relating to the Revenues of the Company, and to one of his Majesty's Secretaries of State copies of all letters and orders relating to the civil and military government and affairs of the Company, or of their servants in India; and that the Court should be bound by such instructions as they might receive from his Majesty, through one of the Secretaries of State, so far as related to the conduct and transactions of the Company and their servants with the country powers in India, as well to the levying war as to making peace."*

The following year was a year of inquiry. A Select Committee of the House of Commons was appointed to

* *Auber's Analysis of the Constitution of Charters and Statutes relating to the East India Company.*—Collection of India Company, 1817.



investigate the subject of Indian administration, and to consider how the British possessions in the East could be governed with most advantage to Great Britain and to the native population. And in the succeeding year (1783) leave was given to bring in a bill, by which the Company's affairs were vested in the hands of Commissioners, for the better government of our Indian possessions.

I should like to dwell upon the events that ensued, but I can only speak of the actual results. Charles James Fox was then one of the chiefs of the Coalition Ministry. The Bill which was then introduced is known in history as Fox's India Bill.* It was very adverse to the Company. It proceeded on the assumption that they had betrayed their trust—mismanaged their affairs—oppressed the natives of the country, and brought themselves to the verge of bankruptcy. It proposed to place the entire territorial government of India, for four years, in the hands of seven Directors, to be nominated by Parliament, whilst its commercial affairs were to be left in the hands of nine Assistant Directors, to be elected by the Proprietors, but to act under the instructions of the Directors nominated in the Act, and removable by them.† It entirely degraded the old Directors of the Company to the character and condition of mercantile clerks. The humiliating proposal threw the Company into a ferment of indignation. The Court of Directors appealed against it. The Court of Proprietors appealed against it. Pitt, with the old head on the young shoulders, then only a youth of five-and-twenty, earnestly and eloquently denounced it. He declared that the promoters of the Bill were "proceeding to the protection of the oppressed abroad by an act

* Originally there were two Bills, one relating to domestic, the other to foreign administration—one for vesting the government of India in the hands of Commissioners or Parliamentary Directors, and the other for the revision of the local authorities, and the better

government generally of the country. The two Bills were subsequently merged into one.

† That is, vacancies subsequently occurring were to be filled by the Proprietors.



of unparalleled oppression at home." But the House of Commons were with the Minister; and on the 8th of December his Bill was carried by a majority of two to one.

But the Company in the hour of their need had one friend; and that friend lived in a palace, and his likeness was stamped on the coin of the realm. The India Bill was obnoxious in the extreme to George; he conceived it to be an unconstitutional and dangerous movement, and it was soon noised abroad how the King had declared that no friend of his would support so oppressive a measure. The Bill was carried up to the Lords, and thrown out on the second reading. The Ministry was dissolved. The country, now about to subside into a chronic state of Pittism, received the youngest of her statesmen as the chief of her councils. Early in the following year, 1784, the new Minister moved for leave to bring in a Bill for the better government and management of the affairs of the East India Company. But the new Minister and the old Parliament could not carry on the business of the country together. Pitt was outvoted in his attempt to bring in an Indian Bill, and Parliament was dissolved. The new Parliament brought with it a new temper; and the young Minister carried the House with him. On the 6th of July, 1784, he introduced his India Bill. It did not seek to destroy the East India Company, but to control them. It neither stripped them of their commercial privileges, nor divested them of their territorial rights. It left the constitution of the Court of Directors untouched, but decreed that a Board of Commissioners, composed of six Privy Councillors, of whom one of the Secretaries of State and the Chancellor of the Exchequer were to be members, should be appointed by the Crown, with authority to scrutinise and to control the proceedings of the Company. They were to have



access to all the Company's papers. Drafts of all despatches to be sent out to India were to be submitted for their inspection and revision. They were empowered to call upon the Court of Directors to prepare despatches on any subject, and on their failure within fourteen days, to do the required work themselves. The Directors were at the same time required to nominate from among the members of their own body a Committee of Secrecy, not exceeding three in number; and it was enacted, that if the Board of Commissioners should be of opinion "that the subject-matter of any of their deliberations concerning the levying of war, or making of peace, or treating or negotiating with any of the native princes or states in India, should require secrecy, instructions should be sent to the said Secret Committee, who should thereupon, without disclosing the same, transmit their orders and despatches." Thus was the constitution of the Secret Committee established. Two years afterwards, it was enacted that the members of the Secret Committee should be sworn, and the words of the oath were prescribed.*

The famous Bill embodying these provisions—(Act 24th George III., chapter 25)—was carried triumphantly through both Houses, and the *imperium in imperio* was established. These provisions remain substantially in force up to the present time; but the personal composition of the Board of Commissioners has been materially changed. By the Charter Act of 1793† (33rd George III. cap. 52), which confirmed the Company in their privileges for twenty years, the

* Act 26th Geo. III., cap. 16.

† The Charter of 1793 repeats the important clauses prohibitory of war-making, contained in the Act of 1784—"Forasmuch as to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honor, and the policy of this nation; be it further enacted, that it

shall not be lawful for the Governor-General in Council, without the express commands and authority of the Court of Directors, or of the Secret Committee, by the authority of the Board of Commissioners for the affairs of India (except where hostilities have actually been commenced, &c., &c.), either to declare war, or commence hostilities, &c."



Board was made to consist of certain members of the Privy Council (of whom the two principal Secretaries of State and the Chancellor of the Exchequer were to be three) and two other members. The first named in the letters patent constituting the Board, was to be its President. The Commissioners were authorised to appoint secretaries, and enjoined to "enter their proceedings in proper books." Under this Act the Secret Committee was constituted, as under the Act of 1784, with the further power of receiving, as well as forwarding, certain despatches in the Secret Department.

Such is the constitution of the Home Government, as it is represented by Acts of Parliament. But how, in its infancy, the conjoint authorities worked together, and to what extent the Board of Commissioners was a really living operative power, is nowhere represented. Something, however, of the secret history of the working of the Board may be gathered from the following extract of a letter, written by Mr. Beaufoy, one of its first secretaries in 1795 :

"Having mentioned that the Revenue despatch of the 30th of April, 1794, was written by myself, you may, perhaps, be desirous of knowing in what manner the correspondence to India is conducted. In general, the business of preparing all despatches, those in the commercial department excepted, is assigned by the Directors to Mr. Johnson, a gentleman of very considerable talents, and of great experience in their service. Two assistants are allowed him, whose principal duty, when a letter is to be answered, consists in examining the consultations of Government, together with the proceedings of the subordinate Boards, and in marking all such passages as furnish in detail the information which that letter professes to convey. These passages are afterwards extracted by the numerous writers at the India House, and enable Mr. Johnson to form his own opinion on the facts related and the sentiments expressed, in the letter to which he replies.

"The process is laborious, but, on the whole, is the easiest and the best. As soon as the Directors have read and approved the intended despatch, their secretary sends it to the office of the Com-



missioners for India affairs, and care is taken that the private copy for my own use shall be accompanied by the volume of extracts (often amounting to many thousand pages) on the authority of which the despatch was formed. If doubts arise upon any point as to the fairness of the extract, recourse is had to the original record; but no instance in my time of intentional omission has ever yet occurred. The labor of reading these extracts falls, of course, upon the secretary, but this is the lightest of his employments; for as Mr. Dundas is seldom present at the Board, and afterwards requires at very uncertain times, and often at the shortest notice, complete information on such points in the despatch as engage his particular attention, it becomes necessary to form a written abridgment of these bulky materials. This the custom of writing short-hand enables me to do.

"Before the Act of 1793, the Board of Commissioners for India affairs was little more than nominal, except as the term applies to the principal Commissioner; for as the papers, which required their signature, were usually sent in circulation, they seldom were convened, and I, who had been invited to the office, as to a situation in which my services were particularly wanted, was surprised to find that it not only had been a sinecure in the hands of my predecessors, but that no active duties (the labor of writing reports on points of extensive discussion excepted) appeared to belong to the appointment.

"Fortunately, however, the Act of 1793 relieved me from the embarrassment by declaring that the sentiments of the Board of Commissioners for India affairs, upon any proposed despatch transmitted to them by the Directors, shall be certified under the hand of their chief Secretary by order of the Board. The consequence of the Regulation is, that no public despatch can be transmitted to India without a previous meeting of the Commissioners; that information is expected from the secretary on all the principal points of every such letter; and that his office has become efficient and important."*

The Charter Act of 1813 introduced no material change into the constitution of the India Board. The alterations were merely those of detail management; but the Act of 1833 determined that in addition to the principal Secretaries of State and the Chancellor of the

* *MS. Correspondence.*



Exchequer, the Lord President of the Council, the Lord Privy Seal, and the First Lord of the Treasury, should be *ex-officio* Commissioners, and that such other Commissioners as the Crown might please to appoint should also be members of the Board—the first named being its President. The Act of 1793 had specified that there should be two Commissioners—not of the Privy Council; and these two junior Commissioners had received salaries, but had attended the meetings of the Board or not, according to their conscience or convenience. Under the Act of 1833, no junior salaried member has been appointed. But an alteration has been introduced into the constitution of the Secretariat; for instead of a chief secretary and an assistant secretary, as in Mr. Beaufoy's time, two joint secretaries are appointed—"each of the said secretaries to have the same powers, rights, and privileges, as by any Act or Acts, now in force, are vested in the chief secretary of the Commissioners for the affairs of India." The President and the Secretaries are the paid working members of the Board. All the rest is a mere fiction.

In fact, the Board of Commissioners for the affairs of India is now one man—a fourth Secretary of State. He may, or may not, have any knowledge of India, acquired from actual experience or the study of books; but his power to control the proceedings of the Court of Directors is absolute and complete. He has constitutionally, in respect of all matters of internal administration, only a controlling power; that is, he is empowered to correct the despatches of the Court on all subjects that come under their consideration. But this unlimited power of correction is in effect co-extensive with the power of initiation, and it would be easy to name cases in which despatches, relating to matters of internal administration, have lost under the hands of the Minister all traces of their original



significance, and have been made to convey sentiments the very opposite to those entertained by the members of the Court.

In respect of all transactions with foreign powers—all matters bearing upon questions of Peace and War—the President of the Board of Control has authority to originate such measures as he and his colleagues in the Ministry may consider expedient. In such cases, he acts, presumedly, in concert with the Secret Committee of the Court of Directors—a body composed of the Chairman, Deputy-Chairman, and the Senior Member of the Court. The Secret Committee sign the despatches which emanate from the Board—but they have no power to withhold or to alter them. They have not even the power to record their dissents. In fact, the functions of the Committee are only those which, to use the words of a distinguished member of the Court,* who deplored the mystery and the mockery of a system which obscures responsibility and deludes public opinion, could as well be performed “by a Secretary or a seal.”†

It should ever, therefore, be uppermost in the minds of those who, considering the constitution of the Indian Government, and its effects upon the happiness of the people, would judge rightly of the responsibility of its different Agencies and Authorities, that the whole

* The late Mr. Tucker.

† How little, until very recently, the real constitution of the Indian Government had become known even to intelligent men, living immediately under it, may be gathered from an anecdote told by Lord Hardinge, in his evidence before the House of Commons (1852). After stating that the constitution of the Secret Committee was “a mystery not understood by the public,” he went on to illustrate his position. “I recollect,” he said, “an instance, in which an officer of very high position and ability in India, had written a letter to the President of the Board of Control, in which he had, in somewhat indignant

terms, complained of the Secret Committee: the letter which had come out to him being signed by the Chairman and Deputy Chairman: this officer felt amazed, and wrote his letter to the President of the Board of Control. When I heard of it, I wrote to him: ‘I hope you have not sent the letter, for, though the order was signed by the Chairman and Deputy-Chairman, it in fact came from the President of the Board of Control,’ with whom this officer was on friendly terms. This officer did not understand the mystery of the President of the Board of Control being in fact the Secret Committee; it is, however, a convenient arrangement.’



foreign policy of the East India Company is regulated by the Board of Control—that in the solution of the most vital questions—questions of peace and war—affecting the finances of the country, and, therefore, the means of internal improvement, the Court of Directors have no more power than the Mayor and Aldermen of any Corporation Town. The happiness of the people of India is dependent less upon the will of a deliberative body of four-and-twenty English gentlemen, a large majority of whom have studied India under an Indian sky—who are experienced in the languages and the usages of the people, and to whom the system of administration in all its details is as familiar as household words—who have, as a body, no connexion with Party, no dependence on the fate of ministries, whose official lives do not hang upon an adverse vote, and who can, therefore, pursue from year's end to year's end a consistent course of administrative conduct—than upon the caprice of a single man, who may be gone to-morrow, who may preside over the India Board and govern India for a fortnight, and then be suddenly deposed by some gust of Parliamentary caprice, by the mistaken tactics of an inexperienced Party leader, or the neglect of an inefficient “Whipper-in.”

The Acts of 1813 and 1833 affected, in a very important manner, the character of the Board of Control, and rendered its controlling powers more absolute and entire. The authority of the Board had not extended to the trade of the Company. But now the Company were about to be deprived of their trade, and so of nearly all their remaining independence. The “United Company of Merchants trading to the East Indies” were fast ceasing to be a Merchant Company at all: Ever since the British flag had first waved over the Soubahdarry of Bengal, it had been said that a trading Company and a fighting Company were antagonistic one



with the other, and that in course of time the greater would swallow up the less.* But it took nearly half a century of increasing empire to absorb even the first moiety of the Company's trading privileges. And then, I fear it must be said of them, that they had lived their time. At all events, they had outlived the patience and forbearance of the people. The temper of the age was growing less and less attuned to the conservation of exclusive rights and corporate monopolies; and now, in 1813, the gigantic preserve, the legal boundaries of which had been maintained for more than two centuries, was about to be thrown open to the incursions of all the vulgar traders of the land. I do not know what I might have thought of the matter had I been alive at that time. I have great respect for the Company's trade. I believe that, under Providence, to the preservation of the Company's monopoly we owe our Empire in the East. But long before 1813, it had fulfilled its mission; and I can not look back upon its extinction with regret.

For this much at least is certain—that when the Company began to think less of trade, they began to think more of government. Under the Charter Act of 1813, which deprived them of the monopoly of the Indian trade, their administrative efficiency considerably increased. But it was under the Act of 1833, which left them without the compromise of the China monopoly—which deprived them of the last remnant of their trading privileges, and took from them even the name of a Merchant Company, that greater progress

* Old Zephaniah Holwell wrote, in 1765, "A trading and a fighting company is a two-headed monster in nature that cannot exist long, as the expense and inexperience of the latter must exceed, confound, and destroy every profit or advantage gained by the former—new temporary victories stimulate and push us on to grasp at new acquisitions of territory; these call for a large increase of military force to

defend them, and thus we shall go on grasping and expending, until we cram our hands so full that they become cramped and numbed, and we shall be obliged to quit and relinquish even that part, which we might have held fast, if bounds had been set to our progress, which, upon the present system, we now see is utterly impossible, therefore a total change in our politics becomes indispensably necessary."



has been made towards good government, than throughout all the long years—the long centuries—when trade was uppermost in their thoughts. I believe that the Directors of the East India Company, since they ceased to be the managers of a leviathan mercantile firm, have taken more serious and enlarged views of their duties and responsibilities as guardians of a country inhabited by a hundred millions of fellow-men. I believe that there has been more wisdom in their councils—more nobility in their aims—more beneficence in their measures. They have now become a purely administrative body; and it is impossible for any one, tracing, step by step, as I have done, the growth of that close connexion which now exists between them and the people of India, not to mark a progressive enlargement in the scope of their views, and a progressive improvement in the character of their measures. There have been more good things done for India—there has been more earnest, serious, enlightened legislation for the benefit of the people, under the Act of 1833, than during the previous two centuries and a quarter of British connexion with the East. And yet never has a benevolent Government, recognising the great truth that Peace is the mother of Improvement, ever been confronted, in its career of internal amelioration, by so many impediments to success.

That Act was a most important one in other respects than in the total abolition of the Company's commercial privileges. Of some of its provisions I have already spoken. Indeed, the changes which it introduced affected principally the local Governments. I speak of it here mainly because I date from it the dawn of a brighter era—because I believe that under that Act the administrative machinery of the Home Government, divested of all commercial clogs and incumbrances, began to perform its appointed functions as it



had never performed them before. It would have been difficult for any Government, invested, by an Act of the supreme Legislature, with new powers and responsibilities, to have taken a more enlarged statesman-like view of its position, or to have recorded its sentiments in a more humane and enlightened spirit, than did the East India Company in this great conjuncture. Reviewing the whole question of Indian Government, as affected by the provisions of the new Act, they wrote out to the supreme Government of India a comprehensive letter,* in which they earnestly exhorted the local authorities to give, in all respects, the most liberal interpretation to its enactments, and to make it the instrument of conferring the greatest possible benefit upon the people under their rule. It can never, with truth, be said that they had not a due sense of the mighty responsibility entailed upon them as the rulers of a hundred millions of their fellow-creatures, when it is seen how reverently they bethought themselves of their own obligations, and how earnestly they exhorted the Indian Government to the due performance of theirs. Speaking of their extended powers of legislation, they wrote in December, 1834 :

“ In contemplating the extent of legislative power
“ thus conferred immediately on our supreme Govern-
“ ment, and in the second instance on ourselves, in
“ considering that on the use of this power the differ-
“ ence 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 adverting to the countless variety of
“ interests to be studied and of difficulties to be over-
“ come, in the execution of this mighty trust, we own

* I have already quoted this letter with reference to the subject of legislation in the preceding chapter.



“ that we feel oppressed by the weight of responsibility
“ under which we 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—what-
“ ever aids can be derived from extrinsic counsel or
“ intelligence, all at the utmost will be barely com-
“ mensurate 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 persever-
“ ingly 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 labors, 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 posses-
“ sions, will be happily accomplished.”*

Since this admirable letter was written, the general principles which it enunciated have been repeatedly illustrated, from time to time, in the correspondence of the Court of Directors; and I believe that nothing would so much redound to their honor—nothing would so clearly exhibit the progressive improvement in the administrative earnestness and efficiency of the East

* *MS. Records.* Mr. Tucker was chairman at this time, and his is, therefore, the first name appended to the letter. It breathes much of his spirit. I believe that the original draft

was written by Mr. James Mill, the historian of India, then at the head of the Examiner's Department in the India House, and that Mr. Robert Grant was concerned in its revision.



India Company, as a selection from their own despatches. Shackled by debt—embarrassed by exhausting and distracting wars, of which they have been not the authors, but the victims—they have not been able to give full effect to those measures of internal amelioration which demand the material support of an overflowing treasury. But there is no good reason to suppose that, under such circumstances, any other administrative body would have done more; and, if it can be shown by a recital of what they have done, that the progress of good government, all obstacles and impediments fairly weighed and considered, has been relatively commensurate with that in our own country, I think that it would be more just and more reasonable to commend them for their good deeds than to censure them for their omissions. The good deeds are assuredly theirs. The omissions may be the growth of Circumstance.



PART II.

CHAPTER I.

The Revenue System of the East India Company—English and Indian Systems of Taxation—The Land Revenue—The Salt-tax—The Opium Revenue—The Customs—The Abkarree—State of the East India Company's Finances—Evils of War-making.

It has been seen how, in time, with sore reluctance the merchants of London trading to the East Indies came to be great territorial lords. It has been seen, in brief outline, how they came to establish revenue and judicial systems, and to turn their ledger-keepers and investment-makers into tax-collectors and judges. From that time the welfare of millions of Hindoos and Mahomedans became dependent upon the wisdom and integrity of a little handful of European strangers.

The Revenue and Judicial Systems of the East India Company are two extensive and important subjects. An author cannot hope, in such a work as this, to do more than render an unsatisfactory account of them. In giving precedence to the former, he only follows, wisely or unwisely, the prevailing custom. It is too much a characteristic of modern Indian administration to exalt the Revenue branch of the public

service at the expense of the Judicial. And this opinion is shared by many of our ablest Indian administrators.

The Revenue System maintained by the English conquerors in India differs but little in its main features from that which was before enforced by the Moguls. The people of India being, for the most part, a people wanting little and consuming little, the taxes were necessarily few and comprehensive. They were fitted to a state of society simple and primitive, and were little affected by the mutations of time or the advances of civilisation. It was, doubtless, an uncomfortable necessity that presented itself to us, but it *was* necessary to raise revenue for purposes of government. And it was necessary that in so doing we should subtract from the scanty means of subsistence enjoyed by the great mass of the people. It was, doubtless, a painful and deplorable fact; but benevolence could suggest no remedy for the evil—wisdom could find no substitute for the thing so grievously deplored.

Taxation is an evil, in all countries, and at all times. It is difficult to hit upon a good tax—a tax that is not open to some very grave objection. It may be admitted, therefore, that all the taxes which feed the treasury of the Anglo-Indian Empire, are inherently bad; that something reasonably is to be said against them; that solid arguments may be adduced in demonstration of the fact that they are loaded with pernicious results. I do not know any tax of general application in this country of which the same may not truthfully be said. But there is this difference between the fiscal histories of the two countries—that whereas in England we are continually throwing out new expedients and fashioning new modes of taxation, in India we go on from generation to generation without introducing



any substantial changes. In England, every new Chancellor of the Exchequer has some new financial scheme to propound. The taxation of the country is the battle-field of party. We are continually being taxed or untaxed in one direction or another. It seems sufficiently easy and reasonable, if one scheme of taxation is not found to answer, to try another. The Finance Minister of the day stakes his reputation and his place upon some pet project of his own which is publicly enunciated in Parliament, and in the course of twenty-four hours disseminated by the Press throughout all the remote places of the empire. If the project be unpopular, it is abandoned. The scheme falls to the ground, and perhaps the Minister falls with it. There is a little excitement for a few weeks, but the popular indignation is soon appeased, and the triumph is not that of the people over the Government, as the representative of constitutional authority, but over Government as the representative of a party. Constitutional authority is not weakened by these miscarriages. A new phalanx of administrators take their place on the Government benches, and a new experiment is made. The people of England have no horror of change. Indeed, they do not think that justice is done them if financial novelties of one kind or another are not from time to time presented to the country. They must have something for their money, even though it be a change for the worse.

But nothing of this is applicable to India. In every single respect the case is precisely the reverse. The people of India will bear a great deal so long as they are used to it. They are very intolerant of change. They do not understand it. They are timid and suspicious. Benevolence and wisdom may go hand and hand in our measures, but the people are not easily persuaded that what we are doing is for their good.



There is for them no Parliament and no Press. They have the vaguest possible idea of the intentions of their rulers. They do not think—they do not inquire—but with child-like haste and impetuosity resent the innovations which are intended to confer benefits upon them. Fiscal changes are especially dangerous. We cannot experimentalise without peril on such a people. We may relieve them of old burdens, and impose lighter ones upon them; but the probability is, that the open disaffection of the ignorant masses would compel us to abandon our benevolent projects, with a loss of dignity and an injury to the *prestige* of our authority not easily to be computed. The failure in such a case is not the failure of a party or the failure of a man, but the failure of the paramount governing power in its abstract constitutional integrity.

It is necessary, to a right understanding of the subject of Indian taxation, that these considerations should have reasonable weight. If the Government could be administered without money, or if money could be raised without taxation—one or both of which beatitudes some writers would seem to consider attainable—we might leave the land unassessed, the salt untaxed, and cease to cultivate the poppy. But we must assume in this case not only the necessity of taxation, but the necessity of maintaining such taxes as will embrace in their network the largest possible area of population. In such a country, and with such a people, there is little choice left to the financier. Where the millions live almost entirely on the produce of their rice-fields, with only a rag about their middle, and a few brass pots for their household goods, there is no very extensive field for the display of financial ingenuity. There are fifty different ways in which the English tax-gatherer may get at the poor man. But in India the approaches to the mud hut of the laborer are few;



and the tax-gatherer must advance by them or keep away altogether. He has been going for a long time along the same beaten roads. The people have learnt to look for him in certain directions, and even if better paths to their domiciles could be found, they would resent his approach by them. A tax on cultivation is not a good thing—a tax on salt is not a good thing. But the people cultivate the lands, and they eat salt; it would be difficult to find a substitute for these imposts, and if a substitute were found, it is probable that the people would reject it.

The taxes of which I have spoken—the Land-tax and the Salt-tax—are those which most immediately affect the bulk of the people, and they are those which yield the largest revenue.* Next in importance are the Customs, the Opium sales, and the Abkarree, or tax on spirituous liquors. Besides these, there are the Post-office, the Stamp-duties, the Mint, the Tobacco-monopoly, and other smaller sources of income entered in the Government returns.

Of the entire revenue of our Indian possessions the Land-tax yields considerably more than half. It is raised in different ways, and from different classes of men, but in all cases it is in effect a rent paid to Government for the use of the land. On the disputed question of the rightful ownership of the soil I do not intend to enter. A vast amount of learning has been brought to bear upon its elucidation, but it has been left in all its original obscurity, and I cannot hope to throw light upon it. It is sufficient that when the East India Company, as stewards of the Crown, became, by right of conquest or cession, the disposers first of one tract of country, then of another, they

* In saying this, I include also the in the Government returns under the duty on imported salt, which is entered head of Customs.



began to lease it out to different tenants, upon no uniform system, but according to local circumstances and personal convictions. Upon the different modes of land assessment, which we have recognised in practice, I shall presently come to speak in detail. It need here only generally be set down that there are three principal systems now in force, besides other modes, of limited extent and partial application, which do not belong either to one system or another. These three principal systems are known as the Zemindarry, or great landlord system, the chief seat of which is in the lower provinces of Bengal; the Ryotwar, or petty cultivator system, which is enthroned in certain parts of Madras; and a mixed system, which aims at a less partial recognition of rights, and is neither as permanent as the one nor as fluctuating as the other—a system which is principally represented by the “Settlement of the North-Western Provinces.”

The Zemindarry settlement of Bengal is a fixed assessment, made with a certain class of landholders, whom the Government of 1793 recognised, rightly or wrongly, as the legitimate owners of the soil. The amount payable to Government on each estate is fixed in perpetuity. The productiveness of the land may increase a hundred per cent., but still the Zemindar carries the same amount of revenue to the office of the collector. He may lease it out as he pleases, in large or in small holdings; may make what amount of money he can, directly or indirectly, from the immediate cultivators—but so long as he pays the fixed amount of assessment punctually to the Company, he and his descendants remain, at this fixed rate, continually in possession. The chief seat of this Permanent Settlement is the lower part of what is known as the Bengal Presidency—embracing the provinces of Bengal,



Behar, Orissa, and Benares. There are also some tracts of land settled in perpetuity in some parts of the Madras and Bombay presidencies.

The Ryotwar system recognises the proprietary right of the sovereign to the lordship of the soil, and brings him into immediate communication with the actual cultivator. No intermediate agency is employed. The Government let the land to the cultivator* generally on an annual lease. The amount of rent is increased or diminished each year according to the ascertained value of the holding. The assessor fixes the amount to be paid, and the Ryot takes it or not, as suits his convenience.

The third system, now in force, in the North-Western Provinces of India, is neither that of a permanent settlement nor of a fluctuating annual assessment. It is a system of long settlements, or leases—settlements made for twenty or thirty years, with different descriptions of tenants. The village communities have been recognised wherever they existed in a perfect state, and each village, whether the proprietary right was claimed by an individual or by a community, was made the limit of a separate settlement.

Such, described in a few words, are the principal arrangements entered into with different classes of native tenants, for the supply of the territorial revenue of India. The amount levied varies considerably, but on the aggregate the assessment cannot be said to be heavy. In the North-Western Provinces, of which detailed statistics have been supplied by Government, it is set down at 1 rupee 12 annas, or 3s. 6d. the acre. This average refers to the land actually under cultivation; and, perhaps, does not differ greatly from the general average of the whole country.

* In some parts of Bombay there are Ryotwar settlements made for thirty years.



The next source of Revenue which I have set down is Salt. The article is one of universal consumption, and contributes to the Revenue in three different ways. Firstly, there are the profits on the home-manufacture, which is retained in the hands of Government. Secondly, there is the inland duty, levied in that part of the country where the manufacture is not restricted; and thirdly, there is the Customs duty on imported salt. The salt manufactured by Government, principally at the mouths of the Ganges, is sold for between three and four rupees the maund (or 82lbs.). The prices, generally "wholesale on account of Government, are fixed with reference to the principle that they shall not fall short of the cost of production, plus the duty on imported salt." The tax, whatever form it may take, may be estimated at about $2\frac{1}{2}$ rupees, or 5s. for the 82lbs., being less than a penny a pound. It is calculated that each consumer pays on an average about 12 annas, or 1s. 6d. a year, to the Treasury on account of the article.*

The next item of Revenue is the Customs duties, regarding which little need be said in this place. The amount is principally derived from import duties, of which the duty on imported salt constitutes a considerable portion. With this exception, there is no local peculiarity worthy of especial mention.

The next source of income, however, is one of a peculiar and exceptional character. It is known as the Opium-monopoly.† The Government reserves to itself the right of cultivating the poppy, or rather the right of purchasing, at fixed rates, the produce of such cultivation. Opium is manufactured under the auspices of the Company's servants, and sold by auction to traders, who export it for the consumption of the Chinese. It is, to a very limited extent, a tax

* See Appendix A.

† See Appendix B.