



THESSIS SUBMITTED FOR
THE DEGREE OF PH. D. (ECON.)
(INTERNAL SIDE)

THE RELATIONS BETWEEN THE COURT OF
DIRECTORS AND THE BOARD OF COMMISSIONERS
FOR THE AFFAIRS OF INDIA, 1784 - 1816.

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PRAKASH CHANDRA.

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P R E F A C E.

This is a study of that system of Home Government of India which came into existence with Pitt's India Act in 1784 and lasted with few ^{material} national alterations till 1858. The striking fact about that system was the setting up of a 'dyarchy', that is to say, the establishment of two bodies with overlapping jurisdiction. How it worked in practice, over what issues the two bodies came into conflict, and by what methods open friction between the two was, as a rule, avoided is the aim of this Thesis to show. It is clear that the subject is fascinating as well as of some importance.

Hitherto the relations between the Directors and the Board of the Control have not received adequate attention. The subject is one which lies mainly outside the domain of regular Indian History. Such account of their relationship as is given by Mill and Kaye hardly does justice to the Board of Control, while Auber, who scrupulously refrains from taking sides, is no more than a dull chronicler. Among the modern writers who have worked on parts of the subject mention must be made of Sir William Foster, the late Lord Curzon, and Mr. P.E. Roberts.

It is hoped that the survey presented in these pages fills a long-felt gap. That it is complete cannot, owing to insufficiency of material, and the limitations of time and capacity, be pretended. The "Melville Papers" which were expected to shed considerable light on the subject have been scattered in various hands. In reply to my enquiry, the National Library of Scotland wrote that they had obtained some fresh material, but that it would take about six months before it was made accessible to readers. This was in May.

Subsequently I received another letter saying that the material was ready for inspection, but it did not seem to promise much information on the subject. A visit to Mr. Francis Edwards, 83, High Street, Marylebone, who kindly placed at my disposal all the MSS. still in his possession proved equally fruitless. Nevertheless the MSS. at the India Office Library, the Parliamentary Papers, and the Papers printed for the use of the Proprietors have been freely consulted.

As the issues over which the Board and the Court came into conflict had their roots in many cases in past history, I have devoted some space to discussing the initial position. It would thus be found that each chapter is something more than a mere narrative of controversies. With regard to the general plan of the Thesis, I might mention that the first chapter recapitulates the events leading up to the Act of 1784, and the

second chapter which discusses the general features of the system is designed to serve as an introduction. Each subsequent chapter is then devoted to a case or a group of cases illustrating the relationship of the Board and the Court of Directors. The series terminate with the case of Major Hart, a landmark in their relations.

My thanks are due to my professor, John Coatman, Esq., C.I.E., for valuable guidance and constant encouragement, and Sir William Foster for occasional advice, as also to the officials of the British Museum and the India Office Library.

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C H A P T E R I

P R E L I M I N A R Y

To understand clearly the relations between the Court of Directors and the Board of Commissioners for the Affairs of India, it is necessary to trace the sequence of events before 1784. For Pitt's India Act which established the Board was one of several attempts which had already been made to solve the question of Indian administration.

As early as 1759, Robert Clive had urged on the elder Pitt the advisability of the Crown assuming the sovereignty of India. His letter written on 7th January 1759 and delivered to Pitt personally by Walsh, a relative of Clive, is remarkable for several reasons. It shows how easy it was for the Europeans to become the rulers of Bengal; the incapacity of the East India Company for such an extensive dominion; and lastly the desirability that the Indian provinces should be annexed to the Crown of Great Britain and thus made a source of considerable profit to the nation.

1. Cf Old Zephaniah Holwell who wrote in 1765: "A trading and a fighting company is a two-headed monster in nature that cannot exist long", quoted in J.W. Kaye's *Administration of the East India Company* (1853) p.134, footnote.

A very vivid account of the interview between Walsh and Pitt is preserved in the former's letter to Clive of 26th November 1759. Pitt regarded Clive's proposal as worthy of acceptance, but of a 'very nice nature'. He mentioned that the Company's Charter would not expire till twenty years later and it was even then doubtful whether the Crown would assume the government of their territorial possessions, for on no occasion had it been enquired ^{into} whether they belonged to them or to the Crown, while in the opinion of the judges they seemed to belong to them. He admitted that it was inexpedient to leave them to the Company but feared that their annexation might vastly increase the revenue at the disposal of the Crown and so endanger public liberties. Lastly, he thought that while sovereignty could be assumed and upheld by such a genius as Clive, it was doubtful whether it could be maintained by his successors. "I observed to him" says Walsh, "that it was necessary for him to determine whether it was an object for the Company or the State, for I was persuaded that, if the State neglected it, the Company in process of time would secure it; that they would even find themselves under a necessity to do it for their greater quiet and safety exclusive of gain. He seemed to weigh that: but as far as I could judge by what passed then, it will be left to the Company to do what they please".
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It may be observed from Pitt's reply that while he was convinced of the inexpediency of the sovereignty of India passing into the hands of the Company, he saw great difficulties in securing it for the Crown. But though he returned an evasive answer at the time, he continued to think on the subject, and it appears that finally he decided in favour of the Crown. As a step in that direction in November 1766, Beckford who had been entrusted with the business by Pitt (now Earl of Chatham) brought in a motion in the House of Commons for an enquiry into the affairs of the East India Company. The enquiry was assented to by a considerable majority in spite of the powerful opposition of the Rockinghams and the Grenvilles, but Charles Townshend, Chancellor of the Exchequer under Chatham, said, contrary to the leading principle of his chief, that he believed the Company had a right to territorial revenue. His action can be explained only on the ground that he was already intriguing against Chatham, probably with a view to becoming the Prime Minister himself.

In point The Committee thus appointed made an investigation into the state of the Company's revenues and other affairs, their relation to the Indian princes, and their correspondence with their servants in India. Following the report of the Committee, an Act was passed in 1767, which in direct contradiction to a recent resolution of the Court of Proprietors, who had raised

their dividend to $12\frac{1}{2}\%$, limited it to 10% only till the next session of Parliament. At the same time the Company was compelled to consent to an agreement by which it was allowed to retain its territorial possessions and revenues for two years, but was bound to pay to the State £400,000 per annum. In 1768 the restraint on dividend was continued for another year, and in 1769 as the result of a new agreement with Parliament, the Company was guaranteed its territorial revenues for five years, but was required to pay to the State an annuity of £400,000. It was, however, allowed to declare a dividend up to $12\frac{1}{2}\%$ with ³ some restrictions.

Parliament had thus effectively interfered in the affairs of the Company. It had regulated their dividend and had asserted the claim of the State to share in their territorial revenues.

It is evident that the above arrangement of 1769 was based on the assumption that the Company had an enormous surplus revenue due to their acquisition of the Diwani in 1765. But in point of fact their financial condition was by no means satisfactory. They had been engaged in incessant warfare against Hyder 'Ali, with whom a treaty was signed in 1769 at his

3. 9 Geo. III, c.24.

own terms. In 1770 Bengal was desolated by a terrible famine. But in spite of these calamities, the Directors continued to declare dividends of 12 and $12\frac{1}{2}$ per cent. At last in July 1772 they had to admit that the sum needed for immediate exigencies fell short by more than a million pounds and in August their Chairman and Deputy Chairman approached the Prime Minister for financial assistance.

"The whole system of Indian government" says Lecky,⁴ "had thus for a time broken down" A number of factors had contributed towards this end. The division of authority between the Home Government and the Governments in India, the private interests of the Company's servants who accumulated fortunes by highly objectionable means, the greed of the proprietors whose sole though short-sighted policy was to claim as big a dividend as possible, the continual wavering between a policy of trade and territorial expansion, and finally the absence of any lever which could check and control these tendencies had brought about the catastrophe.

The subject engaged the attention of Parliament when it met in November, 1772, and an interesting debate took place. A Secret Committee was appointed to supplement the investigations of the Select Committee which the House of Commons had appointed at an earlier date. It produced its first report with great

4. "A History of England in the eighteenth century" (1882), III, p.484.

rapidity, and acting on its recommendation, Parliament passed an Act in December 1772, which forbade the departure for India of the supervisors whom the Company had just appointed on the ground that its finances did not allow of such an outlay.

Finally, in 1773 the Company petitioned Parliament for a loan of £1,500,000. The resolutions which Lord North moved before the House of Commons, and which formed the basis of two Acts, the one famous as the Regulating Act, and the other by which a financial arrangement was made with the Company, gave rise to a debate of great constitutional interest. It was suggested by Lord North that the territorial possessions of the Company were the property of the State.⁵ This was opposed by a number of speakers including Burke who pointed out that the Company's possessions had not been acquired by conquest, and even if they were, the Crown had no right to them. He characterised the proposals of North as an infringement of the Charter-rights of the Company. At length Lord North gave up the discussion of the question of sovereignty and pointed out that as his arrangement allowed the territories to be retained by the Company, there was no need to discuss that question. The claim of the Company to sovereignty was founded on their contention that their

5. See Hansard, "Parliamentary History", XVII, p.803.

political authority was a property independent of Parliament, and rightfully subject only to the Emperor of Delhi and to the Nawab of Bengal.

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By the Regulating Act the territorial possessions of the Company were continued to them but a number of important changes were made in its constitution both at home and abroad.

In the Court of Proprietors the qualification to vote was raised from £500 to £1000 and limited to those who had held the stock for at least a year.

The Directors instead of being annually chosen (as they were under the original charter) were to be selected for four years, one-fourth of their number being renewed each year. No person who had been employed in the East Indies could be elected until two years after his return to England.

A Supreme Court of Judicature was established at Fort William. The Crown is slowly increasing its control over the administration in India.

A Governor-General and four Councillors were appointed for the Presidency of Fort William and their supremacy over the other two presidencies was definitely declared. The actual naming of persons by Parliament who were to hold office for five years is significant.

The Governor-General and Council were required to pay due obedience to the Court of Directors, and Parliamentary control over the Directors was extended by requiring them to submit copies of all dispatches received from India relating to revenue to the Treasury, and civil and military affairs to a Secretary of State.

Each of the above provisions proved to be defective when tested by experience. The raising of the qualification in the Court of Proprietors was based on two ideas; that the smaller membership was a security against faction and disorder, and that the higher property qualification was a guarantee of integrity. But certain other necessary steps were omitted. The ballot was allowed to continue by which acts of the highest importance to the Company and the State could be done without fear of detection. Men who had been Company's servants could still become members of the Court of Proprietors, and thus escape any possible punishment which their previous conduct might have merited. Indeed in 1783 a large part of the Company's proprietors were men who had returned from India.

The increase in the term of the Court of Directors was a satisfactory measure, for it ensured a longer acquaintance with their work, and by dispensing with annual elections put a limit to intrigue. The provision making a servant of the Company ineligible for two years after his return did not, however, prove

of any practical utility. He usually sought election to the Court of Proprietors whence he could influence the directors, while election to the Court of Directors itself would have attracted much embarrassing notice.⁷

The establishment of the Court of Judicature was accompanied by a number of unhappy features. The law which it was to administer or the nature of its jurisdiction were not defined with any degree of precision. The evasion to settle once for all the question of sovereignty produced an anomalous situation. Writing in 1776 Philip Francis said: "We have a Supreme Court of Judicature, resident at Calcutta, whose writs run through every part of these provinces in His Majesty's name, indiscriminately addressed to British subjects who are bound by their allegiance, or to the natives, over whom no right of sovereignty on the part of the King of Great Britain has yet been claimed or declared".⁸ Worst of all, the existence of this Court under a royal charter side by side the Company's courts meant inevitable conflict and strife.

The working of the Supreme Council was vitiated by the discordant elements of which it was composed. Indeed the personnel had been chosen with a view to check and control the activities of the Governor-General.

7. The "Ninth Report of the Select Committee of the House of Commons" (1783).
8. Quoted in W.K. Firminger, "The Fifth Report" (1917) 1, p.cclvi.

Finally the provision about the inspection of the Company's correspondence by the Ministers was a half measure. While despatches received from India were to be submitted to them, the proposed despatches for India were not. This defect was remedied in 1781 but even then Ministerial control continued to be nominal.

The above, then, were the main faults of the Regulating Act. It had probably aggravated the existing situation. The Crown had assumed control in the affairs of the Company without its necessary adjunct, responsibility. "The control or rather right of superintendence" says Sir John Malcolm, "given by the Act of 1774 to His Majesty's Ministers had tended more to increase ⁹ than diminish the radical defects of the system".

Two Parliamentary Committees were appointed in 1781 to enquire into Indian affairs. The one presided over by Dundas was to investigate the causes of the recent war with the Carnatic, while the other of which Burke was the most prominent member was to take into consideration the state of the administration of justice in India. Their reports when published revealed a large mass of evidence proving beyond doubt

9. Sir John Malcolm, "The Political History of India" (1826) 1, p.35.

the existence of mal-administration and tyranny, the utter impossibility of governing India under the existing Constitution, and the unscrupulousness of many of the measures adopted by Warren Hastings. Of these reports, the ninth report of the Select Committee is remarkable alike for a masterly analysis of the working of the Regulating Act, and its insistence on the Government in India being regarded a subordinate branch of the British Government: "The British Government in India, being a subordinate and delegated power, it ought to be considered as a fundamental principle in such a system, that it is to be preserved in the strictest obedience to the Government at home".

To correct the prevailing abuses, Dundas brought in a Bill before the House of Commons in 1783. As he later became the principal member of the Board of Control when some of his policy was modelled on the ideas behind this Bill, its principal provisions might be here reviewed.

With considerable foresight he proposed a Secretary of State to be appointed by the Crown and to be in charge solely of Indian affairs. The work was sufficiently onerous to require undivided attention. He also proposed, drawing a lesson from the Hastings-Francis squabbles, to empower the Governor-General to override his Council in special cases. The King was to be empowered to recall the principal servants of the Company and

Dundas suggested that the provision should be immediately put into operation for the recall of Warren Hastings. Other provisions of the Bill contemplated the future 'Permanent-Settlement' of Bengal, and an enquiry into the debts of the Nawab of Arcot.

But Dundas being a member of the opposition could not make headway with this Bill, and soon the Government themselves were compelled to address themselves to the subject. Accordingly Fox introduced two Bills (afterwards combined). The first was for vesting the affairs of the Company in a body of Commissioners, while the second was concerned with a number of proposals for regulating the details of Indian administration. The first of these was the celebrated Fox's East India Bill and is notable for the boldness of its conception. It appears that this measure was, in fact, the joint work of himself and Burke, and that the latter had given to it ¹⁰ much careful consideration.

The object of the Bill was at one blow to deprive the Courts of Proprietors and Directors of their existing functions. They were to be replaced by a body of seven Commissioners who were in the first instance to be nominated by Parliament for four years, and were to be irremovable except on an address from either House. Any vacancies were to be filled in by the King. At the end of four years, Fox suggested that the new Commissioners should be appointed by the King. They were to have an absolute authority

¹⁰. Stanhope, "Life of Pitt" (1862), i, p.137.

to administer the territories and commerce of India, and to appoint or ~~dismiss~~^{remove} any of the civil or military officers of the Company. A subordinate body was to consist of nine assistant directors to be nominated by Parliament for four years from among the largest proprietors. They could be removed either by the King on an address from either House of Parliament, or by the concurrent proposal of five of the Commissioners, and all vacancies were to be filled in by the proprietors. Their sole function was to be to manage the details of commerce.

It is evident how revolutionary in character the scheme of Fox was. It sought to annihilate the privilege which the Company had hitherto enjoyed of conducting the administration of India. In the emphatic words of Mill, "the essence of the change which Mr. Fox proposed to introduce consisted in this, and in nothing but this - that the Board of Directors (Commissioners) should be chosen not by the owners of the Company's stock, but by the House of Commons".

Sweeping as Fox's measure was it alone was adequate to the situation. The Company had been given a chance of governing India and they had misgoverned. The failure of the Regulating Act which had sought to leave the function of government in the

11. Mill and Wilson, "History of British India" (1840), IV, p.546.

hands of the Company subject to a control by the Government at home proved that half-measures were futile. The House of Commons had adopted a resolution for the recall of Warren Hastings, it had received the concurrence of the Court of Directors, but the Court of Proprietors had refused to sanction the measure, and so openly flouted the authority of the Legislature. This action of the Proprietors raised a question as to where the governing authority on Indian affairs was to reside? Was it to remain with the Company or to be taken over by the Government of Great Britain? The question was not without grave difficulties. The Ministers could not conduct the commercial affairs of the Company by reason of their inexperience. Such a step besides would lead to the placing of enormous patronage in their hands. Yet it appeared dangerous to leave sovereignty to the Company or even to share it with them. It was impossible, as Hobbes had pointed out, that the vital function of government could be divided.

Fox, therefore, proposed to invest a body of persons named by the Legislature with the entire authority of the Company's administration, subject to Parliamentary control and criticism. The details of commerce, however, were to be left to a body of experts. "The separation of the sovereignty from the commerce", said Fox, "was a point which he thought essential and it was partly provided for in the Bill".¹² Referring to the objection

12. Hansard, XXIII, p.1278.

that this scheme would increase the power of the Ministers, he contended that for some years past the higher officials of the Company had been appointed under their advice and influence, so that "the only difference is that before, the Court of Directors was ¹³ a screen, and now they will themselves be responsible".

But the Bill was assailed with great warmth in both the Houses of Parliament. It was asserted that it involved a violation of the Company's Charter. That it did so is not open to doubt, but the claim that Parliament could not alter the Charter appears to have been ill-founded. "It is difficult" says Sir James Stephen, "in our days and with our experience to understand how such a view could ever have been seriously maintained or permitted to ¹⁴ influence the deliberations of Parliament". There was a provision in the Charter of 1600 that if the grant did not prove advantageous to the nation it could be revoked. And there was sufficient evidence to show that the national character was suffering an injury from the existing misrule of the Company. The sovereignty of the Crown had been clearly reserved by the Charter-Act of 1698. Such charters as the one on which the Company founded its claim for immunity from Parliamentary interference had been

13. Hansard, XXIII, p.1277.

14. "Nuncomar and Impey" (1885), i, pp.13-14.

repeatedly altered in the past. It was an old maxim of the British Constitution that any territories acquired by its subjects belong to the State.

It was also objected to the Bill that the proposed Commissioners would constitute a screen behind which the Ministers would exercise unbounded influence. But the fear was exaggerated. The Parliament of the eighteenth century was certainly corrupt but such as it was, it had been given power by the Bill to control the Commissioners in several ways. They were to be nominated by Parliament, were to be its members, and accountable to it. They were to lay before Parliament at short intervals all their proceedings and to assign reasons for their more important decisions. They were appointed for a fixed term and were to remain in office irrespective of party change. They could thus resist Ministerial pressure. The period of four years was too small to allow them to abuse their powers. The persons whom Fox named undoubtedly all belonged to his party, but he contended that in them alone could he place his confidence. Lastly, although the higher posts in India would have certainly gone to the friends and partizans

15. For the history of the Companies which came into existence about the same time as the East India Company did, see Cunningham, "Growth of English Industry and Commerce", Part I, pp. 232-54.

of the Minister, the vast majority of jobs would have as surely been held by men who had spent their lives in India and who were completely outside the circle of British politics.

But the Bill encountered most strenuous opposition in Parliament. In the House of Commons it was attacked with great ability and virulence by Pitt who called it an entire abrogation of all the ancient Charters and privileges by which the Company had been first established and had since ¹⁶ existed. He denounced it as "one of the boldest, most desperate, and alarming attempts at the exercise of tyranny that ever disgraced the annals of this or any other country". Outside Sawyer employed his pencil in such brilliant cartoons as 'Carlo Khan's Triumphal Entry into Leadenhall Street'. Dr. Johnson observed with more wit than truth that the issue raised by the Bill was whether the nation was going to be ruled by the sceptre of George III, or by the tongue of Fox. It was opposed by the Bank of England and many other corporations who feared for the stability of their own Charters. In spite of all opposition it passed its final stages in the House of Commons by triumphant majorities. In the House of Lords, however, through the direct intervention of the King, who saw in its success a diminution of his own authority, it was defeated.

16. Hansard, XXIII, p.1279.

C H A P T E R I I.

PITT'S INDIA ACT.

Fox's East India Bill was thrown out by the House of Lords on 17th December 1783, and on the following day at midnight, the Ministers were dismissed from their office by the King. In the new Administration, Pitt became the Chancellor of the Exchequer and First Lord of the Treasury.

It was with a considerable feeling of relief that the Proprietors learned of the defeat of Fox's Bill. They forthwith adopted a motion of thanks to some of the directors for their steady and manly fortitude in adhering to their duty and opposing the drastic measure. At the same time knowing that though Fox's Bill had been defeated, some other Bill would have to take its place, they declared the Company's willingness to negotiate with the Ministers in an amicable manner, provided the proposed regulations were good for the public as well as the Company.¹

The hint was taken, and a series of conferences took place between the Ministers and the directors. Finally on 10th January 1784 the Court of Proprietors adopted an important

1. Peter Auber, "An Analysis of the Constitution of the East India Company" (1826), pp.68-69.

resolution by a large majority which stated the basic elements of a new arrangement. All appointments of servants and the management of the Company's commerce were to remain wholly with the Company. All despatches to and from India concerning civil or military government or revenues were to be communicated to one of His Majesty's Ministers, and the Court of Directors were to be bound to conform to his instructions given within a competent time. All the commercial despatches too were likewise to be submitted to him, for it was possible that they might deal with subjects connected with the civil or military government or revenue of the Company, and where this was so, he was to have the power of veto. In the last resort the question whether a certain matter was purely commercial or not was to be decided by an appeal to the King-in-Council.²

It was on these lines that Pitt drafted his first India Bill. But he being only in a minority in the House of Commons, the Bill was thrown out on the motion for its being committed. Five months later came the general election, when Pitt was returned to the House with a triumphant majority.

It was then that he introduced his second India Bill destined to be known as 24 Geo. III, c.25. While unfolding his

2. Auber, op. cit. p.70.

scheme, Pitt dwelt at length on the principles underlying it. The first was the taking away of the civil and military government and the revenues of India from the control of the Company, and placing them under the Crown. "The imperial dominion of our territories in the East", Pitt insisted, "ought to be placed in the hands of the genuine and legitimate executive power of the constitution". The next was to leave the management of the Company's commerce to themselves, because that could be best looked after by merchants unhampered by outside interference. But since some commercial despatches could have a political significance, Pitt agreed, it was necessary to distinguish between those which were purely commercial and those which were mixed.³

The machinery which Pitt proposed for the realisation of his aims may be described thus. A Board of Commissioners for the Affairs of India (commonly known as the Board of Control or the India Board) were to be set up and were to consist of a Secretary of State, the Chancellor of the Exchequer, and four other members of the Privy Council. The Secretary of State was to preside, and in his absence the Chancellor, while in the absence of both, the senior member of the Board. None of the members was to receive a salary. In case of an equal

3. Hansard, "Parliamentary History", XXIV, p.322.

decision the president was to have a casting vote. Three of the members were to form a quorum.

The Commissioners as well as their Chief Secretary might be members of Parliament.

The Board were to exercise large though indefinite powers. They were to be authorised to "superintend, direct, and control all acts, operations and concerns which in any wise relate to the civil or military government or revenues of the British territorial possessions in the East Indies". To that end they were to have free access to all the papers and records of the Company and the Directors were to be directed to deliver to them a copy of all their proceedings as well as of those of the Proprietors dealing with subjects within their control.

All the despatches received from India and those proposed to be sent there and relating to the above-mentioned subjects were to be likewise submitted to the Board, and the Directors were to pay due obedience to any orders or directions which they received from the Board in that connection.

The proposed despatches were to be returned by the Board within fourteen days of their submission with the signed approval of three Commissioners, or their reasons for disapproving them, together with instructions for alterations, if necessary, and the Directors were to send out these despatches so approved or amended.

The Board were also to have the power of calling upon the Directors to prepare a despatch on a given subject, and if the Directors failed to comply with the requisition within fourteen days, the Board could draw up the despatch themselves and order them to send it to India.

The power of the Board was, however, to be confined to non-commercial despatches. Where a doubt arose in the minds of the Directors that certain orders or instructions which the Board desired them to send to India did not relate to the government or revenues of India, they could appeal to His Majesty in Council.

For the conduct of secret affairs of India a distinct machinery was to be set up. Secret orders might be drawn up by the Board and were to be forwarded to India through the Secret Committee. This Committee was to be appointed by the Directors, was to consist of three of their number, and was to act without disclosing its proceedings to the other directors. Secret letters from India were to be received by this Committee, and forwarded to the Board.

Patronage was to be continued to the Directors, the Board having no authority to appoint any servants of the Company whether in Europe or Asia.

The Court of Proprietors were to be deprived of their chief governing authority by being disallowed to modify or revoke

any proceeding of the Directors which had received the approval of the Board of Control.

The above provisions laid down the constitution of the Home government of India. By various other provisions the structure of the government of the presidencies was also modified.

The Supreme Government was to consist of a Governor-General and three Counsellors only. Similarly the other Governments were to consist of a Governor and three Counsellors. Of these Counsellors the Commander-in-Chief was to be one.

The Governor-General, Governors, Commanders-in-Chief and members of Councils were to be appointed by the Court of Directors. They as well as any other servants of the Company could be recalled by the Directors or by the Crown. All vacancies, except in the office of the Governor-General, the Governor, or the Commander-in-Chief, when persons could be appointed from outside, were to be filled in from amongst the covenanted servants of the Company. Should the Directors omit to fill up any vacancy for two months after it had been notified to them, the King might do so, and the person so appointed was not to be liable to recall by the Directors.

The Court of Directors were to have the power of appointing successors to the office of the Governor-General, the

Governor, the Commander-in-Chief, and the member of Council, but the person so appointed was not to receive any salary till the assumption of office.

All other appointments were to be in the hands of the several Governments in India, and in order to prevent an abuse of patronage, all civil and military promotions were to be made on the basis of seniority in a regular progressive succession except in special cases, when reasons in full were to be mentioned to the Court of Directors.

The above provisions are important from the point of view of the distribution of patronage among the Court of Directors, the Crown and the local Governments in India.

The control of the Supreme Government over the subordinate presidencies was enlarged. The Governor-General and Council were to have power to direct and control the several Governments in all matters relating to any transactions with the Indian States, war and peace, and the application of the revenues or forces of these presidencies in time of war. But besides on these specifically mentioned subjects, the subordinate Governments were to obey all other orders of the Supreme Government also, except where they had received orders from the Court of Directors already which were contrary to those of the Supreme Government, the former orders which may have been given being superseded.

and of which the latter were unaware.

The authority of the Supreme Government was further emphasized by enabling them to suspend any Governor or member of Council who wilfully disobeyed their orders, and requiring that all proceedings of the subordinate Governments were to be transmitted to them.

Wars of aggression and extension of dominion were expressly forbidden. They were declared to be repugnant to 'the wish, the honour, and policy' of the British nation, and the Supreme Government were not permitted without the express consent of the Directors to enter into a defensive or offensive alliance with an Indian State, or make war with it, except in cases of emergency.

The old-standing question of the Nawab of Arcot's debts was to be settled. The Directors were required at the earliest opportunity to take into consideration the origin and justice of those debts, in so far as the materials in their possession enabled them to do so, and to establish a fund for the discharge of such debts as were found to be justly due.

But still unanswered the last of all these directions. The complaints of the dispossessed Rajas, zemindars, and other landholders were to be considered, and redress granted, and the offences committed in India, and further the necessity of the 'permanent rules' by which they were to pay their respective

tributes, rents and services to the Company were to be established on principles of moderation and justice.

All practical retrenchments were to be made in the different establishments.

Various other provisions of the Act aimed at engendering purity in public service and habits of discipline. Thus the taking of presents by officials in India was declared to be extortion and punishable as such. A special tribunal was to be established in England for the trial of offences committed in India. Disobedience to the orders of the Court of Directors was to be treated as a misdemeanour, and so also any corrupt bargain by which any office under the Company had been secured.

Many of the provisions of Pitt's Act had in principle already been anticipated. Thus the supremacy of the Government of Bengal over the Governments of the minor presidencies, the prohibition of the acceptance of presents, the necessity of the Directors laying copies of all the despatches received from India relating to civil, military, or financial matters before the Ministers had been provided for in the Regulating Act of 1773. But Pitt strengthened the law in all these directions. The desirability of establishing a tribunal in England for the trial of offences committed in India, and further the necessity of

extending Ministerial control over the proposed despatches for India were points already insisted upon before the House of Commons by Lord North in 1781. Mill rightly calls them "remarkable as the archetype" from which Pitt afterwards copied some of the provisions of his own Bill.⁴ The need of due obedience by the servants of the Company of the orders of the Directors; of an enquiry into the debts of the Nawab of Arcot; of a restoration of the dispossessed landholders; and of eschewing a policy of aggression had figured prominently in Fox's East India Bill.

But if in certain respects Pitt's Act and Fox's Bill were similar, they differed radically in others. Under Fox's scheme the whole government of India and commerce would have been taken away from the Company. Pitt, however, allowed them to be retained by the Company. But he separated the civil and military government and the revenues of India from commerce. Over the first the Board of Control were given a decisive voice. Secondly patronage also was left to the Court of Directors. Pitt claimed that by such an arrangement he had left the Charter of the Company inviolated, and at the same time devised an efficacious system of government for India. He admitted, anticipating the

1. Mill and Wilson, "History of British India", IV, p.526.

charge that his plan was only a half-measure, that it was not perfect. But he declared that any plan evolved by any man for the government of a vast sub-continent like India must of necessity be inadequate. "In such a scene" he observed, "there could be formed, there could be imagined no theoretical perfection—⁵ it must be a choice of inconveniences".

The problem was no doubt difficult. But Pitt by creating an artificial division of functions established a dual government for India. "Had a Committee been assembled from the padded chambers of Bedlam", is the considered judgment of Lord Curzon, "they could hardly have devised anything more extravagant in its madness, or more mischievous in its operation".⁶ The ostensible governing authority was left in the hands of the Directors, but in all matters except commerce, the authority of the Board of Control was super-imposed. Were not the seeds of future friction thus sown? The Directors who had been rulers in

5. Hansard, XXIV, p.321.

6. British Government in India, ii, p.69. Cf. Sir G.W. Forrest: "Much can be said in favour of Fox's Bill relating to the Home Government of India. It was a more honest Bill than Pitt's and avoided the 'dual control' which led to so many grave evils and disasters", "Cornwallis", i, p.15. Cf. also Robertson: Pitt's Act "aimed at combining the vested rights of the Company with the prerogatives of the Monarchy; it made no attempt to solve the problem of Indian government on scientific principles", "England under the Hanoverians", p.312.

India for some time past, and who could claim a knowledge of Indian affairs such as the Board could not be expected to possess were surely not going to submit without occasional grumbling to all the mandates of the Board.

Pitt's Act was avowedly a measure of compromise, and before examining some of the practical difficulties to which it gave rise, it would be well to see in what directions the Bill as originally drafted had been modified in accordance with the wishes of the Directors. It would appear that the modifications were substantial.

The original Bill invested the Board of Control with far larger powers than the Act. They were to be empowered to send secret orders to India on any subject relating either to the civil or military government, or peace and war, and to withhold their knowledge from the Directors, as well as the replies received from India. It was contended by the Directors that this would at one blow annihilate their power. It was thus arranged that in the first place, the secret orders would relate only to peace and war, and in the second, that a Committee of the Directors would become the channel of transmission, subordinate to the Company's

The Bill reserved to the Board of Control the power of drafting despatches for India, and ordering the Directors to transmit them. Against this direct power, the Court of Directors

protested, and some of their arguments were really weighty. They urged that if the power of originating despatches was shared equally by the Board of Control, and the Directors, either of them might depend on the other to draft a particular despatch, and in the event of negligence and delay, none of them could be held responsible. Secondly, it might be that some headstrong persons, who might happen to constitute the Board, might decide to draw up a despatch themselves without availing themselves of the expert advice of the Directors. These objections were appreciated by Pitt, and accordingly the Act laid down that in the first instance the Board were to ask the Directors to draw up a particular despatch and it was only when fourteen days had passed without any action being taken by the Directors, that they could draft the despatch themselves and order the Directors to forward it.

The Bill while leaving all other appointments in the hands of the Directors made an exception in favour of the Commander-in-Chief in India who was to be appointed by the Crown. It was rightly pointed out by the Directors that in order to ensure that the military would remain subordinate to the Company's Government, his nomination should also remain in their hands. This was accordingly done.

The Bill reserved the power of recall solely to the King. This was rather a strange division of power, for it meant that the appointments were to be made by one authority, and the powers of recall entrusted to a different authority altogether. On the Directors' urging that this power was necessary for the maintenance of their authority over their servants, the right of recall was extended to them.

With regard to the Supreme Government it appears that the Bill intended to give them far more authority than the Act actually did. The former gave to the Supreme Government the power of making regulations for the subordinate presidencies, and to interfere in the details of their internal administration. With regard to regulations, the Directors represented that the conditions in the three presidencies were by no means uniform, and so it was better to leave them to the individual Governments, subject to the approval of the Court of Directors. The Directors also objected to the proposed power of the Supreme Government to interfere in the details of administration of Bombay and Madras. They were of opinion that the three presidencies were far too distant, and suggested that only in matters of war and peace, the Supreme Government should be given ⁷ controlling power. Officers could be recalled either by them or

7. Peter Auber, "Rise and Progress of the British Power in India" (1837), 11, p. 4 - 9.

Even though as a result of the suggestions of the Directors, the Act had improved in several respects, it yet contained some faults and anomalies which its practical working brought to light.

The Act provided for an appeal to the King-in-Council where the dispute was as to whether a despatch was commercial or non-commercial. But the sphere of government itself was divided between the Directors and the Board of Control. If a dispute arose between the two whether a certain individual should be appointed to a post, or whether a gratuity or allowance should be granted to a certain officer, or whether a new establishment should be created, how was it to be settled? Such cases were quite conceivable, and in fact did frequently occur. For while the Board could always claim under the Act to have the final authority in all matters concerning government, the Directors could contend under the same Act to have the exclusive right of appointing all the servants of the Company. The Act provided no clue how such disputes were to be decided. Did the remedy lie in an ordinary court of law? If so, that meant considerable delay which might prove fatal to any scheme of grave urgency.

To the Directors alone was reserved the power of appointment, but officers could be recalled either by them or the Crown. In what cases was the Crown to exercise this

power? Was it to be exercised where an officer had misbehaved himself and the Directors were unwilling to recall him, or was it to be used as a threat to dictate as to who should be appointed?

All communications sent to India by the Directors were made subject to the Board's approval, but not those made in England. It was thus possible, for instance, for the Court of Directors to take a particular view of a subject in a local letter, but to be compelled by the Board of Control to take a ⁸ totally different view in a despatch to India. Similarly the ^{not} Board could order and control expenditure in India, but if it related to home. If the army were deficient in clothing and needed great-coats, the Board had no power to compel the ⁹ Directors to supply them with these.

Under the Act the Board of Control were given no power to write to India direct. They could convey their sentiments only either by drafting a despatch themselves, and directing the

8. Cf. the evidence of T.P. Courtenay, for many years Secretary to the Board of Control, before the Select Committee of 1832, p.33.

9. Cf. Lord Ellenborough's evidence before the Select Committee of 1852, Report, p.222.

Court to send one according to its tenor, or amending one sent to them by the Directors, and in so doing alter the despatch beyond recognition. In all cases the despatches which went out to India bore the name of the Directors alone.

For the Court of Directors to be over-ruled was vexatious in itself; but to be compelled to say what they had no intention of saying was vexatious still. This might be illustrated from what actually happened in 1813 when the Board practically substituted a despatch of their own for the one from the Directors, and in which they spoke exultingly of the opening of the Indian trade (to which the Directors had been most violently opposed). "They are required by it", remonstrated the Directors alluding to the despatch, "in speaking of the opening of the India trade to use a language which indicates warm approbation, a language, which is not congruous to the sentiments they are known to have held on this subject and to impose upon them, therefore, the use of such language serves only to humiliate and degrade them".¹⁰

The above was even truer of the secret despatches, almost all of which emanated from the Board. But as the despatches were officially signed by the Secret Committee, it

10. "Bengal Draft Despatches", XXIX, letter dated September 2, 1813.

was possible for an official in India who felt aggrieved at an order therein contained to vent his spleen privately on the members of the Committee whereas the real culprits would be the Board. ¹¹

But apart from the above anomalies, Pitt's Act implied a perpetuation of the dual army in India, where there were two separate armies, one recruited and maintained by the East India Company, and the other a part of the British Army for the time being in India. The Articles of War for the Company's forces were different from those governing the conduct of the King's forces. The final control in the matter of promotions and discipline relating to the first resided in the Court of Directors; relating to the second in the Commander-in-Chief of England. Though the two armies were vaguely under the control of the Company's Governments in India, it is clear that differences of constitution and sources from which they derived their authority could not but lead to difficulties in securing their co-operation. An amalgamation of the two armies alone could have provided an effective remedy against the jealousy which existed between them.

But in spite of the various defects which have been pointed out here, Pitt's Act had two advantages over Fox's Bill.

11. Cf. Lord Hardinge's evidence before the 1852 Committee, *supra*, p.253.

Fox had scrupulously refrained from proposing an increase in the power of the Supreme Government. In his opinion one of the necessary expedients to cure the evils of Indian administration was to subject that Government to a greater degree of control exercised from home. He drew his inspiration from the example of Warren Hastings, some of whose measures had been plainly unscrupulous, and who had disobeyed the orders of the Directors. But the remedy lay in the right choice of persons and not in shackling their authority. India was separated from England by about 14,000 miles of ocean, and it took about six months each way in correspondence. Clearly it was necessary, surrounded as the Company's possessions were by hostile Indian States, and where many delicate situations might arise demanding immediate solutions, that the Supreme Government should be invested with large discretionary powers. But it was necessary again that for whatever action they took, they should be effectively accountable to the Home authorities. This twofold principle was recognised by Pitt, who observed that the authority of the Government abroad "should have the powers of large discretion accompanied with the restraint of responsibility".
12

12. "Hansard" XXIV, p.326.

Secondly, the Board of Control were to be appointed by the Crown, were to function as a part of the executive Government of England, and to resign with the rest of the Ministry. They thus differed from the proposed Commissioners of Fox inasmuch as the latter were to be nominated by the Legislature, and were to continue in office for a fixed period irrespective of party changes. India had become to all purposes a subject country of Great Britain, and many of the problems which she presented were bound to have their repercussions on that country. Thus a war in India with France or Holland was bound to involve Great Britain in those wars. Consequently it was essential that the power of making ultimate decisions with regard to India should reside in the Ministry itself and in no other political body.

Pitt's India Act left the government of India in the hands of three bodies, the General Court of Proprietors, the Court of Directors, and the Board of Control. And it seems necessary at this stage to give a general and brief account of their constitution and working.

The first consisted of the shareholders of the capital stock of the Company. The minimum qualification to vote was £1000 stock, while no individual had more than four votes, no matter what the amount of his stock might be. In all cases the stock must have been held for the last twelve months.

The Court of Proprietors held a quarterly meeting, but they could be called besides at any time either by the Directors or a certain number of the proprietors. Before the passing of Pitt's Act, all the proceedings of the Directors had been subject to their control but, as has already been mentioned, this Act placed the matters on which the Directors and the India Board had agreed outside the range of their interference. Even then they continued to exercise some powers and considerable influence. Briefly, they had the power to elect the directors and to dismiss them; to declare a dividend within the limits assigned by law; to make by-laws, rules, and regulations for the good government of the Company; and to grant gratuities. They enjoyed further the right of being summoned to deliberate on any proceedings before Parliament which were likely to affect the interests or privileges of the Company. They were to be presented with certain accounts by the Court of Directors, as also with copies of all the papers laid before Parliament. Over their meetings the Chairman of the Court of Directors presided ex-officio.

The Court of Directors consisted of twenty-four members, one quarter of whom had to retire each year and to be replaced by fresh members. Thus some of the directors had necessarily to stand out each year. But the office was

practically for life, for on the expiry of the year they were generally re-elected.¹³ The election took place in April, after which the Chairman and the Deputy-Chairman were elected. The Directors then proceeded to appoint the several Committees (and it was these Committees who really did the work) the names being proposed by the Chairman. Members were appointed on the basis of seniority. The most important was the Committee of Correspondence because of the large sphere under their charge. All the despatches from India in the public, political, military, revenue, and judicial departments came under their review, as also the replies to such despatches before they were submitted to the entire Court for their approval. The Committee of Warehouses, dealt with commercial despatches. The rule of seniority meant that if a person with Indian experience became a director, then howsoever able he might be, he was precluded from becoming a member of any important committee for some considerable time.

The way in which the Court of Directors handled their correspondence may be described thus. Every despatch which arrived from India was received in the first instance in the

13. Sir William Foster, "The East India House", p.231.

in the office of the Secretary of the Court of Directors. It was then perused by the Chairman and laid before the Court of Directors. Where the Chairman considered the despatch of sufficient importance, he generally read it to the Court at length, and any director had the power to call for it afterwards when it suited his convenience. The despatch when read or laid before the Court was considered by the appropriate Committee who issued directions to the officer with whose department the despatch was connected, for preparing a reply. Such directions usually originated from the Chairman and the Deputy-Chairman who were members of all the committees and the sole efficient agents. Under the officer there were various assistants who prepared the "collections", and these collections embraced the whole of the subject-matter on which the despatch in reply was founded. After the draft or despatch had thus been prepared and submitted to the Chairs (as the Chairman and the Deputy-Chairman were called in their joint capacity) it was brought before the Committee for their approval, and later laid before the Court for a week or fortnight.

The Court of Directors generally consisted of retired Company's servants who had served in India, merchants who had resided in that country, and persons belonging to the famous banking or shipping houses of London. This twofold principle on which their membership was built was from the point of view

of the business which they had to transact an ideal one. In matters of government the opinion of men who had resided in India was bound to be invaluable. At the same time any local predilections which they might have acquired could be set off by the presence of men who could bring to bear on the problems which came for solution a freshness of outlook, unhampered by tradition or limited by personal experience. The non-Indian directors served another useful function also. There were questions of finance such as regulating the exchange and arranging advances on hypothecated goods; the building of ships; the buying of military stores and clothing for the army; and various other subjects which came to the Court of Directors for their decision. It is clear that in this sphere a knowledge of what was going on in the city was of the highest value.

The salary of a director was a modest £300 per annum. But the importance of his position and the right of patronage which he enjoyed attracted persons of wealth and good standing. The Chairs received £200 extra.

14. A study of the results of the election of the Chairs yields certain interesting results. Between 1784 and 1816, i.e. a period of 32 years, only once were the Chairman and the Deputy re-elected for their respective offices in the following year. On four occasions they mutually exchanged places. In nine cases only neither of the two had held office during the preceding year. It is thus clear that in the majority of cases one of the two was re-elected, and the usual practice was to re-elect the Deputy-Chairman as Chairman. Thus the years 1796-1801 provide a regular

It is unnecessary here to enumerate all the powers of the Court of Directors. Suffice it to say that they formed the executive of the East India Company and possessed full power and authority to direct all matters connected with the affairs of India, both at home and abroad (except such as related to the Secret Committee) subject to the limitations imposed by the Act of 1784 and subsequent Acts.

The Board of Control to whom the Directors were subordinated held their first meeting on 3rd September 1784. The original members were Lord Sydney, Pitt, Henry Dundas, Lord Walsingham, William Grenville and Lord Mulgrave. It is striking that none of them was familiar at first hand with the machinery of Indian administration, but their appointment can be explained on the basis of British constitutional usage by which Ministers are not required to have a technical knowledge of their departments. Moreover, Charles William Broughton Rouse, M.P. who was appointed Chief Secretary to the Board had served long in India as a civil servant and was thoroughly conversant with the

Continuation of foot-note on previous page:-

chain of succession, in which the Deputy-Chairman of one year becomes the Chairman of the next. The advantage of this usage was twofold. On the one hand it avoided dictatorship by individuals, and on the other, it ensured that the Chairman was a person who had already in his capacity of Deputy taken a leading part in the affairs of the Company. Besides, though the two offices were open to any director, it was really from amongst a select set that the selection was made.

revenue administration of Bengal. Lastly, the fact that the Court of Directors to whom ordinarily the administration of India was still left had always an Indian element made it unnecessary that the Board of Control should consist of experts.

Though the Board of Control consisted of six members and continued to meet as a board till 1816, when its formal meetings terminated, from the start it became in effect a one man's department. Both the Secretary of State and the Chancellor of the Exchequer found it hard to get away from their regular work, and therefore, the duty of presiding at its meetings devolved upon Dundas, the senior member. Thus during the first six months of 1785, he presided at thirty-three meetings out of thirty-four. This concentration of the business of the Board in the hands of Dundas was viewed by Lord Sydney, who was the formal President, with a degree of unpleasantness. In a letter to Cornwallis, Dundas wrote: "Lord Sydney never attends, nor reads or signs, a paper; but still I do not think he likes to see the business so exclusively in my hands as the head of the Board". Within a month of

15. Sir William Foster, "John Company", p.253.

16. Charles Ross (ed) "Cornwallis Correspondence" (1859) p.333

the establishment of the Board, Sydney had written to Pitt expressing his disgust at the conduct of Dundas: "I feel it difficult to suppress my sense of my own situation. Let me off from any connection with this Indian business. I am ready to abandon it to the ambition of those who like the department . . ." ¹⁷

Indeed, contemporary opinion seems to have regarded the idea of the Board as a mere farce. Wraxall mentions that within two years Lord Walsingham had to resign because he refused to sign a despatch as desired by Dundas, and was replaced by Lord Frederic ¹⁸ Campbell, a Scotchman and more accommodating in his disposition. Many entries in the satirical 'Album of Streatham' point in the same direction. Under date March 10, 1787, Dundas is made to say:-

"Called at Whitehall - took away the last letters from Cornwallis that Pitt may not see them before they are properly copied out by my private secretary - left orders for Pitt and Sydney to follow me to my house, where they would find my ¹⁹ dispatches for India ready for signing".

Whatever the positions of the other members might have been, it is abundantly clear that Pitt took an active interest in

17. Stanhope, "Life of Pitt" (1862), 1, p.128.

18. Sir W.N. Wraxall, "Posthumous Memoirs" (1836) 1, p.163.

19. "The Album of Streatham and the Journal of the Rt.Hon'ble Henry Dundas", p.64.

the affairs of India, although, of course, he left the general direction in the hands of Dundas. In a letter to Cornwallis Dundas wrote that Pitt was a real active member of the Board and made himself thoroughly master of the business.²⁰ The decision about the Permanent Settlement of Bengal was, for example, arrived at by Pitt and Dundas shutting themselves up at Wimbledon for ten days. Various speeches of Pitt, notably those on the impeachment of Warren Hastings, show him to have had a close acquaintance with the conditions in India and thus be in a position effectively to advance opinions. Indeed it appears that while it was Dundas who wrote frequently to the Governor-General, the views which he expressed had the concurrence of the Prime Minister. In a letter to Cornwallis in connection with the army arrangements, Dundas wrote: "I need not explain to you that when I write to you on this or any other subject of importance, Mr. Pitt is privy to everything I write".²¹ And this assertion is corroborated by Pitt who wrote to the Governor-General, "I shall not take up your time by dwelling on other subjects, as Mr. Dundas, I know, writes fully on every point, and his letters, ²² convey my sentiments as well as his own".

20. "Cornwallis Correspondence" 1, p.333.

21. "Cornwallis Correspondence" 1, p.536.

22. Ibid, p.337.

The supremacy which Dundas had commanded from the beginning was consolidated in 1793 when the constitution of the Board was modified. By 33 Geo. III, c.52, the restriction on number was removed, and His Majesty was empowered to appoint any number, provided that of the Privy Councillors so appointed three were always to be the two Secretaries of State and the Chancellor of the Exchequer, and two non-Privy-Councillors. The Commissioner first named in the Letters Patent was to be the President. The members of the Board, or as many of them as His Majesty thought fit, together with their staff, were to be paid such salaries as the royal warrant directed. These salaries together with the other expenses of the Board were to be borne by the East India Company provided that the total salaries of the Commissioners did not exceed £5000 per year and that the rest of the expenses did not amount to over £11,000 per annum.

In the Letters Patent issued the name of Dundas stood at the top, who thus became the principal member - a position which he had in reality filled since the inception of the Board. By the warrant his salary was fixed at £2000 a year, while the remaining £3000 was divided equally between the junior members of the Board, the others remaining unpaid, and as the sequel showed doing little work. By subsequent legislation the amount of the expenditure of the Board, and the salary of the President was

²³
modified.

The recognition of Dundas as the active head of the Board was fully justified, and indeed had been anticipated by him long ago. "From certain circumstances", he had written to Cornwallis in 1786, "I think it likewise very probable that the constitution of the Board will be so far altered as to supersede the necessity of either the Secretary of State or Chancellor of Exchequer being of it, in which case, I suppose, your humble servant not only in reality, but declaredly will be understood as the Cabinet Minister for India".²⁴ But the Act of 1793 introduced two important changes. It made the expenses of the Board which had been hitherto defrayed out of the public revenues chargeable to the Company's account. Secondly, it allowed certain salaries to the Commissioners, and in doing so went contrary to the declaration of Pitt in 1784. He had then said that there were certain positions which carried with them substantial emoluments and little work, and that out of this class Commissioners could be selected. Yet the same conditions existed in 1793

23. In 1811 the amount to be provided annually by the Company for the Board's expenses was raised to £22,000 and the salary of the President to £5000. In 1813 the former sum was still further raised to £26,000.

24. "Cornwallis Correspondence" i, p.256.

as in 1784. No doubt the duties of some of the Commissioners, most certainly of the senior Commissioner, were onerous, and deserved separate payment. But the way in which Pitt proceeded to effect this seems hardly fair. What is more probable is that his original decision to make the post unpaid was a device to escape from a two-fold difficulty. He was then trying to secure the concurrence of the Company in his scheme, and with that end in view made the expenses of the Board chargeable to public revenues. At the same time he had to limit them so as not to offend the House of Commons. The new machinery had now been in working order for some time, and the change could be quietly effected.

The Act of 1793 empowered the Secretary of the Board to notify the orders of the Board and so relieve them of some of their labour, while twenty years later, the Assistant Secretary was similarly empowered.

The work of the India Board was further facilitated by an arrangement of 1807. Up to that date the secretariat was divided into three departments corresponding to the presidencies. This was now abandoned and the new departments corresponded to those at the East India House, viz (1) Secret and Political (2) Revenue and Judicial (3) Military (4) Public

and Commercial. This scientific division led to much more efficiency than had been the case before.

It has been urged before that the work of the India Board was really carried on by its presiding officer. It would, therefore, be interesting to cast a glance on the names of Presidents who filled the post during 1784-1816. The Table below shows the period of their tenure, and whether they were of Cabinet rank:-

<u>NAMES.</u>	<u>DATES OF PATENT.</u>
Henry Dundas (afterwards Lord Melville) (In reality, though not formally till June 28, 1793). Called to the Cabinet, June, 1791.	September 3, 1784.
Viscount Lewisham (afterwards Earl of Dartmouth) Cabinet.	May 19, 1801.
Viscount Castlereagh Called to the Cabinet, October, 1802.	July 12, 1802.
Lord Minto.	February 12, 1806.
Thomas Grenville.	July 16, 1806.
George Tierney.	October 1, 1806.
Robert Dundas (afterwards Lord Melville).	April 6, 1807.
Earl of Harrowby. Cabinet.	July 17, 1809.
Lord Melville.	November 13, 1809.
Earl of Buckinghamshire. Cabinet.	April 7, 1812.
George Canning. Cabinet.	June 20, 1816.

Almost all of them, it is obvious, are men well-known in English history. All of them were politicians, and some of them had served in similar positions before assuming the present office. Buckinghamshire as Lord Hobart had been Colonial Secretary in the Addington Ministry of 1801.

Harrowby and Canning had been Foreign Secretaries in the Pitt and Portland Administrations respectively, while Castlereagh had been Chief Secretary for Ireland at the time of the Union.

Not all of them were members of the Cabinet. And yet it seems necessary that the Minister in charge of such an important portfolio should have shared in its deliberations. In the case of Henry Dundas who remained without a Cabinet seat till 1791 when he took upon himself the additional duties of the Home Secretary, perhaps the fact did not much matter, for he enjoyed the closest intimacy with the Prime Minister. Even then it is clear from his letter to Cornwallis quoted above how much importance he attached to his becoming the Cabinet Minister for India. It was because Castlereagh urged on Addington the necessity of his inclusion, "which, I am persuaded, is almost essential to the due administration of Indian business", that he was called to the Cabinet in 1802. The position was

25. The India Office Records, "The Home Miscellaneous Series" (MSS), 504, p.19.

anomalous in the extreme, for the more important measures with regard to India were decided upon by the Cabinet, and the President of the Board, who alone could be thoroughly acquainted with all the aspects of the questions involved was excluded from that body. "The arrangements with regard to the Government of Bengal", wrote Lord Minto in 1806, "are always considered as belonging to the Cabinet, in which I have not a seat".²⁶ In fact the post of the President of the Board was at that time not recognised as a first-rate post. Thomas Grenville and Robert Dundas, to take two instances, were second rate men, of extremely mediocre abilities, and they got the job owing to the influence of their brother and father respectively.²⁷

No bar existed then against a person who had held the office of the Governor-General in India or a Governor afterwards taking up the appointment of the President of the Board or vice versa. Thus Lord Hobart who had been Governor of Madras (1794-98) became President in 1812. Lord Macartney, Governor of the same presidency from 1781 to 1785, was offered the post by the Addington Administration but he declined. Lord Wellesley

26. "Lord Minto in India" (1880) p.3.

27. With regard to Grenville, cf. W.W. Grenville to Fox, June 23, 1806, Historical MSS. Commission Reports, "MSS preserved at Dropmore", VIII, pp.197-200.

(then Mornington) who had resigned his post as a Commissioner to assume the office of the Governor-General intended to return as President of the Board. On the other hand, it is known that Henry Dundas contemplated on several occasions to go out to India as Governor-General. Lord Minto actually did so in 1807. Canning was offered the post in 1822, and had accepted it, but later resigned when he received an offer of the Foreign Office.

The utility of such a practice, however, is open to doubt. It might be argued in its favour that a knowledge of the affairs of India gained in one position was likely to prove valuable in the other. But the disadvantages seem to outweigh the advantages. Supposing for instance that Lord Macartney who had resigned the Governorship due to a difference of opinion with the India Board on the question of the surrender of the Carnatic Assignment had accepted Addington's offer, his position must have been one of considerable delicacy. Was he to ~~the~~ acquiesce in the operation of a measure against which he had offered the fullest opposition, or now being given the opportunity, reverse it? An opposite case can also be well imagined.

28. Ibid, IV, pp.381-87, Mornington to Grenville, November 18, 1798.

No such objections could apply, however, to making the office of the Commissioner and the Governor or Governor-General exchangeable. From this point of view the appointment of Lord Teignmouth in 1807, who had been as Sir John Shore Governor-General, was an eminently wise decision. In this indeed might be seen the origin of the practice by which retired Governors are appointed at the present date members of the Secretary of State's Council. It might be noted that habits of desk-work to which a Governor or Governor-General was accustomed in India could prove equally useful in the office of the Board. But the President of the Board had in addition to be a good speaker and a skilful debater. Since 1784 it had become his duty to justify the measures of the Company before the Parliament. It was indeed with a realisation of this difference that Teignmouth refused the post of the President²⁹ and agreed to serve as an ordinary member of the Board.

Allusion has been made to the conflicts between the Court of Directors and the Board of Control. These will be examined later but we might notice here some of those factors which tended to diminish their number, or indeed, which made the working of such a crude machinery as set up by Pitt possible at all.

29. "Life of Teignmouth" (1843), ii, p.23.

Of those by far the most important was the system of "Previous Communications". It might be recalled that Pitt's India Act required the Board of Control to send back the despatches which they received from the Court of Directors with their approval or emendations within fourteen days. The period was found too short to enable the Board to master their contents and to make alterations, the more so as the Court often sent a number of voluminous despatches together. Hence there developed the following practice. A reply to a despatch from India was prepared by the proper officials under the direction of the Chairs. It was then informally sent over to the Board's office accompanied by the 'collections'. Here it was studied at leisure by the staff and then submitted to the President or some other Commissioner, who made any corrections he thought fit in red ink, and even expunged a whole series of paragraphs, if necessary. The draft was then returned by the Secretary of the Board accompanied by a short letter, in which he merely enumerated the numbers of paragraphs in which changes had been made without assigning any reasons. It was now open to the Chairman either to accept the suggestions or reject them, and a new draft was prepared in the light of this previous communication. This draft after being considered by the appropriate Committee, and receiving the approval of the Court of Directors was now formally sent to the Board's office.

If the Board found that any of their suggestions had not been adopted, and yet which seemed to them of sufficient moment, they could make those alterations again, or indeed any fresh ones if they desired, but at this stage reasons had to be stated in full. All this however could be done within the time allowed by law. The practice was found so useful that even when the Act of 1813 extended the period to two months, it was retained.

The utility of the "Previous Communications" was thus described by Canning: "The use and object of Previous Communications is free discussion. They are amiable preludes to further propositions which enable the Board to state its objections (when it has any) and to offer its amendments and additions without assuming the air of dictation, and through which each party becomes acquainted with the other's sentiments without being committed, in point of consistency and in dignity, to its own. The official draft being thus prepared, with a free knowledge how far it is likely to meet the concurrence of the Board, the best chance is taken for avoiding direct and official collision". In an interesting letter to the Board in 1813 the Court insisted that the 'Previous Communications'

30. Quoted by Scot Jones in his evidence before the Select Committee of 1832, p.23.

were purely informal, and that alterations could be later made both by themselves and the Board, adding "in point of fact such alterations have frequently been made by both even after their ³¹ approval by previous communication". This is, however, untrue. Many of the official drafts returned from the office of the ^{while} Board without any alterations at all/in some cases the alterations were devoid of any significance.

Apart from written communications, there were talks between the Chairman or the Chairs and the President of the Board. The correspondence of Henry Dundas contains many letters to David Scott (sometime Chairman and Deputy-Chairman) written in a style of the utmost cordiality inviting him to his office in Whitehall or to his home with a view to discussing with him the ³² affairs of the Company. This practice was uniformly followed by all the Presidents of the Board. It was indeed at these meetings that the question of appointment of the new Governors or Governor-General was first mooted. On important occasions the President was accompanied by the Prime Minister, while the Court of Directors were represented by the Committee of Correspondence.

31. "Bengal Draft Despatches", XXIX, letter of September 2, 1813.

32. Cf "Home Miscellaneous", 731A.

It is clear that such meetings should have induced far more freedom of expression and in consequence a greater degree of harmony than could be attained through cold writing. They led also to a greater despatch in business. For assume that an important despatch arrived from India on Monday. It could on the same day be studied by the Chairs, and a reply thought out. They could meet the President the next day and probably secure his approval. Wednesday was the regular day for the meeting of the Court of Directors, when after their approval, it could be forwarded to India. Probably a weekly meeting was the general rule, for under date November 9, 1818, we come across the following interesting entry in Farington's Diary.

"Mr. Marjoribanks being Deputy Chairman of the East India Company told me³³ that the Chairman and Deputy Chairman for the time being have a weekly meeting with the President of the Board of Control (now Mr. Canning) at which they make their respective reports, and amicably arrange matters for future proceedings".

It is a pity that no record of such meetings was ever kept for it must have been here that differences between the Directors and the Board made their appearance and were finally composed.

The Governor-General and the Governors formed a link in the relationship of the Court of Directors and the Board of Control. Though formally appointed by the Directors, they were really the nominees of the Ministers and their friends. Before they set out for India they had meetings with the Chairman of the Company and the India Minister, at which the general situation in India was discussed, and opinions ventilated. They had thus an opportunity of knowing the points of view of both bodies and thus be in a position so to regulate their conduct as to meet with the general approval of both. While in India they received private letters from the President of the Board, and official despatches from the Court of Directors or its Secret Committee. On the other hand they frequently wrote to the President, and correspondence between the Governors and the President of the Board was indeed freely encouraged. "I take it for granted", wrote Dundas to Cornwallis, "I shall often hear from you on many subjects, which you may wish me to attend to, although they are not made part of your public letters", and again, "Although the Secret Committee is the proper official channel through which I ought to correspond with your Lordship on points of a confidential nature, still from the constitution of it, and the members of which it often consists, it is more eligible

34. "Cornwallis Correspondence", i, p.276.

for me to convey to you in a less official manner my own and
 35 the sentiments of my colleagues on many points". But the
 practice of the Governors writing privately to the Chairman on
 36 public matters seems to have been frowned upon by the Board.

Fourthly, the fact that several of the Directors were members of the House of Commons, and that the Court could also arrange matters in the House of Lords doubtless placed a brake
 37 on the activities of the Board.

Lastly, it was the moderation with which the Board of Control exercised their powers on the one hand, and a recognition on the part of the Company that in the final upshot of a battle they did not stand to gain, which effectively conduced towards harmony.

The Court of Directors no doubt lost all control over their foreign and political affairs, but that was an avowed object of the Act of 1784. Even in this sphere the right of the Secret Committee to remonstrate, though not recognised by the Act was conceded by the Board in practice. Generally Secret orders were drawn up by the Board of Control, and after being transcribed by the Secret Committee forwarded to India. In some

35. *Ibid*, ii, p.2.

36. "Home Miscellaneous" 342, pp.811-818.

37. Lee Warner, "Life of Dalhousie", i, p.109.

cases they were drawn up by the Secret Committee and approved by the Board of Control. Only in one instance, there appears to have taken place a difference of opinion between the President of the Board and the Secret Committee - over a question of procedure. This was in 1802 when Lord Castlereagh asked the Committee to forward some sealed despatches to India. Though the Committee did so, they insisted that the despatches must not be sealed so that they might get acquainted with their contents. Castlereagh agreed "not to send down any despatch of this nature hereafter without having the proceeding more ³⁸ gravely considered".

The only instance in which the Board seriously interfered with a commercial draft of the Company occurred in 1801 when various paragraphs were expunged from Draft No. 139. But these paragraphs aimed at settling a question, which was engaging the attention of the House of Commons at the time and in a manner, which the chances were, would not be acceptable ³⁹ to Parliament.

With regard to other despatches, where the Board made any alterations, they always stated the reasons very fully. Even, for example, if they substituted one word for another,

38. "Secret Despatches to Bengal", ii, pp.245-48.

39. See Chapter VII.

which in their judgment expressed the meaning intended more clearly, they called attention to the fact in their explanatory letter.

What better testimony to the fairness of the Board can be found than the following words of the Court of Directors, written while reviewing the implications of the Bill of 1813 for the benefit of the Proprietors: "The general powers of superintendence and control given by the former charters are, in reality, so large, that if they had been exercised illiberally or vexatiously, it might have been difficult for the Court of Directors to perform their functions; and with respect to the present powers, much will depend on the spirit in which they are administered".⁴⁰

But it was only with the passage of years that harmony between the Court of Directors and the Board of Control grew. The Directors found the control a little irritating at the beginning, and resented all interference by the Board. On the other hand, it was only in the early years that the Board applied their scissors frequently, and attempted to correct the existing abuses. Once they had introduced some reforms in the system of administration of India, they seem to have lapsed into a state of coma, from which they made only fitful appearances.

40. Minute of the Court of Directors, July 15, 1813.

This is clear from the character of the draft despatches as they returned from the office of the Board. Those belonging to the first four or five years are dabbed in red ink, while in those of later years there are very few alterations indeed. Again, it is only during the first few years that the Board originated several despatches of great importance.

Another fact which appears to have led to conflicts between the Directors and the Board of Control during the early years was the inadequacy of the 'collections' which the Directors forwarded to the Board, so that the latter not being in full knowledge of the relevant facts made some alterations in the Court's drafts which on a representation from the Directors they revoked. Thus in 1787 the Board allowed certain allowances to Lieutenant-Colonel Geils of the Company's service, which the Court had disallowed. On a representation from the Court, the Board restored their original paragraphs, and observed that "particular care should be taken to send us a more perfect collection of papers relating to any paragraph you propose to write to your servants abroad, as those which accompany your representation to us on the subject of ⁴¹ Lieutenant-Colonel Geil's place that gentleman's situation and claims upon the Company in a very different point of view from that it appeared in, when we made the alteration communicated to you!"

41. "Madras Draft Despatches", 1, p.520. For Lieutenant-Colonel Geil's case see "Home Miscellaneous", 342, pp.447-478.

The vague language of the Act defining the scope of the Secret Committee was also responsible to some extent for awkward situations. Till 1807 the Supreme Government sometimes included in a Political letter addressed to the Court of Directors matter which in the opinion of the Board should have formed part of a Secret letter. Finally in 1809 when the Government of Bombay committed the same indiscretion, the Secret Committee defined at some length the limits of their department. ⁴²

Though by the device of "Previous Communications" open conflicts between the Directors and the Board were avoided, the system of government established under Pitt's Act involved enormous labour and time. When a despatch arrived from India, (and it consisted of hundreds of paragraphs) it had to be copied for the Board of Control. Then a 'collection' which sometimes consisted of from 15,000 to 20,000 pages of manuscript had to be compiled. The 'collections' owed their origin to Dundas who felt that unless complete information accompanied the drafts, the Board could not well discharge their function of revision. The offices of the Company and the Board being situated at a ~~considerable~~ ^{considerable} distance from each other, that was indeed the only advisable course. But their preparation usually took about six months and even longer. There might be despatches of a prior date which had first to be answered; special letters from India

42. "Secret Letters to Bombay", letter of July 3, 1809.

on particular subjects which had first to be attended to; demand for information on particular subjects by the directors or the Board of Control; returns to Houses of Parliament for large masses of papers, and similar calls from the Court of Proprietors.

After the 'collection' had been prepared, reply had to be drafted, and that took up considerable time again. For these replies did not consist of short answers to particular questions referred for the Court's decision but of a series of judgments pronounced by the Directors on the multifarious proceedings of the Governments in India for some years past.

The various stages through which the draft passed at the office of the Court of Directors and the Board of Control have already been enumerated. It should be mentioned that there was no limit to the time which it might take at any of the stages except when it had been formally submitted to the Board. When a draft in its course of previous communications was returned to the Chairs, they sometimes hesitated to accept the alterations of the Board in which case the 'collection' had to be carefully perused again, and a memorandum drawn up and confidentially submitted to the President of the Board. Sometimes the Directors would consult their counsels if the Board persisted in retaining their alterations.

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There is, therefore, no wonder that in cases where the Directors and the Board came into conflict, replies were delayed

^{43.} See the letter of the Court of Directors dated August 27, 1829, "Letters from the Court to the Board, IX, pp. 432-453.

for some considerable time with the result that circumstances in India had completely changed and made the answers worthless. Or at any rate if circumstances had not really changed, the local Governments could always allege that they had, and so avoid giving effect to the orders of the Directors if they chanced to be unpalatable.

Though the controversy was usually settled within a year, in exceptional cases it dragged on for a long time as in the case of Major Hart, when it lasted for nine years.

An idea of the work which had to be done at the East India House and Whitehall may be had by mentioning that the number of folio volumes of despatches received from India between 1793 and 1813 totalled 9,094. Apart from the drafts which were prepared by the Directors for the approval of the Board letters on particular points arising out of them numbered 2,986 which passed between the Directors and the Board during the same period.

C H A P T E R I I I.

P A T R O N A G E.

The first few years immediately following the establishment of the Board of Control are marked by great activity on their part. On a number of subjects they applied to the Court of Directors for information, and even originated certain important measures of reform.

They asked the Directors to supply them with an account of all the establishments in India, and of the increase which had lately taken place in those establishments. They particularly adverted to the revenue department, and desired to know the charge incurred in the collection of revenue. They called for a statement of the several committees of the Court of Directors and their duties, as also the number of officers on the Home establishment.¹

With regard to the Supreme Government, they approved of the reductions which that Government had already effected in their establishments, and gave orders for further reductions and strict economy. The principle of leaving much to the discretion of authorities on the spot found

1. "Letters from the Board to the Court", i, p.86.

recognition in their allowing the whole of the official arrangements to be made by them.

A scheme of military establishment was also set forth, and in order that military operations might be made most effective, the corps at the three presidencies were to be so constituted as to be able to take the field with the least possible delay. With the same end in view, uniformity in organisation was to be introduced, and the corps of every denomination at each presidency was to be of equal strength in point of commissioned and non-commissioned officers and privates.

No superfluous officers were to be kept on the pay-roll of any department, and the rule that the services of an officer whose maintenance was not warranted by the exigencies of the service must be dispensed with was put forth with great emphasis. The establishments once fixed were not to be altered except by the orders of the Court of Directors. Promotion was to be by seniority alone, unless where it was absolutely prejudiced to the public interest. Indian clerks were to be employed for transcribing the non-confidential records. Furthermore the Governments in India were directed to write separate letters to the Court of Directors on each of the following subjects, instead of including them all in one interminably long letter, as had been the custom hitherto:-

- (a) Secret.
- (b) Public.
- (c) Military.
- (d) Revenue.
- (e) Commercial.

The Court of Directors were to follow the same rule
²
 while writing to India.

Lastly, the machinery of the Supreme Government was remodelled. Their work was distributed among the following bodies:-

- (a) The Board of Council.
- (b) The Military Board.
- (c) The Board of Revenue, and
- (d) The Board of Trade.

The first was to be identical with the Governor-General and Council, and its function was to exercise control over all the secret and political affairs of Bengal. The second was to consist of the Commander-in-Chief, the Second-in-Command, the Senior Officer of Artillery, the Chief Engineer, the Adjutant-General and the Quartermaster General. This board was not intended to exercise any military authority independent of the first, but was to deal with matters of military detail. In the next place, it was to act as a body

2. "Bengal Draft Despatches", 1, pp.93 - 128.

of experts whom the Government might consult on questions of military expenditure. The Revenue Board was to consist of five members, including a junior member of the Supreme Council, and four of the most intelligent and senior civil servants of the presidency. Its functions were to be the same as those of the existing Committee of Revenue, namely, the supervision of the entire revenue administration. The Board of Trade was to have the same functions as its existing namesake, but its constitution was to be radically different. The remaining junior member of the Council was to be its President, and the other four members appointed in the same way as for the Revenue Board. The Military Board, the Revenue Board, and the Board of Trade, were to report their proceedings to the Board of Council which was to have the final authority in all matters.³

It would thus be seen that the Board of Control divided the work of the Government into various departments, each under a member of the Council. The Governor-General, however, possessed the right to attend, if he thought fit, a meeting of any of the Boards, on which occasion he was to preside, and in case of an equal division of vote, give his casting vote. The new arrangement was a considerable improvement over the existing one, under which the Governor-

3. "Bengal Draft Despatches", 1, pp.233-53.

General, though nominally President of each Board, was in effect unable to devote much of his attention to their affairs with the result that active work had to be carried on by a member, who was unconnected with the Supreme Council.

It was not without a certain amount of remonstrance that the Court of Directors accepted the Board's proposals.⁴ They regarded the military establishment as fixed by them to be inadequate, and on their representation, the Board increased the number of European force for Bengal. The Directors also objected to the employment of Indians on the plea that it would prevent their own covenanted servants from acquiring a knowledge of the details of their work, which the work of transcription enabled them to do. But the Board maintained that this was necessary in the interest of economy.

In the matter of the constitution of the Boards also, the Directors offered certain interesting suggestions. They were of opinion that the Governor-General should be allowed to remain the perpetual President of each, as otherwise his dignity would suffer. But the Board of Control observed that as he was fully occupied with the work of the political department, and general supervision, it was unwise to lay on him this additional burden. "It will in our opinion

4. "Bengal Draft Despatches", 1, pp.312-21.

contribute essentially to the regularity of your business", they wrote to the Directors, "that the other members of the Council in their different departments be rendered responsible for the proper detail of the business over which they respectively preside, before it comes to be finally decided upon at the Supreme Council, over which the Governor-General must always preside".⁵ In regard to the constitution of the Military Board in particular, the Directors made a two-fold proposal, namely, that the Commissary-General by reason of the nature of his work should be constituted a member, and secondly, that as in the event of war, most of the military officers were bound to be away from the headquarters, some of the members should be Civilians. The Board accepted the first suggestion, and attempted to meet the second by substituting the "senior officer at the presidency" in place of the Second-in-Command. But they refused to admit any Civilians, the avowed purpose of the Board being that it should act as a body of experts.

Another subject which early engaged the attention of the Board of Control was the Permanent Settlement of Bengal. It is widely known that on that topic Cornwallis and Shore differed. But it is also noteworthy that the Court of Directors, to say the least, were not so enthusiastic about

5. "Bengal Draft Despatches", 1, p. 325.

it as the Board of Control.

It might be recalled that the original author of the measure was Philip Francis, who in his famous Plan of 1776 defined its principle and object in the following words:-

"The Jumma, once fixed, must be matter of public record. It must be permanent and unalterable, and the people must, if possible, be convinced that it is so If there be any hidden wealth still existing, it will then be brought forth and employed in improving the land, because the proprietor will be satisfied he is labouring for himself".⁶

To this scheme, Pitt gave his whole-hearted approval, and in the Bill of 1784, he included a provision by which the Government were required to fix an unalterable tribute rent. On the Bill being laid before the Court of Directors, they represented that this compulsory clause should be deleted. But their representation seems to have been disregarded, since Section XXXIX of the Act directed them to settle "the permanent rules" according to which the landholders were to pay their revenue to the Government.⁷

6. "Sir Philip Francis's Minutes on the Permanent Settlement of Bengal" (ed. R.C. Dutt) p.VI.
7. S. Weitzman, "Warren Hastings and Philip Francis" (1929) p.161.
8. Auber, "Rise and Progress of the British Power in India", ii, p.89.

Nor were the Ministers content to leave the fulfilment of this provision to the Court. In 1786 the Board of Control drew up a despatch in which, the fateful words: "The jummah now to be formed shall as soon as it can have received our approval and ratification be considered as the permanent and unalterable revenue of our territorial possessions in Bengal".⁹

The Bengal Government on receipt of these orders adopted certain tentative proposals, and the Court of Directors while reviewing the proposed arrangement observed that they trusted that it would from time to time undergo such alterations as experience and a constant attention to the subject should point out to be necessary. But when this draft came for the Board's revision, they with unconcealed anxiety substituted for the Court's paragraph, the following words: "We trust we are not to understand from some expressions in the first and last paras of Mr. Shore's Minute of 29th May 1787 that the Regulations then proposed were to be considered merely as a groundwork for future measures and liable to continuous alteration".¹⁰

This opposition of Shore to the proposed Settlement of which we get an inkling here was maintained to the end.

9. Bengal Draft Despatches, II, p.83.

10. "Bengal Draft Despatches", IV, p.119.

Both Cornwallis and he were agreed on the desirability of making the settlement with the landholders, but while the former insisted on making it perpetual, the latter preferred the permanency of the principles on which it was to be based to its own permanence, "Measures in detail must always be subject to variations from local circumstances and contingencies", Shore ably argued, "which no foresight can provide against, but principles should be fixed, if possible".¹¹ But whatever the ultimate view, both were agreed that the settlement should be declared in the first instance to be for ten years only. There was some little difference of opinion here also. Cornwallis wanted that the above declaration should be accompanied by a notification, that if approved by the Court of Directors, the existing settlement, would become permanent, while Shore considered such a notification inexpedient on the ground that in case the Directors decided otherwise, the landholders might take it as a breach of faith on the part of the Government. Cornwallis, however, stuck to his proposal, and in February 1790 the above mentioned notification was issued. When, therefore, he called upon the Court of Directors to give the necessary permission, he made a refusal virtually impossible.¹²

11. "Home Miscellaneous", 383, p.203; Minute dated June 18, 1789.

12. "Bengal Letters Received", XXVIII, p.763.

Nor was this all. Dundas who was a whole-hearted supporter of the measure, and who was aware that some of the more influential directors were opposed to it, hit upon the device of drawing up a despatch on the subject himself, thus ensuring its acceptance. He was obviously pleased with himself at the success of this manoeuvre, and in a moment of high elation wrote to Cornwallis: "Knowing that the Directors would not be induced to take it up, so as to consider it with any degree of attention, and knowing that some of the most leading ones among them held an opinion different both from your Lordship and me on the question of perpetuity, and feeling that there was much respect due to the opinion and authority of Mr. Shore, I thought it indispensably necessary both that the measure must originate with the Board of Control, and likewise that I should induce Mr. Pitt to become my partner in the final consideration of so important and controverted a measure. He accordingly agreed to shut himself up with me for ten days at Wimbledon, and attend to that business only. Charles Grant staid with us a great part of the time. After a most minute and attentive consideration of the whole subject, I had the satisfaction to find Mr. Pitt entirely of the same opinion with us. We, therefore, settled a despatch upon the ideas we had formed, and

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13. Charles Grant had made a great mark as a member of the Bengal Board of Trade. He later became one of the most prominent directors of the Company.

sent it down to the Court of Directors. What I expected happened; the subject was too large for the consideration of the Directors in general, and the few who knew anything concerning it, understanding from me that Pitt and I were decided in our opinions, thought it best to acquiesce, so that they came to a resolution to adopt entirely the despatch as transmitted by me".

This account of Dundas is corroborated by Grant who mentions that there was considerable opposition to the measure, "so that at length the Board of Control" dictated the orders.

Just as for the Permanent Settlement of Bengal, the Board of Control were mainly responsible, so also the judicial arrangements carried out there about the same time were largely due to their initiative.

But apart from these important reforms, which the Board inaugurated, they also purified the system of administration in India by controlling the Court of Directors in their

14. "Cornwallis Correspondence", 11, pp.214-15.

15. Henry Morris, "Life of Charles Grant" (1904) p.171.

16. Speech of Courtenay, Secretary to the Board of Control, in Connection with the duties of the Board of Control, Hansard, "Parliamentary Debates", VI, p.1134.

exercise of patronage. The subject can be best studied by dividing it broadly into three classes: the first appointments, i.e., the nomination of Writers, Cadets etc.; their promotion, and; the appointment of superior officers, i.e., of the Governor-General, Governors, Commanders-in-Chief, and members of Councils.

In 1784 Writers and Cadets were nominated by the individual members of the Court of Directors in rotation. Candidates were not required to pass any qualifying examination or to receive training at any specified institution. Testimonials that they had received some training under private tuition were regarded as sufficient. Up to July of that year there had been no restrictions of age but then the age-limit was fixed at 15 - 18 for the Writers and the same for Cadets except for those who had actually served for one year in His Majesty's service, in which case it was not to exceed 25. It is needless to mention that the Directors usually nominated only those who were their relatives or connected with persons whom they wanted to oblige.

The Act of 1784 left the system untouched, but though the nominations continued to be vested in the Directors, there is little doubt that the Board of Control absorbed some portion of this patronage. Dundas, it is well known, sent a number of his countrymen to India during his tenure of office. The

17. By the Act of 1793 the maximum was raised to 22 years.

condition of the Scotch in their own country was unhappily not prosperous. The Union of 1707 had affected them adversely, while many had suffered in the Jacobite risings of 1715 and 1745. Agriculture was only in the first stages of development, while commerce held no attractions for the hardy clansmen. These causes explain the readiness of the Scotch to try their fortunes in other lands. The phrase of Lord Rosebery that Dundas "Scotticised India and Orientalised Scotland" though not quite true, is valuable in so far as it reflects accurately the opinion held in Dundas's own day. Sir Walter Scott described the Board of Control in 1821 as "the Corn-chest for Scotland where we poor gentry must send our younger sons, ¹⁸ as we send our black cattle to the South". The cartoon of Gillray published in March 1787, and entitled "The Board of Control or the Blessings of a Scotch Dictator" points in the same direction. But recent investigation has shown that this view is grossly exaggerated. ¹⁹ The Directors were tenacious of their privileges, and though to conciliate the Board of Control, they undoubtedly offered a portion of their patronage, they retained the major part in their own hands.

18. Quoted in Lovat-Fraser, "Henry Dundas", p.20.

19. See Dr. Furber, "Henry Dundas, First Viscount Melville" (1921).

This right of nomination conceded to Dundas was continued to the successive Presidents of the Board. A letter of Castlereagh to the Chairman, dated November 12, 1802 reads: "I have received a letter from the Lord Lieutenant of Ireland expressing a strong desire that he might be enabled to place his nephew, Mr. Lindsay, as a Writer in the service of the Company. I feel much regret that I am precluded by engagements from which I have not been able to extricate myself from promoting His Excellency's wishes through the means which the Court have so obligingly placed at my disposal in the present year"²⁰ In 1806 the share of the President was made equal to that of the Chairman and the Deputy Chairman, which was double the share of an ordinary director.²¹

It has already been mentioned that the persons so nominated did not receive adequate training. To supply this deficiency, the famous Haileybury College was established in 1805 for the use of the Writers, and was followed four years later by the Military Seminary of Addiscombe designed for the training of Cadets. But the establishment of these institutions did not produce immediately any satisfactory results. The Court of Directors who drew up the rules disliked the idea of their

20. "Home Miscellaneous", 504, p.275.

21. "Memorials of Old Haileybury College", p.10.

nominees being subjected to much toil. In an extremely interesting letter, Le Blas, the principal of the Haileybury College observed: "For the first seven or eight years after the College was established, there was no test of any sort, and the College had no power to impose them. If a man got through, without doing anything bad enough to merit expulsion, the College was obliged to give him his certificate. The result was an awful amount of idleness, though the really good men did nobly well, as they will do under almost any system".

22

Besides, it might be noticed that although at the time the College was established, it was understood that in future no Writers would be appointed without residing there, the Directors in certain cases acted in a contrary fashion. It was customary on these occasions for the Board of Control when such appointments came before them to acquiesce, but only after reminding the Court that they had been vested in them "not as a mere matter of patronage, but with the duty imposed upon them of exercising their right in the manner most conducive to the public interest". This practice was finally ended by the

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Act of 1813 which laid down that no person was to be appointed a Writer who had not kept four terms at the College. At the same time the Board of Control were given power to revise and

22. Quoted in *Memorials of Old Haileybury College*, p.58.

23. Cf. Board's letter of February 8, 1813, "Madras Draft Despatches", XX.

alter any regulations made by the Directors for the management of the College.

The exercise of patronage by the directors was, as has been shown, open to serious objection. Happily it was free from corruption, though in the old days it does not appear to have been so. The gossip Hickey mentions an amusing anecdote about a Colonel Auchmuty who told Lord Cornwallis that he had purchased nomination in the Company's service for his three sons from the directors for a sum of five thousand guineas. ²⁴ Whatever the practice might have been earlier, it appears that at the beginning of the nineteenth century, it had ceased to exist, although a reading of the papers of that time is likely to produce a different impression. For about that time there appeared a number of advertisements offering valuable consideration in return for appointments in the East. In addition letters were sent to the directors to the same effect. ²⁵ This scandal led to an enquiry by a Committee of the House of Commons in 1809, the result of which was to exonerate the directors as well as the President of the Board. None of them had made a nomination for money, but during the course of investigation the Committee came across certain

24. William Hickey, *Memoirs*, IV, pp.109-11.

25. Morris, "Life of Charles Grant", p.238.

cases in which the original nomination had changed hands, and this had been accompanied by a monetary transaction. To take an illustration, it was found that one Mr. George Barker had been nominated Cadet for the Bengal Infantry in 1808 by Robert Thornton, a director, at the recommendation of a Mr. Mee, who had sold this appointment for two hundred guineas through an agent who had received sixty pounds as commission.

Indeed, it should have been surprising had the directors made any corrupt bargains, for the penalties for so doing were severe. By the Act of 1793 every director within ten days of his election had to take an oath that he would accept no money for such appointments, and if he was discovered, he ran the risk of being expelled from the Court. Besides, he would have to pay as forfeit a sum double the amount of consideration which he had received. Further, persons who were thus appointed were liable to be removed from the service whenever the secret was discovered.

Once the officers had been appointed by the Court of Directors, their promotion lay in the hands of the several Governments in India. That was the clear purport of the Act of 1784 which laid down that all officers below the members of Councils were to be appointed by the local Governments. But this was not achieved without some difficulty. The correspondence of Cornwallis and Wellesley reveals cases in which on occasions the Directors did not shrink from making such appointments themselves,

and where in their individual capacity they made inconvenient recommendations to the heads of Governments. Cornwallis once wrote with considerable bitterness to a director: "Before I accepted the arduous task of governing this country, I did understand that the practice of naming persons from England to succeed to offices of great trust and importance to the public welfare in this country, without either knowing or regarding whether such persons were in any degree qualified for such offices was entirely done away".²⁶ In this policy the Governments received the hearty support of the Board of Control. Thus to Sir Archibald Campbell, Governor of Madras, who wanted to procure some one's appointment, and wished that Dundas would exert himself in his behalf, Dundas wrote that it would be better if he approached the Governor-General, for it was his (Dundas's) aim as much as possible to enforce the propriety of all appointments flowing from authorities on the spot rather than proceeding from influence at home.²⁷

The line thus taken by Dundas was followed by Castlereagh, who in reply to an aspirant wrote: "I must continue to think that the selection of proper persons to fill

26. Sir George Forrest, "Cornwallis", 11, p.181.

27. Furber, "Dundas", p.60.

offices of trust and responsibility abroad will always be best left for the good of the service in the hands of the persons placed by the Company at the head of their respective Governments, to whom alone the relative pretensions of their servants can be fully known, and by whom they can be most fairly appreciated".²⁸

It was on this principle that when the Court of Directors proceeded to annul certain appointments made in India, the Board of Control often interposed their authority and attempted to have them confirmed. Many such cases occurred during the Governorship of Campbell whose arrival in Madras in 1786 was followed by a number of irregular appointments. Thus he appointed a number of men as Practitioner-engineers and Surgeon-mates. But when these appointments came for confirmation before the Court of Directors, they refused to do so on the ground that the nominees had proceeded to India without the Company's licence, and secondly because the nomination to these posts was reserved for themselves.²⁹

The attitude which the Board adopted seems to be reasonable enough. They agreed with the Court that the power of making appointments in the first instance lay with them. In fact

28. "Home Miscellaneous", 504, p.83.

29. "Home Miscellaneous", 342, pp.517-19.

as recently as 1783 the Directors had written to the Madras Government: "In our letter of the 13th April 1774 we directed that no person should hold any appointment under the Company who was not regularly admitted into the service by the express authority of the Court of Directors".³⁰ But the Board insisted that it would be more proper if for the present these appointments were confirmed since otherwise the persons appointed seemed qualified, while a warning should be given for the future.³¹ As the Directors refused to alter their decision, the Board restored their paragraphs.

The Directors also strongly disapproved of the appointment of two persons, who were not in the Company's service, to the posts of Postmaster and his Deputy at Madras, and in this were supported by the Board of Control.

But though the Board were satisfied that nomination to such appointments as were intended to be made at home should be preserved to the Directors, they were equally opposed to the Court's interference in the matter of appointments placed at the disposal of their Governments abroad. "I told them" Dundas once wrote to Campbell, "that my opinion was and ever should be distinctly this, that while a Governor in India was

30. Madras Despatches, X, p.442.

31. "Letters from the Board to the Court", 1, pp.180-81.

permitted to remain in his situation, the appointment to offices should be left to him who was to be responsible for the measures to be carried into execution, and that the moment any other principle was acted upon, that moment responsibility ceased to rest with the Governor and reverted to the Court of Directors, which was in other words saying that it existed ³² nowhere "

It was to check this interference of the Court of Directors that Dundas decided to form a party at the India ³³ House which would support him. But only partial success seems to have been gained, for in 1793 the Board of Control found it necessary to define their attitude with sufficient accuracy: "We think it right to remind you that the leaving the selection to employments in India with your Governors on the spot has been considered by you of so much importance to the good of your service, that you have refrained in a great measure from controlling those appointments, except in very strong cases, or when persons were appointed to offices of a value superior to what their age or rank in the service admits. How far the appointments to which we have referred fall under any of these predicaments, we do not know. We merely mention the general principle, and it is your province to consider the

32. Quoted in Furber, "Dundas", p.58.

33. Ibid, p.60.

application of it to the particular instances in question".

The above account would show that though patronage was by law reserved to the Court of Directors only, the Board of Control exercised some influence over its operation. It would indeed be interesting to examine the directions in which they did so.

They exerted their influence in replacing a system under which public officials received low salaries and large perquisites by one in which they were paid adequate salaries but were allowed no irregular sources of income. It is well-known that this was the work of Lord Cornwallis, but it must be remembered that he was able to accomplish it only because he received the fullest co-operation of Dundas. Clive and Warren Hastings had both attempted to reform the civil service, but their efforts had been foiled by the penny-wise-pound-foolish economy of Leadenhall Street. Cornwallis, however, increased the salaries without consulting the Directors at all. "I hope", he wrote to Dundas, "you will approve of the additional allowances and the commission that we have given to the collectors, for without them it was absolutely impossible that an honest man could acquire the most moderate competency".

35
The sentiments of Cornwallis were echoed by the Board of Control. Often when a despatch arrived from the Court

34. "Madras Draft Despatches", IV, p.542.

35. Forrest, "Cornwallis", 1, p.25.

disallowing certain allowances granted by the local Governments, the Board so altered it as to express approbation. "The ^{general} ~~equal~~ policy", they wrote to the Court, "has been to give your several presidencies a liberal degree of discretion in fixing the salary they might think suitable to the importance or labor of the offices", and a few lines below in the same letter, "We are decisively of opinion that if fair and moderate representation from your Governments abroad in favour of your servants employed under them are not to be sanctioned at home, you cannot expect your service to be carried on with zeal and energy".³⁶ Indeed, the Directors were so ruthless in applying the pruning knife that they did not scruple to disallow such paltry allowances as forty pagodas per month.³⁷

But it must be emphasized that such cases always produced friction between the Directors and the Board. The former claimed that they alone had authority over the question of appointments and allowances, while the latter denied that the Court had an exclusive right to determine whether an office should exist or to settle its allowances.³⁸

The Board also cooperated with the Governor-General in putting an end to jobbing which was one of the most serious evils from which the administration in India suffered.³⁹ Many

36. "Letters from the Board to the Court", 1, p.190.

37. "Home Miscellaneous", 342, p.537. Pagoda = Rs 3½

38. *Ibid*, p.165.

39. Cf. various letters of Cornwallis in his "Correspondence".

adventurers made their way to that country in the confident belief that they would find employment. But the number of jobs was limited, and when they failed, they became a source of considerable embarrassment to the Government. It was with that view that when in 1785 the Board noticed that the Company had granted permission to numerous persons to proceed to India as Free Mariners, they urged the expediency of ordering the presidencies to report on the situation and employment of those already in India. How strongly Dundas felt on the matter is clear from a letter of his to Sir Archibald Campbell in which he complained of the latter's leniency to office-hunters.⁴⁰

Besides, the Board attempted to minimise the severity with which the Directors were prone to visit their servants who had incurred their displeasure. Thus when they decided in 1786 to dismiss the Hon'ble Mr. Basil Cochran, a member of the Madras Board of Revenue, on suspicion of peculation, the Board observed that while they had no power to interfere, "If we had been to exercise any judgment of our own in the business, we should have been of opinion that a suspension till the issue of the trial would have been a measure more consonant to the ideas of British justice, than a dismissal immediately antecedent to a trial".⁴¹ And again when in 1807 the Directors proceeded to dismiss the Chief Secretary and the Accountant-General of Madras, the Board,

40. Furber, "Dundas", p.59.

41. "Madras Draft Despatches", V, p.176.

while observing that there was a *prima facie* case for their dismissal ordered that a full enquiry into their conduct should be held first.

So also they attempted to introduce into the despatches of the Court a tone of dignified restraint. Sir William Foster tells us that there lingered a tradition at the India House of 'taking a high tone' in writing to the Governments abroad. That had now to disappear. Thus when in 1787 the Directors wrote to the Government of Fort St. George calling them to account for altering the destination of a ship, accusing them of having done so for private ends, and threatening to hold them personally responsible for the act, the Board made the following pungent observations: "We have very frequently observed that menace in your former correspondence with your servants, but have not met with any instance of its being carried into effect. It is not to be supposed that your principal servants in India can be less informed than yourselves of the provisions and ordinary operations of the existing statutes; and we are clearly of opinion that the powers of law should not be held out to terrify, where there can either be a doubt of their application, or a serious intention to apply them".

42. *Ibid*, XIII, letter dated March 16.

43. Foster, East India House, p.87.

44. "Madras Draft Despatches", 11, pp.170-71.

If they occasionally interfered with the Court's despatches, the Board explained in another place, it was not to prevent them from expressing censure on officers, where it was deserved, but "because we would have even censure conveyed in terms suited to your own dignity, as representing the executive authority of Great Britain in its Indian possessions, and the elevated situation of those you address".⁴⁵

The Directors, however, were not pleased with this interference. They claimed that the power of dismissal being solely reserved to them, they had an unrestricted right to censure in the way they liked, and on several occasions when the Board altered the tone of their despatches, they even threatened to recall the offending servants altogether.⁴⁶

It has been pointed out that the Board of Control were in favour of the Governments abroad being invested with considerable authority in the matter of allowances and appointments. But they were of opinion that the power of dismissal must be exercised by the Court of Directors, since it was possible that their motives might not be always wholly disinterested.⁴⁷

From a consideration of the appointments made in India to that of the members of Councils is an easy transition.

45. Ibid, p.173.

46. Compare Colonel Ross's case, "Madras Draft Despatches, 1, pp.210-20.

47. Major Brown's case, "Home Miscellaneous", 342.

Their nomination was by law reserved to the Court of Directors. But Dundas took care to ask the Governors to furnish him with confidential information respecting the likely aspirants, so that if occasion arose, he might exert his influence on the Court of Directors. He wrote to Cornwallis in 1787, "It will readily occur to you how important it is for me to be privately informed by you of the characters of the servants in the different situations at Calcutta, who may have to aspire to the situations of seats in the Supreme Council, and other important situations; for in so far as any appointments are to be made at home, you may believe I wish to be guided in any interference I may take in them by your opinions" Though Cornwallis accepted this piece of advice, and indeed adopted the practice of recommending certain names to the Board of Control with a view to procure their nomination, this collaboration does not appear to have borne much fruit. In subsequent years Cornwallis had reason to protest vigorously against certain nominations which the Directors had succeeded in making, and when the terms of the Charter of 1793 were discussed, it is remarkable that he recommended that the power of appointing members of Councils should be assumed by the

48. "Cornwallis Correspondence", I, p.293.

49. Forrest, "Cornwallis", II, pp.184-85.

50. Cf. Cornwallis to Dundas, March 4, 1792, "Cornwallis Correspondence", II.

Crown. Furthermore, the absence of any disputes between the Board of Control and the Court of Directors in this sphere also suggests that the Directors were allowed a free hand here. But perhaps the position of the President of the Board armed with confidential information was not without some restraining influence.

If the members of Councils were appointed by the Court of Directors, the Governor-General, ~~General~~, Governors and Commanders-in-Chief were in reality the nominees of the Board of Control, though formally appointed by a resolution of the Court of Directors. With the passing of the Act of 1784 the initiative in this sphere passed over to the Board. Though in certain cases the Directors may have suggested the names of persons whom they desired to see appointed, the more usual practice seems to have been for the President to offer certain names from whom the selection was to be made, or possibly only one name. Doubtless, it was at one of the informal meetings between the Chairs and the President that the question was first mooted, and the attitude of the Directors generally towards a person or persons whom the President or rather the Cabinet had in mind, ascertained. The Directors usually had the good sense, unless the person suggested was

51. "Cornwallis Correspondence", 11, pp.13-20.

wholly obnoxious to them to give way to the wishes of the Board after some show of resistance. In short after 1784 there is no case on record in which anyone was appointed by the Directors against the wishes of the Board, while the one solitary instance in which they went to the length of rejecting a candidate, whom the Board had set their hearts upon, relates to the proposed nomination of Lauderdale.

A detailed account of the appointment of the various Governors-General, and Governors, with a view to illustrate the principles on which those appointments were made, or to bring out cases of friction between the Directors and the Board, will be presently given, but a word might be said here about the Commanders-in-Chief. None of the Company's servants was ever allowed to be elevated to that post, and when in 1814 the Directors attempted to set aside the convention by appointing Lieutenant-General Roberts as Commander-in-Chief of the Bombay Presidency, the Board of Control withheld their sanction, and forced them to accept their own nominee instead. ⁵² Another interesting fact about them may be also noticed. Some of them are found acting as provisional Governor-General or Governor. This was due to the policy of Dundas, who thought that if any other member of Council were appointed, he would feel a sense of heart-burning when the permanent incumbent of the post

52. "Letter-Books of the Board of Control", III, p.238.

arrived, whereas under the Act a Commander-in-Chief could not
 53
 ordinarily hope to get the post.

When the scene opens, Warren Hastings is the Governor-General of Bengal. But Dundas, though he was fully aware of the splendid talents of Hastings, was convinced that he was not the man to carry out into effect those retrahments which were absolutely necessary for the salvation of India. On the other hand he thought that Lord Macartney, at the time Governor of Madras, was just the man for the job. He, therefore, decided to supplant Hastings by Macartney. But in this project he was opposed on the one hand by the Directors with whom Hastings had considerable influence, and on the other by Lord Thurlow, one of the Ministers, who entertained great admiration for him. A letter of Dundas written to W.W. Grenville, one of the members of the Board of Control, reveals vividly the desperation to which he was driven: "We are appointed to control the civil and military affairs of India; at the head of the first will remain Mr. Hastings. That you may depend upon. What is still worse, at the head of the second will be General Sloper Join to this a determined faction at the India House operating against us; and to conclude all the most obstinate part of His Majesty's Ministers respectively countenancing the heads of faction both at home and in India

53. Cf his letter to the Court, dated October 3, 1797, "Letters from the Board to the Court", 1, p.451. Instances are Generals Clarke and Harris.

I wish you in some other situation, where your talents and integrity may do some good to the public. I wish myself again at the Bar, where, if I can do no good to the public, I will at least escape the disgrace which, if I remain where I now am, I am positive awaits me".

The difficulty was however solved by the voluntary resignation of Hastings. The Court of Directors too nominated Macartney, but only by the casting of lots, as voting on his name had resulted in equality.

When the despatch bearing his nomination arrived in India, Macartney had resigned his office at Madras, and was in Bengal on his way to England. Instead of accepting the new offer at once, he decided to come home as he wanted to retrieve his health and to confer with the Home Government on the subject of certain reforms which he considered necessary. The negotiations which took place between him and the Board of Control finally broke down on his insistence on a British peerage as a preliminary step to his assumption of office.⁵⁵ Lord Cornwallis was then appointed as the new Governor-General and Commander-in-Chief with the goodwill both of the Board of Control and the Court of Directors.

But the resignation of Macartney from the Government of Madras was attended by circumstances which must at this stage be

54. Reports of the Historical MSS. Commission: MSS. Preserved at Dropmore, 1, pp.240-41.

55. Barrow, Life of Macartney, 1, pp.330-31.

related. Before Macartney actually resigned, he intimated to the Directors his desire to do so on the ground of ill-health. The Directors, thereupon, proceeded to appoint John Hollend a senior Madras civil servant as his Provisional Successor.⁵⁶ But when this nomination came before the Board of Control, they raised certain objections, the principal of which was, that Hollend was a creditor of the Nawab of Arcot, and therefore unfit. "We wish to enforce to the Court of Directors", they observed, "the propriety in every appointment not only of avoiding blameable appointments, but such as may be open to plausible misrepresentation and to choose such persons as may not only be above the commission of any crime, but exempted from the smallest suspicion of being exposed to any interested or improper bias in the execution of the trusts reposed in them".⁵⁷ The Directors, however, adhered to their choice, and declared that the Board of Control had in the matter of appointments no power to interfere, but they generously made allowance for the Board's mistake: "It can scarce be thought extraordinary if the exact boundaries of our respective functions

56. Provision was made in the Act of 1784 for the appointment of Provisional Governor-General, Governors, Commanders-in-Chief and members of Councils, i.e. persons who would later assume office. It was called 'provisional' because it could be later set aside if necessary.

57. "Madras Draft Despatches", 1, p.87.

and duties should not both at once on either side be precisely
 and familiarly understood".
 58

In the dispute the Board of Control won. Holland
 59
 was induced to resign on the plea of ill-health, and Sir
 Archibald Campbell, a personal friend of Dundas, was appointed
 substantive Governor. But very soon a post was found for
 Holland. The Act of 1784 had restricted the appointment of
 members of Councils to the Company's servants in India. As
 Holland was at the time in England, he could not have been
 appointed to the post. So the Act was amended in 1786 and
 this technical objection swept away with the result that he
 took his seat on the Madras Council in July 1787.

On the resignation of Campbell two years later, he,
 being senior member of Council, assumed the Government when he
 embarked on proceedings which constitute a grave scandal in
 public administration, and offer a complete vindication of the
 objection which the Board of Control had taken to his original
 appointment. It is unnecessary to detail them here except to
 mention that they were chiefly due to his position as a creditor
 of the Nawab, and that when legal proceedings were begun against
 him in England, the total number of charges exceeded fifty.
 60

58. *Ibid*, pp.106-7.

59. *Madras Despatches*, XI, p.765.

60. "Home Miscellaneous". 367, pp.156-57.

He remained Governor exactly for one year, when he suddenly quitted the Government, and came back to England.

In his letter to Cornwallis, a senior Madras official suggested that the fact that no successor was appointed to Campbell until after his arrival in England was evidence of the fact that Holland had considerable influence with the Directors,⁶¹ and this suggestion seems to be well-founded. It was in the beginning of 1789 that Campbell made his departure, and it was exactly then that Dundas proposed a transfer of General William Meadows from the Governorship of Bombay to that of Madras, but the Directors stubbornly refused it on the pretext that they did not want another military man for Madras.⁶²

Looked at from this angle, the significance of the attempt of the Court to appoint Holland as Provisional Successor is clear as crystal. It is remarkable that when in 1781 Macartney had been nominated Governor, it was because another candidate had been considered unfit owing to his being a creditor of the Nawab.⁶³ Further, if Macartney had expressed an intention to resign, why not appoint a

61. Ibid, 368, p.302.

62. Fuber, "Dundas", p.126.

63. Barrow, Life of Macartney, 1, p.70.

regular Governor at once? The attempt of the Court to appoint Holland as an immediate Governor under the screen of Provisional Successor could only have been due to their desire to prevent at the hands of the Board of Control much consideration being given to the appointment.

Ultimately, Dundas succeeded in forcing the Directors to appoint Meadows as Governor of Madras. In actual fact before Meadows had set sail for India, he had been promised the reversion of Madras, and even of the Governor-Generalship — perhaps the only case on record where it was intended that a man should successively fill the three highest posts in India. It appears that Dundas apprehended some opposition from the Directors to this project, for he had written to Cornwallis in 1787, that if they proved refractory, "they must in some way or other be induced to a compliance, for it is an object in which we cannot admit of ⁶⁴ false delicacy".

In due course, Meadows received the formal offer to succeed Cornwallis, but he declined. ⁶⁵ His refusal seems to have given some anxious thought to Dundas, for Cornwallis was eager to return home in 1793. For a time he entertained the

64. "Home Miscellaneous", 389, pp. 85-86.

65. Kay, Lives of Indian Officers, 1, p.109.

idea of going out to India himself, but later selected Sir John Shore for the office. The able Minutes of Shore which had attracted the attention of Dundas while considering the question of the Permanent Settlement had highly impressed him, while we might take it that the Directors always eager to push the claims of their civil servants, had no objection to his acceptance.

when Shore was given a difficult man to deal with/in the following year Hobart was appointed Governor of Madras. Though a man of undoubted talents, he possessed great violence of temper, and came into conflict with the Governor-General over several questions, notably the policy to be pursued towards the Nawab of Arcot. Their differences were certainly due to divergence of principles, but it is difficult to avoid the impression that they were aggravated by mutual jealousy. Hobart had been promised on his appointment succession in Bengal, and this was the usual policy of the Board of Control. The idea was no doubt to allow the prospective Governor-General some preparation, but it inevitably produced disharmony between him and the actual Governor-General. Further, this policy made the position of the members of the Governor General's Council 66 most unenviable. Could they afford to incur the

66. Cf. Shore to Grant, "Life of Teignmouth", 1, p.374.

displeasure of their future head? An additional consideration may be also noted. If a public man were appointed to the subordinate Government of Madras, and a Company's civil servant to the Supreme Government, there was danger of the former paying imperfect allegiance to the latter. But it must be stated in fairness to the Board^s of Control that they rarely departed from their rule of not appointing civil servants at the head of Governments.

If the appointment of Hobart proved unfortunate, that of Jonathan Duncan in 1794 as Governor of Bombay proved to be well considered. Duncan was a civil servant, and it is noteworthy that, though Cornwallis was in general opposed to the civil servants being appointed Governors, he gave his hearty support to his nomination. The circumstances of his

67. Though while in Opposition Dundas argued that they should, (see the debate in the House of Lords, July 8, 1806) his own conduct while in office was a refutation of it. In his time the number of Governors-General and Governors who were appointed was sixteen, yet out of these only three were civilians. The same practice was followed by Castlereagh, who stated that "as a general principle, it is certainly in many views desirable that the Supreme Government should not be in the hands of a Company's servant", see "Home Miscellaneous", 504, p.138. The question is well discussed in Curzon, "British Government in India", 11, p.58.

68. Duncan was in fact a favourite with Cornwallis, who impressed by his abilities had appointed him Resident at Benares in 1788 in which position he had fully lived up to his expectations. See Buckland, Dictionary of Indian Biography, p.126.

appointment are clearly set forth in a letter of Cornwallis to Sir John Shore: "Mr. Dundas just mentioned to me, on my arrival in England, his intention that Duncan should be Governor of Bombay, and you will easily conceive that, knowing as I did the importance of a good Government in our new acquisitions on the Malabar Coast, I warmly encouraged and cultivated this favourable disposition in the Board of Control. A party, however, in the Court of Directors have hitherto contrived to defeat Mr. Dundas's plan; wishing I suppose to get a Governor who would be more attentive to their private recommendations and jobs than to the measures that would be most likely to promote and secure the happiness of the inhabitants, and the permanent interest of the Company, and of Great Britain. Mr. Dundas declares that if any person should be appointed (for they talked of Seton) he will positively recall him: so that I suppose in the end Duncan will prevail".⁶⁹

Cornwallis's prediction came true. Duncan assumed the Government in 1795, and held the post for the unprecedented period of sixteen years.

In 1797 Lord Mornington (Wellesley) a great friend of Pitt, and a member of the Board of Control, was nominated as successor to Shore. His relations with the Court of Directors

69. "Life of Teignmouth", 1, p.300-2.

will be related in a later chapter. But here it might be mentioned that Wellesley felt so dissatisfied with their conduct that he sent in his resignation in 1802. Castlereagh, however, was of opinion that his presence in India was still necessary, and finally succeeded in persuading the Directors to write to him requesting him to stay till January 1804.

If the Board of Control thus saved Wellesley, they were unable to prevent the resignation of Lord Clive (son of Riber Clive) who had succeeded Hobart in 1799, and had incurred the displeasure of the Directors by yielding unflinching loyalty to Wellesley. Clive before his departure recorded in the proceedings of the Government a letter in which he "indulged himself in the most unbecoming invectives" against the Court of Directors. He roundly declared them to be unfit to rule, and charged them with having taken away from him all power of directing the Government. This letter naturally gave great offence to that august body who wrote back a despatch severely criticising his conduct. The Board of Control approved the despatch, and perhaps to save their face, even wrote some words of commendation to the Court: "They cannot hesitate in repressing with firmness and decision any disposition in the servants of the Company under any

circumstances to fail in the respect which they owe to the
 Government at home".⁷⁰

It was the intention of Castlereagh that C.P. Yorke, a distinguished public man, should be the new Governor, and that on Wellesley's resignation, he should assume the Governor-Generalship. "We hope", he wrote to Wellesley, "to send him to Madras in the first instance, which will be an useful preparation".⁷¹ Yorke, however, on account of certain domestic difficulties, declined the offer, and eventually Lord Bentinck was appointed. To his nomination there had been originally "considerable indisposition"⁷² in the Court of Directors, but at last the President had succeeded in pushing him through.

Bentinck was appointed only to be recalled by the Directors in 1806. This was due to their belief that he had bungled the situation arising out of the well-known Mutiny of Vellore which took place in the previous year. It is not intended here to enquire whether the recall was justified, though it might be mentioned in passing that historians have held

70. Madras Draft Despatches, X, p.21.

71. "Home Miscellaneous", 504, p.6.

72. *Ibid*, p.22.

opposite opinions on the point. What is interesting from our point of view is the whimsical statement of Courtenay before the Select Committee of 1832 - doubtless in allusion to Bentinck - that it sometimes happened that the Court having for reasons assigned recalled a Governor, the Board converted those reasons which, of course, were criminatory into paragraphs commendatory or at least excusatory; the despatch nevertheless necessarily terminating in the recall of the individual.

From the facts of the case, however, it appears that Courtenay's suggestion was completely without foundation. What occurred was this. In the despatch recalling Bentinck, the Directors wrote: "Resolved that altho' the zeal and integrity of the present Governor of Madras, Lord William Bentinck, are deserving of the Court's approbation, yet when they consider the unhappy events which have lately taken place at Vellore and also other parts of His Lordship's administration, which have come before them, the Court are of opinion that it is expedient for the restoration of confidence in the Company's Government, that Lord William Bentinck should be removed, and he is hereby removed accordingly".

For the above, the Board substituted, "Though the zeal and integrity of our present Governor of Madras, Lord

73. E.g. Cf. Mill and Marshall, VII, p.145 and 11, p.211 respectively.

William Bentinck, are deserving of our approbation, yet being of opinion that circumstances which have recently come under our consideration render it expedient for the interest of our service that a new arrangement of our Government of Fort St. George should take place without delay, we have felt ourselves under the necessity of determining that his Lordship should be removed, and we do hereby direct that Lord William Bentinck should be removed accordingly".⁷⁴

It will be noticed that the Board's draft differed from the original in two respects. Firstly, it substituted the narrative form in place of that of resolution. From the first the Board had insisted that while writing to India, the Directors should not use that form, for it precluded any alterations which the Board might feel called upon to make. Secondly, the language of the Board was more cautious. They were of opinion that it was best on the present occasion to confine the paragraph, to the simple notification of the fact of Bentinck's removal, leaving any expression of censure to depend on future investigation. But beyond this, the Board did not tamper with the language of the Court.

74. "Madras Draft Despatches", XIII.

It has been noticed that Castlereagh wanted Yorke to succeed Wellesley. On his refusal, he appointed Sir George Barlow, a member of the Supreme Council, as his successor. This was in accordance with the wishes of Wellesley. ⁷⁵ But before Wellesley actually resigned, the nomination of Barlow was quashed by the subsequent appointment of Lord Cornwallis. This step was due to the fact that both the Board of Control, and the Court of Directors felt that the policy of Wellesley with which Barlow had been associated had proved too spirited and costly, and that none but Cornwallis could set matters right.

When therefore, Wellesley resigned in 1805, it was not to Barlow that he handed over the reins of office but to Cornwallis. The new Governor-General, however, died after a brief stay of two months. His death provides the starting point of one of the most bewildering chapters in the history of the relations between the Board of Control and the Court of Directors. The Board advise the nomination of Barlow who is immediately appointed by the Directors Governor-General. Three weeks later, the Board ask the Directors to consider the nomination of a new Governor-General. This is resisted by the Court of Directors, until the Board force the issue by the proposal of the name of

75. Martin, Wellesley's Despatches, V, p.427.

Lord Lauderdale. To his acceptance the Directors offer the most stout resistance, and a deadlock occurs, which is relieved finally by the President of the Board offering himself for the post.

The controversy might be considered now in greater detail.

Castlereagh resigned his office on 11th February 1806, when the Government fell. Lord Minto who succeeded him wrote a letter to the Chairs on 14th in which he recommended the appointment of Barlow, who had, on Cornwallis's death, become the Acting Governor-General. But he added: "Sir George Barlow will, I am persuaded, himself be sensible that an arrangement which is prompted by the exigency of a particular moment, in the first days of a new Administration, cannot be adopted on such reflection as is due to a fixed and established measure, and that the future and permanent settlement of the Government in Bengal in which, however, at the present moment no change is in contemplation must necessarily be reserved for the more deliberate consideration of His Majesty's servants".⁷⁶

It is thus clear that Barlow's nomination was meant to be temporary, but when three weeks later, Minto invited the Chairs to discuss with him the question of a substantive Director

76. "Home Miscellaneous", 506, pp.218-9.

Governor, to his surprise, they declared that when the name of Barlow was proposed, neither they nor the Court of Directors understood that any immediate change in the Government was intended. Further they proceeded to show reasons why Barlow should be continued in office, one of which was, that as the negotiations begun by Cornwallis with the Indian States were still proceeding, a person with previous knowledge of affairs was better qualified than a stranger. Another reason which the Chairs mentioned in all seriousness was that if Barlow was superseded, he might take offence, and resign from the service, which would raise the inconvenient question of granting him a gratuity, he being "so much a public man that after a service of twenty-six years, his fortune is understood to be very trifling,⁷⁷ and he has a large family". As if anticipating a controversy with the Board over the question under discussion, they characteristically entered into a homily over the happy relations which had prevailed in the past bwteeen the Directors and the Board in the matter of appointments.

Minto denied that the appointment of Barlow was meant to be anything but temporary but he invited the Chairs to meet himself and Grenville, the Prime Minister. As a result of this conference, the Board consented to give some time to the Directors to reconsider their decision.

77. Ibid, p.233.

Two months passed and the attitude of the Directors was unchanged. Thereupon the Board forced the issue by requesting the Chairman to bring the question of a new Governor-General before the forthcoming meeting of the Court of Directors, and recommended Lord Lauderdale to their "candid ⁷⁸ consideration and cheerful acceptance".

As a preliminary measure, a motion was moved in the Court of Directors for the revocation of Barlow's commission, ⁷⁹ but was defeated by 18 to 4. The Ministers thereupon advised the King to exercise the power of recall vested in him by law and on 28th May the King's Warrant cancelling Barlow's commission was published.

Among the several reasons assigned for this step by Lord Minto one is of special significance and deserves to be quoted in full: "His Majesty's Ministers are intimately persuaded both as applicable in times of difficulty and crisis that it is expedient for the due administration of India, that the person entrusted with the extensive powers belonging to that distant Government should be one who possesses the cordial confidence of Government at home; they think also that rank, weight, and consideration in the Metropolitan country must add

78. "Home Miscellaneous", 506, pp.261-63.

79. Morris, "Life of Grant", p.265.

much to the authority and the efficiency of those who
 administer great and remote provinces".
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To this the Directors replied: "Should every succeeding Administration use the same argument, it might hence follow that the Governor-General would be changed with every change of Administration, a practice that might be highly prejudicial to the public interest, for it would be to consider him as so belonging to any party in the State as to be liable either to be attacked or defended on that account, and his Administration is likely to be most unexceptionable, when he has to look for
 81 support only to the merits of it".

It might be mentioned in parenthesis that in recent years it is the principle of the Directors which has found the fullest acceptance.

The Directors also took strong exception to the exercise of the power of recall in the above case. They were of opinion that it was to be exercised where there had been an abuse of patronage, as where a person had been appointed who was incompetent, or when appointed had proved guilty of misconduct.

Though the Ministers had succeeded in revoking Barlow's appointment, they found it impossible to make headway with the proposal of Lauderdale. The Directors simply would not have him.

80. "Home Miscellaneous", 506, p.312.

81. "Home Miscellaneous" 506, pp.343-44.

Lauderdale had been a supporter of Fox's India Bill, and the revolutionary opinions which he had avowed during the French Revolution had made him a suspect. ⁸² He proved tactless also, and when recommended by the Ministers took his appointment for granted, thus treating the power of the Directors with unusual levity. ⁸³ At length a deputation from the Directors distinctly told the Board that if his name was formally proposed, there was a possibility of its rejection.

The Cabinet was divided as to what methods to pursue. Fox, who was the Foreign Secretary in the Government, and whose nominee in fact Lauderdale was, was of opinion that the Government should abandon the right of nomination altogether rather than make a new offer in deference to the wishes of the Court. Grenville was not willing to be so supercilious. "In the relations between Government and the Company fixed by the existing laws", he wrote to Fox, "it is undeniable that the Directors ought to have at least a negative on the choice of a ⁸⁴ Governor-General".

Finally, Lauderdale withdrew his claims so as not to perturb Fox any longer, who was lying seriously ill, and the name of Minto was now proposed. By a resolution of the Court of Directors he was appointed Governor-General on 9th July 1806. ⁸⁵

82. "Dictionary of National Biography" XXXV, p.355-57 (1893).

83. Farington, "Diary", 11, p.252.

84. "MSS Preserved at Dropmore", VIII, pp.197-200.

85. "Court Book", 115, p.437.

As has been mentioned, the appointment of Barlow was from the first meant to be temporary only, and there is no foundation for the belief that in this affair the Board of Control showed a sudden change of mind.⁸⁶ The letter of Minto in which he made the proposal is clear enough on the point, although it may be allowed that the language was rather unfortunate. Minto mentioned that the appointment was to be provisional only but immediately followed it up by saying that no immediate change in the Government of Bengal was contemplated. It appears, however, that for this ambiguity the Chairs, who later made out that the Board of Control had altered their mind, were themselves to blame. The original words of Minto's letter were that "the future and permanent settlement of the Government in Bengal must necessarily be reserved for the more deliberate consideration of His Majesty's servants". But the Chairs to whom the letter was first informally shown suggested that there being rumours that a change in the personnel of the Bengal Council was intended, occasion might be taken to set them at rest. Thereupon Minto inserted the words "in which, however, at the present moment no change is in contemplation". Thus these words referred not to the Governor-General, but the members of the Council.⁸⁷

86. Cf. P.E. Roberts in his "Historical Geography of India", Pt. I, p.267.

87. Cf. the letters of the Chairs to the Court of Directors dated 11th and 16th June 1806, "Home Miscellaneous", 506, Pp.399-428.

A letter of Minto written to Barlow at exactly the same time as his communication to the Chairs also shows beyond a doubt that the latter's elevation was temporary only. Further, Sir Francis Baring, himself a director, stated in a subsequent letter to the Court of Directors that at the time when Barlow's name was proposed, he heard that "the appointment was provisional only until the Ministers could make up their ⁸⁸ mind whom to recommend". In fact Baring took the Chairs to task for not mentioning this fact to the Court of Directors when they formally proposed his name. The Annual Register for 1806 also supports this view.

One question might, however, arise. If Barlow was already Acting Governor-General, why appoint him a regular Governor-General, unless it was intended to appoint him permanently. The explanation offered by Minto and which sounds convincing is that Barlow was at the time engaged in carrying on important negotiations with the Indian States, for whose validity it was necessary that he should be invested with the formal title of Governor-General. That was a step ⁸⁹ indeed urged strongly by Lord Wellesley.

In view of this evidence, it is impossible to acquit the Chairs of a charge of insincerity in attributing to the

88. *Ibid*, p.386

89. "MSS. Preserved at Dropmore", VII, p.7.

Board of Control a change of mind. Their motives for this can be surmised with a fair degree of accuracy. Perhaps they did not forget that Fox was the author of a Bill which should have annihilated their power altogether. They might have feared that if Barlow was set aside, the new Governor-General to be appointed by the Board would be asked to follow a more militant policy than was being done at the moment. Or perhaps they were anxious to reclaim the power of nominations which during the regime of Dundas and Castlereagh had been taken away from them. "Their intention is" wrote Grenville to Fox, "to resume for themselves, and win for the Court of Proprietors that share of the political government of India, which it was the opinion of all parties in 1784 to take from them".⁹⁰

It should be also noted that though when the name of Lauderdale was mentioned, the Directors made no disguise of their feelings towards him, he was not the original ground of dispute between the Directors and the Board of Control. His name was only mentioned at a subsequent stage of the controversy.

To revert. Minto, who had chivalrously offered himself to heal the breach between the Directors and the Board, became in turn the subject of invidious recall at the end of 1812. The Board of Control who had recently changed hands, acting under pressure from the Regent, forced the Court of Directors to

90. Ibid, VIII, p.144.

nominate Lord Moira as the new Governor-General. No reasons for this step were assigned, although a letter from Minto's son in which he intimated his father's wish to resign as late as January 1814 was read at the meeting of the Court, and made the ostensible ground of an immediate appointment.
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Adverting

~~Adverting~~ to this incident, Charles Grant, one of the directors, expressed his strong disapproval and wrote to Minto: "I think the great office of Governor-General of India ought not to come within the vortex of the Ministerial system at home, or be liable to be affected by the fluctuations of power from one party to another; and that no Governor-General should be removed abruptly, and contrary to his wish, without the
 92 assignment of an adequate reason".

Moira (Lord Hastings) remained in office from 1813 to 1823.

It should be clear from the foregoing account that the nomination of the heads of Governments was usually accompanied by friction between the Board and the Directors. This was due directly to the system of Dual Government. In theory the power belonged to the Court of Directors, yet in

91. "Court-Book" 120A, pp.917-19.

92. Morris, "Life of Grant", pp.311-12.

practice the Board attempted to dictate their will. The result was that in certain cases the Directors were unwilling to be coerced. The Lauderdale episode showed that this resistance of the Directors could be carried to inconvenient lengths. Hence by the Act of 1813 their power was curtailed, and it was laid down that no Governor-General, Governor, or Commander-in-Chief was to be appointed without the approval of the Crown.

C H A P T E R I V.

T H E A R M Y.

The way in which the East India Company had without premeditation become a ruling power in India was evident from the nature of their military organisation. The army was ill-recruited and ill-paid and subject to such regulations as were calculated to check efficiency and damp the ardour of the soldiers. Each presidency had a separate army with its own system of pay and allowances, the result being the production of provincial jealousies. All these grievances went to undermine discipline which took the form sometimes of open rebellion against the State.

The first establishment of the Company's army may be said to date from 1748. Of course, from the beginning the Company did employ some persons to protect their factories but they were properly speaking chowkiders rather than soldiers. Nor must it be forgotten that when Bombay was acquired from Charles II in 1668 most of the garrison took service under the Company.¹ But it was only in 1748 when an appreciable number of men were raised at Madras to meet the menace of the French. They consisted of Indian sepoys and a small number of Europeans,

1. "The Army in India and its Evolution" (1924) p.3.

most of whom were ^{sailors} ~~soldiers~~ obtained from the coast, or men who had been brought in from England by the ~~crimps~~²

The army thus formed was commanded by Major Lawrence who received his commission from the Company. The example of Madras was soon copied by Bengal where Clive following the Battle of Plassey raised a separate establishment for that presidency. The basis being thus laid, the army continued to grow.

But apart from the Company's army, there was also a small force of His Majesty which had found its way to India. The first regiment was the 39th Foot which reached Madras as early as 1754, took part in the relief of Calcutta two years later, and also participated in the victory of Plassey. The date is significant, because though it was only in 1773 when Parliament for the first time interfered in the government of India, and even then without claiming any right over the Company's possessions in India, it was felt from the moment that the Company acquired a political position that in its maintenance Great Britain was interested.

Though this regiment was soon afterwards broken up, in 1758 several new regiments arrived at Madras being part of the general scheme of the elder Pitt to meet the French in all

2. Sir George Chesney, "Indian Polity" (1894).

parts of the Globe. In 1759 one of these regiments was transferred to Bengal and Eyre Coote, the officer-commanding, was appointed by the Company their Commander-in-Chief in India. This fact is again significant as showing that over the joint forces - the Company's and the King's - the command was vested not in an officer belonging to the Company's service, but to the King's.

The existence of two armies each drawing its authority from a different source, and having a distinct set of regulations by which promotions were regulated and discipline maintained yet serving as a common whole out of which officers were selected for garrison or field duty could not but be productive of considerable evil. That this was so is abundantly clear, but the wonder is how such a system worked at all. Perhaps the explanation is to be found in the nature of the local authority under which the army was to act. All appointments were made by the Governor of the presidency on the recommendation of the local Commander-in-Chief. As the former was a servant of the Company, while the latter invariably an officer of the King's, a system of mutual checks was thus provided.

But above all, there was one element which was particularly vicious. This was the regular supersession of the Company's officers by the King's. When the 39th Fort came to

India, it was agreed between the Directors and the British Government that the officers of the King's army should take precedence over those of the Company of the same grade.³ How vexatious this would be to the Company's officers is obvious, and the evil was further aggravated by the practice followed in the royal army of granting local rank to many of the senior officers. Thus a Lieutenant-Colonel of the royal army would receive the rank of Colonel and thus step over the Company's Lieutenant-Colonel.

The existence of the royal troops besides imperilled the authority of the executive. The officers of this force claimed to derive their authority and be responsible to His Majesty, and on their part there was a clear tendency to disobey the orders of the Governors who were but the nominees of a commercial body.

This fact might be illustrated by narrating at some length the occurrences at Madras which culminated in one of the earliest disputes between the Court of Directors and the Board of Control.

The position of the King's forces vis à vis the Company's Governments was admirably summed up by Sir Eyre Coote, then present in Madras, in a communication of February

1780 to Sir Thomas Rumbold, the Governor. He stated: "The President and Council of every settlement must certainly be the judges, when and how, the service of His Majesty's forces, either of fleet or army, appears to be necessary for their protection or defence, and immediately from themselves the requisition must come to the Admiral or myself. We are then to be the judges whether the circumstances so represented to us render it necessary to comply with the requisition, and for our conduct therein in granting or refusing it, we are answerable to His Majesty".⁴

When towards the end of 1780 hostilities broke out with Hyder 'Ali, the ruler of Mysore, the full implications of the above dangerous doctrine were realised. The efforts of Lord Macartney who succeeded to the Government in June 1781 to take measures against the Indian State were frustrated by the opposition offered by Sir Eyre Coote and Sir Edward Hughes, the ⁵ Admiral of the Fleet. The former demanded to be invested with

4. "Home Miscellaneous", 149, pp.472-73.

5. Hughes was as uncompromising as Coote. In 1782 he censured an officer for proposing to proceed with his ship to Bengal on the application of the Madras Government, and roundly declared that "neither the Governor-General and his Council, nor any other presidency of the Company shall meddle in the command of His Majesty's ships serving under me"; see H.C. Wyllly, "Sir Eyre Coote", p.327.

an absolute command over all the forces acting under the authority of the Madras Government, and received the countenance of the Governor-General, and Council. But the Madras Government refused, with the result that Coote who felt offended, proceeded to Bengal on the plea of ill-health.

He was succeeded by Major-General James Stuart, the senior officer in the royal army, who received the Company's commission as the Commander-in-Chief. Stuart took up the same attitude as his predecessor. About the time of his assumption of office, a grave situation arose. The Chief and Council of Masulipatam decided to make ~~Col~~loore the centre of military operations, and directed Colonel Jones, a King's officer who had been placed under their authority, to march to that place with his detachment. But the Colonel replied that he could not do so unless ordered by General Stuart. When the news arrived at Madras Lord Macartney who suspected that the Colonel's reply had been instigated by Stuart, declared that the authority to conduct all military operations which had been vested in the Company's representatives could not be separated from the authority over the troops which were to execute them. Accordingly he directed the General to send immediate orders to Colonel Jones to march to ~~Col~~loore, should the authorities at Masulipatam still consider this necessary.

Though Stuart complied, he maintained that there were circumstances in which the requisition of the Government could be refused by the officer commanding the King's troops, in which case he became answerable to His Majesty alone.⁶

It is unnecessary here to enumerate the various instances of Stuart's disobedience, except to point out that the Government felt compelled in September 1783 to take the decisive step of dismissing him from the Company's service. At the same time they appointed Major-General Sir John Burgoyne, the next senior officer in His Majesty's service, to take the command. This they did because the dismissal of Stuart from the Company's service in their view involved also the loss of his rank in the King's service, which could be valid only so long as he was in that service or else employed by the Company.

Though Burgoyne was saluted as the new Commander-in-Chief, he had doubts whether his elevation was legal, he being of opinion that while the Company could deprive Stuart of his command over their own troops, they could not do so with respect to the King's. Accordingly he went to interview the Governor and told him vaguely that if Stuart was guilty of

6. Barrow, "Life of Macartney", 1, pp.168-70.

great crimes, he should be secured when "I should know ~~about~~⁷ what to do", but as long as he was at large, he must obey him as his superior officer and follow the orders which he intended to issue.

The position thus was of great gravity. Here was a dismissed officer threatening to issue orders to a section of the army and that army willing to obey him. Macartney, therefore, wisely decided to order the arrest of Stuart, and thereby prevented a possible civil war.⁸

Following the arrest of Stuart, Burgoyne suspecting that the Government were about to appoint Colonel Ross Lang of the Company's service as the new Commander-in-Chief, told them that Stuart having been put under arrest and orders having been given to prevent the admission of any person to him or to permit him the use of pen, ink, and paper, he looked upon himself as the Commander of the King's forces, being now the senior officer. The implication of Burgoyne that Stuart ceased to be the head of the royal troops not by virtue of the Company's dismissal, but because of the physical impossibility of discharging his duties is interesting.

- 7. The full story of the part played by Burgoyne is told in his *Narrative addressed to Lord North*, see "Home Miscellaneous", 178, pp.315-56.
- 8. Cf. Colonel Pearse, an eye-witness to L. Darrell, September 26, 1783, "Bengal, Past and Present", Oct. - Dec, 1910, p.267.

The Government, however, promoted Colonel Lang to the rank of Lieutenant-General, and directed him to assume the command of the Army. His promotion was due to a desire to vest the command of the Company's troops as well as the King's in the same person, as had been the custom hitherto, and as there was no officer in the latter above the rank of Major-General, he became the senior officer in the entire army. ⁹

The measure, bold as it was, justified itself by results. Though Burgoyne with two or three others preferred to leave the camp rather than be commanded by Lang, the royal army paid him due obedience. But the promotion of Lang resulted in the supersession of six officers of the royal troops who had been previously his superiors.

When the proceedings of the Madras Government came for the consideration of the Court of Directors, they expressed in the strongest manner their disapproval of the powers claimed by General Stuart to command the royal forces

9. Cf. Macartney's explanation for this unusual promotion: "That the King's forces serving in India could only be regarded as auxiliaries; and that if the Government entrusted to him was deprived of all the officers senior to the King's the office of Commander-in-Chief must be filled by an officer on the Company's regular establishment, though only a subaltern promoted on the necessity of the moment" - quoted in a debate at the India House on May 5, 1797, "Home Miscellaneous", 454, pp. 33-4.

independently of the Madras Government to whom the law had committed the supreme authority in all matters civil, political, and military, in that presidency. They held that even if Stuart could claim military rank, he could not any military command except by virtue of a commission he held from the Company. They confirmed his dismissal, and hoped that it would operate as a grave warning to others.

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The despatch, however, underwent drastic revision at the hands of the Board of Control. They expunged all the paragraphs criticising the conduct of Stuart, and merely retained a bare mention of his dismissal. The reason, which they assigned for this alteration was highly curious. They stated that it was improper to discuss the conduct of a military officer except either to praise it or to censure it, and as the Directors had already exercised their fullest authority by dismissing General Syuart, any censure was

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unwarranted. The Directors warmly protested and urged that justice alike to the officer himself and to the authorities who dismissed him required that the reasons for his dismissal should be stated in full, but the Board remained adamant.

Nor did the promotion of Lang which the Directors confirmed find favour with the Ministers. The view of Lord Sydney was that the conduct of Sir John Burgoyne in refusing

10. "Madras Draft Despatches", 1, Draft dated October 1, 1784, paragraph 24.

11. Ibid, p.75.

in refusing the command when offered to him might have been erroneous, but the promotion of Lang over the heads of superior officers in the King's service could in no way be approved.¹² When therefore his confirmation came before the Board of Control, they set it aside on the grounds that his appointment was in contravention of the Act of 1784 which enjoined strict observance of the rule of seniority; that whatever expediency there had been for it at the time had now ceased to exist, and finally that there being no officer of the rank of Lieutenant-General in Bengal it would give rise to a highly embarrassing situation. But though the Board did not want that Lang should continue in office any longer, they were of opinion that he should be paid reasonable allowances for the time he acted in ¹³ that capacity.

It shoud appear that the arguments of the Board had considerable force. The appointment of Lang, though it was not technically a breach of the constitution, Section 42 being limited to appointments below Commanders-in-Chief, was no doubt against its spirit, although as a temporary measure fully justifiable. But if it was to be confirmed a curious situation

12. "Home Miscellaneous", 178, p.428.

13. "Madras Draft Despatches", 1, Draft dated October 1, 1784, Paragraph D.

must have arisen. For under the law the Commander-in-Chief in India was to be a member of the Governor-General's Council, which means that a subordinate officer should have held that superior position, while a superior officer, Lieutenant-General Lang, a subordinate one.

But the Directors remained unconvinced, or what is more probable, wanted to seize the present occasion for establishing the principle of the Commander-in-Chief being chosen from their own army. And they were informed by their own Council that the Board had no power to interfere with the appointment which was vested in them by law. ¹⁴ On a representation from them the Board readily acknowledged that Lang's appointment did not fall within their control, and restored the Court's paragraph confirming him.

But this confirmation was purely nominal. The orders to this effect were conveyed to the Madras Government by a despatch dated 9th December 1784. But another despatch drawn up on the following day informed them that it being necessary that the Commander-in-Chief should belong to His Majesty's service, they had appointed Lieutenant-General Sir John Dalling to that post. It was also felt that having regard to the circumstances under which Lang had been given the command, he

14. "Home Miscellaneous", 342, pp.305-6.

could not with propriety serve under any Commander-in-Chief.

He was consequently recalled but was offered a solacetary
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 annuity of £10,000 for life.

In the above episode the Board of Control had had
 their way.

Care was taken to prevent a repetition of the
 circumstances which had led to Lang's promotion. On the advice
 of Lord Sydney, Lieutenant-General Robert Sloper, who was about
 this time appointed Commander-in-Chief in India received a Letter
 of Service from the King "which will give effect and operation
 to his Commission of Lieutenant-General and entitle him to
 exercise the command appertaining to that rank among His
 Majesty's troops in the East Indies so long only as he shall
 continue in the service of the Company; and that when he
 shall cease to be in that employment, his right of commanding
 or serving with His Majesty's forces in the East Indies shall
 16
 likewise determine".

The incidents at Madras drew the attention of the
 Board of Control to the existing abuses in the military system
 of India. At the request of Lord Sydney, Sir George Young,
 the Secretary for War, prepared a memorandum on the subject.
 He pointed out that the relations between the civil and

15. "Madras Despatches", XI, p.561.

16. Ibid, p.541.

military authorities needed to be more strictly defined. The evil did not exist in India alone but similar occurrences had taken place in North America. The view of Young was that all orders issued to the troops in a presidency should come from the officer-commanding, but the latter himself was to receive his orders from the Government respecting the marching of troops or their disposition and the like. The Government, however, were not to interfere in any manner with details of regimental duty and discipline.

Another defect, Young stated, was the dangerous relaxation of discipline among the European troops on their arrival in India which tended to destroy their health and undermine their valour. They were dispersed over large and populous towns instead of being lodged in barracks where proper supervision could be imposed. Besides, the existing system under which the store-keeper and the officers shared in the profits of commodities sold, apart from being highly expensive led to the bad quality of articles supplied which resulted in fearful mortality. Finally, Young insisted on the necessity of placing the European forces - the King's as well as the Company's - absolutely on the same footing, a measure which he pronounced to be neither impracticable nor distant.¹⁷

Young had already touched upon these points in his letter to Lieutenant-General Sloper on the occasion of his appointment, and the Directors while writing to Bengal had endorsed his letter and added that the measures therein recommended for the King's army were equally necessary for their own.

Of all the recommendations made by Young the most important was the equalisation of rank in the two forces. It has already been noted how with the arrival of royal troops, the position of the Company's officers had become impaired, for they were liable to supersession whenever the army took the field. So keenly was the grievance felt that in the beginning of 1784 the officers of the Madras army made representations to the King and the Court of Directors for being placed on an equal footing with the officers of the royal army.

Indeed it might appear that in the infancy of the Company's military establishments when they possessed only a few factories and their forces were small and ill-disciplined, that distinction which was made in favour of the King's officers who were occasionally sent out to India had ample justification. But since that time conditions had radically changed. The Company had now acquired vast territories, and in consequence their army had increased, had become well-trained, and experienced. From one point of view, the

Company's army was even better qualified to serve in India than the royal army, because the officers of the first had a better acquaintance with the religions, languages, and manners of the people than those of the second.

But it was the practice of giving local rank indiscriminately to the superior officers of His Majesty's army which was even more open to objection. This might be illustrated by one example. The Company's establishment at Madras consisted of one Lieutenant-General, two Colonels, four Lieutenant-Colonels, and four Majors of infantry. On the other hand the royal army contained five Major-Generals, seven Colonels, and nine Lieutenant-Colonels. This meant that in the event of a war, very few if at all of the Company's Field Officers could secure commands. Of course the Company's Lieutenant-General would have had a prior claim, but then the two Colonels would have had to wait until commands had been allotted to the King's five Major-Generals and the seven Colonels.

All these facts were mentioned in the representation of the officers which was forwarded by General Lang, the Commander-in-Chief, who mentioned two instances in which the

18. Generals, Lieutenant-Generals and Major-Generals are known as General Officers; Colonels, Lieutenant-Colonels and Majors Field Officers.

19. Wilson, "History of the Madras Army", ii, pp.117-19.

regulation first alluded to had resulted in gross injustice.

In one instance a young Lieutenant in His Majesty's service only fourteen years old had been entrusted at a critical time during a battle with the command of a ^{chiefly} picket consisting of Indians, who had been commanded in the past by a Company's Lieutenant of fourteen years standing and who had now to serve under him. In another, a Captain of the Company's service who had had seventeen years experience and had served with distinction had been obliged to submit to the command of a Captain who had been only about two years in His Majesty's service and had just arrived in India.

Apart from this official protest, individual officers had been complaining from time to time. One of them, Colonel Pearse, had written in 1783 to one of the directors in words which reveal graphically the agony of mind: "What evil spirit could have put it into your heads to agree to supersede all your officers here so cruelly by suffering Majors, Lieutenant-Colonels, and Colonels to come out in swarms with local brevets. We are men, Darrell, as well as they, and we have like feelings; we have ²⁰ capacity, courage, and experience"

The representation of the Madras officers, which had been preceded by another from Bengal, roused the Ministers to the gravity of the situation, and in November 1784 Lord Sydney

20. "Bengal, Past and Present", Oct-Dec., 1910, p.267.

informed the Chairs that he hoped that without any delay such regulations would be adopted as might prevent any future discontents and that the respective ranks of the King's and Company's officers would be so settled that neither party might have reason to complain of irregular and unusual
 21 promotions.

Such an assurance, doubtless, must have been very welcome to the Directors. But during the same month in which Sydney gave it, he was presented with certain proposals by Dundas of a very different nature. For they envisaged the abolition of the Company's army altogether. "I cannot conceive anything more preposterous", he wrote to Sydney "than that the East India Company should be holding in their
 22 hands a large European army exclusive of the Crown". Apart from the constitutional objection, the existence of two rivalling recruiting systems in the same country - for the Company recruited their European forces in England - was also inexpedient, because it implied bad quality of recruits, if the recruiting time for both services happened to coincide. Dundas, therefore, suggested that the Company should not in future be allowed to recruit any separate forces of their own, but that the European forces for India should be supplied

21. "Home Miscellaneous", 389, p.33.

22. "Home Miscellaneous", 389, p.90.

out of the Home army by rotation. Such a system, as he stated, was better than the existing one under which the King's troops when they went to India did so usually for ever with the result that an order to march there was considered an order of banishment from home. With regard to the disposal of the existing European officers of the Company, Dundas suggested that they should be gradually transferred to the command of Native Troops. The army thus composed was to be paid out of Indian revenues.

Excellent as the plan of Dundas was, and in fact similar to the one actually adopted after the Mutiny, could it be expected that the Directors would accept it? There is no doubt that its adoption, by cutting at the root, would have done away with those invidious distinctions of which their officers so bitterly complained. But the Directors naturally enough were not willing to have half of their patronage thus taken away from them. Dundas was fully aware of their feelings, and had slyly hinted while unfolding his scheme to Sydney that he hoped to carry it through with "some management and address".

It is likely that Sydney declined to join in this 'management', for nothing seems to have been done till 1786 when Dundas requested Lord Cornwallis on the eve of his departure for India to draw up a plan. In the plan submitted

by Cornwallis, he attempted to reconcile the principle of a military force for India with a due observance of the Charter-rights of the Company.

The army, therefore, which he foreshadowed differed in certain respects from that contemplated by Dundas. Though under the Crown, it was to be a separate army entitled "His Majesty's East India Army" and the officers of this force could not usually exchange into the Home army or vice versa. Again, though the commissions were to be granted by the King or the Commander-in-Chief, all cadets were to be appointed by the Court of Directors. Any expenditure such as might be involved in an increase of the army or the erection of new fortifications had to be first sanctioned by the Directors or their Governments in India before being incurred. The army was to be subordinate to the authority of the Court of Directors.

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On his arrival in India, however, Cornwallis considerably modified his views. The idea of having a military force, the Native Troops forming a part of it, he now abandoned. He was convinced that the Company's officers who arrived in India while yet in their teens and then rose by strict seniority and who were assigned to one presidency where they were to spend their life-time were better suited to command Native Troops than the King's officers would be, should the Indian army become, as seemed

more likely, a part of the Home army. In the first place, the King's regiments were liable to be ordered back to England or to move from one presidency to another, a fact which might not induce their officers to familiarise themselves with the ways of Indians, a necessary qualification for the command of Native Troops. In the second place, Cornwallis was afraid that if these troops became a part of the Home army it would soon become a practice to send ruined officers to command them who would be held in contempt. "Several objections have occurred to me upon more mature deliberation", he wrote to Dundas in 1787, "against declaring all the forces in this country King's ²⁴ troops". He would be content if only two things were done, namely, that the system of recruitment for the Company's army was improved, and secondly, some means adopted for establishing equality of rank between the King's and Company's officers.

This proposal of Cornwallis for a retention of the dual army proved disappointing to Dundas who confessed to him that the plan of a ^{military} force was his "favourite child". Besides, the proposal of Cornwallis for an equalisation of the King's and Company's officers did not seem easy of adoption. Dundas was afraid that the King would not give up the notion of his commission having a pre-eminence over one flowing from a commercial body of his own subjects. For the moment,

however, he decided to do no more than make a modest beginning with the despatch of a certain number of King's regiments to

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India.

With that end in view, he invited in October 1787 the Chairs to an interview when he told them of the intention of the King immediately to raise four regiments for service in India. But to conciliate the Directors to this measure, he offered to take seventy-eight officers of the Company to serve

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with the regiments.

In view of the then threatening danger from the French, this intention of the King was appreciated by the Directors who adopted a motion conveying thanks to His Majesty and accepting his gracious offer. To make a selection of the Company's officers who could be transferred, they approached a board of Field Officers to report on the method to be adopted.

The board in due time made recommendations but the dissent of a member called the very arrangement into question by pointing out that the despatch of additional royal regiments would further dishearten the Company's officers unless their

25. "Home Miscellaneous", 389, pp.125-26.

26. The whole correspondence between the Board and the Court relating to the royal regiments is contained in "Proceedings relative to the sending of four of His Majesty's Regiments to India". (1788).

position were equalised with that of the King's.

This minute of dissent immediately attracted the attention of the Court of Directors. They felt that the transfer of seventy-eight officers out of more than eighteen hundred who were on the Company's establishment would mean the supersession of those who had previously been their equal. Consequently they decided that the Chairs should wait on the Board of Control and urge the equalisation of rank in the two forces as a preliminary measure. They were of opinion that this could be done by an application to the King, and the Chairs were to ask the Board whether to such an application they would lend their support.

There can be no doubt that the demand of the Directors was fully justified, and indeed when the Chairs appeared ~~justified~~ before Dundas, he expressed his keen sympathy. But he counselled delay in the matter. The Directors, however, were not so disposed and on the plea that the danger from France had meanwhile disappeared, demanded that either their request should be acceded to or the idea of the regiments be altogether given up.

The Board of Control thought that it was time to make their attitude clear, and Dundas must have felt that if he held back at the moment his favourite scheme could have no chance of coming into operation at all. They, therefore, reiterated their anxiety to see the grievances of the army redressed, but with a reference to the withdrawal of the regiments observed that the

idea of diminishing any part of the British forces then in India or in contemplation to be sent there was so adverse to what they conceived to be for the welfare and security of His Majesty's dominions in India that they could not allow such an idea to enter into any further discussion between them.

The Directors proceeded to show reasons why the regiments should not be sent. They stated that their necessity no longer existed. If any troops were still needed, they argued, the Company could raise them at far less expense than the royal regiments would involve. Such a measure would be in consonance with the law which enjoined strict economy and would have the additional merit of not leading to supersessions.

On the Ministers not giving way, they proceeded to prepare a petition to the King praying for the withdrawal of the regiments but expressing their willingness to reimburse the Crown for the expenses which might have already been incurred on that account.

It is plain that a petition presented to the King to which his Ministers were opposed could have no chance of success. The Chairman and certain other Directors on this ground opposed it but without effect. The petition when after all laid before the King failed to win acceptance.

Meanwhile the Court of Directors had consulted a set of eminent lawyers on the difference between themselves and

the Board, and the lawyers had given the opinion that they could withdraw their consent to the regiments, but that, if in spite of it, they were conveyed to India, the State and not the Company were bound to defray their expenses.

Emboldened with this advice, on 1st February 1788 the Directors rescinded their resolution of 17th October. This measure again evoked dissent from the Chairman and some other directors, but on this occasion some of those who voted for it delivered a long explanation. They stated that the last motion had been adopted by a bare majority of one, and in great haste, and that when the full implications became realised great difficulties arose. They stated that while they were ready to co-operate with the Board, they had to bear in mind the interest of their constituents. The attempt of the Ministers to force on them the regiments against their will, thereby subjecting them to considerable expense, they characterised as "contrary to a solemn Act of Parliament, highly injurious to our constituents, absolutely unnecessary in itself, and pregnant with the most fatal consequences".²⁷

The proceedings of the Directors, however, made no impression on the Board of Control, and on 10th February Lord Sydney wrote to the Chairs telling them that by His Majesty's commands three of the proposed regiments were ready to embark,

27. "Proceedings", supra, p.40.

and desiring to know which of the ships of the Company were ready for their reception and at what ports.

Confronted with this situation, the Directors commissioned the Chairs to wait on Lord Sydney and to inform him that they had revoked the resolution accepting the regiments so far as bound the East India Company to the payment of their expense, but that they were, however, prepared to accommodate them on board the Company's ships, provided it was distinctly understood that the regiments did not go at the Company's requisition; that the Company were not bound to defray any part of their expenses, and that they were not to be considered a part of the permanent establishment. These provisions were due to the anxiety of the Directors that the despatch of these regiments might not be understood to be in pursuance of an Act of 1781 under which the Company were liable to pay two lacs of rupees per annum on account of every regiment, consisting of 1,000 men, sent by His Majesty on the requisition of the Company.

The Board took up the challenge and replied that it did not appear from the Act that the Directors having once made the requisition could later retract it. Besides, they contended that the Act of 1784 had superseded the previous Act for under it

they were vested with superintending powers over the British possessions in India which implied that if they considered any additional troops necessary for their defence, they could compel the Company to bear the expense so involved.

Here was an impasse between the Directors and the Board and to strengthen their hands the former called a meeting of the General Court to deliberate on the situation. At the same time they approached their counsels again. The view of such an eminent lawyer as John Mansfield was characteristic. He stated that the provisions of the Act of 1784 were so general and comprehensive that it was difficult to say what measures relating to the interests of the Company might not be brought within them so as to give to the Board a control over them, but he was strongly of opinion that the Board were not authorised to compel the Company to pay for the transport or maintenance of the troops in dispute.

The support which the Directors received from the Proprietors was surprisingly not enthusiastic, although it is likely that the Board had exercised their influence. On the motion whether they should support the Directors the votes were equal, and it was only by the drawing of lots that the question was decided in the affirmative.

At last the Ministers decided to cut the Gordian Knot by a Bill in Parliament declaring that the Board possessed the

powere to which they laid claim. In the House of Commons the Bill was assailed with great warmth and ability. It was pointed out that the Legislature in passing a law of that description would be arrogating the function of judges to whom properly belonged the business of interpreting existing Statutes. The real reason why the Legislature was asked to do so was declared to be the knowledge of the Minister that there he could exercise his influence, which he could not in courts of law. The other arguments against the Bill were that under the Act of 1781 the Company were liable to bear the expenses of such troops only as they requisitioned and that the Act stood unrepealed; that the Board's power over the Company's affairs was not absolute as several of the limiting Clauses of the Act of 1784 showed; that the measure wore too much the appearance of a regular plan to grab at Indian patronage; and finally that it was opposed to the principles of the British constitution as it empowered the Crown to maintain a standing army without the consent of Parliament.

There is little doubt that the arguments against the Bill were powerful, and in comparison those of Pitt and Dundas in support of it unconvincing. The latter's contention that the Board of Control possessed the power of ordering troops for the defence of India and allocating the whole of the revenue's for that purpose "without leaving the Company a sixpence for their

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investment", reduced the Court of Directors to nothing which was certainly not intended by the Act of 1784, while his excuse that if the matter were taken to a law court fatal delay might have been the result was at best an argument of expediency.

Indeed, the unfavourable reception which was accorded to the Bill, strongly evidenced by the fact that the motion for its commitment passed only by a majority of 57 led Pitt to move for its recommitment, when several clauses limiting the power of the Board of Control in various directions were annexed to it.³⁰ The first limited the number of troops which the Board could charge to Indian revenues. The second prevented the Board from increasing the established salary of any office in the Company's service, unless such increase was proposed by the Directors, and laid before Parliament. This was to set at rest a controversy which had sometimes taken place between the Board and the Court respecting the former's right of interference in this sphere. The third laid down a similar restriction in regard to gratuities. Finally, the fourth required the Directors to lay annually before Parliament an account of the Company's receipts and disbursements.³¹

The Bill thus amended passed into law.

29. Hansard, "Parliamentary History", XXVII, p.69.

30. Cf. Wraxhall, that Pitt's motion to recommit the Bill was a clever move, for it disarmed and finally defeated the Opposition, "Posthumous Memoirs", iii, p.39.

31. 28 Geo. III, c.8.

Though the Directors were thus compelled to accept the regiments, their request for equality of rank of their officers with those of the King was granted. Lord Cornwallis as the Commander-in-Chief, was given the needful powers, and brevet commissions in the royal service were given by him to all the Company's officers with corresponding dates to those of their substantive ones. At the same time the local rank bestowed on the superior ranks of the King's army was ordered to be withdrawn.

This measure long overdue though it certainly improved the situation did not wholly modify it. The Company's officers still continued to be subject to great supersession. This was due to several causes. Periodical brevets continued to be granted to the King's army in which the Company's officers did not participate. The constitution of the two armies continued to be radically different. Smaller positions in the royal troops were filled by persons of higher rank than was the case in the Company's army. Thus the commanding-officer of a company in His Majesty's service held a rank equal to that which was held by the officer invested with the command of a battalion in the Company's service. In this way superior authority could be exercised by one whose command was inferior. A further cause was the total absence of General Officers, and the

32. "Papers elucidatory of the claims preferred by the Officers of the Company's Army in India" (1793) p.2.

inadequate proportion of Field Officers and Captains throughout the Company's establishment as compared with the number of similar ranks in His Majesty's army. Thus while the proportion of subordinate ranks to Field Officers in H.M. Corps of Infantry was $13\frac{2}{5}$: 1, that in the Company's Bengal Infantry was $21\frac{3}{4}$: 1.

But, besides, there were other disadvantages from which the Company's service suffered. The small proportion of superior officers apart from leading to supersessions was an evil in itself, since it meant the extreme slowness of promotion.³⁴ There was no provision for pensions or furloughs. Officers who wanted to visit home had to resign, and if permitted to return to duty received only a portion of their pay and allowances, until vacancies occurred. Lastly there was a disparity in the mode of payment to these troops and those of the King.

This last was so grave a scandal that it gave rise to a debate in the House of Commons on 25th May 1791 when Mr. Hippisley drew attention of the House to the fact that while the Company's troops suffered from arrears of fifteen to twenty months, the King's were paid two months in advance, and further that while the first were paid in debased currency, the second

33. "Papers elucidatory of the Claims preferred by the Officers of the Company's Army in India" (1793), p.52

34. Cf. the instance quoted by Col. Fullarton of an officer who had served the Company for 17 years without attaining a higher rank than that of Captain, Hansard, XXVII, p.103.

in gold purchased at a premium. He accordingly moved that the payments to both troops should be kept equal and paid in the same currency. On Dundas' giving an undertaking that orders to that effect would be sent, he did not press the motion to a division. And the Court of Directors despatched ³⁵ the necessary orders on 4th August 1791.

But while this evil was thus remedied, others continued to exist. Representations from the Company's officers both to the King and the Directors followed, and on 1st September 1794 Dundas called upon Cornwallis, now in England, to produce a plan for remodelling the army, with a view to give safety and permanence to the Indian Empire, and to prevent the continuance or revival of those discontents and jealousies which had so often manifested themselves between the King's and Company's troops, as well as between the Company's troops belonging to the different presidencies.

Cornwallis had already thought out a plan while on his way home, and had been busy on it since his arrival. He, ³⁶ therefore, presented it in November. The first part of the report concerned itself with the existing abuses, which have already been detailed. We might, therefore, proceed to notice

35. "Proceedings in Parliament for regulating Payments to the Troops in India" (1791).

36. This is the famous "Military Plan" on which the military regulations of 1796 were based. The edition used is the Calcutta one printed in 1795.

briefly the recommendations which he made. It is clear from the first (and the most important) recommendation that he had reverted to his original scheme of fusing the two armies into one. "I shall not hesitate to declare", he stated, "that I do not conceive it possible that any system can be devised, which would have a permanent and useful effect for the satisfaction of the individuals of both services, and for the public good, unless, as a preliminary measure the whole of our force in India, as well Native as European, shall be transferred to His Majesty's service, and with a few modifications be regulated and conducted in future, according to the rules which have long operated in the King's army."³⁷ His other important proposals were:—

That the entire army in India should be made subordinate to the Government of the Company.

That officers in the Native branch should rise by seniority to the rank of Major regimentally, and afterwards in the line. That the European regiments of India were required to be kept up, which

That infantry officers should be allowed to choose either the European or Native branch of the service, but should not be allowed to exchange later.

That a fair proportion of General and Field Officers should be apportioned to each branch of the army.

37. "Plan", supra, p.10.

That the pay and allowances in all the three Presidencies should be the same

That officers should be given a pension on retirement or else the permission to sell their commissions at certain regulated prices.

That the Commander-in-Chief should be empowered to grant leave of absence to Europe, and

That the administration of the military hospitals should be reformed.

Dundas forwarded this report to the Directors for their consideration. The first proposition of Cornwallis came to them as a startling surprise, and without putting themselves into further communication with Dundas, they proceeded to adopt a series of resolutions. They declared that the measure would in the first place mean a modification of the existing constitution, and in the second place, would be subversive of the chartered rights of the Company. They pointed out that under the law all the revenues of India were subject to their control, which would cease to be so, if the army were transferred to the Crown, a measure which would also weaken their Governments in the eyes of Indians. Lastly, they refused to discuss the other reforms proposed with the cynical observation that if the army were taken out of their control, it was no use their making the new regulations which should

emanate from the new authority.

On learning the sentiments of the Directors, Dundas did not press this proposition. Apart from the question of Charter-rights, one of the objections of the Directors, namely, that if the civil government continued to be vested in them while the army were placed under the Crown, a serious blow might be given to their Governments was certainly entitled to great respect. Besides, it appears that Cornwallis had put forth this recommendation as a pious wish and not to be seriously taken, for later in a private communication to one of the directors he stated that the proposed transfer of the Company's troops was a transfer in words only, so far as it related to the power and patronage of the Company, and had no efficient operation except in granting and securing advantages ³⁹ to the Company's officers.

To grant these advantages, Dundas did his best to persuade the Court of Directors, for it must be noted that the proposed changes involved considerable expense, which could not be very palatable to the latter. In this connection we might quote at length his observations before a meeting of the Court of Proprietors held on 18th June 1795, firstly because

38. "Home Miscellaneous", 453, pp.17-20.

39. See report of the debate at the East India House which took place on May 5, 1797, in which Francis Baring quoted from a letter of Cornwallis.

they show as nothing else does his solicitude for the army, and secondly because they form the germ of a despatch, which he later drew up, and which the Directors with some slight alterations forwarded to India in January 1796:-

"He thought it necessary to say a few words to guard the House being misled as to the charges to be deducted from the revenues of India. He did not mean to hold out that the surplus would in future years be so great, for justice to the Indian army required that they should make a great variation. The army was on a footing contrary to the establishment of all other armies; originally it was extremely small and intended only as a guard to particular factories; but now when it has increased to a size as large as the armies of European monarchs, it was impossible that the same establishment would answer for it. Yet this was now the case, for they were deprived of the power of rising higher than the office of Colonel, and were bereft of all that hope of rank which was essential to the feelings of military men. There was also stagnation in the succession of lower ranks of officers, and he therefore intended to have established a staff of Field Officers, and to set on foot an universal promotion. This could not fail of creating an additional expense, but justice, fairness, and policy demanded it. There were other disadvantages of a more cruel nature under which the Indian army laboured; an officer perhaps after a

slow and dreary progress of 30 years, during which time he was continually combating all the dangers of a dreadful clime, and of an enemy, must, as things are now constituted, make up his mind to be an exile from his native country, or return without any acknowledgment or reward from those he had served to starve perhaps, unless fortune enabled him to lay up something for the support of old age. He, therefore, thought that after a certain number of years' service, they should be enabled to return home with the full pay of their rank.

"But this was not all. It often occurred that at the very first outset the climate made it necessary for an officer to return for the recovery of his health, instead of which he was obliged to remain there struggling with a broken heart and disease; for if he returned without means, he must starve, or be dependent on the charity of his friends, a state not fitted for the mind of a soldier. If then, an officer should be obliged by bad health to return for ever, or for experiment to get restored, he should do so without loss of either rank or pay. It was politic to keep in their minds the thought of their native country, and to give them, not wantonly, but on a fair occasion, the power to visit their friends (even without sickness) without forfeiting either rank or pay. All these points he conceived to be great and important rights that should no longer be postponed; and before the last ships of the season sailed, he would suggest

to the Company the adoption of those measures and had little
 doubt of their being effected".
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At the same time when the despatch was forwarded to India, Dundas obtained from the Crown brevet commissions with retrospective effect for such officers of the Company as had been superseded by the several promotions in the royal army due to general brevet.

The delay, however, in the issue of the above orders proved highly dangerous. An impression grew in the minds of the Company's officers that the King was unwilling to grant
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 the requisite commission, and that the Company were not disposed to accept an arrangement likely to increase the cost of their establishment. In 1795 the Bengal officers formed themselves into an association in order to press their demands on the Government, and a mutiny was seriously threatened when
 42
 in May 1796 at that "awful and important" crisis the instructions were received. The regulations, however, had to be modified considerably before they became acceptable to the army.

The dissatisfaction of the army called the attention of Dundas to the many complex questions which at the moment

40. Quoted in W.H. Carey, "Good Old Days of Hon'ble John Company", 1, pp.171-72.

41. "Home Miscellaneous", 454, p.74^D_A

42. William Hickey, "Memoirs", IV, p.132.

awaited solution in India. There was the Nawab of Oudh misruling his country and lagging behind with his subsidy to the Company, while at the same time resisting any new arrangement. In the south similar was the case with the Nawab of Arcot and the Raja of Tanjore with the additional evil that the Supreme and the Madras Governments had different views how to deal with them. The judicial and land revenue arrangements satisfactorily made in Bengal needed to be extended to the Madras Presidency. For a time Dundas intended to go out to India as Governor-General himself, but Pitt was not prepared to release him. At length he requested the veteran Cornwallis to go to the scene of his former labours again.

Cornwallis accepted the offer, and the Court of Directors drew up a despatch embodying their instructions to him. By these the Supreme Government were empowered to make such further regulations as would win the complete allegiance of the army.

When the despatch came for the Board's approval, they added the following paragraph:-

"It is a question which has been much agitated whether our real military strength and security in India would not be greatly improved by a considerable addition to our Native Troops and a proportionable reduction of our European force.

We mean not to give any decided opinion on this subject, but
 wish you to take the question under your consideration".⁴³

This alteration surprisingly enough perturbed the Directors who refused to believe that the intention was to reduce the European force generally, as in their opinion this could not be done without endangering safety. What they saw in this was really an intended transfer of the European infantry of the Company to His Majesty's service against which they proceeded to protest.

The Board of Control replied that they could not help remarking that the word "transfer" had inadvertently crept into the Court's letter who must be aware that although the joint authority of the Board and the Court could enable their Government abroad to reduce all or any part of their military establishments, neither jointly nor separately had they any authority to transfer a single officer or private from the Company's service to that of the King.

In spite of this clear assurance on the part of the Board, the Directors refused to be placated and they were supported by the Court of Proprietors. As Cornwallis later threw up his appointment, all discussion about the despatch came to a close, but the incident serves to show how touchy the Company were.

33. "Home Miscellaneous", 454, p.222.

Another subject on which the Board of Control and the Directors came to a clash at about this time was in connection with the recruitment of the Company's European forces. The Company at the time recruited under 21 Geo. III, cap. 65, the King's licence being issued from time to time on application from the Directors, who entered into contracts with parties to raise recruits on certain specified terms. The recruits were examined by the Company's inspecting officers and surgeons, and later by His Majesty's inspecting officer.

It is clear that recruitment by contract could only lead to inefficiency in the army. Nor do the inspecting officers seem to have discharged their duties well. It appears that many of those who joined the regiments were sailors, invalids, or men under the proper size for military service, and in one year the number of vagrants who arrived in India was so great that within two months of their arrival, sixty-two had deserted from Fort William alone. Besides there was another class of person who were "gentlemen", and who never intended to serve in that position, but used to enrol themselves as recruits in order to get a passage to India. Being unfit they had to be discharged, when they had either to be left to starve, or an employment found for them. Cornwallis indeed throughout protested against this scandal, and in this found support from

44. Cf. an interesting article by Mr. C. Grey published in the Statesman, Calcutta, Sept. 23, 1923 on the Company's European Regiments. His conclusion is that the recruits were of a low standard, and the men raised for the three cavalry regiments were specially of small stature. Their

Dundas who repeatedly urged upon the Directors to take the benefit of Carisbrooke Castle as a depot for their recruits, and to continue the recruitment throughout the year in a systematic way instead of the slovenly manner in which persons were recruited immediately previous to the sailing of ships which were to carry them.

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Finally in January 1796 when the new military regulations were transmitted to India, he took the opportunity to mention that the Directors intended to establish a depot, where the recruits could be properly trained before they were sent out to India.

In March the Directors decided to appoint Sir Henry Cosby as the Superintendent of the proposed depot, and at the same time asked him to prepare the necessary regulations for its conduct. In his report Cosby suggested Carisbrooke Castle in the Isle of Wight as the most suitable site for the depot, and the Directors accordingly requested Dundas to obtain the permission of the King for the use of the Castle. They also

Continuation of foot-note on previous page:-

maximum height was 5'4" and they were in consequence nicknamed the "Dumpty Pice". It was supposed that they were provided with ladders, and mounted to the command "down ladders and mount".

45. "Cornwallis Correspondence", 1, p.355; letter dated March 26, 1788.

prepared the draft of a Bill for raising a military force and for enabling them to defray the attendant expenses. When the draft came under the consideration of the Committee of Correspondence, they recommended that the idea of the depot should be given up, mainly because it would mean enormous expense to the Company. They recommended, therefore, a continuance of the old system, and thought that a larger bounty paid to the contractors would lead to an increase in the number and quality of the recruits. The report of the Committee was accepted by the Directors on 16th November 1796. The Chairs, however, were convinced of the utility of a depot, and at their request, the question was reconsidered by the Directors but again negatived. Consequently the Directors applied for the usual licence, which was by mistake issued.

When Dundas learned of it, he wrote a very outspoken letter to the Directors and asked them to return the licence. He stated how wretched their recruiting system was, but that he had introduced no changes in the Charter Act of 1793 because he awaited the arrival of Lord Cornwallis, and a thorough examination of the whole military system with him. The arrangement which evolved out of those discussions was distinctly based on the understanding that the Company would improve their recruiting service. If that were not so, "no consideration should have induced me to acquiesce in the continuance of

an European Army in the hands of the Company to be recruited
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 according to its former practice".

The Directors, however, refused to yield, and Dundas knowing that the Court of Proprietors were about to meet to consider the question, threatened that if they concurred with the Directors, he would bring the matter before Parliament. The Proprietors met on 21st December 1796 but adjourned without reaching a decision. On the following day the House of Commons called for all the correspondence on the subject. Thus confronted, the Directors resolved on 4th January 1797 to establish a depot with all convenient despatch. But the Court of Proprietors rejected the proposal. Finally, the subject was again discussed in 1798 when a lengthened correspondence took place between the Commander-in-Chief, the Board of Control, and the Court of Directors. The upshot was the Act of 1799, 39 Geo. III, cap. 109, which authorised the Company to train and discipline the recruits raised for their service during their stay in England, and subjected them to martial law. The recruits raised were to be for general service, and were to be subsequently transferred to the Company's service at the request of the Directors. A depot for the above purposes was established in 1801.

46. "Papers relative to the establishing a better mode of recruiting the Company's Military Establishments in India (1796), p.9.

The discussion between the Board of Control and the Court of Directors relating to the army was revived when the time for the renewal of the Charter arrived. Robert Dundas in 1808 advanced a proposition to the Directors for the amalgamation of the army under the King in order to put an end to the jealousy which existed between the two forces, and for "the correction of the anomalous system of divided responsibility which prevails at present in this country in everything that relates to the military defence of India".⁴⁷ The Court of Directors, however, and their Governments in India were to continue to exercise the general authority which they already possessed over the King's forces. Further the Directors were to continue to nominate all cadets destined to hold commissions in the Indian army.

But the Directors, as before, refused to agree to the proposal, and declared that such jealousies as existed did not do so because one army belonged to the King and the other to the Company, but because the constitution of the two armies was radically different and must continue so whether the armies were under one head or two.

There is no doubt, as has been shown before, that the Company's system was better fitted to furnish officers for the Native Troops which formed the most important part of the army than that of the royal army. But if, as suggested by Dundas,

47. "The Negotiation for a Renewal of the E.I Company's Charter", published by Black, Parry & Company, London, (1812), p.11.

the Indian army was to be separate from the Home army, though under the King, those defects could have been surmounted. The vicious system of purchase prevailing at home might have been discarded in favour of the rule of seniority and the proposed army being only for Indian service, officers should have arrived in India at about the same age as the Company's did, and of course stayed there for the rest of their lives.

The Directors, however, were afraid that the purchase system would be retained, and further, that the abolition of the Company's army would be a blow to their Governments. But their most important objection was that the transfer of the whole army to the King would mean taking away from them that patronage (except the nomination of cadets) which had been guaranteed to them under the Acts of 1784 and 1793.

On receiving the reply of the Directors, Dundas (now Lord Melville) did not press his proposition and the Act of 1813 left the system of dual army in India untouched. That the system was defective in the extreme has already been pointed out, and it should be here stated that the arrangement of 1796 proved to be inadequate. The Company's officers continued to occupy an inferior position. Their number as compared to the King's continued to be limited and the slowness of promotion still persisted with the result that on the occasion of field-service the principal

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commands continued to be held by the King's officers.

The attitude of the Board of Control, too towards the Company's officers was rather churlish. None of them was ever allowed to be appointed Commander-in-Chief of any presidency. None of them was recommended for public honour for his military services, except Sir John Braithwaite who was created a Baronet after he had been superseded by a junior King's officer in the command of the Madras army to which he had been provisionally appointed. None of them on return home was appointed Governor of a military garrison or a colony or Aide-de-camp to His Majesty. It is obvious that all these invidious distinctions would have damped the ardour of soldiers and degraded them in their own eyes as also in the eyes of the troops they were set to command. "I am satisfied" said Colonel (Sir John) Malcolm before the Commons Committee of 1813 alluding to the exclusion to which the Company's officers were liable, "that this cause alone is competent to defeat all the benefits that were intended by the regulations of 1796, which proposed a fair equality between the two services".⁴⁹

48. Cf. the statement of Colonel Munro, the "Report of the Select Committee on Military Affairs", (1832) pp.453-57.

49. India Office Records, "Parliamentary Collection", No. 59, pp.106-7.

Again, the above system was further aggravated by the existence of separate presidential armies each under its own Commander-in-Chief and regulations, with the result that when they combined, as they did in time of war, worst consequences ensued particularly arising from a difference of allowances. The variety of orders issued to each was simply bewildering and it made it most difficult for an officer, particularly so if he happened to occupy a position where he must identify himself equally with the King's as well as the Company's army to comprehend which of them applied to himself. To the Madras army, for instance, were issued:-

1. General Orders by the Governor-in-Council at Madras which applied to the King's as well as the Company's troops.
2. General Orders by the Commander-in-Chief in India which applied to the King's troops only, as he took no cognizance of the Company's troops at any presidency but his own.
3. The Orders of the Commander-in-Chief at the presidency applicable to the King's troops only.
4. General Orders by the Commander-in-Chief at the presidency applicable to the Company's troops only.

50. "Report of the Select Committee on Military Affairs" (1832) pp.393-94.

The only effective remedy was of course an amalgamation of the army as carried on after the Mutiny of 1857, but this was possible only because the Company then were swept away. So long as the system of government established under Pitt's India Act with its division of power and responsibility between the Crown and the Company lasted, the dual army also did.

C H A P T E R V

THE CARNATIC.

One of the principal fields of controversy between the Board of Control and the Court of Directors was the Carnatic. The questions which it presented for decision in 1784 were about the settlement of its ruler's debts, and its administration. In order, however, to understand their significance it is necessary in brief to deal with the previous history of the Carnatic.

"Hypocrisy" says Mill, "was the cause which produced the difficulties resulting to the English from their connection with the Nawab. They desired to hold him up to the world as an independent Prince, their ally, when it was necessary they should act as his lord and master".¹ Mohammad 'Ali, the Nawab referred to, had figured during the second Anglo-French War (1749-54) as the rival of Chanda Sahib, and it was due to the exertions of the English that at the end of the war, he was acknowledged as the ruler of the Carnatic.² Being seated on the throne with their assistance, the Company no doubt expected

1. Mill and Wilson, "History of British India", V, p.373.

2. In 1770 the permanent responsibility for his defence was assumed by the Company.

him to render financial assistance, and when the Seven Years War broke out in 1756 their demands increased. The Nawab, however, made promises which he was unable to fulfil with the result that in 1761 his debts to the Company had amounted to the huge figure of pagodas 22,25,373.

But besides this, he had succeeded in piling up another debt which he owed to private creditors. As this was borrowed at usurious rates of interest ranging from 20 to 48%, it had rapidly grown to enormous proportions. His principal creditors of whom Paul Benfield is the most notorious were the servants of the East India Company.

But apart from the vice of borrowing money from which the Nawab suffered, he was also highly ambitious although extremely incompetent. He wanted to be the most prominent power in the south and to use the Company as the instrument of his designs. With that end in view, he formed a clique with the Company's servants and with their assistance attacked the Raja of Tanjore in 1771 on the alleged grounds that the Raja had failed to pay a stipulated tribute and engaged in hostile intrigues with Hyder 'Ali. Two years later the attack was renewed and the territories of Tanjore annexed. The Company, however, decided to restore the Raja and appointed Lord Pigot as Governor of Madras to carry the measure through.

Pigot's effort incurred the hostility not only of the Nawab but also of his creditors who had expected to share in the spoils. He was deposed by his own Council and imprisoned in 1776. Thus the Nawab had signally proved his power and the fact how dangerous an ally he was. A contemporary observer writes: "You may imagine the exultation of the Nawab, and the universal triumph of the successful ³confederates. He makes no secret of the share he has had in this memorable event, and even publicly boasts of the influence which he now possesses in the Council".

The Nawab might feel a glow of triumph, but the restoration of the Raja which Pigot had accomplished took away from him the only expedient whereby he had hoped to replenish his empty treasury and to meet his liabilities. In 1779 the Madras Government wrote to the Governor-General and Council as follows:-

"The difficulties we experience in respect to the Nawab might be comprised in a few words. We sustain a considerable monthly expense on his account. We have nothing to trust to for reimbursement but monthly promises which may or may not be performed. If they are performed we are able to make the necessary advances for the ensuing month. If they be not performed we instantly find ourselves involved in the greatest distress. In such alarming situation what course can we take

3. P.W. Stanhope, "Genuine Memoirs of Asiaticus", p.93.

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to procure relief?"

Finally in that year the Nawab declared himself to be unable to continue his payments and when a war broke out with Hyder 'Ali in 1780 no contribution could be obtained from him. Eventually, however, he agreed to assign the revenues of certain districts to the Company, but as they amounted to little and as the Nawab insisted on keeping his own servants in charge who were both rapacious and incompetent, the situation did not improve. At length the Madras Government approached the Governor-General and Council who gave the opinion that the Nawab could no longer be regarded as the proprietor of the Carnatic, since all his territory except such parts as were protected by the British arms was in the enemy's possession. Accordingly they advised "the immediate transfer of his whole country in exclusive assignment for the expenses of the war".
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Lord Macartney was not in favour of such a drastic measure. But shortly afterwards the Nawab himself approached the Supreme Government, offering certain terms for a new treaty. These included an arrangement by which the revenues of the Carnatic were to be spent by the Company during the war, but at its close to be available for the payment of his creditors.

4. "Fourth Report from the Committee of Secrecy on the Causes of the War in the Carnatic", (1806) p.887.

5. Quoted in Professor Dodwell's article entitled 'Warren Hastings and the Assignment of the Carnatic', "The English Historical Review", XL, pp.375-96.

The Nawab's terms were accepted by that Government with certain modifications, and they called upon the Governor and Council of Madras to conform to the agreement entered into by them.

The Madras Government, however, refused to recognise the agreement as valid as in their view the Supreme Government had no power to execute it, but in the arrangement which they themselves made with the Nawab on December 2, 1781, the principle of assignment was accepted.

By that arrangement a dual control was in fact established over the administration of the Carnatic. All renters were to be appointed by the Governor of Madras and confirmed by the Nawab who was not to dismiss them without the Governor's consent. Orders affecting the revenue were to originate solely from the Governor to whom all payments were to be made. Of these five-sixths was to be retained by the Company, and one-sixth handed over to the Nawab for his maintenance. The arrangement was to continue for five years.

To give effect to the measure, Lord Macartney appointed a Committee of Assigned Revenues with Paul Benfield at its head. But soon altercations sprang up between the Nawab and the Governor. It was at first proposed to allow the Nawab's own revenue officials to continue, but to appoint the Company's Tahsildars to superintend their conduct. The Nawab, however, refused to grant them the necessary powers, and when it was proposed to lease out the country to renters, he refused to

sign the documents appointing them. At length Macartney resolved to appoint the renters himself and to sign their torna chits. In doing this, he no doubt went beyond the limits of the agreement, and the Nawab seized it as a handle for his vilification. He sent letters to the Supreme Government, the Court of Directors, and Lord Sydney, the Secretary of State, protesting against his oppression and requesting that the assignment should be surrendered to him. The oppression of Macartney was a mere pretence, the real fact being the inability of the Nawab's creditors to ransack his treasury, while the assignment lasted. This appears clearly from his memorial to Sydney dated August 12, 1783, in which after enumerating all the cruelties of the Governor, he says: "I cannot conclude without calling your Lordship's attention to the situation of my distressed creditors, whose claims are the claims of justice, and whose demands I am bound by honour, and every moral obligation to discharge"⁶

Indeed a settlement of these debts called for pressing attention, and it is noteworthy that in 1781 the Supreme Government in their proposed treaty with the Nawab laid down a scheme for their liquidation. Under that arrangement all the Nawab's debts, whether old or new were to be classed together, but a reduction of 25% made on those which had been transferred.

6. "Home Miscellaneous", 178, p.243.

Further they were to be allowed interest only up to November 1781, and were to be discharged out of an annual sum which the Nawab was to pay to the Company for that purpose.

But Lord Macartney objected to the scheme on several grounds. Firstly, the consent of the creditors had not been secured. Secondly, he was afraid that the loss of interest after 1781 and a reduction of a part of the principle would not be acceptable to them. Thirdly, he thought that the old creditors were entitled to a priority. Fourthly, he called into question the propriety of binding the Company for the payment of large sums of money to private creditors without their own debts having been previously cleared. "We hold it a matter of very serious deliberation", he stated "to subject the Company to the payment of any large sums by the execution of bonds in its name, on account of the assignment of lands to the creditors, as it may not perhaps be thought entirely consistent with our duty to suffer the discharge of any private debts out of the revenues of the Carnatic, till those of the Company shall have first been liquidated".⁷

When the affairs of India came under the deliberation of Parliament, the subject received adequate attention. Both Dundas and Fox included in their Bills provisions about the liquidation of the Nawab's debts, the former having gone so far as to make it one of the four cardinal principles of his measure. Finally the 37th section of Pitt's India Act

7. Barrow, "Life of Macartney", 1, p.469.

dealt very elaborately with the question.

The Board of Control, therefore, at their inception were confronted with two difficult questions relating to the Carnatic, namely, how the above-mentioned provision was to be translated into action and secondly whether the administration of the country was to be restored to the Nawab. It would contribute to lucidity of treatment if the proceedings of the Board in relation to each are examined separately.

In October 1784 the Court of Directors prepared a despatch in which they gave instructions about the debts, which they divided into the following three classes:-

- (1) The Old Debt, i.e., the debt consolidated in 1767, which amounted to Pgs. 60,74,592.
- (2) The Cavalry Debt, which had been raised in 1777 and amounted to Pgs. 7,07,198 and
- (3) The New Debt, i.e., the debt consolidated in 1777, which amounted to Pgs. 12,00,000.

Of these, they accepted only the first as perfectly genuine. The Nawab had himself declared that the sums lent were truly and justly lent him. But the Cavalry Debt, in their opinion, required some explanation and investigation. It was, however, the New Debt about which they unreservedly expressed their suspicions. "Although we have repeatedly written both to

the Nawab, and to our servants respecting this debt", they complained, "yet we have never been able to trace the origin thereof, or to obtain any satisfactory information upon the subject".⁸ They, therefore, trusted that the Madras Government would obtain the fullest information about it before its admission. Finally, they wrote: "In this state of uncertainty as to the origin of the demands of the old and new creditors, particularly the latter (which precludes us from judging of the justice thereof) and their actual amount, the knowledge of which we conceive can only be obtained upon the spot, we hereby direct our President and Council of Fort St. George immediately upon the receipt hereof to enter into a full examination as to the points mentioned in the Act, viz: the origin and justice of these demands, also the exact amount thereof, whether the sums were really and bonafide advanced, and upon what particular occasion, also the names of each individual creditor who shall prove his debt to the satisfaction of the said President and Council".⁹ The result of this enquiry was to be forwarded to the Supreme Government, and a fund established for the discharge of debts justly due.

It would thus appear that in accordance with the Act, the Directors at the earliest opportunity gave detailed instructions for an exhaustive enquiry. But to the Board it

8. "Madras Draft Despatches", 1, p.60.

9. "Madras Draft Despatches", 1, pp.67-68.

seemed that they were only delaying, and when the despatch came for their approval, it was transformed out of all recognition. "The origin and justice both of the Loan of 1767, and the Loan of 1777, commonly called the Cavalry Loan", the Directors were now made to say, "appear to us clear and indisputable agreeable to the true sense and spirit of the late Act of Parliament".¹⁰ It was admitted that the third loan stood on a less favourable footing and an elaborate and convincing explanation offered for this opinion, but curiously enough the same protection was extended to it as to the rest for the following reasons. Firstly, that this would avoid delay and contribute to security, secondly that a repudiation would injure third parties who had bought the bonds in good faith, thirdly that both the creditors and the debtor had accepted the debt as genuine, and lastly that an elaborate investigation did not promise much results. Of the last two reasons Mr. Roberts truly remarks that the first ignored altogether the notorious collusion between the Nawab and his creditors, while the second begged the question.¹¹ The only vestige of the massive enquiry proposed by the Directors was preserved in authorising the Madras Government to

10. "Madras Draft Despatches", 1, p.58.

11. P.E. Roberts, "India under Wellesley", p.90.

take into consideration any complaints made by a party who deemed himself injured by the admission of the New Debt.

At the same time the Board of Control laid down the following scheme for the liquidation of the debts:-

The Old and the Cavalry Debts were to be made up at 10 and 12% respectively to the end of 1784.

The New Debt was to be made up to the end of November 1781 at 12%, and afterwards at 6%.

The sum of twelve lacs of pagodas which was to be annually received from the Nawab was first to be applied to the payment of interest on the New and Cavalry Debts, and the remainder was to be divided equally for the discharge of the Company's debts and the Old Debt.

After the Old Debt had been discharged it was to be applied to the payment of interest on the New Debt, and the remainder was to be divided equally for the discharge of the Company's debt and the Cavalry Debt.

After the Cavalry Debt had been discharged, seven lacs was to be spent for the payment of the Company's debt, and five for the New Debt.

Finally, when the Company's debt had also been extinguished, the whole sum was to be appropriated towards the discharge of the New Debt.

The Directors, who felt alarmed and surprised at the sweeping alterations of the Board, vigorously protested. They

pointed out that if the Old and the Cavalry Debts were sound, as indeed they themselves thought, they could not suffer from an enquiry. Besides, they denied that they had at the time sufficient material in their possession to reach a decision. But it was the mode of appropriation which they most bitterly assailed. They stated that the Board's arrangement gave more than half the sum received from the Nawab to the private creditors, not more than one-sixth of whose demands was above suspicion. They wrote: "But to your appropriation of the fund our duty requires that we should state our strongest dissent. Our right to be paid the arrears of those expenses by which (almost to our own ruin) we have preserved the country and all the property connected with it from falling a prey to a foreign conqueror surely stands paramount to all claims for former debts upon the revenues of a country so preserved".¹² They refused to surrender any part of the seven lacs which by a late arrangement the Nawab had promised to pay for the Company's debt, and declared that in saying this they did not exceed the limits of the authority and rights vested in them by law.

But as the Board declined to give way, and as the Counsel whom the Directors consulted gave as his opinion that they would not be justified in refusing obedience,¹³ the arrangement was communicated to India. The incident, however, gave

12. "Madras Draft Despatches", 1, p.115.

13. "Home Miscellaneous", 342, pp.106-7.

rise to a memorable debate in the House of Commons on February 28, 1785, in which Burke with all the wealth of his fervid imagination, his great humanity, and his extensive knowledge of Indian affairs, very ably and convincingly criticised the policy of the Board. There appears little doubt that the action of the Board was dictated by a desire not to offend Paul Benfield and his associates who had seats in Parliament, although it is hardly probable that an actual corrupt bargain had taken place between the Minister and the creditors. Nor is it true, as Burke insisted, that the Board had usurped the powers of the Directors. The Act no doubt entrusted the "Court of Directors" with the task of settling the Nawab's debts, but clearly the words referred to the Home Government, the Court of Directors being formally the only body competent to transact business with India.

If, however, the Board did not go against the letter of the law, they certainly transgressed its spirit. The very elaborateness of the 37th Section of the Act implied the difficulty of the task. The Board made it simple, but this simplicity was not achieved without grave injustice to the Company and in the ultimate analysis to the helpless ryots of the Carnatic, as a brief examination of the three classes of debts would abundantly show.

With regard to the genuineness of the Old Debt, the Directors as well as the Board, as we have seen, were satisfied. The Nawab himself in a letter to Governor Palk in 1766 had given a satisfactory account of the causes which had from time to time induced him to borrow. In 1767 this debt was consolidated, and the whole of the money raised was paid into the Company's treasury, and acknowledged by them. At the same time in accordance with the orders of the Directors, its rate of interest was reduced to 10%. From time to time the Company had recommended the case of the Old Creditors to the Nawab with the result that this debt which had amounted to more than twenty-two lacs of pagodas in 1767 had been reduced by 1784 by about three-quarters.

The Cavalry Debt had arisen out of the policy of the Company that the forces of an Indian State should be inferior to their own. In 1777 the Madras Government asked the Nawab to disband 400 of his cavalry. He agreed, but pleaded that their pay was in arrears, and as they were already mutinous, any attempt to disband them without due payment was bound to lead to trouble. The Government declined to furnish the required money, but certain individuals agreed to lend it to the Nawab, provided the Company became security. Accordingly Messrs. Call, Majendie, and Taylor, who were all Company's servants, advanced a sum of four lacs of pagodas for which the Acting President and Council of Madras became

security. This transaction took place during the disreputable regime which followed the arrest of Lord Pigot. Sir Thomas Rumbold who succeeded to the Government in 1778 strongly disapproved of it, and under him the Government repudiated the security until the instructions of the Court of Directors became available. The Directors disavowed the transaction as being contrary to their orders and without their permission. Besides, it is probable that the creditors never advanced the total sum ¹⁴ as a letter from the Nawab to the Directors indicated.

But the New Debt was the one most open to objection. The Court of Directors had issued an order as early as 1714 whereby their servants had been forbidden from having any dealings with the Indian princes in money matters. In 1769 the Madras Government had declared that order to be still in force, and had forbidden all servants of the Company and other Europeans under their jurisdiction to have dealings of the above description. In 1778 they declared that the consolidated debt of 1777 was not in any respect whatever conducted under the auspices of that Government. And they received in this policy the whole-hearted approval of the Directors: "Your account of the Nabob's private debts is very alarming; but from whatever cause or causes those debts have been contracted or increased, we hereby repeat our orders, that the sanction of the Company be on no account given

14. "The Fourth Report", op. cit., p.686.

to any kind of security for the payment or liquidation of any part thereof (except by the express authority of the Court of Directors) on any account or pretence whatever"¹⁵ Moreover it might be mentioned that the creditors should have been aware of the Nawab's subsisting liabilities. Lastly, the fact that they obtained assignments on the revenues which should have gone to discharge the Company's debts, whose servants they were, certainly did not entitle them now to their support.

But further, there is reason to believe that a large portion of this debt had no real existence at all but was merely based on fictitious bonds extorted from the Nawab.¹⁶ The sole argument, which can be urged in justification of the Board's decision is that perhaps the Madras Presidency should have been thrown into convulsions similar to those which witnessed the regime of Pigot, had any portion of this debt been repudiated.¹⁷ But this is clearly the argument of a casuist, for the end was achieved only by the admission of fraudulent loans which, as already remarked, lay as a crushing incubus on the bosom of the toiling peasants of the Carnatic.

15. Quoted in "Madras Draft Despatches", 1, p.60.

16. Cf. the contents of a letter to General Clavering, quoted by Burke, Hansard, "Parliamentary History", 1785-86, p.211.

17. This is the view, for instance, of Sir N. Wraxall, see his "Posthumous Memoirs", 1, p.256.

We might next proceed to consider the question of the assignment. Here it appears that the Directors and the Board of Control acted in harmony. In the same despatch in which the former gave their instructions about the debts, they also ordered the restoration of the revenues to the Nawab. They stated that the conduct of Macartney had been vigorous and effectual for the purpose of realising revenue at a most critical time, but in view of the fact that peace had been re-established in India, and the representations of the Nawab, and finally in order to assure him that they had no desire to curtail his internal sovereignty, "we have upon mature reflection thought it expedient now to direct that the Assignment, the term of which does not expire till December 1786, be immediately ¹⁸ surrendered". In revision the Board varied the language of the despatch, but preserved its substance. In fact in this case there is no justification for Mill's statement that "without an interval of reserve, the Board took upon itself to originate almost every measure of importance". He writes: "The assignment had been adopted by the government of Madras, and approved by the Court of Directors upon the ¹⁹ maturest ¹⁸ Nawab experience His allusion is doubtless to the

18. "Madras Draft Despatches", 1, pp.25-32.

19. Mill and Wilson, "History of British India", V, p.40.

earlier approval of the Directors, but it must be remembered that it had been accompanied by one important reservation. In 1782 when the arrangement of the past year came for their confirmation, they expressed acquiescence, "as the Nawab has assured us in a letter of the 26th January last that this assignment of the revenues of this country was a voluntary ²⁰ act of his own". Since then the Nawab had withdrawn his offer, and the Supreme Government also who had originally suggested the measure were now insistent that it should be ²¹ given up. That explains the Court's new orders of 1784 to which the Board of Control wholeheartedly agreed. That this was a grave mistake is not open to doubt as the foregoing account and the following pages would abundantly show. As Dr. Furber says this decision "restored the revenues of the ²² Carnatic not to the Nawab but the Nawab's creditors". But the fault of the Board was one of acquiescence and not the opposite one of abrogation.

On the receipt of these orders the assignment was given up, and a new "Agreement" was signed between the Nawab and the Madras Government. By its terms the former was to pay to the Company an annuity of four lacs of pagodas for the

^{20.} "Madras Annals" p.312
 21. For reasons for this change of attitude see the "English Historical Review", op. cit.

22. Furber, "Henry Dundas", p.52.

defence of the Carnatic, until the exact sum was determined by a treaty to be subsequently made. In addition he was to pay twelve lacs on account of his debts to the Company and the private creditors. He agreed to assign certain lands as a security but this was rendered useless by leaving the power of appointing and dismissing the renters in his own hands. Lastly, the Nawab's Kists were first to be used towards his contributions for the defence, and when that had been made up towards the discharge of his debts.

The above agreement was taken into consideration by the Directors in April 1786. They suggested that the Nawab's contribution for the defence was inadequate. Further, they severely criticised the clause (Article V) relating to the assignment. "You will certainly recollect", they observed, "that it was the constant opinion of your Government during Lord Macartney's administration, that as long as the Nabob had that power (of appointing the renters himself) vested in him, it was in vain for the Company to expect any benefit from the assignment of the country being made over in every other respect to them". They then proceeded to give certain directions for the forthcoming treaty.

23. "Home Miscellaneous", 342, p.364.

But the Board of Control expunged a considerable part of this despatch including the above criticism on the plea that they considered it more appropriate that the necessary orders on the subject should be transmitted through the Secret Committee.

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To the Directors this interference of the Board came as a startling surprise, and they proceeded at once to obtain legal advice in the matter.

The opinion of two of the three lawyers whom they consulted was, however, disappointing as they thought that the Board had acted according to law. But the third, George Rous, dealt more adequately with the subject. He was of opinion that as the Act then stood, the Board's conduct came within Section XV, by which they were constituted judges of what matters required secrecy relating to negotiations with Indian princes, and the Nawab of Arcot unquestionably stood in that position. But he thought that the present case was not within the contemplation of the Legislature when it enacted the law, for the section was evidently directed to measures of hostility or negotiations with foreign powers which might require secrecy, whereas the Nawab was in fact, whatever he might be in form, the administrator of the civil government of countries conquered and defended by British arms and held by him on condition that out of his revenues he would provide the means of defence.

He further pointed out that the whole purpose of Pitt's India Act by which two authorities had been constituted

to check the activities of each other would be frustrated, so far as the government of Madras was concerned, if arrangements with the Nawab of Arcot were made through the Secret Committee, because that involved directly the arrangement respecting the military force to be maintained in Madras, and indirectly every other interest of the Presidency. He accordingly advised an application to Parliament to explain the meaning of that section. ²⁵

Indeed the Directors felt that if the interference of the Board was allowed to pass unchallenged in this instance, they might make free use of the Secret Committee, thus making their own powers and privileges nugatory. One of the directors who resigned in protest stated: "It will be in vain to contend that the patronage is secured to the Company by the Act of Parliament; if the government is secret, it will be absurd to suppose that the patronage will be open; or that those who have no voice in the measure will have much concern, if any, in the appointments; if they have not, to what evils, so often foreboded as dangerous to this constitution will not this mysterious government of India expose us? And if this is to be contended as a necessary mode of managing and controlling the affairs of India, it will, in my opinion, give rise to a question, whether under such circumstances of danger to the constitution our ²⁶ Indian possessions are worth retaining?"

25. "Home Miscellaneous", 342, pp.395-96.

26. Ibid, p.382.

The Court of Directors themselves adopted a resolution declaring that the Board by drawing a pecuniary arrangement with the Nawab into the Secret Department had exceeded their statutory powers and that it was expedient to apply to the Legislature for a further explanation and limitation of those powers. They also appointed a deputation to meet Pitt and ask him whether to such an application he would lend his support.

It might appear that here was a case made out for a declaratory law, if a material difference of opinion between the Directors and the Board could be a sufficient ground for one. But Pitt replied that in his opinion the Board had acted within their powers and that he saw no reason for an application to Parliament on the subject.

Thereupon it was moved at a meeting of the Court of Proprietors, who had throughout supported the Directors in the controversy, that a Committee be appointed to consider the position of the Company under the operation and effect of 24 and 26 Geo. III, but the motion, owing probably to the exercise of influence by the Board, was defeated.

It appears that the reason why the Board had decided to send the instructions through the Secret Committee was that

27. "Home Miscellaneous", 342, p.405.

28. See an interesting pamphlet by Sheridan entitled "Comparative Statement of the two Bills for the Better Government of the British Possessions in India" (1788) pp.33-35.

they differed radically from the Court as to what those instructions were to be. The Secret despatch which was now sent to the Madras Government was very short. ²⁹ It left the proposed treaty largely at the discretion of that Government, and instead of suggesting as the Court had proposed to do, that the sum payable by the Nawab should be increased did exactly the reverse by drawing their attention to a representation from the Nawab to the effect that he was unable to pay sixteen lacs of pagodas, and repeating their wish, already communicated in 1785, that they had no desire to compel the Nawab to pay more than what he conveniently could. All criticism of Article V of the Agreement was omitted.

The Madras Government, however, thought fit by the Treaty of 1787 to increase the Nawab's payment from sixteen lacs of pagodas to twenty-one, nine of which was to be applied to the defence. The provisions about the assignment remained unaltered. The treaty laid down that in the event of the Nawab being in arrears, the Company were to have the power of appointing receivers to collect the revenue from the Nawab's renters, and if the latter did not pay punctually, the Nawab at the request of the Madras Government was to dismiss them and appoint those recommended by them. During a war the whole of the Carnatic was to be treated as if assigned to the Company.

29. "Secret Despatches", 1, pp.417-19.

Further, the Nawab's share of the war expenses was fixed
 25
 at 51 and was to be met by his paying annually four-fifths of his revenue. The arrangement about the liquidation of his debts was confirmed.

In January 1790 a war with Tipu broke out, and events proved how the Directors were eminently justified in the view they had taken of Article V of the Agreement. In July Cornwallis directed the Madras Government to ask the Nawab to make a voluntary assignment of a portion of his territories estimated at four-fifths of his gross revenues to the Company. The Nawab, however, declined to accept this proposition with the result that the Government informed him that they had decided to set up a Board of Assigned Revenues, and requested him to direct his renters to pay all the revenues to the Board and to obey their directions. As the Nawab hesitated, they assumed charge of his country by a proclamation.

Faced with this situation, the Nawab issued the requisite orders to his renters, but added significantly "in case the Company's people should attempt in violation of the treaty to interfere in dismissing or removing the Ammils (renters) and other servants of the circar, and otherwise subvert the rights of my Government, I am under the necessity to order that in such case, as long as my servants shall exist, they shall not submit to the Agents of the Governor-General and Council interfering in the country's business". As the Nawab's attitude seemed ominous

30. "Papers relative to the assumption of the Carnatic" (1792) p.163.

the Government thought it best to empower their own officials to replace the Nawab's servants. Mill rightly observes: "For the details of management, the same regulations were adopted which had been devised by Lord Macartney; and the highest testimony was now borne to the wisdom of the plan which he established"
 31

After the war was over, the Carnatic was restored to the Nawab, and a new treaty dated July 12, 1792 was made with him. According to its terms it was agreed that in the event of a war, the Company were to possess full authority over the Carnatic except the jagirs belonging to the Nawab's family. Thus the former anomalous system was done away with. The Nawab's payment for the defence remained as before, but that for his private creditors was reduced to pagodas 6,21,105 per annum. As a part payment, the tributes from the landholders of certain districts were to be collected directly by the Company. In this way a portion of the Nawab's territory was virtually transferred to the Company.

At the time of the treaty, Cornwallis wrote to Dundas: "I have at length settled everything with the Nabob of Arcot, and I believe in the best manner that it would have been done, unless I had kept possession of the country; but that point could only have been carried by force, without the least shadow of

31. Mill and Wilson, "History of British India", V, p.370.

32

reason or justice, and consequently was not to be attempted".

It is interesting to see Cornwallis who had condemned in no uncertain terms the policy of the Board in relation to the debts of the Carnatic here agreeing with them over the question of its administration.

But the treaties of 1787 and 1792 occasioned a further controversy between the Board and the Directors.

In 1794 a representation from the private creditors of the Nawab in the consolidated debt of 1777 was received, claiming payment of Pagodas 33,91,404 as from August 1788 to August 1794 less what had actually been received. The basic principle of their calculation was that the Agreement of 1785 remained intact, unaltered by the treaties of 1787 and 1792. It should be here mentioned that the first though it purported to confirm the arrangement of 1785 did in fact materially modify it. It increased the Nawab's defence contribution from four lacs of pagodas to nine. At the same time, as we have already seen, the Kists were first to be applied towards its discharge. Assuming, therefore, that if the total amount which the Nawab was able to pay amounted only to sixteen lacs of pagodas instead of twenty-one, only seven lacs remained to be distributed between his public and private creditors as against twelve specified by

32. Forrest, "Cornwallis", 1, p.181.

the Agreement. As the Nawab was in fact unable to pay the full amount, in practice the creditors never received the amount laid down in 1785. The Treaty of 1792 recognised this position by reducing the sum to about one-half.

The creditors refused to recognise these treaties on the ground that they were not made parties to them, and as the Agreement had been a trilateral one, it could not be modified without their consent. So they took for granted that the twelve lacs of pagodas had always been available for their share. Secondly, they claimed interest on the payments due to them, which had during the period of the war been withheld. They wanted them to be regarded as sums which had been lent to the Company, specially when the war in their view had been waged only in the interest of the Company and not the Nawab.

The claims of the creditors impressed Dundas who thought that many of their arguments were irrefutable. He agreed that the Treaty of 1787 was a breach of the arrangement of 1785. "I have often had occasion", he wrote to the Committee of Correspondence, "in conversation with gentlemen who have at different times filled the Chairs of the East India Company, to express my doubts as to the legality of some of the orders we had given, and some of the transactions we had countenanced, injurious to the Nabob's creditors,

posterior to the arrangement made with them in obedience to the orders of 9th December, 1784". He, however, thought that those measures were necessary, but now when the Company's affairs were in fine trim, he wanted a redress to be granted to the creditors. "There are only two points", he stated, on which, "I think there is room for maintaining a plausible argument against their claims; the one is the claim they make for interest upon their debt during the period of the war; the other is in their insisting on a payment of twelve lacs annually, till their debts are extinguished, in place of the 6,12,105 as settled by Lord Cornwallis's arrangement, under date July 1792".³³

Along with this letter, Dundas appended a draft-despatch which he had prepared, and which he wanted the Directors to approve.

It was presumed that the Cavalry Debt had by then been discharged, and the present orders, therefore, related only to the claims of the creditors in the consolidated debt of 1777. It was mentioned that as the Company had found it necessary to take possession of the Carnatic during the war, and utilised the revenues for that purpose instead of for the payments to creditors, such sums of money as should have been paid to them prior to the Treaty of 1792 were to be considered

33. "Papers and proceedings of the Hon'ble Court of Directors for payment of the private debts of the Nabob of Arcot" (1797), pp.15-16. Henceforward referred to as "Papers".

as sums borrowed by the Company. These sums were:-

(1) Pgs. 6,59,820 being the interest on the

debt of 1777 from 1788 to 1790.

(2) Pgs. 10,00,000, being the principal of that

debt from 1790 to 1792

(3) Pgs. 1,99,198 being interest on the two sums

for two years at 6% per annum.

The payment was to be made either in cash or bonds

bearing 6% interest. The following financial statement

annexed to the despatch explains the calculations clearly:-

Aug. 1788 to Aug. 1790. Share of 12 lacs per annum, to which the creditors were entitled while any part of the Cavalry Debt remained unpaid,

Pgs. 6,59,820.

Aug. 1791. Share of 12 lacs to which the creditors were entitled after the full payment of the Cavalry Debt,

Pgs. 5,00,000

Aug. 1792. " Pg. 5,00,000 and no just claim on the Company.

Total. 16,59,820

Aug. 1794. Two years interest at 6% for 1,99,198 they would have received by payment.

Grand Total. 18,59,018

It is clear that the fundamental question was

whether the treaty of 1787 was a breach of the Agreement of

1785. The Directors did not enter into this question at all but merely took their stand upon the treaty as it stood. After mentioning its terms, they declared: "Such being the provisions made by the Treaty of 1787, conformable to the orders of 1784, the Court are impressed with the fullest conviction that during the war, and even for a considerable time thereafter, the creditors cannot be considered as having any just claim for payment of their debts".³⁴ And they enumerated, irrelevantly enough, various occasions on which they had expressed approval of the principles laid down by that treaty. Secondly, they mentioned that the payment of such a large sum would mean that the expenses of the war should have been wholly borne by the Company, for the net sum received from the Nawab as four-fifths of his revenues while under the Company's management had amounted only to twenty-seven lacs. Thirdly, they stated that there was no reason why the creditors of 1777 should be paid any amount of their principal, since that could accrue only when the Cavalry Debt had been discharged.

After thus purporting to show that the creditors had no just claims on the Company, they proceeded to say that the Treaty of 1792 had secured to them greater advantages than they had a right to expect from the former arrangement. For under it, they could have received no payment until the Nawab's war contribution

34. "Papers", p.26.

had been fully met, while under the existing treaty they became at once entitled to six lacs of pagodas. While this was hardly an argument, for the creditors did not accept the arrangement of 1787 at all, the Court's contention that if these payments were made to the creditors of 1777, the Cavalry creditors might demand interest on the sum which remained unpaid before the war, appears to be fairly reasonable, though no ground for the rejection of the claims of the first. Further the Directors pointed out that if they acknowledged the claims of the creditors, it was possible that the Nawab might refuse to make repayment to the Company on the ground that this had been done without his consent. Finally, they urged that as it was impossible for the Madras Government to meet such a heavy demand by cash, they would have to issue bonds and since the Government paper was then at a premium, the Company would be put to a loss of about forty-one thousand pagodas. They concluded by saying: "We entertain sanguine hopes that you will be induced to waive your intention of sending out the paragraphs before us, and that the liquidation of the Nabob's debts to his private creditors may proceed in its due course, under the existing arrangements for that purpose".³⁵

Dundas refused to give way. He replied that the Agreement of 1785 "did establish rights which could not be

altered without the consent of all the contracting parties in that agreement", and, "therefore, if you do not adopt the proposed paragraphs, it will be my duty to submit them to the consideration of the other members of the Board, and if they concur with me in that opinion, they will be sent to you in
 36
 the regular course".

Three weeks later, the Board formally sent the despatch. Referring to the Court's suggestion that if the Company had to grant the claims of the creditors, they would ask the Nawab for repayment, they observed: "We hold it to be clear, that the Company have no such claim: the whole of our opinion on the subject rests upon a foundation incompatible with such a claim. The principle of protecting the Nabob from unfounded claims forms an essential ingredient in the whole of our reasoning on the subject; and we wish now, and hereafter, to have it understood as an inviolable principle, that your Government in India never can, on any emergency, lay hold of the revenue of the Nabob's country, without being liable to discharge punctually those annual burthens to which the Nabob himself is
 37
 liable".

The Directors finally transmitted the despatch in January 1796.

36. "Papers", pp.44-45.

37. *Ibid*, p.57.

There appears little doubt that in the above controversy the attitude of the Board of Control was eminently fair. The main question was, as has been mentioned, whether the Treaty of 1787 was an infringement of the Agreement of 1785. In this connection it is worthy of note that after the signature of the treaty, the creditors remonstrated to the Madras Government and demanded that the question of their rights should be settled by an appeal to His Majesty's judges.

But when the matter was referred to the Supreme Government, they refused to give the necessary permission on grounds which really beg the question. "Before we acceded to the application to solicit the opinions of His Majesty's judges", they wrote to the Court of Directors, "we deemed it our duty to consider the questions proposed to be referred to them ourselves; and having formed our opinions upon the whole, free from any doubt, we determined against any application to the judges on the principle that there could be no obligation upon us to solicit advice where we ourselves entertained no doubts".³⁸ The reasoning on which they reached the above decision was: that the Act of Parliament when it directed the establishment of a fund for the discharge of the demands of

38. "Cornwallis Correspondence", 1, p.341.

the creditors made it subservient to the rights of the Company; that the rights of the Company were primarily and necessarily the safety and protection of their territories; that the agreement and treaty must be deemed one instrument only, of which the former was the commencement and the latter the conclusion; that the treaty was conformable to the prescriptions of the Act, and to the orders of the Court of Directors, and that it had been formed upon fair and equitable principles whether considered relatively to the contracting parties, or with regard to the revenues of the Nawab.

Some of these arguments seem to have little validity. It is doubtful whether the agreement and the treaty could be considered so far as the creditors were concerned parts of the same transaction. For one thing they were parties to the one but not to the other. It is true that the first contained a provision about a later treaty, but the creditors were shown and their consent secured only to that part of it, which related to debts. ^{38a} Secondly, as has been seen, the treaty materially modified their position. Further, immediately following the agreement, the Nawab had represented that the payment of sixteen lacs was too onerous, and during the negotiations preceding the Treaty of 1787, while agreeing to have his defence contribution

38a "Papers" p. 32.

increased requested that his payment for the debts should be
 39
 reduced to ten lacs. His subsequent arrears, therefore,
 should have been foreseen.

If then the claims of the creditors were good, the next question was whether they were to be satisfied out of the four-fifths of the Nawab's revenues which the Company had received, or by the Nawab out of his future revenues. Here also the attitude of the Board seems to have been the proper one. In truth the only excuse which could be offered for the Company receiving the bulk of the revenues during the period of the war was war, and yet from this war the Nawab had not profited at all. The only equitable course should have been to put him in possession of a proportion of the territories ceded by Tipu. But when in fact the Nawab had made such a demand, he had been answered by Lord Cornwallis that "as these countries were obtained by the force of the Company's arms, and at their expense, the Marquis did not conceive that any share of them could be His Highness' right".⁴⁰ If this was true (which of course was not) the only course for the Company was to refund to the Nawab for the payment of his creditors the amount received from him in excess of peace subsidy.

39. "Home Miscellaneous", 291, p.375.

40. Quoted in "Papers" p.34.

We have seen that Dundas had calculated the amount due to the creditors as about eighteen lacs of pagodas. But according to the interpretation placed upon his despatch by the Madras Government, the sum amounted to more than twenty-three lacs, and they took steps to pay it off.

These proceedings revived the controversy between the Company and the Board. On January 1, 1797 the Court of Proprietors adopted a motion declaring that the Board of Control by their action had placed the Company in respect to the Nawab and his creditors in a situation different from that contemplated by the Legislature, and calling upon the Directors to make a further protest. At the same time an elaborate case was prepared for the Company, but when the lawyers were consulted as to whether the powers of the Board under the law extended to the Nawab's debts, they declared without hesitation in the affirmative. Finally in August the Directors made their last remonstrance against the orders of the Board, "orders, the mistaken principles of which, and the subsequent mistaken application of them by the Company's servants in India equally form the subject of well-founded complaint, for the past, and apprehension for the future".

41. "Papers", p.196.

41. "India Office Correspondence during the rebellion" No. 11, p. 1.

Meanwhile the Treaty of 1792 had not achieved its purpose. As Malcolm says: "Muhammad Ali Khan after its conclusion pursued a conduct not more at variance with his own interests and with those of the Company, than destructive of the happiness of his subjects and the prosperity of his country".

⁴² The old man died in 1795 and the occasion was seized by Lord Hobart, the Governor of Madras, for an attempt to introduce radical reforms in the Carnatic. His views are embodied in two elaborate Minutes wherein he examines in detail the mode by which the Nawab had continued to borrow to the impoverishment of his country and the distress of the Company. By the last treaty, he had assigned certain lands to the Company, but the security was valueless in as much as he had created certain additional encumbrances on those lands. "There is no mode of eradicating the disease", Hobart rightly insisted, "but by removing the original cause, and placing those districts which are pledged for the security of his Kists, beyond the reach of His Highness's management". This proposal had it been adopted would have merely been the following up of a principle already embodied in the Treaty of

42. Malcolm, "Political History of India" (1811) p.332.

43. India Office Records, "Parliamentary Collection" No.32, p.6.

1792, but the new Nawab was unwilling, and Sir John Shore
 did not want him to be "dragooned into concessions".⁴⁴ In
 consequence, the condition of the Carnatic continued to be
 deplorable.

The chapter closed when in 1801 the then Nawab
 was pensioned off by Lord Wellesley, and the Carnatic
 annexed. The measure was approved by the Court of Directors
 and the Board of Control, being indeed one of those rare
 occasions on which the two agreed over the policy of the
 Governor-General. In fact, it had been felt in the past
 by all that a drastic course alone would provide the remedy.
 A mistaken sense of honour had prevented it, but the Nawab's
 complicity with Tipu, which was made the basis of the new
 arrangement, succeeded in assuaging their susceptibilities.

The Company at the same time, charged themselves
 with the payment to the Nawab's creditors. The consolidated
 debt of 1777 was paid off by 1804. But meanwhile there had
 been growing another enormous debt, much of which was purely
 fictitious, and for which no provision had been made.

In the judgment of Hume, Dundas's recognition of
 the consolidated debt of 1777 without any enquiry had led
 persons to secure from the Nawab bonds of any description
 in the hope that some future, and equally good-natured
 ruler would pay them off.

44. "Life of Teignmouth", 1, p.370.

45

President of the Board would recognise them as well.

Castlereagh, however, proved to be a different man. In reply to Dundas, who put in a good word for his friend Sir John Macpherson, one of the creditors, he wrote: "Your opinion on this, as on all points, is calculated to weigh much with me — ⁴⁶ prima facie I own, as far as these debts have been contracted with Europeans in defiance of positive orders often repeated from home, or secured upon districts, which the Nabob by treaty was notoriously, even in the eyes of natives, precluded from charging with incumbrances, I think the presumption is strongly against the claims".⁴⁶ And he received a warning from Lord Wellesley asking him not to recognise any part of the Nawab's unconsolidated debt without previous investigation under the authority of ⁴⁷ the Legislature.

Consequently, when in 1805 he received a plan from the Directors for the liquidation of the Nawab's debts, by which the claims of the creditors were first to be sifted by a ⁴⁸ body of Commissioners, he readily agreed.

45. Mill and Wilson, op. cit., V, p.30, footnote.

46. "Home Miscellaneous", 504, p.11.

47. Martin, Wellesley's Despatches", 111, p.528.

48. "Letters from the Board to the Court", 11, p.221.

In 1814, the Commissioners gave their award on claims valuing £20,390,570 of which - and this is highly significant - only one-twentieth were recognised as well-founded.

There is no doubt that Nawab Mohammad 'Ali was an extremely bad ruler. But responsibility for the mismanagement of the Carnatic must to some extent be shared by the Company. From an early date, they assumed responsibility for his defence. The Board of Control continued this policy. In the amended draft of 1784, they proposed with great warmth their "personal attachment to our old ally, his Highness the Nabob of the Carnatic, for whose dignity and happiness, we are ever solicitous". Yet they followed this up by communicating in a Secret despatch that they could not "upon any account consent that the power of the sword in that part of Indostan shall be in any hands but our own".⁴⁹ It might be pointed out that this dual system beside laying the basis of constant friction, removed that strong inducement to a ruler to govern his country well - the dread of foreign invasion.

49. "Madras Draft Despatches", 1, p.25.

50. "Secret Despatches", 1, p.400.

C H A P T E R V I

LORD WELLESLEY, THE COURT OF DIRECTORS AND
THE BOARD OF CONTROL.

The difficulties of a triple Government were never better realised than during the administration of Lord Wellesley (1798-1805). The Act of 1784 had enlarged the powers of the Supreme Government in India by extending their control over the subordinate presidencies and vesting the promotion of officials in their hands. The uniform policy of the Board of Control had been to enforce the terms of the Act. But as the Act had only vaguely marked the division between the authority to be exercised by the Government in India and the Home Government (indeed the conditions existing at the time when the means of communication were so slow would have permitted no other course) there remained grounds on which the two bodies could come into conflict.

Much depended on the personality of the Governor-General. Lord Cornwallis and Sir John Shore were persons simple in their tastes, disinclined to undertake any military operations unless they were forced to do so by imminent necessity, and respectful towards the Court of Directors who sent them out. Lord Wellesley, however, was a man of a very different stamp.

Extremely able, full of ardour to conceive grand designs, and to carry them out with vigour and success, fond of power, vain, impatient of all opposition or interference, he cut against the grain of Leadenhall Street.

Two facts stand out in sharp relief from the correspondence and conduct of the Court of Directors: they were extremely jealous of their authority and privileges, and like good businessmen opposed to all schemes which cost money without full and patent justification. To this source is to be ascribed their opposition to the building of the new Government House, the establishment of the College of Fort William, and his wars and annexations.

The Company had begun as a commercial body, and it was the settled policy of the Directors that though by force of circumstances they had become a political power no more annexations were to be made, since they spelt the emptying of the treasury and the loss of dividends to the proprietors. Apart from this, any wars which were waged in India incurred the odium of the public, and excited the jealousy of the foreign countries. But the Directors had one more reason and a very good one at that; the Legislature itself in unmistakable terms had forbidden wars and acquisitions of territory.

It may, however, be seriously doubted whether it was possible to obey strictly the provision of the law. The British

having become a territorial power in India and situated amid a mass of independent States fighting among themselves, they were either to advance or be uprooted. In the opinion of Sir John Malcolm the day on which the Company's troops marched one mile from their factories, the increase of their territories and their armies became a principle of self-preservation.¹ To say this, however, is not to admit that all the wars of Lord Wellesley were wars of necessity. A more moderate person would have preserved the Company's possessions and yet avoided some extension of territory. At any rate, this is clear that the avowed policy of Lord Wellesley was to make the British the sovereign power in India. Perhaps he was far-sighted in his conception, but equally was he guilty of a breach of the constitution as it then stood. Whatever be the motive of the Directors in opposing wars, their point of view is fairly understandable and worthy of appreciation, and there appears little justification for such a condemnation of the Directors as offered by Dean Hutton in his biography of Lord Wellesley: "It was the irony of his position that a man born to command should be shackled by the anile pedantry and timorousness of Leadenhall Street".²

Between the Directors on the one hand and the Governor-General on the other, the position of the President of the

1. Sir John Malcolm, "Political History of India" (1826) p.4.

2. W.H. Hutton, "Marquess Wellesley" (1893) p.159.

Board of Control was a most difficult one. Castlereagh, who occupied this post from 1802 to the close of Wellesley's administration, acted in the only manner in which it was possible for him to do. He left the power of initiative in all matters to the Governor-General, or rather as the Governor-General delighted in adopting measures on his own responsibility, allowed him to do so. But as Wellesley went in many instances against the constitution, and his policy both in war and peace involved heavy expenditure, he inevitably came into sharp conflict with the Court of Directors. It was here that Castlereagh stepped in to restore harmony between the two. Where he felt that the Governor-General was wrong and the Court of Directors had said so in a venomous draft, he would suppress the draft and convey its purport to the Governor-General either through a substituted draft or a private letter. But in general he seems to have been in sympathy with the Governor-General. The imperialistic policy of Wellesley, specially at a time when the danger from the French was real, it is natural should have won his approval. This is, however, true only with a qualification, for his Marhatta policy was disapproved by Castlereagh and Pitt, and Lord Cornwallis was sent in 1805 to undo his work.

Many letters of Castlereagh to Wellesley indicate the difficulty of his position. Thus on one occasion he writes:- "Your Lordship will perceive that if those in charge

of the Governments abroad have occasionally to complain of mortifications and embarrassments from the proceedings of the Court of Directors, the superintending authority at home is not exempt from its share of difficulty, and that we are all called upon in our turn to endure that which is equally repugnant to our understandings and our feelings".³ And again: "The temper of the Court of Directors is no secret to your Lordship. I should not now refer to it, wishing to soften feelings rather than to aggravate them, were it not from a persuasion that your mind takes a higher range than to dwell on such a subordinate consideration. You will, I trust, only weigh what is due to the public interest, and to your own high reputation, and suffer the other point of view to operate only so far as it might be an obstacle to either, or both of these objects".⁴

To study the triple relations of the Governor-General, the Court of Directors, and the Board of Control, we might first review Lord Wellesley's political measures, then his appointments, the establishment of the college of Fort William, and finally Draft No. 128.

By the Act of 1784 the control of the Directors over the foreign relations of their Governments had been taken away

3. M. Martin, "The Despatches, Minutes, and Correspondence of Marquess Wellesley" (1836), IV, p.40.

4. Martin, "Wellesley's Despatches", V, p.76.

from them and vested in the Secret Committee, i.e., the Board of Control. It is, therefore, only the Board who sanctioned the wars, alliances, and annexations, of Lord Wellesley. No responsibility attaches to the Company. How far the directors approved or disapproved of these measures cannot be known with any degree of precision, for all the correspondence concerning them was carried on through the Secret Committee. It is, however, possible to gather an impression of their sentiments from some of their proceedings and the letters and speeches of some of their members.

The news of the conquest of Mysore in 1799 was received with great satisfaction by the Company. The Court of Proprietors passed unanimously a vote of thanks to the Governor-General for the energy and decision he had displayed since his arrival in India up to the happy termination of the war. At the same time they granted him a handsome pension of £5000 a year for twenty years.⁵ Indeed Hyder 'Ali and Tipu had been the most formidable rivals which the Company had encountered. The latter had been intriguing with the French for their destruction. His defeat, therefore, could give nothing but satisfaction.

The Company were likewise pleased with the annexation ⁶ of the Carnatic in 1801. The evils of dual rule had been

5. "The Wellesley Papers" (1914), 1, p.119.

6. Auber, "Rise and Progress of the British Power in India", ii, p.257.

manifested so often that its disappearance brought a much needed relief.

But the treaty of 1801 with Oudh was condemned by the Directors in no uncertain terms. To make this intelligible, a brief account must be given how the treaty with Oudh had been signed. By a previous treaty (1798) the Nawab of Oudh had promised to pay to the Company an annual subsidy of seventy-six lacs of rupees and to hand over to them the strong fort of Allahabad. The Company on their part were to station a military force for his protection. When Lord Wellesley became the Governor-General, he decided in view of the threatened danger from Zaman Shah, the Afghan leader, to transfer the Doab, where the attack was feared, from the possession of the Nawab to that of the Company. For a time he even insisted on the Nawab abdicating and giving over the whole of Oudh to the Company. But as the Nawab refused, by the final treaty an increased European force was placed on his country, and a large and fertile portion of his territories was annexed by the Company so as to defray the expenses of its upkeep.

The Court of Directors afterwards in a draft despatch which the Board disallowed expressed a whole-hearted condemnation of the measure. They declared that the treaty was specious because the Nawab had been forced against his will to accept it, and stated that a part of his territorial

possessions had been wrested from him not as the consequence of any breach of engagement on his part, but in pursuance of the design formed by the Governor-General of obtaining for the Company either the whole of Oudh or at least a part of it. They regarded the measure as contrary to the established policy which prohibited the acquirement of any additional ⁷ territory.

Indeed the position in Oudh was very much what it had been in the Carnatic. The ruler though outwardly an independent prince was wholly dependent on the Company for his military protection. The forces which he himself kept were ill-disciplined and little better than a rabble. Dundas had suggested on a former occasion the idea of asking the Nawab to disband some of his forces and accept a larger number of ⁸ the Company's troops. If Wellesley had merely done this, perhaps the Directors would not have objected. What they specially disapproved was the commutation of subsidy into territory, thereby increasing the Company's possessions on the one hand, and on the other, leaving the Nawab smarting under an idea that the confiscation of his hereditary dominions was the object aimed at. It might be added in parenthesis that it was exactly on this principle that the subsidiary alliance with the Nizam of Hyderabad of 1800 was also condemned.

7. "Home Miscellaneous", 486, pp.120-121.

8. Ibid, 453, p.142.

The Treaty of Oudh, however, was approved by the Board of Control, and their sanction was forwarded by the Secret Committee, the Chairman at the same time declaring that he did so only ministerially and recording his dissent. At a later date when proceedings had been started in Parliament for an impeachment of Wellesley, he argued with plausibility in a letter to Grenville that the measure had been formally sanctioned by the Board and it was immaterial whether the members of the Secret Committee or of the Court of Directors ¹⁰ approved it or not, but it appears that the Board themselves ¹¹ were doubtful of the justice of the means employed for getting the treaty signed by the Nawab.

In 1802 was signed the Treaty of Bassein. By it the Peshwa agreed to maintain the Company's troops for his protection and assigned a portion of his territory for their payment. But the most important article of the Treaty was one by which he agreed not to wage war with any state but to submit his differences with the other states to the arbitration of the British. In short his foreign affairs were to be henceforth managed by the Company.

9. Auber, "Rise and Progress of the British Power in India", ii, p.386.

10. Historical MSS. Commission Reports, "MSS preserved at Dropmore", VIII, p.71.

11. P.E. Roberts, "India under Wellesley", p.135.

On the part of Wellesley the treaty was a bold step indeed. The Peshwa was nominally the sovereign power among the Marhattas, and by entering into an engagement with him, he hoped to place the Marhatta Confederacy under the influence of the Company's Government. ¹² But would the Marhatta chieftains all of whom, with the exception of the Peshwa, were powerful leaders allow the Company to arbitrate on their affairs? Would the Peshwa himself who was weak and vacillating in character, who had long resisted the Governor-General's effort to induce him to enter into a subsidiary alliance, until he had been defeated by Holkar and rendered helpless, adhere to the engagement? In fact the Treaty of Bassein had in it the seeds of a bitter and protracted war with the Marhattas.

The Court of Directors in a draft above alluded to pointed out three main objections against the Treaty (1) that the time at which the treaty was signed was not appropriate: the Peshwa had declined to enter into the proposed alliance on former occasions and at the moment was a fugitive (2) that the nature of the conditions imposed upon him and the Company, specially the one by which he was to be restored to his capital

12. The Governor-General's Narrative of the late transactions in the Marhatta Empire, "Papers relating to the Marhatta War in 1803, Printed by order of the House of Commons, June 1804", p.304.

"had an inevitable tendency to involve the Company in immediate hostilities with the other Marhatta chieftains" and (3) that the treaty was in contravention of the law which forbade treaties of mutual defence unless in the event of an ¹³ actual or impending war.

Though the despatch was suppressed by Castlereagh, it appears from a memorandum drawn up by himself and forwarded to Wellesley in 1804 that his sentiments with regard to the treaty were exactly the same as those of the Directors. He too regarded the treaty as bad in law and inevitably leading to ¹⁴ a conflict with the Marhattas.

Meanwhile following the Treaty of Bassein, a war with the Marhattas had actually broken out in 1803. In 1804 the Secret Committee gave orders for a modification of the Treaty of Bassein, though they left, as indeed they invariably did, the final measures to the discretion of the Government on the spot. They also asked for a speedy termination of the war, and pointed out significantly that the terms to be offered to the opponents were to be framed "with a view to the improved military security rather than the extension of our present

12. "Secret Despatches to all Presidencies", i, pp.28-29.

13. "Proposed Despatch of the Court of Directors" dated April 3, 1805, printed in 1805, p.95.

14. "Secret Despatches to all Presidencies", i, pp.28-29.

15

Dominions".¹⁵ Indeed it is clear from several passages in Castlereagh's memorandum which accompanied the despatch of the Secret Committee that he regarded the war that was going on not as one of necessity but having its basis in a love of power and glory. On 3rd May 1804 the thanks of Parliament were voted to the military and the Governor-General for their services in the war against Sindhia, but it is noteworthy that all consideration of the policy of the war was omitted.

The way the Directors felt towards the war is very clear from two letters written in 1804 by Charles Grant, Deputy-Chairman at the time, and addressed to J. Duncan, the Governor of Bombay, and G. Udny, a member of the Supreme Council. They embody an unqualified condemnation of the war. In the former occurs the sentence: "The Court of Directors, with a very few exceptions, most seriously disapprove and lament it, as both morally and prudentially wrong in its principle, and full of danger in its consequences".¹⁶

Indeed so far as the Marhatta policy of Wellesley was concerned both the Court of Directors and the Board of Control were opposed. If the Directors had had their way they should

15. "Secret Despatches to all Presidencies", 1, p.9.

16. Henry Morris, "Life of Charles Grant" (1904) p.256.

have certainly recalled him: the Board of Control merely
 protested and allowed him to stay on.

But the Directors, though they were powerless in the political sphere, still retained a voice in other matters, and struggled hard to make it effective. The appointment of officers always a thorny problem brought them into frequent clash with the Governor-General. In 1801 they set aside some of these appointments, and this coupled with certain other mortifications led Wellesley to send in his resignation in
 the following year. In his letter of January 10, 1802, to Addington, the Prime Minister, Wellesley has offered an elaborate defence of these appointments, and one, which, it must be admitted, exonerates him from blame. On the other hand the grounds on which the Directors revoked the appointments appear to have been trite and unconvincing.

Wellesley had appointed Lieutenant-Colonel Kirkpatrick, whom he had first met at the Cape of Good Hope

17. Thus the difference between the Board and the Directors so far as Wellesley's policy was concerned, was one of degree only. The Board did not originate that policy; all that can be said against them is that they acquiesced in it. Lord Lauderdale in his "An Enquiry into the Practical Merits of the System for the Government of India" (1809) attempts to prove that the Board were directly responsible for it, but he really ends by proving simply that they connived at it, see p.121.

18. Martin, "Wellesley's Despatches", iii, p. IV-XXIV.

on his way to India, as his Political Secretary. He was abundantly fitted for the post. But the Directors disapproved of the appointment as being an unnecessary deviation from the general usage and practice of the service by which the post was given to a civil servant. They were of opinion that the appointment should be made from the civil service and that the incumbent in due course should become a member of the Council.¹⁹ Wellesley retorted by adducing instances in which similar posts had been held in the past by Kirkpatrick but no objection taken. For the same reason the Directors set aside the appointment of Captain Hook as Military Secretary to the Government. They stated that they had agreed to the suggestion of Cornwallis in 1789 for the appointment of a military man as Secretary to the Military Board, but that those reasons did not apply to the present appointment.²⁰ It might be questioned as to why not. In fact the argument of Wellesley that the Council would be a powerful check on the details of the army, particularly its expenditure, if the Secretary was thoroughly conversant with those, and that could only be if he was a military officer is hard to rebut.

But the interference of the Directors which gave to Wellesley the greatest offence was the revocation of the

19. "Bengal Despatches", XXXV, p. 369.

20. Ibid, p.377.

appointment of Josias Webbe, as the Chief Secretary to the Madras Government, and the direct nomination of Chamier in his place. The Directors gave no reasons whatever for their action, merely contenting themselves with the observation that it was
 21 'expedient'. It is difficult not to concur with Wellesley that the real intention of the Directors was to remove the right hand man of a Governor, whose policy they disapproved, and who
 22 in his turn was merely the agent of the Governor-General.

Indeed it is clear that the interference of the Directors in the above instances was unjustified. Patronage was vested by the Act of 1793 in the local Governments subject to the right of superintendence and control in the Court of Directors. The nomination to offices as well as all the measures of the Governors in Council were certainly subject to their revision, but it does not appear that it was intended that the Directors should exercise the power, as they did in the case of Chamier, of directly appointing any officials below the members of Councils. Moreover, though they could certainly revoke appointments, they should have done so only where they had been
 23 either highly irregular or had resulted in grave injustice to

21. "Madras Despatches", XXVIII, pp. 10-11.

22. It appears that Castlereagh tried to induce the Directors to reinstate Webbe, though his efforts did not succeed, Cf. Hobart's letter to Wellesley, "The Wellesley Papers", 1, p.164.

some particular claimant. If merit was a qualification, the local Governments were in a far better position than the far-removed Directors to make such appointments. The Act of 1784 had enforced strict seniority but the law had been amended in 1786 when the Governors in Councils had been given a measure of discretion in this sphere.

This appears to have been the view of Castlereagh himself. He turned to Dundas for advice: "I should be very thankful to you to let me know your ideas of the practice that should prevail between the Government at home and their Governors abroad, how far you ever thought it right to suffer this principle (of appointments by local Governments) to be relaxed, and what powers you considered the Board of Control to be possessed of for regulating points of this nature.

Nothing can be more subversive of what I conceive to be the practical system of Indian Government under your Bill than such interference on the part of the Court; nothing more important in its influence on the civil, military and financial affairs of the Company which are under our superintendence".²³

But what vexed Wellesley even more and made him feel that he was accused of nepotism was the feelings with

23. "Home Miscellaneous", 504, pp.23-24.

special Envoy to Oudh to negotiate the treaty of 1801, and later as the Lieutenant-Governor of the provinces ceded by the Nawab was received by the Directors. In August 1802 they proceeded to draft a despatch ordering his removal on the grounds that his appointment was injurious to the members of their service, and was also illegal, the law laying it down that all civil vacancies were to be supplied from amongst the Company's civil servants alone.

But the Board declined to approve the draft, and offered some observations in explanation. They agreed with the Court on the necessity of safeguarding the rights of their civil servants, and that the Governor-General in employing Henry Wellesley as envoy had exceeded his authority. But they urged in extenuation that the task was of a most delicate and confidential nature, and one in which the fact of Henry Wellesley's being a relation of the Governor-General was a factor highly conducive to success. It was really with the idea that his brother could exert greater pressure on the Nawab than the Resident that Wellesley had sent him as a negotiator.

With regard to his appointment as Lieutenant-Governor, the Board observed that if it had been made in consequence of any vacancy in the Company's regular establishment, or constituted a permanent part of that establishment, it would be certainly

illegal. But as the Ceded Provinces had been recently acquired and not yet reduced into a state of regular administration the appointment did not come within the strict provision of the law. In short, they were inclined to treat it as that of an expert who had been temporarily brought in to give the business a good start. Secondly, they stated that none but public motives had induced the Governor-General to make the appointment and this was clear from the fact that Henry Wellesley was to receive no emoluments beyond what he got as the former's ²⁴ Private Secretary. Thus there was no danger of the present instance forming a precedent. Finally, they urged that as Lord Wellesley had promised to write on the matter, it was best ²⁵ to wait.

But though Castlereagh suppressed the draft, he was ²⁶ fully aware of the strong objection of the Directors, and perhaps

24. It is interesting to recall that if an earlier decision of the Directors had been allowed to take effect, Henry Wellesley would in all probability have never proceeded to India. In 1789 the Directors adopted a resolution forbidding the employment of any person as Private Secretary to a Governor or Governor-General, who was not a Company's civil servant. The Board withheld a consideration of this resolution until 15th May 1790 when in reply to the Court's request that the para. be now transmitted to India, they declined giving their concurrence "being clearly of opinion that nothing can be more incompatible with the idea of a Private or Confidential Secretary than an order to select him from any description of persons whatever. The utility of the office rests upon the entire confidence reposed in him by the person whom he is to serve, and such confidence cannot exist under such an order as your proposed paragraph tends to establish, "Bengal Draft Despatches", V, p. 91.

25. "Letters from the Board of Control to the Court of Directors", ii, pp. 125-31.

26. Cf. Bosanquet's letter to Wellesley, quoted in Auber, "British Power in India", ii, p. 253.

of some of its justice. Accordingly he sent privately to Wellesley copies of the Court's paragraph, and the answer returned to it by the Board. In the covering letter, he made it clear that the Board had sanctioned the appointment only on condition that it was to be of the shortest duration. This injunction was, however, tactfully preceded by many conciliatory sentences, and a lamentation over 'the temper of the Court of Directors'.
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The appointment of Henry Wellesley did in fact prove to be temporary, and in 1803, the work for which he had been appointed having been accomplished, he resigned. He had justified Lord Wellesley's choice by drawing up a series of beneficial regulations which won the unstinted admiration of Lord Castlereagh. But his health had broken down, and shortly afterwards he resigned his post as Secretary to the Governor-General, and arrived in England. In a letter to the Chairs, Castlereagh pleaded for the Court's liberality towards him in view of his shattered health in their service, and the fact that as Lieutenant-Governor he had accepted no salary, but on the other hand had
 28 been exposed to incur extraordinary expenses. But the appeal appears to have evoked no response.

27. Martin, "Wellesley's Despatches", V, p.76.

28. "Home Miscellaneous", 504, pp.395-99.

It was not merely this appointment which incurred the censure of the Directors. At a later date the appointment of Arthur Wellesley with extensive powers to negotiate with the Marhatta States occasioned a similar condemnation of the Governor-General. The Directors wrote in 1804 with rare eloquence: "The ardour of military fame, the lust of riches, or the weakness of a single hour might expose the welfare and the reputation of the Company to a risk to which they ought not to be made subject; and under the sanction of such a precedent, we might see some future Governor-General giving to his partiality for the ties of sanguinity what he would otherwise not be disposed to relinquish ²⁹ to the most superlative merit". But the Board wisely applied the axe.

We might now proceed to discuss the famous and prolonged controversy about the Collage of Fort William. The course of the controversy was briefly as follows:- Lord Wellesley acting on his own initiative established the College in 1800. When the measure came for the confirmation of the Court of Directors, they feeling offended that the step had been taken without previous reference to them; was highly expensive; and against their judgment in its details, ordered its abolition. The Board of Control, however, intervened and expressed the opinion that for the time being the college might be continued reserving final orders. The Directors,

29. "Bengal Draft Despatches", XV, pp.211-12.

however, fearing that if no immediate steps were taken, the abolition of the College would become difficult in the future, decided to resist the suggestion of the Board. Thereupon the Board claimed that they had constitutional powers to force the Directors to transmit their despatch on the subject. Legal opinion, however, did not seem to be in favour of the Board. The affair was settled by means of a compromise. The Directors forwarded the Board's despatch after some modifications, but at the same time forced the Board to acknowledge that the present compliance of the Directors was not to constitute a precedent for the future.

The question may now be considered in some detail.

The first intimation which Wellesley gave of his intention to found the College was in 1799 in a letter³⁰ to Dundas. He foreshadowed a College, where the civil servants on arrival in India, would be educated for two or three years in the Hindu and Moslim law, and the mass of regulations enacted by the Governor-General in Council. But it is significant that he neither addressed the Directors on the subject nor indeed waited to hear what Dundas had to say about it.

Finally he took the whole matter into consideration in an elaborate Minute of July 10, 1800.³¹ He mentioned three reasons

30. Martin "Wellesley's Despatches", ii, pp.131-32.

31. Ibid, pp. 325-55.

for his decision to found the College at once without waiting for the previous sanction of the Court of Directors. They were the immediate benefit to be derived from the early commencement of his plan; the experience of the great advantages which had already been gained by some of the young men from their studies under Mr. Gilchrist; and the anxiety to impart to the young men who had arrived in India within the last three years, a portion of the anticipated advantages, and the Governor-General's anxiety to superintend the foundation of the institution and observe its effects during his tenure of office. Of these only the last appears to have been substantial, for if the administration of the Company had been carried on till now without the existence of a College, surely any delay which a consultation with the Directors might have involved could have had no disastrous consequences.

To say this, however, is not to dispute Wellesley's argument for an institution where the civil servants could be trained. The writers who arrived from England had received education of a most perfunctory type. During the days when the Company were merely concerned with commerce, perhaps the fact did not much matter. But since then conditions had greatly altered. The civil servants had now to perform important magisterial and political functions.

By the regulations which Wellesley laid down, all the civil servants - no matter what presidency they were to serve in - were on their arrival in India to reside and study at the Fort William College for three years. But the curriculum which he prescribed was over-elaborate. Besides all sorts of law, geography, history, and economics - the practical use of which is evident - he went on to include all the branches of science, European languages, and even Greek and Latin.

It was with undisguised feelings of surprise and disapproval that the Directors received the news of the establishment of the College. They appreciated the enlightened spirit of the Governor-General, which had prompted the scheme but remarked that under the existing financial stringency, they could not sanction it, since it involved heavy and indefinite expenditure. They took the Governor-General to task, for not having previously consulted them. Indeed the Directors felt that if they acquiesced in this measure Wellesley would make it a practice to ignore their authority and to accomplish things on his own initiative. Practical men as they were, they knew that once their Governments had adopted certain measures, the power of control vested in them would lie dormant, since it was far easier to overturn a proposal than an institution. But there was a further consideration which made the Directors decide against the College, and one with which it is possible to sympathise. They were of opinion that whatever European

education was deemed necessary for the civil servants should be imparted in England, and that their studies in India should be confined to subjects properly Indian.

They accordingly directed the abolition of the College, the re-establishment of Mr. Gilchrist's Seminary on a more extensive scale, and further the sending back of the civil servants of Bombay and Madras, who were receiving education at Fort William, to their respective presidencies. This they did because they preferred separate institutions to a central one. At the same time they mentioned their intention of setting up a College at home where mathematics, physics, and the elements of other sciences could be taught.

It is to be noted that the above objections of the Directors were set forth in their draft with equal emphasis. But when the draft came for the Board's revision, it underwent drastic mutilation. Though the abolition of the College was allowed to stand, the Court's proposal of setting up a College in England was struck off. Moreover by the insertion of the phrase "at present" in several places, the Board so altered the tenor of the despatch as to indicate that the only serious objection was

32. Draft dated December 24, 1801, "Bengal Draft Despatches", XIII. Thus the Directors took the earliest opportunity after hearing of the Fort William College to express their intention of setting up a College at home. Mr. P.E. Roberts' statement that they did so only later when a controversy between themselves and the Board had already broken out is incorrect.

based on the existing financial difficulty.

It was not with equanimity that Wellesley received the orders for the abolition of the College. He postponed its abolition till the end of 1803 and meanwhile wrote a letter of enormous length to the Chairman, requesting that the orders might be withdrawn. Seizing the objection of the Directors as a handle, he argued that the financial position had considerably improved. He dwelt at length on the need of such an institution, which was unnecessary, since the Directors by their proposed despatch had already recognised it, though, of course, Wellesley was not aware of it. Further he reiterated his arguments for a central institution, which would secure the uniform education and instruction of the whole body of the civil service derived from a common source.

At the same time, fearing that his appeal to the Directors might not be favourably received, he sent a communication to Lord Dartmouth, the successor to Dundas, asserting with childish impatience that he knew the College to be absolutely requisite for good government, and holding out his usual threat of resignation: "your Lordship will feel that the injury which my authority has received by the abolition of the College, and by

33. Martin, "Wellesley's Despatches", ii, pp.640-666.

other obvious circumstances in the late despatches from the Court must increase my anxiety to receive the fullest and most unequivocal assurances of support from His Majesty's Ministers as the only possible security for the discharge of my functions in this Government. Any want of this support must at once compel me to deliver over my charge to Mr. Barlow".³⁴ Nor was this all, for he expressed his keen determination on return to England to fight the battle in Parliament for a restoration of his measure.

The place of Dartmouth was shortly afterwards taken by Castlereagh, and to him fell the task of handling this business. It was obvious to him that there was a gulf between the Governor-General and the Directors which it was difficult to bridge. He decided to adopt the same tactics, which Dundas had pursued in connection with the Permanent Settlement: he himself drafted a despatch in reply to Wellesley's letter to the Chairman, and sent it informally to the Chairman with a note, saying that whatever went out, he wished it to appear, as far as possible, to proceed from the Court.

But his proposal was modest. He wanted the College to be continued till a suitable substitute had been found, and he also agreed not to fetter the Court's future discretion.

34. Pearse, "Memoirs and Correspondence of Marquess Wellesley", ii, p.217.

The purport of the draft was that the College was allowed to exist, but it was to be investigated whether its expenses could not be reduced, and whether it was more economical and advantageous to have separate seminaries for each of the presidencies.

The tone of Castlereagh was conciliatory enough, and perhaps the Directors would have accepted his decision, were they not aware of the settled resolution of Wellesley to preserve the College intact. Accordingly, they rejected the draft, when it was formally sent to them two months afterwards, and wrote a long explanatory letter to the Board.³⁵

They complained that the Governor-General by failing to abolish the college had disregarded their authority and that to yield to his wishes would be a surrender on their part. And they attacked severely a proposal of Lord Wellesley by which the Governor-General was to be invested with the power of assigning the presidency, where a civil servant was to serve.

It is only natural that the Directors should have viewed this proposal with misapprehension. The three presidencies then were not, as they are now, on an equal basis; the pay and allowances in each being different. If a civil

35. "Letters from the Court of Directors to the Board of Control" ii, pp.306-34.

servant were given an option, he would have doubtless chosen the Bengal Presidency. The right, therefore, of determining the list on which a Writer was to be placed was a valuable piece of patronage.

The Directors further attacked the college as being too magnificent.

After thus criticising the scheme of Wellesley, they offered some constructive proposals of their own, which appear to be entitled to great respect. Wellesley had desired the Writers to leave England at the early age of 15. But was it right that boys at a time when their character had not yet been moulded should be allowed to go from home and face the temptations of a strange country? The Directors proposed that they should leave England at the age of 17 or 18. These two or three years they could spend in acquiring a knowledge of European languages, literature, and philosophy either at the Universities or in seminaries specially established for the purpose. It is obvious that these subjects could be better taught in England than in India. After receiving this part of the education here, they were to be taught at presidential seminaries the local language used in the transactions of ordinary life or in administration. The curriculum was to

include also Indian history, institutions, and culture.

Really it should appear that 18 separate seminaries were better than a central one. The presidencies differed so radically in the languages and usages of their people. Besides, the appointments in each presidency were made by the local Government, and if the Writers were trained in that presidency, there was better chance of the right persons being given the right jobs. It was also reasonable to expect that such local institutions would raise the general tone of the presidencies. All these advantages were pointed out by the Directors, who finished by expressing the opinion that the college should be abolished, and an enquiry held to form the basis of a new training establishment.

36. In an interesting letter to Lord Grenville, Malthus, the famous economist and a professor at the Haileybury College stated three disadvantages of the college of Fort William as proposed by Wellesley, viz: , its expensiveness, inconvenience, and disutility. He stated that "the salaries necessary to induce men of high character and attainments in our English Universities to afford their assistance in India would be so great that, though the founder of a new establishment would not hesitate to give them, it is probable that the system would not be persevered in its due extent". Secondly, it would be a difficult matter how to deal with candidates who failed there. Thirdly, conditions in India were not favourable for study. The civil servant on arrival would be "surrounded by natives devoted to his will, discouraged from application by the enfeebling effects of the climate; and beset by every temptation and novelty, which can attract his imagination, and divert his attention from serious pursuits".

Faced with this opposition, the Board of Control while still insisting that the despatch should be communicated to India agreed that an enquiry should be undertaken. But to conciliate the Directors they made one concession, viz: that if they wanted the civil servants of other presidencies not to receive instruction at Calcutta they could add a paragraph
 37 to that effect.

It is difficult to see why the Directors should not have accepted the new proposal of the Board. But they remained obdurate. They even challenged the right of the Board to draw up a despatch on the above subject. They expressed the opinion that by the Act of Parliament they alone were empowered "to originate all matters which relate directly or indirectly to the appointment of the servants of the Company; to the creation of any new establishment or salary or the
 38 granting of any pension or reward", and that the Board's power was confined to an absolute or partial veto.

After having set forth their powers in theory, they proceeded to substitute for the Board's draft one drawn up by themselves. In this they ordered the abolition of the College, and the establishment of a modest seminary. They

37. "Letters from the Board to the Court", ii, letter dated July 5, 1803.

38. "Letters from the Court to the Board", ii, pp.342-43.

repeated their old arguments which need not be recapitulated, but we might note in passing that they dwelt at length on the lack of discipline at the Fort William College.

39

The Board took up the challenge, and on their side gave a detailed, and an unnecessarily long, interpretation of the law. They declared that they had complete authority to direct any new establishment to be created, which they considered conducive to the better government of India; to prescribe the number of officers of which it should consist and even the salary which each should receive, but having determined this question which was strictly political, their functions ceased and it did not belong to them to decide by whom those duties should be executed, or by whom those emoluments should be enjoyed. Their claim to these powers they supported by a negative argument. If it could be granted, they said, that the Board

39. In view of the controversy between the Board and the Directors regarding the abolition of the college, it is interesting to find the proposal for its abolition originating from the Board in 1811. In a draft sent to them by way of "Previous Communication" by the Court, they inserted certain paragraphs denouncing the existing dissipation at the college, and ending: "We may possibly feel ourselves compelled to revert to the subject at some future opportunity; at present we shall only state that if the situation of the young men attending the college at Fort William is really such as has been described to us, we are not aware that we can apply any other effectual remedy than the total abolition of the establishment, and adopting means to afford in this country the instruction which it is intended to convey at Calcutta, "Previous Communications", A, 1811.

could not issue orders necessitating a new establishment, then unless such orders were capable of execution by the precise number of officers then actually in existence, the functions of the Board were at an end, and their undisputed power of directing war to be declared, or peace to be made, which might eventually lead to the extension of the Company's possessions, and consequently an increase in their establishment sank to

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nothing.

It might be noticed that the Board's interpretation of the law reduced the Directors to the status of the Civil Service Commission, and that the analogy between the establishment of the Fort William College and war conditions was hardly just, their control over the latter being distinctly recognised by the Act.

While the dispute between the Directors and the Board was yet continuing, the date had arrived by which at the latest, if the college was to be preserved, orders must be despatched from home. The Directors agreed to forward the Board's draft with some modifications. At the same time to preserve their point, they forwarded the opinion of their Counsel^s to the Board.

The Counsel^s stated, firstly, that the Board had no power to create new offices with salaries attached, even if they

40. "Letters from the Board to the Court", ii, pp.150-169.

related unquestionably to civil government, and secondly, that the Directors could not be compelled to send the Board's despatch to India by the King-in-Council who had no jurisdiction over the creation of new offices. ⁴¹ The opinion of the Crown lawyers was pretty much the same. While holding that the Board had not exceeded their legal powers, they recommended that the question should be decided beyond a doubt in Parliament by means of a Declatory Act. They agreed with the Company's counsels that the matter in dispute did not lay before the King-in-Council, and that the only remedy was in an ordinary ⁴² court of law.

No wonder that the decision of the Directors was welcomed by the Board with unconcealed relief. But they felt perturbed at the legal opinion, and wrote the following letter to the Court which might be quoted in extenso, as it reveals the inherent weaknesses of Pitt's India Act:-

"The late instance is a pregnant proof, how inapplicable proceedings at Common Law are to questions of State policy. The abolition of the College at Fort William, under the orders of the Governor-General in Council is directed

40. ~~Letters from the Board to the Court~~.

41. "Home Miscellaneous", 487, pp.573-74.

42. "Letters from the Board to the Court", ii, pp.173-175.

to take effect on the 31st December next. The dispatch suspending the abolition principally under a doubt as to powers, suggested by the Court, is delayed from 22nd June till the end of August, thereby rendering its arrival in India previous to the day on which the abolition is to take effect extremely problematical. Had unfortunately a difference of opinion with respect to those orders continued to prevail, no legal proceedings could have been instituted before the King's Bench (if in that Court the remedy be found to which the Board are obliged to have recourse) till the November Term, and the delay in itself must have effectively defeated the object of the dispatch".⁴³

Of these doubts and searchings of heart, the Directors took full advantage, and openly demanded that, though they had agreed to forward the despatch, their action should not be deemed to constitute a precedent.

The Board proved unexpectedly compliant, and agreed to a proposition which must indicate that the final victory lay on the side of the Court:-

"That the question of the authority of the Board and the Court shall be considered as remaining in the same state, as if the present subject had not arisen, and that the proposed act of the Court shall not be brought in precedent on any future

43. "Letters from the Board to the Court", ii, pp.176-177.

occasion as going to decide the question of construction of the Acts by which the respective powers of the parties are regulated".⁴⁴

Apart from this formal victory, the Directors also succeeded by subsequent despatches in seriously limiting the scope of the college so that in 1805 its Provost remarked that ⁴⁵ that original intention of the Directors had been fulfilled.

Though the Directors had finally triumphed over the Governor-General, it may well be imagined that the episode left much of the bitterness behind. Wellesley, as has been said, had already sent in his resignation in 1802.

Castlereagh, however, had intervened. On September 11, 1802 he had written to Dundas: "I have not yet been able to write conclusively to Lord Wellesley, You know the Court of Directors are not well disposed to him. I do not despair, however, of bringing the whole to a satisfactory issue. It requires, however, a little time to manage both their feelings ⁴⁶ and dignity".

He had finally succeeded in persuading them to write a letter to the Governor-General acknowledging his zeal

44. "Home Miscellaneous", 504, p.371.

45. J.W. Kaye, "Lives of Indian Officers" (1867), i, p.485.

46. "Home Miscellaneous", 504, p.3.

and ability, and requesting him to postpone his departure till 1804. But since then the Governor-General had further alienated the goodwill of the Directors by pursuing his warlike policy, and resorting to measures which they highly disapproved. He had flagrantly defied the constitution by acting in his personal capacity when he should have acted with his Council; by arrogating to himself the powers which belonged to the minor presidencies; by withholding information from the Home Government; and by investing certain officers with extraordinary powers.

Further the Directors had felt annoyed by the open contempt which Wellesley showed towards them. His correspondence with Castlereagh abounds in phrases which exhibit alike his fertility of brain in the invention of abusive language, and the slight respect which he felt towards that body. Thus writing to Castlereagh in 1804, he says that he depends on him "to frustrate ⁴⁷ the vindictive profligacy of the Court of Directors". His family seems to take up the cry, and his son consoles him with the thought: "I am afraid you must be satisfied with your great reputation, for as to those scoundrels, the Directors, ever doing ⁴⁸ you justice, you must not expect it". Such slighting terms,

47. "The Wellesley Papers", 1, p.177.

48. *Ibid*, p.171.

it is clear, if they reached the ears of the Directors were not calculated to endear the Governor-General to them. And we find Warren Hastings writing to his friends in Bengal:-

"The Governor-General has committed the heinous crime of using expressions of ridicule and contempt about the Company at this table, and the words have been carried home. If I was in his confidence, I would tell him that civility

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costs little".

Castlereagh till now had played the part of peacemaker with success, but it must be admitted with great vexation to himself. Once he is found writing to Dundas, to whom indeed he usually unburdened himself: "I cannot avoid sending you for your amusement a specimen of Bosanquet's (Deputy-Chairman) temper He is a great coxcomb. I am inclined to think, however, that he means well but in point of manners he is among the least pleasant men to act with that have fallen in my way". Increasing friction between the Governor-General and the Court of Directors made his task still more mortifying, and when in 1805 Sir Arthur Wellesley saw him, he deplored in strong terms his differences with the

49. Quoted in Curzon, "British Government in India", ii, p.179.

50. "Home Miscellaneous", 504, p.25.

Directors and wished he had been more considerate towards
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 them.

Relations between the Governor-General and the Directors had indeed reached breaking point, and in the same year to which the above letter belongs, the latter forwarded to the
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 Board for their approval Draft No. 128 in which almost all the measures of the Governor-General since the settlement of Mysore were censured in the most harsh and unbecoming language.

Though the Directors began by paying a compliment to the talents of the Governor-General it is clear from what follows that his conduct had deeply offended them: "After deliberately reviewing the course of his proceedings for some years past, there appears in it such a series of deviations from the constitution established by law for the government of British India, and from the usages of our service; such frequent instances of disregard in affairs both of greater and inferior moment, to all other authorities, and of continued assumptions of new authority by the Governor-General himself, that the character of our Indian Government has, in his hands, undergone

51. Owen, "Wellington Despatches", pp. 561- 63.

52. For a detailed discussion of the draft between the Board and the Court, see Chap. XXIII of P.E. Roberts' "India under Wellesley".

an essential change. It has in fact turned into a simple despotism; the powers of the Supreme Council have been completely absorbed; the subordinate Governments have been reduced nearly to the condition of provinces of the Bengal Presidency; the authority of the Court of Directors has, in many instances, been disregarded; informations of the most important and necessary kind have been withheld from this country; very great irregularities and defects have taken place in recording transactions; instead of that economy in public expenditure, which the spirit of the constitution of British India, as well as the constant tenor of our instructions has enjoined, there has been, in many instances, a needless profusion, which has contributed to swell the Company's debt, now increased to an enormous amount".⁵³

After these preliminary observations, the Directors proceeded in meticulous detail to substantiate the charges by particular examples. The survey included among other things a criticism of the subsidiary alliances, and reflections on the Fort William College and the new Government House.

The objection of the Directors to the centralising policy of Wellesley can be explained, apart from their avowed intention to uphold the constitution, by the fact that in so far

53. "Home Miscellaneous", 486, pp. 7 - 9.

as the Supreme Government became more powerful, their own authority would suffer a proportionate diminution.

The Board of Control cancelled the draft. In fact they were placed in a dilemma. They were fully aware that the Governor-General had in many instances departed from the mode of conducting public business as prescribed by the constitution. At the same time it was clearly impossible for them to be a party to the condemnation of such measures as the establishment of the Fort William College and the subsidiary alliances, which they had themselves on previous occasions approved. Moreover, if a sweeping condemnation like the one proposed by the Directors was to be offered, it was clear that the prestige of the Government would greatly suffer. If the Governor-General merited all the denunciation which the despatch contained there was only one course to be adopted: recall him.

They, therefore, wisely divided the draft into two sections, one of which concerned itself with particular measures of the Governor-General, and the other with the breaches of the constitution. The latter they moulded in a fresh draft, while with regard to the former, they observed that they saw no reason why the practice of saying what had to be said in reply to relevant letters from India should be in the present instance abandoned.

Though the attitude adopted by the Board seems reasonable enough, it was against human nature that the Directors should have at once acquiesced. In the past they had attempted to pronounce on the measures of Lord Wellesley but several such passages had been expunged by the Board from their drafts. During the days of Cornwallis and Sir John Shore they had been enabled to express their sentiments on political transactions in the form of replies to Political Letters from India. But since Wellesley's assumption of charge, the correspondence on political subjects had almost exclusively been confined to the Secret Committee, and had even included the subject of finance and investment. The present despatch had been compiled after a great deal of labour. A formidable list of the sins of commission and omission of the Governor-General had been arranged in full array. But the action of the Board made all this labour lost. The Directors, therefore, violently protested, and forwarded to the Board a mass of material which went to substantiate the charges they had made against the Governor-General.

The Board, however, refused to depart from their original attitude.

In the substituted draft, the Board avoided any impression of general censure, and criticism of the wars and

subsidiary alliances. So also any mention of the College or the Government House was tactfully omitted. But the Board carefully noticed the breaches of the constitution. Their principal observations might be summarised thus:-

The business of the Government could be transacted only by the Governor-General in Council, unless the Governor-General was absent from the Presidency, or took the responsibility in important cases of over-riding his Council.

Correspondence with the Native States could be carried on in the name of the Governor-General, provided that the letters had previously been approved by the Council, and the answers shown to them.

The Governor-General in Council and not the Governor-General had the superintending control over the subordinate presidencies.

The Governor-General had no power to absent himself from the meetings of the Council, and then ask for the proceedings to be communicated to him for his approval.

Frequent advices on public transactions should be forwarded home.

The Governor-General nor even the Governor-General in Council had the authority to grant such powers as had been given to Lake and Arthur Wellesley in 1803.

54. "Home Misc.", 486, pp.559-576.

"Political and Diplomatic", 247, p. 770.

Indeed, this despatch conveyed much of the purport of the Court's draft, though it did so in language, restrained and courteous. In 1813 Charles Grant, who was Chairman at the time, of the controversy, in the House of Commons stated the position truly when he observed that the Board's despatch also censured the conduct of the Governor-General, though it did not go the length of the other, and that the matter of the letter which the Directors signed was not contrary to their sentiments, though it did not express them fully.

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However, before the despatch reached India, Lord Wellesley, conscious of the gathering storm had resigned. But the great Governor-General up to the last moment of his departure continued to incur the displeasure of the Directors. When he embarked, he took with him, following his grand manner, a Bengal surgeon to attend on him, although the ship was well-equipped with doctors. This was censured by the Directors who saw no reason why the Company should be subjected to this extra expense on his account. The Board of Control stepped in once more and expunged the paragraph, as it wore the 'appearance of personal 56
harshness'.

Till the last moment, the function of the Board had been, during Wellesley's regime, to mediate between the Directors and their overmasterful servant.

55. Hansard, "Parliamentary Debates", XXVII, pp.925-27.

56. "Bengal Draft Despatches", XVII, p. 836.

C H A P T E R V I I .

I N D I A N T R A D E .

One of the cardinal principles of the Act of 1784 had been the preservation of the Company's authority over their commerce uncontrolled by the Board of Control. This principle was strictly observed in practice. Commercial despatches like the others were indeed submitted to the Board's inspection, ^{save one} but there is no case on record ^{AA} in which the Board made any important alterations in them. All that they did and that too very rarely was to expunge some lines or paragraphs. One of such cases happened two years after the establishment of the Board, and having been made the subject of attack against the ¹ Board in Parliament might be briefly narrated.

In 1786 the Court of Directors desiring to buy/cotton produce of Bombay for their China market, and fearing that if orders to this effect were sent in an ordinary despatch to ^{the} Bombay, private persons might come to know of them, and proceed to buy some of it on their own account, decided to send the orders through the Secret Committee. In the course of communication they wrote that it had been suggested to them that

1. See Hansard, "Parliamentary History", XXVII, pp.218-19.

individuals had been able to buy cotton at a much lower price than the Company, but "considering the influence which you possess over the cotton-makers, who are in fact under your immediate control", ² they were persuaded that the Company could procure it at better terms than the individuals. When the draft came for the Board's revision, they expunged the words within inverted commas. In point of fact the Directors by sending orders, which were not intended under the law to be sent through the Secret Committee, had acted in an illegal manner, and the Board should have been justified in cancelling the orders altogether. Their expunging, therefore, of one sentence, which was certainly objectionable because it implied a coercion of the artizans, can hardly be deemed as an undue exercise of power by the Board of Control.

Another instance happened in 1805 when the Directors insinuated in a Bombay despatch rather too plainly that in a certain matter that Government had subordinated the interest of the Company to that of private individuals. The Board of Control expunged the sentence, and substituted another by which they took away the rigour of the censure. Though the Directors acknowledged that the alteration was fair, they insisted that

2. "Home Miscellaneous", 342, p.211.

3. "Bombay Draft Despatches", VI, Draft dated January 25, 1805.

the most the Board should do in respect of Commercial despatches was to strike off the words which they disapproved but not to insert any words in their place. Apart from showing the extreme jealousy with which the Directors guarded their rights, this protest seems pointless, for there was not much difference between the expunging of some words and the substitution of others, when at the same time the Board made it clear that the alteration was merely meant as a suggestion which the Directors might either accept or reject.

But though the Board of Control did not interfere with the Commercial despatches of the Company, the duty of negotiating on the principles on which the Company's charter was to be renewed from time to time fell upon their President. Before the Bills of 1793 and 1813 were introduced in Parliament, their framework had already been submitted to the Directors, and an attempt made to win their acceptance. It was, of course, impossible for the Directors whole-heartedly to agree to these measures, because they tended to curtail the Company's trade-monopoly, but it may be affirmed with a fair degree of accuracy that they constituted a compromise between what the Minister should have them to be and the point of view of the Directors. As representatives of the proprietors, it was the duty of the Directors to resist any encroachment on the privileges of the

Company, while on the other side the Minister had to consult the interest of the public. By mutual discussion they were able to arrive at an arrangement which met to some extent the wishes of both.

The negotiations preceding the Acts of 1793 and 1813 and the intervening arrangement of 1802 may be now examined in some detail.

As the time for the Charter of 1793 drew near, various associations of merchants and manufacturers of the United Kingdom adopted resolutions demanding a total or partial abolition of the Company's monopoly. This was the tenor of proceedings of Liverpool and Glasgow, of Paisley and Manchester. They founded this demand on a series of arguments of great validity. They stated that howsoever extensive the trade of the Company had been, it was so only in comparison with that of the other European Companies, but that if free trade was permitted, the amount of trade with the East Indies would enormously increase. Such a measure, they averred, had a remarkable chance of success, considering the improved state of British arts and manufactures, and the credit which the British merchants enjoyed in the world of commerce. They further stated that, if any difficulties existed, they would be overcome by the adventurous spirit of the nation, and asserted that exclusive privileges, though they might be necessary or useful in the infancy of commercial enterprises proved

destructive to trade if persisted to the end. They declared free trade to be ordained by nature. In the words of the preamble to the resolutions of Lancashire: "The Creator of the Universe having endowed the different portions of the earth with different products has laid the foundations of commerce, the object of which is to supply the mutual wants of man".⁴

It is clear from the above that the mercantile classes had become infected with the idea of free trade. In 1776 had appeared Adam Smith's 'The Wealth of Nations' with its attack upon monopolies and in particular on the dual character of the East India Company. Smith had pointed out that the interest of the Company as sovereign was directly the opposite of their interest as traders, and that the inevitable end would be the annihilation of their commercial profits. He had further pointed out how such exclusive monopolies as that enjoyed by the East India Company was harmful to the State in two different ways: by supplying to its subjects goods at a higher price than would prevail under free trade, and by excluding them from a branch of business which it might have been both profitable and convenient for many of them to pursue.⁵ These ideas had fallen on fertile

4. John Bruce, "Report on the Negotiation between the East India Company and the public respecting the Charter of 1793" (1811) p. 27.

5. Adam Smith, "Wealth of Nations", (Ward Lock and Company's 1 Vol. ed.) p.507.

ground, and had taken root.

At the same time, it must be noticed that great changes in industry were taking place at the moment, too recent indeed to produce any appreciable results but sufficient to infuse new hope among the industrial classes. Hargreave's 'Spinning Jenny', Arkwright's 'Water-frame', Crompton's 'Mule', and Cartwright's power loom — all these inventions in cloth industry followed each other in such quick succession that they could not fail to impress their significance on the people.

The grievances of the mercantile classes against the Company may be more minutely examined. It was asserted by Lancashire that the Company had neglected to develop certain markets like the east coast of Africa and the Arabian and Persian gulfs; that they had injured domestic industries by the importation of porcelain and cotton stuffs, and that the result of their employing large ships at a high freight had been to injure British shipping generally. It was also stated, and about this there could be no doubt, that more capital could be invested in the East India trade than the Company had done. The success of the American trade with India was pointed as a proof.

While Lancashire occupied itself mainly in pointing out the disadvantages of the Company's monopoly, Glasgow came forth with certain specific demands. It demanded that the Company's Charter should not be renewed for the long period of twenty years,

and that meanwhile British manufacturers should be allowed to trade within the limits of the Company's Charter in their own ships, provided only that the loading and unloading of ships was done at no other wharves except the Company's. A desire to foster its own industries at the expense of India found expression in a demand for a continuance of the duties on cotton piece goods imported by the Company, and for a prohibition of the importation of the higher class of piece goods, as also the export of cotton machinery to that country.

It was thus plain to Dundas that a modification of the Act of 1784 was essential. Even though monopoly might be yet continued to the Company some concession to the private traders was imperative. What precisely that concession was going to be, he proposed to settle in consultation with the Directors. Accordingly in January 1793 he informed them of his intention to bring the renewal of the Charter before the consideration of the House of Commons, but "before doing so it is, of course, my desire to have the most full and candid discussion with the East India Company on all the different points which must naturally suggest themselves for consideration on this important and extensive subject".

6. India Office Records, "Home Miscellaneous", 401, p.245. The whole of the negotiation for the Charter of 1793 is embodied in this volume.

The two important questions which were to be considered were whether any modification in the system of government of India was to be made, and, secondly, whether the trade-monopoly of the Company was to undergo any change. To each of these the Directors replied in the negative. They were of opinion that the first had succeeded in every respect and that very few, if any, legal alterations were necessary. The commerce of the Company had likewise flourished, and in their view, trade with India and China could not be carried on with advantage and safety except through the medium of an exclusive Company.

To the first proposition of the Directors, Dundas found no difficulty in subscribing. Indeed it was less than a decade that a solemn undertaking had been given by Pitt that the Company were to retain their privileges subject merely to a right of control by Parliament. Since then the power of the Board of Control had to some extent been enlarged by the Declaratory Act of 1788 and in several directions their influence exerted over the Company's affairs. The nomination of the heads of Governments had also passed into their hands. Some more powers might be given to the Board of Control, but in its essence the existing fabric was to remain. Consequently Dundas enthusiastically agreed to a retention of the existing system of government, declared that it had answered the purpose of a

successful and prosperous administration of Indian affairs evidenced by the sound budgetary position, and ridiculed all theoretical objections which might be levelled against it.

But he did not accept the second proposition of the Directors. Though he was beyond a doubt certain that an annihilation of the Company's monopoly as demanded by certain merchants and manufacturers of Great Britain and Ireland was inexpedient, he was equally sure that some concession on the part of the Company was essential. He was, in short, in favour of a regulated monopoly by which ~~expressive~~ expression he meant that the monopoly must be so regulated as to ensure to the merchants and manufacturers ample means for the export of manufactured goods to India, and the import of raw materials from that country; secondly that this was done at the lowest possible freight. He, therefore, recommended that the Company should allow a certain amount of tonnage on their ships which would prove adequate to the needs of private traders. But he rightly emphasized that the rate of freight should be sufficiently low to answer the purpose, and be a proof that the Company did not intend, by retaining their monopoly, to injure the mercantile classes.

This unambiguous attitude of Dundas had some effect. The Directors agreed to furnish each year four ships for Bengal and two for each of the remaining presidencies of 800 tons each, and to charge £10 per ton as freight. To this extent private traders were to be allowed to export goods which were not to

include, for obvious reasons, military or naval stores. The Directors were, however, unwilling to grant them like permission to import goods from India. Various objections were pointed out against it. It was stated that in the first instance the words "raw materials" would have to be defined with precision, because they might include a very large portion of the total exportable produce of India, almost all of which could be brought by the specified number of private trade ships with the result that little might be left to the Company with which to liquidate their debts or even comply with their current annual demands. The statement was no doubt a gross exaggeration.

Their second objection was based on the dread of colonisation. Indeed throughout the negotiations for this as well as for the following charter, colonisation always figures as a catchword. It was felt that if the right of private trade was conceded, swarms of irresponsible Europeans would migrate to India and settle down in the interior; that they would treat the Indians with haughty contempt and thereby incur their enmity which might shake the very foundation of British rule in India; or again that the Colonists would unite among themselves like the Americans and throw off the yoke of the mother-country.

Yet if British merchants were only to enjoy the right of sending goods to India, and not the supplementary one of

bringing goods from there, what was to be done with the money which their sales would secure? The Directors suggested that they should be allowed to buy bills of exchange on the Company for that amount payable in Europe. If owing to unforeseen causes such bills were not available, then they were to be permitted to send home raw materials at a charge of £12 per ton. All goods, however, outward or homeward bound were to pass through the Company's warehouses.

It is clear that the concession which the Directors were willing to make was unsatisfactory, and the Minister adopted the sensible course of trying to reach a basis of agreement with them by means of conferences. Accordingly a conference took place on 12th March 1793 between Pitt and Dundas and the members of the Committee of Correspondence. Pitt tried to overcome the objection of the Directors to open the export trade of India to the private traders by suggesting that they should be compelled to restrict their purchases to the presidential towns and further that they were to employ in their service only such persons as had received the Company's license.

This conference was followed by another nine days later at which the Ministers put forth a new proposition, viz., that the warehousing duty charged on the goods of private traders (for an extremely limited trade of this description was allowed by the Company even prior to the Act of 1793) should be lowered

from 7% to 3%. Nor did they agree to the freight as suggested by the Directors. On the other hand they proposed a total freight of £20 in peace time, £5 outward and £15 homeward. In fact the Manchester delegates who had been interviewing the Ministers had demanded that the freight should be no higher than £16,⁷ but the latter in view of the proposed £22 of the Directors, decided to fix it between the two limits.

The Directors did not agree to the reduction of the warehousing duty. They contended that it covered not only the warehousing charge but such contingent expenses as those of landing, delivery of goods, or exposure at the public sales. The freight of £20 they accepted after some show of resistance, but only on condition that its distribution was to be £8 outwards and £12 homeward. The explanation for this is to be found in the fear of the Directors that if the homeward freight were as heavy as £15, British merchants after carrying goods to India cheaply might return with goods in the ships of other countries who clandestinely traded with India and offered cheaper terms, with the result that on the one hand that trade would be encouraged, and on the other, Company's ships would return empty thereby entailing a loss.

How this clandestine trade had grown up may be at this stage briefly explained. Owing to the monopoly of the

7. See Minutes of a Conversation between Mr. Pitt, Mr. Dundas, and Messrs. Gregg and Frodham, "Home Miscellaneous", 401, pp.295-97.

East India Company, British subjects were forbidden to trade with India. But no such prohibition applied to other nations at amity with Great Britain. If the capital invested in their trade had been their own, it should have been perfectly fair, but in fact much of it came secretly out of the pockets of British subjects. The servants of the Company at a time when they were acquiring large fortunes were faced with the problem how to transmit them home. They could do so by means of the Company's bills of exchange, but there were two difficulties. In the first place, any large purchases of such bills should have excited the suspicion of their superiors; in the second such bills were not always available, as the Governments in India knowing the temper of the Directors who were unwilling to meet them at home, were reluctant to issue them. ⁸

The foreign trader came to the rescue of the Company's servant. He would receive the bullion and make his purchases with it, while in return he would draw a bill of exchange on his agent in Europe, and hand it over to the Company's servant. But although, as explained above, this traffic originated with a view to the transmission of fortunes, it had now extended to adventurers from England whose sole purpose was trade, and thus a regular system of clandestine commerce from foreign ports and

8. W. Cunningham, "Growth of English Industry and Commerce; Mercantile System" (1921) p.468.

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under foreign colours had grown up.

It is of course obvious that if this trade could be superseded by the regular trade carried on in the Company's ships, both the Company and the port of London stood to gain.¹⁰

Dundas was as eager as the Company to suppress this trade, but he felt that the freight as proposed by the Ministers supplemented with a reduction of the warehousing duty would be sufficient to effect the desired object. On the other hand, he felt that an increase in the outward freight as recommended by the Directors would effectually discourage the British manufacturers who intended to export goods to India. Accordingly when on 26th March he forwarded to the Directors the twenty-eight resolutions which he intended to move before the House of Commons as the basis of a new Bill, he retained the old distribution of freight. The reduction in the warehousing duty was also retained. Three of the resolutions aimed at forbidding completely the use of Indian cotton piece goods in this country. It is to be noted that they embodied the demand put forth by the Manchester delegates who had conferred with Pitt and Dundas. In spite of the fact that some of these stuffs were even now prohibited, and that the existing duties

9. See Memorial from a Committee of several Mercantile Houses, "Home Miscellaneous", 401, pp.309-28.

10. The amount of this trade for 1791 was estimated by the above Committee as amounting to 10,255 tons.

on others were sufficiently high to secure to the British manufacturers the home market, the delegates were insistent on this demand. No consideration for the welfare of Indian ¹¹ artizans entered the mind of Dundas, although it is only fair to mention that he tried to dissuade the delegates on the ground that the home industries were infinitely more in danger of suffering from a total prohibition of all importation of Indian stuffs than by the maintenance of high protective tariffs.

In one direction the resolutions went beyond what the Directors had been in the beginning asked to concede. Originally it was intended that the private traders should be allowed to export from India only raw materials. A closer study of the figures of clandestine trade convinced Dundas that the right should be extended to other articles as well.

The total tonnage to be set apart on the Company's ships for the use of private traders was proposed to be 3,000 tons each way. This was half of what the Directors themselves had suggested, although of course they had intended to reserve it exclusively for the export trade with India.

The monopoly of the China trade was to be continued to the Company. In fact pressure had been exerted on the

11. Cf. Auber, "Rise and Progress of the British Power in India", ii, p.136.

Minister by certain merchants and manufacturers like the miners of Cornwall and the merchants of Exeter and Manchester for its abolition or modification. At one of the early conferences between the Directors and the Ministers, Pitt had indeed hinted that the China trade was to be considered part of the general system and that any concession which the Company made with regard to India should likewise apply to China, but the Chairman had promptly replied by asking that so far as the present negotiation was concerned, the consideration must be wholly set aside.¹² The Chairman had later consulted the Court of Directors and had conveyed to the President of the Board their unanimous opinion that any interference with the Company's monopoly of China trade would be attended with most serious consequences and should be stoutly resisted.¹³ On this point, therefore, Dundas had taken the advice of the Directors.

On each of the resolutions, the Court of Directors gave their considered opinion, and in this they were supported by the Court of Proprietors. They rejected the Manchester demand on

12. Cf. the Chairman's speech at the India House on February 23, 1793, "Debates at the East India House on the General Principles of the Company's new Charter" (1793) p. 20.

13. "Home Miscellaneous", 401, p.258.

14. When in 1789 Dundas was contemplating an embassy to China for trade purposes, he had been opposed by the Directors, see Forrest, "Cornwallis", ii, pp.183-84.

the ground that the existing duties were sufficient to protect its interest and that a prohibition against the Company's sales would only throw the trade into the hands of foreigners who would then smuggle the goods into the country. They objected to allowing the private traders to import from India 'any goods, wares or merchandise' and wanted that at least piece goods should be excluded. They accepted the tonnage but with regard to freight repeated their old objections.

The Act of 1793 which was the outcome of these discussions followed Dundas's resolutions. But in accordance with the wishes of the Directors two changes were made. In the first place the Company were allowed to import and sell in the United Kingdom cotton and silken piece-goods so far as they were not prohibited to be worn or used under existing statutes. In the second, the private traders were not to have this right.

One vital difference which had continued to exist between the Directors and the Ministers right up to the end was in connection with the freight. But it appears that when Dundas offered to fix it at £20 he had done all he could to conciliate them. The private traders had in fact demanded the right of trading in their own ships. They had argued and with great reasonableness that if they were to be compelled to use the ships and warehouses of the Company, whose interests were not likely to be identical with theirs, there would be cause for

perpetual heart-burning. Dundas himself had been aware of it, but the dread of unrestrained intercourse with Indians had carried him away. The only alternative had, therefore, been to ask the Company to charge the lowest freight possible, and in view of the contention of the private traders that they could procure shipping on their own account at £14 per ton for the whole voyage outward and back, the freight of £20 was by no means favourable to them.

All this became apparent soon after the Act came into operation. Very little of the allotted tonnage was utilised for the purpose of exports to India. ¹⁶ On the other hand there was from the start an insistent demand for its enlargement in order that it might meet the needs of exports from India. This demand, however, did not mean that the existing terms were so satisfactory that the private traders jumped at the chance. It was really indicative of the vast increase in trade that was sure to take place under more suitable conditions. For at the time there were various factors which impeded its development. For one thing the

15. "Home Miscellaneous", 401, p. 302.

16. Lauderdale in his "Enquiry into the Practical Merits of the system for the Government of India" (1809) gives the following figures:-

1793 - 94 -	919 tons.
1794 - 95 -	40 tons.
1795 - 96 --	31 tons.

existing freight was so heavy that many kinds of articles, for instance, sugar, saltpetre, or the gruff goods in which the private traders usually speculated could not bear it.¹⁷ Secondly, the ships of the Company were not well-suited to trade. Owing to political causes they were liable to be unpunctual in the times of their arrival and departure and also deviations of route. The time at which the private goods were required to be ready for conveyance was also inconvenient. The result was that the clandestine trade which the Act of 1793 was expected to kill did not show any signs of diminution, for the foreigners were able to transport goods at a much cheaper rate and at more convenient times.¹⁸

The only remedy was indeed to allow the British merchants in India to use Indian shipping to the extent of their needs. That would have meant cheaper freight. Besides various other advantages would have resulted from it. Under the existing system the merchant was not certain whether he

17. Cf. George Udny to Wellesley, September 15, 1800, Martin, "Wellesley's Despatches", V, pp.129-136.

18. Cf. Bainbridge who stated before the House of Commons Committee of 1813 that a very large portion of this trade was in the hands of Americans who sent ships to India at a much less freight than the Company (from 40 to 60 dollars per ton) and imported goods at a much easier term than Englishmen could in England, their expenses of equipment, victualling and insurance being very reasonable.

would be able to obtain any portion of the allotted tonnage (which in practice was enlarged from year to year by the local Government but to what extent it was impossible to foresee) and so could not embark upon his purchases with confidence. Moreover, even supposing that he proved fortunate in obtaining the tonnage, the freight which fluctuated from time to time, might deprive him of any profits which he expected to make. On the other hand if Indian ships were admitted, he could settle the terms himself with the owners; could secure as much tonnage as he needed; and regulate his purchases according to the existing freights. The difference in short was all the difference between having the means of transport close at hand and depending on ships which came from a considerable distance under conditions it should have been impossible to foretell.

Dundas appears to have realised this, for as early as 1797 he addressed an appeal to the ship-builders of London, who wielded considerable influence over the Company, for allowing Indian ships a share in the trade. He stated that the idea of prohibiting them from coming to Great Britain was "not only an act of great injustice, but would in its tendency have an effect on the interest of the ship-builders in the river Thames directly the reverse of what they seemed to apprehend".¹⁹ It was an act of injustice because while under

19. Martin, "Wellesley's Despatches", V, p.117.

the Navigation Laws Canada or the West Indies were empowered to send their produce home in their own ships, India, though under the British sovereignty, was deprived of this privilege. It was injurious to themselves because their belief that the prohibition of Indian shipping made a proportionate room for the Company's shipping was profoundly mistaken, and the only effect of such a proceeding had been to throw the trade into the hands of foreigners. If this course was persisted in, the ship-owners were bound to lose that profit which was made by refitting the ships. In fact in 1796 twenty-five Indian ships had come to London and the expense of refitting seventeen of them had amounted to the handsome figure of £117,000.

But Dundas's letter made no impression on the ship-owners. It is rare that business men stop to think whether any activity which brings them profits is founded on injustice to another community nor do they think how in the future their interests are going to be affected, if for the time being they are sufficiently safeguarded to bring in immediate gain. Accordingly the policy of the Company where in the Court of Proprietors they had acquired ascendancy remained unchanged. So great indeed was their hold that any motions which had been brought in before the Court in past years for a reduction of the freights or other economies by independent proprietors had been defeated. There were in that body from hundred and fifty to

two hundred ship-owners with their supporters, and whenever there was notice of such a motion, letters would be sent round by prominent members asking them not to leave their seats till the independent proprietors had fatigued themselves with speeches and retired; to vote solidly with their leaders; and in short to take care that no motion which would result in a reduction of the freights or the like should have a chance of passing. That being so, in 1795 a motion had been introduced in the General Court cutting at the root of the evil by declaring that no proprietor should exercise his right of vote upon any question relating to a contract in which he was interested, but it was never carried.

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The old conditions continued until 1798, when Lord Wellesley who on his arrival in India had been presented with an address by the mercantile community of Calcutta pressing forth the claims of Indian shipping, decided to admit Indian ships in a regular manner instead of the haphazard way in which in the past years some of them had been employed on the

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exigency of the moment. The plan was to allow the Board of

20. "The Debate at the East India House on Wednesday, May 13, 1795", (1795), pp.113-114.

21. The export of private goods from Bengal alone according to Wellesley's letter to the Directors dated September 30, 1800, had been as follows:-

1794-95	...	2,473 tons)
1795-96	...	5,346 ") Of this some portion
1796-97	...	4,659 ") had been carried by
1797-98	...	3,787 ") Indian ships.

Trade to hire Indian ships on account of the Company and afterwards relet them to their owners. The owners and the merchants then could settle terms between themselves to their mutual satisfaction. In this way the form of law was harmonized with expediency.

The advantages of such a step were obvious and it was privately approved by Dundas. But Lord Wellesley in the following year in deference to the expressed wishes of the Directors decided to abandon his plan, hoping that the President of the Board would take up the question himself with the Directors, and finally settle it on the lines laid down by him.

Accordingly in April 1800 Dundas addressed an elaborate letter²² to the Directors on the subject. He began by observing that the capital of the Company was incapable of embracing the total exportable produce of India. There were thus only two alternatives, either to allow the foreigners to exploit that trade or to empower British subjects to bring the produce to the port of London and so enrich it. He was definitely of opinion that the Company's servants in India should be permitted to transmit their fortunes home in the form of Indian produce in Indian ships and be allowed to engage in

22. "Home Miscellaneous", 402, pp. 3 - 10.

commerce under the licence, and subject to the regulations of the East India Company. To this extent, therefore, he wanted the Company's monopoly to be modified. He saw no reason why the Company should not make this concession. He reminded them of the rapid progress they had made since the Commutation Act, and further how far it was consistent with the national interests that so much timber should be used for commercial purposes, while that resource stood ready for exploitation in India.

It should thus appear that Dundas wanted a considerable enlargement of tonnage available for private use, and secondly the admission of Indian shipping. At the time when Dundas wrote his letter it was clear that permission to use Indian ships would be to the interest of Great Britain as well as India. The Napoleonic War was going on and the navy formed the sheet anchor of England. Timber was needed more urgently for the men of war than for commercial vessels. Again, the employment of British seamen on the Company's ships ²³ reduced the number available for His Majesty's fleet.

With regard to India, there were abundant natural resources. The extensive forests which spread through the

23. Cf. Dundas to Deyanes, January 7, 1795, "Letters from the Board to the Court", i, p.381.

country from the Indus to Bengal afforded any amount of timber for ship-building, and teak, one of the most valuable woods, grew in large quantities. The pine and saul trees could furnish spars, masts and yards. Turpentine and vegetable tar could be produced from numerous trees, and hemp, the raw material for cordage and canvas, grew indigenous in many parts of the country.

Not only did materials exist for a ship-building industry, but in fact such industry did actually exist, and what is more was in a high state of perfection. There was approximately 10,000 tons of shipping available in Bengal and awaiting employment about this time.

The only right course, therefore, for the Directors should have been to accept the suggestions of Dundas. But it was not before ten months had passed when the question regarding the extension of private trade was considered by a special Committee of the Court of Directors who brought forth a massive report.

²⁶ The Committee stated that any extension of private trade beyond what was already allowed would lead to

24. Cf. "Letters on the East India Company's Monopoly" (Glasgow, 1813) pp.28-29.

25. Martin, "Wellesley's Despatches", V, P.132.

26. "Home Miscellaneous", 406, pp.11-39.

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colonisation. The position of the foreigners was contrasted with that of British residents. It was argued that the former were not allowed to interfere with the interior of the country; they did not possess those advantages which the British subjects did by reason of local knowledge; their actions were watched with jealousy by the Government; and they were composed of such distinct nationalities that no concerted action on their part was possible. On the other hand, the Committee stated, if freedom of access was given to British subjects, they would become a formidable political power. Indeed it is clear that the shadow of the War of American Independence hung over the present consideration. The Committee observed: "The genius of this system without any formed plan would gradually and insensibly antiquate the present one, and become impatient for all the rights of British colonists; to give or to refuse which would then be a most momentous question".²⁷

In the light of history this picture of the British settling down in India and becoming independent of the mother-country seems overdrawn. The Directors forgot that the climate of India was unsuitable to the white man, and certainly the danger could be effectively minimised by means of regulations.

But in one matter the Committee showed a better appreciation of the situation than Dundas had done. He had made out that an extension of private trade was needed to supply

27. "Home Miscellaneous", 406, p.19.

the means of transmission of fortunes. This was only true with some limitation. In actual fact the largest portion of the British community, namely, the Company's servants in the military, judicial, and revenue departments, in Bengal at least, were prohibited to trade, and their pay and allowances hardly constituted any gigantic fortunes. The real problem was to divert into regular channels the clandestine trade carried on by British adventurers. The extension of private trade thus really meant admission of the Company's rivals against which the Committee warmly protested.

The Committee also refused to allow Indian shipping. Though the motive was selfish, various objections were pointed out. It was argued that the Indian lascars on arrival in London would mix in the lowest society and form an unfavourable opinion of the English people which they would carry back to India. Thus the character of the ruling class would be lowered in the estimation of Indians. Another objection was that the lascars, used as they were to hot climate, would not be able to stand the trying weather of London.

Following the observations and recommendations of this Committee, the Court of Directors adopted certain important resolutions on 4th February 1801. With regard to tonnage, they recognised the existing position. They agreed

that in addition to the three thousand tons then annually allotted by statute to the exports of individuals from India, three, four, or five thousand tons or as much as was wanted should be assigned. But whatever grace this concession had, they took away by rejecting the proposal to employ Indian shipping. Only in cases when the tonnage provided by the Company proved insufficient, the Government abroad was empowered to freight Indian ships. In short the Directors merely sanctioned what had been the custom of late years without making any new concessions.

After so much controversy, the result had been almost nil, and on receiving the proceedings of the Directors, Dundas reiterated his view that Indian shipping must be admitted as a part of the regular system. But he made it clear that what he stated should be taken as a piece of friendly advice and not as a dictation: "It is a subject over which the Commissioners for the Affairs of India have no control; and whatever I have stated or now state must be received from me in my individual capacity". At any rate, he suggested that if the Directors adhered to their own views, they would at once take action on the principles detailed in their resolutions.

Action indeed had become necessary, for in September 1800 Lord Wellesley had reverted to his plan of 1798. In spite of the very weighty arguments which he now offered for a

28. "Home Miscellaneous", 402, p.47.

confirmation of his measure, the Directors stuck to their resolutions and proceeded to embody them in a despatch. The despatch made it clear that the demands of the merchants were inconsistent with the Act of 1793, and, if conceded, British commerce with India instead of being, as it then was, a regulated monopoly would deserve more properly to be called a regulated free trade.

But the despatch was cancelled by the Board of Control, because the subject of private trade had been agitated in Parliament. Lewisham who had succeeded Dundas rightly decided to wait for any action which Parliament might decide to take, instead of forwarding the Court's despatch which laid down final instructions.

The Directors protested on the ground that the Board of Control had no power over the Commercial despatches of the Company, but the Board promptly replied: "Though the paragraphs are denominated 'Commercial' and may be therefore supposed not to be within the exercise of the powers of the Commissioners for the Affairs of India, yet the proposition extended as it is, fixing permanently and finally the condition of the private trade and

29. Martin, "Wellesley's Despatches", ii, pp.376-94.

30. "Draft Despatches to Bengal", XII, Draft No. 139.

confining it solely to British ^{Shi}troops, appears to us to involve in it much more than merely commercial considerations, and to embrace points of great political importance, which may in their consequence deeply affect the interests of the state". ³¹

As the Board refused to depart from the attitude they had taken up, the Directors had to give way. The Chairman fearing that if the matter were left to Parliament, the interests of the Company might suffer more than by the concessions which the President of the Board wanted them to make, suggested that it should be settled by means of conferences between the representatives of the Company and the Ministers.

The offer was accepted, and several conferences took place between the Chairman and the Deputy Chairman and the Prime Minister and Mr. Vansittart. As a result the Company agreed to engage extra ships for the use of private traders which might be British or Indian, and to relet them to the traders without profit.

But the new arrangement proved wholly unsatisfactory, and the Company by their policy prevented any of the anticipated advantages to the merchants. The demand for allowing other than the Company's ships had been based on the assumption that they would be free from the delays to which the Company's shipping

31. "Letters from the Board to the Court", ii, p.17.

was subject. But events proved that once these ships had been engaged by the Company, they too suffered from the same evil. They were liable to be detained either in London or in India at the discretion of the Governments there, or be sent with troops or stores from one presidency to another. The consequence was that the cheapness of freight which had been the strongest argument for their admission failed to be realised. It could happen, for instance, that if the owner of an extra ship agreed to charge only, say, £14 per ton on the supposition that within a certain time his ship would perform three voyages, but owing to delays it performed only two, he suffered a loss of £14 per ton. This would lead him to demand a rate of £21 per ton next time, which did not compare very favourably with the rate charged on the Company's regular ships.

Furthermore, the insurance charge continued to be higher than what it might have been had the merchants been allowed to engage their shipping directly, for then they could name the ship by which their goods were to be conveyed, whereas under the present system the assortment of cargo remained at the discretion of the Company. Thirdly, the merchants continued to be unable to get the requisite tonnage at the time at which they desired, so that if some perishable goods had been bought under the belief of tonnage being available, which turned out to be otherwise, they were subjected to considerable loss. Lastly, the exports from India continued by a very wide margin to exceed

the imports, and yet absurdly enough the tonnage continued
 31a
 to be allotted in London.

It is thus clear that the position was very much what it was before 1802, or in other words, so long as the monopoly of the Company was preserved, any regulations which might be made for the benefit of the private ^{traders} ~~waters~~ were liable to be defeated by the Company. It was with a realisation of this, that as the time for a further renewal of the Charter approached various associations of merchants as in 1793 adopted resolutions against the Company's monopoly, and petitioned Parliament. To the theoretical arguments which they were accustomed to advance, there was added now the bitterness of actual suffering. The Napoleonic War was entailing upon England an amount of expenditure unprecedented in her history. The people had been hit hard by the enormously heavy taxation which they were called upon to bear. The 'Continental System' of Napoleon inaugurated in 1807 with its reply the 'Orders in Council' had virtually brought the whole international trade to a standstill. What was worse, it could not be expected that with the termination of war, British industry and commerce would regain their ground. For the neutral countries were utilising this opportunity for the development of their own manufactures. Lastly in 1812

31a. See the Appendix to the "Fourth Report", pp.173-94.

hostilities had broken out between Great Britain and the United States of America, and a valuable field of trade had thus for the moment been lost. There is, therefore, no wonder that the mercantile classes clamoured for relief and demanded ³² the throwing open of all avenues of trade.

The negotiations for the Charter of 1813 started as early as the end of 1808. Robert Dundas, the President of the Board of Control, stated to the Directors that while he was in favour of continuing the existing political system under which India was governed under the joint authority of the Directors and the Ministers, he could not recommend to Parliament the continuation of the Company's trade monopoly. He insisted that the claims of the British merchants and manufacturers to trade within the limits of the Company's Charter in ships hired or freighted by themselves, instead of being compelled as at present to use the Company's ships or ships licensed by them, could no longer be resisted. But he mentioned that the ³³ China trade was to be reserved for the Company. This proposition of Dundas obviously amounted to an annihilation of the Company's monopoly of Indian trade, and the Directors lost no time in advancing arguments against it. They even

32. See the shoals of petitions of the merchants and manufacturers of the United Kingdom presented to Parliament in 1812.

33. India Office Records, "Parliamentary Collection", No.57, p.15.

argued that the Indian trade was incapable of any further extension at all, because the Indians who had a low standard of living could not afford European luxuries, while the Europeans on the other hand could not on any large scale consume the costly piece goods of India. As for other articles such as raw silk and indigo, they alleged that sufficient provision for their importation already existed. How absurd this contention was is proved by the gigantic increase in trade which followed the Act of 1813.

Their further contention that if an Act on the lines suggested by Dundas were passed, it would not be a modification of the Charter of 1793 but an essential departure from it seems reasonable enough, though, of course, it was a point never put forth by Dundas.

The Directors agreed that the proposed change would put an end to London being the sole emporium of Eastern goods, as individual merchants would probably dispose of their goods in different towns. Thus the general resort of buyers which the Company's sales were wont to produce in London and which resulted in other commercial speculations would cease to the injury of the metropolis.

Despite the fact that Dundas had taken the precaution of mentioning that by means of licenses colonisation would be prevented, the Directors proceeded to expatiate on the evils of

colonisation. Furthermore they declared that the reservation of China trade to the Company would prove wholly illusory, Private ships would attempt to participate in it by either resorting to China as the Indian ships did under colour of carrying on the coastal trade, or obtaining tea and other produce of China at the most convenient Indian ports, and then smuggling them into Great Britain.

Meanwhile the whole question of Indian and China trade was being considered by a Committee of the House of Commons. Dundas, therefore, decided to await the result of their investigation instead of carrying on the discussion any further at this stage.

In December 1811 the negotiations were renewed when Dundas (now Lord Melville) reaffirmed that the existing privileges of the Company must be curtailed but that if the Directors were agreeable to the admission of the ships as well as goods of private merchandise into the Indian trade, he was prepared to discuss with them the details of the system.

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The Directors thereupon drew up an exhaustive list of 'hunts'. They agreed to allow the private traders to use their own shipping but they imposed a number of restrictions which made the concession nugatory. These ships were not to sail from any

34. "Parliamentary Collection", No. 57, p.44.

other port beside London and with the Company's licence, and to that port alone were they to return. All goods were to be sold at the Company's sales. The existing restriction regarding piece-goods was to be retained. In one respect indeed a further limitation was to be imposed upon the private traders. Till now they had been free to import from India raw silk, but that was now to be placed on the prohibited list on the curious ground that the Company had brought its manufacture to perfection and should be protected against competition. Even the tonnage of ships was prescribed and fixed at 400 tons so as to make them unsuitable for smuggling.

In giving his observations on these suggestions of the Directors, Melville showed a spirit of compromise. He at once turned down the proposal to limit the sailing of ships to London alone. Really, there appeared no reason why the British merchants should not have been allowed to ship their consignments from the nearest port instead of being subjected to the expense of bringing them to London. The proposal of the Directors, of course, had proceeded from selfish interest, they having an interest in the shipping of London. But Melville agreed that all the incoming ships should call at London alone on the ground that the collection of customs would cost less if all the imports were restricted to one port than if they were distributed all over the Kingdom. No restrictions about the

kind of goods which the private traders might import were to continue, and though Melville thought that the provision about tonnage was a good one, only the bigger ships being suited to Indian Ocean, he did not consider it important enough to be mentioned in the Act.

In April 1812 Melville was succeeded by Buckinghamshire, and in the following month Perceval, the Prime Minister, fell under the hand of an assassin. An invitation by the regent to Lord Wellesley to form a new Government seems to have been enthusiastically received by the private traders who were familiar with his policy. ³⁵ Wellesley did not succeed and it was Lord Liverpool who became the new Premier. But the cause of the merchants did not suffer from this set-back. Lord Buckinghamshire who retained his post had felt the evils of the Company's monopoly keenly while Governor at Madras, and he boldly supported the demands of the merchants.

He at once proceeded to place his cards on the table and declared that it was the determination of His Majesty's Ministers to recommend to Parliament to permit private ships to clear out from any port of the United Kingdom, but that they should only be permitted to import into such places as enjoyed

35. Cf. "Letters on the East India Company's Monopoly" (Glasgow, 1813), pp. 1 - 3.

the warehousing system so that the risk of smuggling might be minimised. But the monopoly of the tea trade and the China trade was to be preserved to the Company with the exception that private traders were to be permitted to bring home such Chinese articles as could be procured in India.

The proposal to open the import trade to the outports met with the strongest opposition at the hands of the Company. Melville indeed had concurred in their proposition that the whole of the Indian trade should be brought to London, and that the goods should be sold at the Company's sales and under their management. But since then representations had been made to the Ministers which satisfied them that the imports must not be confined to London alone. The argument of the Company was that by such a measure the monopoly of the China trade, though nominally reserved to them, would in reality be annihilated. So long as all trade was confined to London, it might have been possible to keep an eye on the imports and eliminate smuggling but under the proposed arrangement unless an army of revenue officials were employed at an enormous cost this could not be done. The Company pointed out that it was a notorious fact that tea had been smuggled by way of India into England when the import trade had been confined to eight or ten of the Company's ships and to the river Thames, and how great was the possibility of this happening when the ships

were to be limited neither by number nor size.

In spite of the assurance of Buckinghamshire that it was possible to meet this danger by means of regulations made in India and at home, and that self-interest would prompt the Government, who derived a large revenue from tea, to see that it was done, the Company continued to protest and in this attitude were, of course, supported by the port of London where during the last two ~~XXXX~~ centuries many vested interests had come into existence. The Court of Proprietors unanimously adopted a motion declaring that the consequence of such a measure would be "the destruction of the Company's China trade, their best source of commercial profit; the failure of their dividend; the depreciation of their stock; and unless a fund is provided from some other source for the payment of the dividend, inability on their part to continue to perform the functions assigned to them in the Government of British India".³⁶ A few months later the Court of Directors adopted a similar resolution. They protested that it was not self-interest which was leading them to offer opposition to the impending changes: "Men in our situation may in the opinion of some be likely to act in such a crisis as the present from a ~~winner~~ wish to cling to their places and their patronage. This is a motive we equally disclaim; and indeed, the line of conduct we have pursued through the whole of

36. "Parliamentary Collection", supra, p.158.

the negotiation for the renewal of the Charter, and to which
we still adhere may free us from such a suspicion".³⁷

They denied that the monopoly of tea and China trade was adequate to the requirements of the Company, and suggested that such staple articles of Indian produce as the piece-goods, raw silk, and indigo should be added to the list, while raw materials might be left to the private traders. But Buckinghamshire rejected this proposal as in his view this was not fair to the latter.

Here the discussions ended, and it should appear that the attitude taken up by Buckinghamshire was midway between the demands put forth by the private traders and their rejection by the Directors. It was a very peculiar situation indeed under which foreigners enjoyed greater facilities of trade in Asia than the British subjects themselves. The Napoleonic war had occasioned such distress in the country that a satisfactory outlet for trade was immediately needed. The monopoly of the Company, though justified when it was first granted with a view to establish trade on a basis of security had now ceased to have any justification, and no sufficient reasons could be assigned for a further exclusion of British merchants.

There was furthermore no just ground, as was demanded

37. "Parliamentary Collection" supra, p.324.

by the Directors, for limiting this trade, merely to the port of London, every port being entitled to profit by it as much as London. The one objection advanced by the Directors was fear of smuggling. But, as was suggested by the outports and admitted by them, duties were regularly collected on West Indian and American produce which were admitted into the country through the outports. It should also be noted that the confinement of trade to London would have merely meant the transfer of monopoly from the East India Company to the merchants of London.

If Buckinghamshire accepted this demand of the private traders, he rejected the one for the opening up of the China trade. A paper drawn up by Sir George Stanton who had local knowledge of the country since the age of eleven seems to have weighed much with him. The considerations which applied to China were different from those applying to British India. The Chinese Government was extremely jealous of foreigners and had confined its foreign trade to a small locality thus leaving no room for extension. If British merchants or sailors were allowed to proceed there subject to no national control, there was grave apprehension of their coming into conflict with the Chinese officials, who were quick to take offence, with the result that the trade might get imperilled, and the supply of tea, which had become a necessity for the English people, cease to their great discontent. Besides, were that to happen, the

Government themselves who derived a revenue of 400 million per year from that source were liable to suffer, and at this time when the war was devouring all their finances, they were not prepared to take the risk. It thus happened that on the question of tea trade whence the Company too derived almost the whole of their commercial profits the interests both of the public and the Company coincided.

By the Act of 1813 the East India Company ~~was~~ was deprived of its monopoly save in respect to the China trade and the trade in tea. Private ships were empowered to carry "any goods, wares, or merchandise", to any port within the limits of the Company's Charter, with the exception of China, and likewise to bring back any articles to any port of the United Kingdom equipped with warehouses or like facilities. To guard against irregular trade and undesirable persons proceeding to India, a system of licences was imposed. Thus the ships were required to obtain a licence from the Directors enabling them to call at any of the Company's principal settlements. For other places a special licence was necessary, which, if refused by the Directors, might be granted by the Board of Control. Persons desiring to go to India and reside there for trading purposes were required to obtain licences and certificates enabling them to proceed to the principal

settlements, and to live there as long as they conducted themselves properly but subject to local regulations. Unlicensed persons were to be liable to penalties imposed on interlopers and to punishment on summary conviction in India. British subjects permitted to reside beyond ten miles of a presidency town were required to register themselves at a district court. No ship was to weigh less than 350 tons. Finally the Company was required to keep distinct accounts of commercial and political revenues.

C H A P T E R V I I I .

THE CASE OF MAJOR HART.

From the point of view of the relations between the Directors and the Board of Control, the case of Major Hart is of supreme importance as being one of the few instances in which the resistance of the Court of Directors was pushed to its extreme limit, and the only one in the space of thirty-two years which was decided by an appeal to the King-in-Council. More important still, the decision of that Court seriously threatened the power of the Directors, for it amounted to a recognition of the Board of Control as a court of justice with power to determine questions of property between the East India Company and the other party. Further, the case raises certain interesting questions, as for instance whether a dispute of this nature had been foreseen by the legislature who enacted the law, secondly whether the Privy Council was the proper court before whom the appeal lay, and lastly, whether the composition of the Privy Council was such as to ensure justice for the Court of Directors.

Briefly, the facts of the case are as follows. An officer of the Company in contravention of the regulations sells

some grain to the army and demands payment. The Directors for his having broken the law decide to dismiss him from the service. The Board of Control consider the punishment too severe, but at last yield to the wishes of the Directors. But they continue to differ from them about the terms on which his account should be settled, the terms of the Board being in the eyes of the Directors exorbitant. The Directors eventually decide to oppose the Board on the constitutional ground that they have no authority to interfere in this case, and that the remedy for the officer, should he feel dissatisfied, lies in a court of law. The Board reply that they do possess the power, the subject being one which is connected with military government and revenues. The Board's point of view is on appeal upheld by the Privy Council. A mandamus is then issued by the Court of King's Bench against the Directors who then convey the Board's decision to India.

The case may be now described in greater detail. Major Thomas Hart was appointed Commissary of Grain in 1799 to the army engaged with Tipu. During the siege of Seringapatam, the camp experienced great scarcity of grain when Hart supplied a considerable quantity of rice, stating it as his own private property and claiming payment. This incident attracted the attention of the Madras Government, as under the existing regulations the Commissary was forbidden to engage in profiteering.

Subsequently an enquiry was held, and Hart was suspended from service, pending the orders of the Court of Directors. In their findings, the Government held that in contravening the regulation that the Commissary must on no account derive directly or indirectly any other advantage or emolument from his situation than the salary fixed for him, Hart's conduct had been incompatible with a fair discharge of his public duties. They also insinuated that the grain which Hart supplied had really been the property of the Company, and supported it by the observation that he had made the offer to the Commander-in-Chief "indirectly".¹

In his defence, Hart admitted that he had contravened the law but denied any criminal intention. He stated that the grain which he had received from the public stores had been exhausted within a month of its receipt, and finding that no more was obtainable, he appointed agents to make the purchases on his behalf at Madras and in the local bazaars through which the army passed. But he did not immediately distribute this rice among his followers, whom he allowed to collect for themselves whatever provision they could, thus reserving his own supply for some exigency. He insisted that this grain was his private property, and claimed that he had satisfactorily accounted for

1. "Home Miscellaneous", 342, pp.721-801.

every seer of public grain. As for making the offer indirectly, he said that all he had done was to omit the official form of address when applying to the Commander-in-Chief's Private Secretary for its delivery.

On his suspension, Major Hart arrived in England and prayed for his restoration. He stated that he had served the Company for twenty-two years without reproach, and that it was hardly just that a single unintentional deviation from the rules
2 should be visited with such a heavy penalty.

His case was considered by the Committee of Correspondence who, however, endorsed the findings of the Madras Government, and recommended his dismissal to the Court of Directors. The Directors thereupon adopted a resolution to that effect.

When the above proceedings came privately for the consideration of Dundas, he felt perturbed. In his view Hart's dismissal seemed to be hardly justified by such evidence as was produced against him, specially because his previous record was so meritorious. But as he was about to retire, he sent over the papers to his other two colleagues, the result of whose perusal was also to exonerate the Major. They held that the rules forbade the acceptance of any perquisites which the

2. "Miscellaneous Letters Received", 103, pp.123-123zd.

Commissary had in the past received, but did not extend to profits of whatever description and derived from whatever source. Even admitting that Hart had broken the law, they thought that it was not a crime of the blackest dye. They deprecated the suggestion that the rice delivered by him had been the same as received from the Company, as the latter had been accounted for by the affidavits of the different individuals to whose use it had been appropriated. On the other hand, they appreciated the foresight of Hart which had prevented a possible disaster.³

In spite of the fact that Dundas took the precaution of sending his own as well as the views of the other members, the Directors adhered to their own decision and proceeded to include a paragraph relating to Hart's dismissal in a despatch which they prepared in June 1801.

The Board of Control, however, returned the despatch for their reconsideration. They disclaimed any intention of interfering with their right of dismissing their own servants, but stated that they felt bound to mention that "the evidence brings no conviction to their minds that the offer of selling the grain was indirect and clandestine, or that the grain was originally obtained by fraud and embezzlement, or that it was procured with any view to mercantile speculation". "On the contrary", they continued, "that part of the transaction appears to them rather

3. "Home Miscellaneous", 91, pp.323-49.

to bear the character of a cautious and humane provision against the distresses to which the followers of the army might be exposed during the campaign and must be so far considered as ⁴meritorious". In short their view was that Hart's breach of the regulation was deserving of some criticism but that the penalty of dismissal was out of all proportion to the offence.

For nine months the matter kept pending when the Directors again sent up a paragraph to the Board relating to Hart's dismissal. This time the Board gave their approval, though they made it clear that they did so only officially, ⁵being yet unconvinced of the propriety of his dismissal. In August 1803 the paragraph was forwarded to India.

But allied to the question of Hart's dismissal was the one relating to his payment. By the same despatch in which his dismissal was announced, the Government were directed to reimburse ⁶him with the "full costs and charges of the rice".

It will be noticed that the instructions were indefinite. The Government found that there were two ways in which his account could be made up, namely, on the basis of the actual price which

4. "Madras Draft Despatches", VIII, pp.279-80.

5. "Letters from the Board to the Court", ii, pp.75-77.

6. "Home Miscellaneous" 342, p.756.

Hart had paid for his purchases to which was to be added the cost of transport, and the price prevailing in the market at the time when he delivered his goods to the Commander-in-Chief. They accordingly directed the Military Board to furnish both the estimates.

But the Board supplied only one estimate which was based on the price prevailing at the time of delivery. They stated that the price of rice during that period had fluctuated from rupee one to rupees five per seer, but that for their calculation they had accepted rupee one per seer, that appearing to them most equitable. With regard to the estimate based on the purchase-price, they stated that they had been unable to produce one, because Hart had supplied no vouchers nor been able to state even from memory what price he had paid, different quantities having been bought by him at different times.

The Government forwarded the report of the Military Board and asked for their instructions.

It was sufficiently evident from this report that no estimate could be made on the purchase-price. Yet curiously enough this was the basis on which the Directors now ordered an account to be made. They directed that "upon Major Hart or his attorney producing satisfactory vouchers to show the

prime cost of the grain and of whom purchased, with all charges, incurred thereon previous to its delivery for the public use, the amount shall be paid with simple interest at 8% per annum".⁷

This was the famous Draft No. 177 which became the ground of dispute between the Directors and the Board of Control. The Board expunged the above instructions and substituted others by which they accepted the recommendations of the Military Board. They directed the Government to pay to Major Hart for 106,000 seers of rice supplied at the rate of rupee one per seer together with interest at 8% per annum. The intention was only to indemnify the Major for his actual expenses, and should the Government find that the mode of payment here recommended allowed him any profits, they were to reduce the sum of payment accordingly.

In explanation of their alteration, the Board observed that the Court's paragraph directed a settlement to be made on terms which the Company apparently did not possess the right to enforce, and further with which, as was evident from the report of the Military Board, it was not in the power of Hart to comply.

No reply to this letter was given by the Court till eight months later when they mentioned that the delay had been due to the fact that the Board's letter enclosing the draft had been

7. "Home Miscellaneous", 342, p.761.

misland, and a copy had been only then received. They rejected the Board's alteration, and the reasons which they urged for a restoration of their own instructions seem to have been irrelevant and puerile. They declared that Hart had violated the regulations. In spite of the fact that by their own resolution they had cleared him of the charge of embezzlement, ⁸ they insisted that the grain supplied was the public property. They argued that because no rice was available at Seringapatam, he must have brought it from the Carnatic, where there being no famine, the price was probably from ten to twenty seers per rupee. But after mentioning all these reasons, they gave themselves away by saying that any further reference to the Madras Government in view of the difficulties already stated by them appeared to be fruitless, so that it would be well if Hart accepted the compensation offered to him eight months ago. This compensation, it should be mentioned, had been based on the arbitrary assumption that the price of rice had been ten seers a rupee.

In fact apart from the question of the legality of the Board's ^{for} inference, there appears little doubt that the Board's alteration was justified on its merits. The Board had done no more than accept the recommendations of the Military Board, who were in the best position to offer advice.

8. Of August 5, 1807, "Court's Minutes", 116, p.496.

The Board, therefore, declined to alter their decision and in allusion to the offer made to Major Hart observed that it was in their opinion unfair. It was there taken for granted that all the grain possessed by Major Hart on his own account had been purchased in the Carnatic, and conveyed to Seringapatam on the Company's bullocks and under the care of their servants - assumptions which in the light of the evidence before the Board appeared to be unwarranted, and even contradictory to what was revealed before. Nor was any allowance made for the waste in transport and other contingent expenses.

This was the end for the time being of any official discussion between the Board and the Court respecting the despatch. But informal correspondence continued for some time. The Directors seeing the resistance of the Board resorted to legal advice, and in asking their counsel whether the Board could compel them to transmit the amended despatch gave an interesting exposition of the law as they conceived it. They stated that Hart's claim must be viewed either as a demand legally enforceable in which case the remedy lay in a court of justice which the Board of Control were not, or a gratuity which they had no power to grant on their own initiative. Thus in either case the Board could not interfere.

The opinion of the counsel was that in the above transaction, Major Hart was not to be considered as an officer of the Company, and that his claim was not for an allowance or gratuity for service performed. He was just like an Indian merchant supplying goods to the Company and claiming a debt. Anticipating that the Board would claim the power of interference on the strength of the clause IX of the Act of 1793 empowering them to issue instructions relating to military government, they observed: "Although this grain was in fact applied to the use of the army, we apprehend that circumstance does not authorise the Board of Control to direct the Company to pay or not to pay this debt any more than any other debt contracted by the Company, here or in India, such payment not concerning the civil or military government or revenues of their Indian possessions".⁹

This opinion was privately forwarded to Robert Dundas, the President of the Board of Control, who feared that it went to annihilate the control of the Board over the Company's revenues altogether. "The Court according to this new doctrine", he wrote, "have only to consider any payment for services performed in India as a debt, and there is no power in this country to prevent their discharging it out of their territorial revenues to any extent, great or small, which they may chuse to

9. "Home Miscellaneous", 342, p.801.

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 order". The matter was of such importance that it must be quickly decided, but he seems to have been in doubt as to how, since he went on to suggest that it must be done either by an Act of Parliament or an appeal to the Privy Council.

On the testimony of the Court of Directors we learn that following the receipt of this letter which was dated March 13, 1809, several conferences took place between the President and the Chairs as a result of which it was decided that no further proceedings should be taken in the matter and that it should be allowed to lie dormant. Indeed, it is likely that on reflection Dundas thought the case for the Board of Control rather weak, and so dropped the controversy.

At any rate no more was heard of the business until June 25, 1812, when the Directors received a letter from the Board (Buckinghamshire had just then become the President) drawing their attention to the fact that the despatch did not appear to have been sent out as desired by the Board by their last letter. The Directors hoping that the storm might blow over simply ignored the letter, but when two years later they received a similar letter, they pleaded the fact of Dundas's having agreed to drop the matter. At the same time they formally forwarded the opinion of their counsel to the Board.

10. "Home Miscellaneous", 342, p.711.

The Board denied that any such understanding had taken place: "Of any such understanding no vestige can be traced; and the Board cannot but believe that such an impression, on the part of the Chairs, must have arisen in misapprehension".¹¹ And they pointedly asked why notwithstanding such an understanding, when their letter of 1812 had been received by the Directors no attention had been paid to it. On their own side, they claimed that they too had taken legal advice the result of which was a conviction "that the subject-matter of these paragraphs is within the limits of the superintendence and controul of the Commissioners for the Affairs of India, according to the terms of the Act of 1793, continued by that of 1813".¹²

The battle was now fully joined, and the Directors bluntly stated that they refused to forward the amended despatch, unless it was determined judicially that they were precluded from exercising their discretion. They again consulted three fresh lawyers and put to them the following questions:-

(1) Whether under the circumstances of the case, the Directors were bound to forward the amended despatch (2) Whether if the Directors had not originated any despatch on the subject, the Board could have originated one after the tenor of the amended

11. "Correspondence and Proceedings relative to the Draft No. 177 . . . ordering a reimbursement to Major Thomas Hart, for grain supplied . . . (1816), p.45. (Afterwards referred to as "Correspondence").

12. "Correspondence", p.46.

despatch, and whether the Directors in that case would have been bound to forward it (3) Whether a mandamus could be issued requiring the Directors to send the amended despatch, if it could be shown that the Board had exceeded their authority by reason that the debt claimed by Hart did not relate to the civil or military government or revenues of India, or that the sum directed to be paid comprised an extraordinary allowance or gratuity. The Directors further asked whether in either case the Privy Council alone had the jurisdiction.

The reply of the Counsel to the first question was in the negative, because they thought that the despatch related to points not connected with the civil or military government or territorial revenues of India. On the same ground they gave a negative to the second question also. With reference to the question whether the payment of Hart was of the nature of extraordinary allowance or not, they were of opinion that it did not fall within the jurisdiction of the Privy Council, but was to be decided by the Court of King's Bench. Their own opinion was, however, that Hart's payment did not come within the meaning of the section dealing with extraordinary allowances. As for the second question, namely whether the despatch did or did not relate to matters connected with the civil or military government, they were of opinion that when a mandamus was applied for to the Court of King's Bench, that Court would give an opportunity to the Directors to have it decided by an appeal to the Privy Council.

On receipt of this opinion, the Directors prepared a petition to the Privy Council, but they deferred its submission. As under the law it was only the Directors who could move for appeal, the Board had no option but to apply to the Court of King's Bench for a mandamus, if they wanted their despatch forwarded to India. They did so, and the Court issued a rule to show cause why a writ of mandamus should not be served upon the Directors commanding them to forward the despatch without further delay. It was when the Attorney-General moved to make the rule absolute, that the case on behalf of the Company was argued by their counsel. The grounds of defence were two, section XVI of the Act of 1793 which laid down that the Board had no power to issue instructions which did not relate to civil or military government or revenues, and sections XVII and XVIII which forbade the Board to increase the established salaries, allowances, or emoluments of any servant of the Company, or to grant on their own initiative any extraordinary allowance or gratuity to any person.

With regard to the first point, Lord Ellenborough, the presiding judge, observed that it was a question which the Privy Council alone under the Act were competent to decide, and that the discussion should be confined to the second point only.

It was then argued by the Company that the payment to Major Hart as proposed by the Board was in the nature of an

extraordinary allowance of money, since it was an allowance beyond what Hart was entitled to receive as his salary, and as it went beyond the terms of the despatch of the Court of Directors. It, therefore, amounted giving to an officer, Major Hart, an advantage beyond the ordinary emolument, which the Board under the law were precluded from doing.

Lord Ellenborough interposed and made it clear that he looked upon the payment not as an allowance but a compensation: "Is this an extraordinary allowance or gratuity? The Board of Control direct a payment to be made to Major Hart in a particular mode on the production of vouchers. Now the object of this Act was to prevent the Board of Control doing away, from favour, the revenues of the Company, without the previous direction of the Directors of the Company. I cannot say this is an extraordinary allowance or gratuity; but it is a compensation to the person for the value of his goods, taken from him in a period of distress, in consequence of an exigency".

Indeed, it is impossible to look upon Hart's payment as an allowance or gratuity. It is remarkable that twice when the Court of Directors placed this view before their counsel, they failed to get support. When then, it may be asked, did they decide to defend the case on this ground. The explanation is

13. "Correspondence", p.158.

that no section of the Act except perhaps section XVI about which nothing was to be said before this court was really applicable to the present case. The Directors who apparently did not expect much justice from the Privy Council were anxious to have the case decided in this court, and the only sections of which use could be made at all were XVII and XVIII. But even they did not apply, the real fact being the failure of the legislature to foresee (and to provide) for a case of this nature. It is significant that during the course of his observations, Lord Ellenborough remarked: "We cannot go beyond the terms of the Act of Parliament. If there was a mischief which it became the legislature to apprehend, and they did not, we cannot supply ¹⁴ that".

However, the decision of the court was against the Company, the judges holding that sections XVII and XVIII were inapplicable. Lord Ellenborough asked, "Is this an allowance to the Commissary-General?" and answered by saying, "There is not a colour of its being an allowance: then, can a compensation for rice taken from a man, bearing a public character, but not belonging to him in that character be considered as falling within the words 'allowance or gratuity'? The words are that it shall not be lawful for the Board to give any direction for the payment of any extraordinary allowance or gratuity, and if the

14. "Correspondence", p.164.

Court could see that under the pretence of this direction, it was intended to put money into the pocket of any individual in India, that it was a mere colourable pretence for an allowance or gratuity, the Court would strip it of its colour, and look at it in its original state, and prevent that being done which should have such effect. But upon looking at the sum ordered to be paid, it cannot be considered directly or indirectly, it seems to me, from any lights disclosed in the way of boon or gratuity.

"The only question that remains is whether it falls within the description of being a matter respecting the civil or military, or territorial affairs of the country, which is a matter peculiarly appropriated to another forum by Act of
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 Parliament".

According to the decision of the court, it may be observed, the Privy Council was the court of appeal in all cases where the dispute was whether a certain matter related or did not relate to government and revenues. This was indeed a correct interpretation of the law as it stood, but perhaps not what the legislature had intended. It should appear from the speech of Pitt on the occasion of his introducing his scheme to Parliament that the original intention was to endow the Privy Council with jurisdiction over a narrower and more specific

15. "Correspondence", pp.170-71.

whether was
sphere, namely, where the dispute was a matter connected
with government or commerce.

However that might be, the court enlarged the rule so as to give to the Directors this opportunity of appeal, and it was on July 28, 1815, that the petition of the Company was heard by the Privy Council. The court consisted of fifteen members and out of this it is remarkable that thirteen were the ministers of the Crown while six were members of the very Board of Control from whose decision the appeal was made.

The Company's counsel took their stand on section XVI of the Act of 1793 and argued that the matter in dispute did not relate to military government or revenues. It was merely a question of a demand of money, and if Major Hart was dissatisfied with the terms of the Directors, his remedy lay in a court of law either in India or in England. The Board of Control under the law were not empowered to supersede the authority of the courts. It was a question not connected with the military government, since the rice supplied by Major Hart was not done in his capacity of Commissary-General. Certainly it was used for the army, but it would be absurd to say that it was, therefore, connected with military government. As well might it be argued that if a public building were erected in India, and the builders were dissatisfied with their payment, that it was a matter connected with the military government of India, because the building was meant to be used

for the army. Nor was it connected with the revenues in the sense in which the law meant it, since it was not closely enough connected with the government. The idea of the Act of 1784 was to extend the control of the Board over civil and military government and revenues connected therewith. The words used were 'civil or military governments and the revenues', not 'or revenues', it appearing that there could be no question of the Board having authority over the revenues as such.

On behalf of the Board it was contended that the matter did relate to military government. It was admitted that the Act of 1793 after laying down section IX went on to limit the authority of the Board by sections XVII and XVIII. But the present question did not relate to payment or compensation for an established service. It, therefore, did not come within the exceptions but was included within the general rule.

The Company's counsel concluded his reply by saying, "My Lords, I am ready to admit, in the most ample degree, that the employment of troops and the subsisting of troops belong undoubtedly to the Board of Control, because they are points connected with the civil and military government; but I must deny that the Act can authorise that which the Board of Control have done until I see some of those provisions which belong to a court of justice; for this is casting upon them the functions of a court of justice, and I look in vain for any clause

empowering them to determine questions of relative right, questions of property, questions of meum and teum, between A & B, between a contractor with the East India Company and the Company".
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Notwithstanding the very clear distinction drawn by Sir Arthur Pigot between a matter connected with government and one not so connected, the decision of the Privy Council given on 27th November was against the Company. The Court held that the despatch in dispute was on a subject connected with the military government and revenues of India. Two months later, the rule for the mandamus was made absolute.

Two courses were now open to the Court of Directors, either to transmit the amended despatch or to go to prison, and they decided to adopt the first. But at the same time they recorded a strongly worded protest, explaining the reasons which had led them to differ from the Board of Control over the payment to Major Hart, stigmatizing the powers claimed by the Board to be the direct opposite of the principles on which they were originally professed to be established, and for 'humbly presuming to doubt' that the decision of the Privy Council, to which court alone they were entitled to appeal, was right. Nor did the Directors fail to complain bitterly of the composition of the Privy-Council: "It is impossible for the Court to pass over in silence the proceedings which took place on this occasion,

16. "Correspondence", p.217.

namely, that out of fifteen members of the Privy Council, who sat as judges on the appeal, and of whom thirteen were of His Majesty's Administration, six were members of that very Board against which the appeal was made: and, with every possible respect for that tribunal, the Court must be permitted to express an opinion resulting from the first principles of justice, and familiar to every mind in this country, that it was incongruous for those who were parties in the cause to sit as judges on it".¹⁷

The part which the Directors had played in their resistance to the Board of Control was fully approved of by the Court of Proprietors. On April 16, 1817 a most interesting debate took place in that body when a resolution was moved supporting the Directors.¹⁸ The mover (Mr. Howarth) pointedly suggested how the prediction of Fox had been in a very singular and extraordinary manner fulfilled. He had observed while arguing about the absurdity of the procedure which provided for an appeal to the Privy Council, "that this was nothing more or less than an appeal from the minister to the minister, from the privy-Councillor to the privy-councillor, from the advisers of the crown to the advisers of the crown", and, in short, that "an appeal to the privy council was little more than a fallacy and a farce".¹⁹

17. "Correspondence", p.244.

18. "The Asiatic Journal", IV, pp.497-520.

19. Indeed, the Privy Council as a court of appeal was worthless, but the right of appeal in itself, as Robert Grant insists in his book on the trade and government of India, served a useful purpose by calling the attention of the public to the matter in dispute. It may be noticed that when in 1833 it

Mr. Howarth next considered the suggestion whether the Directors should have rather gone to prison than sign the despatch, but approved of their conduct, since the former course would have been inconsistent with their dignity as successors to the Great Mogul, and would have shaken their prestige in the eyes of Indians. He concluded by insisting that the Board of Control had usurped the function of courts of law and moving his resolution.

Hume who rose to second the motion pointed out that this was not the first time that the Board had tampered with the revenues of the Company, for within six months of their establishment, they had altered the despatch relating to the debts of the Nawab of Arcot: "Why, directly contrary to the Act of Parliament, they put their hands into the Company's pocket, and directed them to admit a debt of £2,500,000 on all good and valid claims of the Nabob of Arcot, to be paid before they themselves should be satisfied of the validity to such claims". He then went on to suggest that the Directors themselves were to blame to some extent for encouraging the

Continuation of footnote on previous page:-

was proposed by the Ministers to abolish this right, it was on this ground that the Directors insisted on its retention. See the India Office Records, "Parliamentary Collection", No. 80, p. 62.

Board to meddle in their pecuniary affairs and observed how a grant of £20,000 had been made to Lord Melville upon the mere dictum of the Board of Control.

Mr. Kinnaird who spoke later in the debate, though he supported the motion thought that the particular line of conduct adopted by the Directors had not been calculated to achieve the end desired. He thought specially that the case should have been defended on the basis of the general spirit of the Act of Parliament, and a large construction of the intention of the legislature rather than on specific clauses, namely, that the payment to Major Hart as desired by the Board was in the nature of an allowance or gratuity, which it was evident it was not, or clause XVI, which provided only for cases where the doubt was whether a matter related to military affairs or commerce, whereas it was equally obvious that the present question was not a commercial question at all. He was of opinion that if the Directors had approached the Proprietors earlier, they might have received some valuable advice from that body.

However, the motion was adopted unanimously.

C H A P T E R I X.

C O N C L U S I O N.

Under Pitt's India Act, the administration of India remained in the hands of the Court of Directors, while the Board of Control acted as a check rather than an initiating body.¹ This is true, however, with the important exception of the foreign and political affairs over which the Directors lost control, and which were managed by the Board, in consultation with, whenever necessary, the other departments of the State.

How far the despatches as they reached India were in detail the work of the Directors or the Board, it is impossible to say. At the weekly meeting which took place between the President of the Board and the Chairs, the subject-matter of these despatches was discussed, and we may be sure that a despatch when it was drafted was the result of this exchange of views. Furthermore, even when it had been prepared by the Directors, it was in the first instance informally sent over to the President of the Board who carefully went through it, making such alterations as seemed to him proper. This was known as the

1. The only despatches which originated from the Board are practically those referred to in the body of the Thesis. As Canning said in the House of Commons debate, March 14, 1822: "The duty of the Board was great; but it was not an original, acting duty".

"Previous Communication". No record of such meetings was kept, and the only "Previous Communications" which have survived (so far as I am aware) are those relating to Political and Foreign ² Drafts to all presidencies dating from 1811. A review of these drafts for the period 1811-16 suggests that the alterations were extensive, but as they deal with a number of specific questions in detail, and no reasons for the alterations are assigned, it is most difficult to assess their significance. The contrast between them and such drafts as were officially submitted to the Board in regard to alterations is, however, very vivid, and points emphatically towards their usefulness.

Where, of course, the alterations made by the Board were unacceptable to the Chairs, they were disregarded when the official draft was prepared, and if on its submission, the Board still insisted on those alterations, and the Directors opposed them, a controversy was the result, of which a complete record exists.

From this it appears that apart from such specific differences between the Board and the Court as took place in

2. The name was a misnomer. These drafts did not deal with the true political and foreign affairs which were in fact dealt with in the Secret Despatches, but were concerned with the arrangements which followed, say, the signing of a treaty with an Indian State, or arrangements with dependent princes, and very often with matters which could be hardly called 'political and foreign'.

connection with the debts of the Nawab of Arcot, the College of Fort William, or the claims of Major Hart, the history of their relations is really devoid of any sensational episodes. The achievement of the Board, and their justification, does not lie in any large number of measures which they inaugurated in violation of the wishes of the Company, but rather in the influence which they quietly and steadily exerted over their affairs, and which was done usually not under threats but by way of persuasion.

The Board lost no time, indeed, in taking up the nomination of the executive heads of the Indian administration in their own hand, and after 1784 no Governor or Commander-in-Chief was appointed but who was a nominee of the Board, or in fact of the Cabinet. There were in fact only two ways in which the Board could effectively interfere in the government of India: either by issuing orders themselves, or appointing persons who were to carry out such orders as were issued by somebody else. The Board chose the latter method: they would see that only those were appointed in whom they had full confidence, and then invest them with a large degree of discretion, so as to disregard, if necessary, the orders of the Court of Directors. It would thus appear that, though usually the orders emanated from the Directors, there were in existence two authorities with powers of revision, the Board of Control and the local Governments in India.

This attempt of the Board to see the local Governments enjoy a large degree of discretion is in fact the most striking fact about the policy of the Board, and runs like a vein throughout their correspondence with the Court. On innumerable occasions when the Directors annulled the grant of some allowance by a Government or their appointment of some official, the Board stepped in and asked them to restore it. The result of this policy was wholly good, for in the first place a system under which the Company's servants received low salaries but extra sums of money from dubious sources was replaced by one with regular pay and allowances, and in the second place the appointment of officials was left in the hands of those best fitted for the purpose - the men on the spot. But this was achieved only at the expense of frequent differences with the Court who claimed that the appointment of all officials and the question of their payment had been vested solely in them by law.

The Board also took an active interest in the army of India which consisted partly of the King's troops and partly of the Company's. The existence of these two forces side by side which differed radically in their constitution but became one unit in time of war was productive of considerable evil. To do away with this duality was the aim of the Board, who intended gradually to replace the Company's army by the King's. It was with this view that they decided in 1787 to send four royal regiments to

India. The Directors, however, / ^{who} / felt that the abolition of their army would be a blow to their authority and would deprive them of that patronage which was reserved to them under the Act of 1784 resisted the measure. In the end though the four regiments were sent to India, and from time to time other royal regiments also proceeded to that country, the scheme of transferring the whole army to the Crown was never afterwards seriously revived.

But apart from the great evil of the duality of army, there were certain big defects peculiar to the Company's army which the Board of Control endeavoured to remedy. The position under the constitution was in reality strange. The Board were empowered to issue orders for the making of war, yet a certain section of the army, on which depended the success or failure of that war, was dependent for its rules of service on the Court of Directors. If the rules were bad, efficiency was bound to suffer and thereby the success of arms made doubtful. With a realisation of this fact, the Board from the start attempted to correct the existing abuses, and it was due to them that the regulations of 1796, which went a long way towards making the lot of the Company's officers happy came into operation. Furthermore the Company's system of recruitment was also wretched, and they were unwilling to improve it, because it meant an increase of considerable cost to them. But the Board compelled them to listen to their advice.

With regard to the attitude of the Board as distinguished from that of the Company regarding wars, it may be generally said what was stated by the Assistant Secretary to the Board before the Select Committee of 1832 for the period of Wellesley's administration, that the Directors were in favour of neutrality but the Board so in a less degree. Thus to take an instance, Dundas was not satisfied with Cornwallis's war against Tipu, and should have rather liked the fall of Seringapatam, and the annihilation of Tipu altogether.³ Or again, when the measures of Cornwallis to undo Wellesley's policy came for consideration by the Home Government, the Directors gave their whole-hearted approval, but the Board modified it by warning the Bengal Government against too great concessions to the Indian States, as that might be interpreted as a sign of weakness.⁴ To the same end points the following interesting entry in Farington's Diary under date September 30, 1818:-

"John Wilson having been at Calcutta the last year spoke of the Marquess of Hastings. He said two parties exist there as in England, one called the Directors' party who are against the war in India, and say that when the troops are withdrawn the native powers will again gradually renew hostilities".⁵

3. Furber, "Dundas", p.128.

4. "Bengal Draft Despatches", XVII, despatch dated February 21, 1806.

5. VI, p.199.

Some of the despatches which originated from the Board, or the alterations which they made in the drafts of the Directors reveal not so much any differences between themselves and the Court, as their own psychology. Thus when the Board came into office they found that the existing system in India under which the artizans who contracted with the Company's factors to deliver certain goods for advances of money, and were forbidden absolutely to do any other work during the period of the contract was unfair to those artizans, and also gave an unfair advantage to the Company over the other nations. They, therefore, wrote the following Secret Despatch to Bengal, which might be taken as perhaps the first emphatic declaration by the Ministers that they wanted the interest of the inhabitants, and impartial justice between all nations, to be the foundation of their rule in India.

"We are very much inclined to believe", they stated in allusion to the restraint imposed upon the artizans, "that it is a practice originating in the violence and intemperance of Europeans, who find that method of providing an investment more easy and expeditious, than they could have in the regular course of application to the judicatures of the country for the purpose of obtaining the execution of the contracts they have made with the natives.

"We, therefore, direct you accurately to investigate that subject, and if possible to devise some method to relieve the natives of India from that severity and oppression such a practice seems to involve in it. Upon this, however, we cannot give you any positive direction, but we cannot too often suggest it to your consideration as a leading principle of our government in India, that in all bargains or contracts for the employment of the manufacturers, or purchase of the goods of the country, no authority is to be exercised to prevent a fair competition among the purchasers of every nation; and above all, you must take especial care to prevent the distribution of justice between subjects of different nations being rendered subservient to the interest of one, in preference to another. Prompt and impartial justice must be distributed equally to all, for enforcing a punctual observance of contracts, and affording every other aid ⁶ conducive to the general protection of commerce".

Though the well-being of Indians was to be a prime consideration, self-government for them was not contemplated. It is asserted and no doubt with considerable force, that the present political agitation is largely due to a study of the English language. It is thus interesting to see that so far back as 1787 the question of the encouragement of the English

6. "Secret Despatches to Bengal", 1, despatch dated November 2, 1787.

language came up for consideration before the Home Government. The Directors in that year drew up a paragraph directing the Bengal Government to appoint a committee of the senior civil servants to superintend the management and progress of the schools which the missionaries had established for the teaching of English. But the Board expunged the paragraph "not being satisfied that the extension of the English language within the British possessions in India will lead either to the prosperity or stability of our interests there".⁷

On the whole it might be said that the relations between the Court of Directors and the Board of Control were cordial. Considering the very large number of despatches which passed between the Directors and their Governments in India, the meagreness of the differences between the Court and the Board is in reality noteworthy and suggests how a system so open to objection on theoretical grounds as this could be worked by a spirit of accommodation and compromise. In one way, indeed, the Company gained by the establishment of the Board who intervened whenever there were onslaughts on their monopoly. Thus in 1793 and 1813 the Board mediated between them and the public. Further, they divided, if they also duplicated, the work carried on at the India House. The letter-

7. "Bengal Draft Despatches", 111, p.366.

books of the Board contain some letters addressed to competent authorities on India asking for information on particular subjects.⁸ The result was that the despatches which went out to India were first carefully prepared at the India House, and then, specially since 1807, intelligently revised at the office of the Board, thus leading to their improvement.

Though the relative position of the Directors and the Board remained fundamentally the same as fixed under the Act of 1784, certain modifications in favour of the Board were made by the Charter-Acts of 1793 and 1813.

By the Act of 1793:-

(1) Any grant by the Company or their Court of Directors of a salary or pension exceeding £200 per annum was made subject to the approval of the Board of Control

(2) The power of the Board to give orders for the payment of the King's troops which had been limited to 8,045 men in 1788 was extended to 10,727 men.

By the Act of 1813:-

(1) Any grant by the Court of Directors of a gratuity exceeding £600 was subjected to the approval of the Board of Control

8. Cf the Board's invitation to Campbell to offer his suggestion on the fixing of the civil and military establishments at Madras, dated April 9, 1785, and their warm acknowledgment of Mr. Petrie's "Remarks on the situation of the Company's affairs at Madras", dated April 13, 1785, Board's "Letter-Books", i. Cf also Furber, "Dundas", p.58.

(2) The power of the Board relating to the troops was further extended to 20,000 men.

(3) With the exception of certain appointments such as those of the members of Councils, General Officer on the Staff, Advocate-General, the Company's Attorney-at-law, Chaplains, Writers, Cadets, and Assistant-Surgeons, the approval of the Board was made necessary for any appointments in the civil or military service of the Company.

(4) The approval of the King was made necessary for the appointment of the Governor-General, Governors, or the Commanders-in-Chief.

(5) Control was given to the Board over the Haileybury College, and the Military Seminary at Addiscombe.

(6) The approval of the Board was made necessary for the restoration of the suspended or dismissed servants.

(7) The Board were empowered to license ships as well as persons (except agents for private trade which they had got the power to license in 1793) either by over-ruling the Directors or by original jurisdiction.

What Fox had proposed to do at one blow was being done by successive stages. The Act of 1788, and the Charter-Acts of 1793 and 1813 all ended by strengthening the control of the India Board over the East India Company.

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These series too contain the correspondence between the Board and the Secret Committee. But this correspondence almost invariably consists merely of such phrases as, "We direct that a letter be despatched by the Secret Committee in the usual form according to the tenor of the foregoing draft" or in rare cases when the draft originates with the Committee, "Approved" or "Approved with some verbal alterations", thus showing that the authority of the Board in this sphere was undisputed, and that even when the despatches originated with the Committee, they probably merely embodied the instructions of the President conveyed to the Chairs in conversation, or dealt only with matters of routine.

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