

OTHER CORRESPONDENCE.

BETWEEN THE

COURT OF DIRECTORS

OF THE

EAST-INDIA COMPANY

AND THE

PRESIDENT OF THE BOARD OF CONTROL,

REGARDING

THE BILL BEFORE PARLIAMENT,

ENTITLED

“ A BILL TO PROVIDE FOR THE GOVERNMENT OF INDIA.”

L O N D O N

PRINTED FOR THE COURT OF DIRECTORS OF THE EAST INDIA COMPANY,

BY J & H COX (BROTHERS), 74 & 75, GREAT QUEEN STREET

1853

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FURTHER CORRESPONDENCE.

I

LETTER *from the* CHAIRMAN *and* DEPUTY CHAIRMAN *of the*
EAST-INDIA COMPANY *to the* PRESIDENT *of the* BOARD
OF CONTROL

East-India House,
1st July, 1853

SIR

1 In accordance with the intimation conveyed to you in our letter dated the 2nd ultimo, and in furtherance of the resolution of the General Court of Proprietors, of which we, on the 22nd ultimo, transmitted to you a copy, we are requested by the Court of Directors to submit the following observations regarding some parts of the plan for the future government of India, which appear to them to be liable to serious objection

1
Letter from Chair-
man and Deputy
Chairman to Pres-
ident of the Board of
Control
1st July, 1853

2 To treat in the first instance of the Home Government You are already aware of the decided opinion of the Court of Directors that the changes affecting the constitution of their body are neither necessary nor expedient We will now briefly explain the main grounds of this opinion, premising that the principle of the pending measure being the continuance of the government of India in the East-India Company, the details should be framed in view to increasing rather than diminishing the efficiency and independence of its executive

3 Her Majesty's Ministers have admitted the constant attention paid by the Court of Directors to the interests and progressive improvement of India, and have expressed their desire to preserve the independence of that body Throughout the lengthened inquiry which has taken place, no evidence has been adduced to show a necessity for the change now proposed to be made in the constitution of the Court On the contrary, the Committees of Parliament, in closing their inquiries under the head of "Government," did not hesitate to call attention in the Report of the Lords' Committee, to "the general tendency of the evidence as favourable to the present system," and in that of the Commons "to the favourable tenor of the evidence with respect to the operation of the Act of the 3 & 4 Wm IV cap 85, so far as it regards the administration of the government of India by the East-India Company as trustees under the "control of the Crown"

B

4 The Court submit, that the changes now in contemplation are inconsistent with the opinions expressed, as well by the Committees of Parliament as by yourself on behalf of Her Majesty's Ministers. These changes are, first, the introduction into the Court of a certain number of Directors nominated by the Crown, and secondly the reduction of the total number of Directors, including the nominees, to eighteen.

5 The proposed principle of nomination does not seem to us to admit of partial application, without danger of either dividing the Court into two sections, with conflicting views and feelings, or producing the still greater evil of habitual subservience in the Court to the will of the Minister exercised through his nominees. In this point of view we earnestly deprecate the distinction sought to be made between selection and election in the choice of Directors.

6 But if it could be admitted to be desirable to entertain a proposal for such a class distinction, the Court submit that the choice of the selected members should not be vested in the Crown. You have well expressed the anxiety of Her Majesty's Government to "preserve unimpaired the freedom of the Court from all undue political influence, on which" you justly "believe that its efficiency for executing the high trust reposed in it so essentially depends," and yet the plan of Government contemplates the selection of Directors by the Crown, with no other specific qualification than that of having passed some years, at however remote a period, in the public service in India. There must always exist a sympathy between the nominee and the authority by which he is nominated, and as it frequently happens that persons, after return to England from Indian service, form political connections and obtain parliamentary position and influence, the Court entertain the strongest apprehension that the principle of nomination by the Crown must tend to a very intimate relation between the nominees and the Ministry, which cannot fail seriously to impair the independence of the body to which they will belong, and to introduce for the first time the influence of political party into the local administration in India. This apprehension is strengthened by the consideration that it is proposed to allow the nominees to sit in Parliament, and also to subject the tenure of their seats in the Direction to the will of the Crown periodically exercised.

7 It would, in the opinion of the Court, be far safer, and be more consistent with the independence and efficiency of the body, if the duty of selecting the nominees were entrusted to the Court of Directors, subject to the approbation of the Board of Commissioners, but this suggestion is offered merely as an alternative to nomination by Her Majesty's Government. The Court of Directors are of opinion that the system of nomination is in itself objectionable, and that the system of election is that which should be exclusively maintained. Any difficulties arising from the canvass of the constituency might, we believe, be materially mitigated, and a plan devised for limiting the candidates to such as might be previously approved by the Court and the Board. Thus, the great object of securing the services only of persons who are admitted to be well qualified, might be accomplished, without interfering either with the constitution of the Court or the principle of election.

8. With respect to the plan for reducing the number of Directors, we must

first observe, that, as affecting the independence of the Court, the reduction proposed is not from twenty-four to eighteen, but from twenty-four to twelve, the other six being nominees of the Crown

9 It is important to remind you, that in 1833 a proposal was made to reduce the number of Directors upon the plea of the diminution of business caused by the discontinuance of the Company's trade. This proposal was relinquished in deference to the opinion which was then entertained, that a reduction of number was calculated to interfere with the independence of the Court and also upon the ground that it was necessary to retain a sufficient number of Directors to constitute the Committees, through whose agency the details of the business were conducted

10 We would suggest for your consideration, that the reasons which led to the abandonment of the proposal in 1833, are in greater force now. The duties devolving upon the Court have increased in extent and importance, and are much larger than they ever were, even in the days of the Company's trade. The division of the Court into Committees continues, and it is only through such an arrangement that the supervision and control by the Home authorities of the acts and proceedings of the Indian Government can be efficiently exercised

11. Taking into consideration the magnitude of the British empire in India, the varied circumstances of its vast population, the extent and number of the native states embraced within the area of the government of the paramount power, or bordering on its frontier, the extent, and in many respects, the different character of the native armies of the three Presidencies having reference, moreover, to the variety of revenue systems which obtain in India, and to the large operations of finance as connected with the Government at home and abroad, which require to be undertaken from time to time, and adverting to the fact that the duties of the Court are continuously performed, from day to day, throughout the whole year, without any vacation, it must, we believe, be apparent, that to secure the presence in the Court of Directors of the requisite personal knowledge and experience on all affairs relating to this, the largest and most important of the British possessions, the present number of Directors is necessary

12 We earnestly trust that this part of the plan will be reconsidered by her Majesty's Ministers, and that the number may be continued at twenty-four

13 The Court of Directors will not descend to any ground of argument having reference to personal considerations. They content themselves with expressing their persuasion that her Majesty's Ministers would be glad, if the plan could be so modified as to obviate or mitigate the painful necessity which the present Bill would impose upon the Members of the Court, of themselves being made the instrument for severing the connection which has hitherto bound them together

14. Referring to that part of the plan which relates to appointments to the civil service of India, we think it right to point out to you that by making an

appointment dependent exclusively on a candidate's own efforts, instead of on nomination if found qualified, the proposed change may have an injurious effect on the feelings and subordination of the Company's servants. Without attempting to controvert the obvious advantage of competition as a general principle, we must be permitted to doubt whether the proposed system will work satisfactorily. Our apprehension is, that, practically, the plan will fail. In support of this apprehension, we would point to the difficulty of so constituting a Board of Examiners, and of framing such rules of examination as shall insure success to the really best qualified, and not to the most favoured, or to those who have merely "crammed" for the examination, and we would also remark, that book knowledge only will be tested by such an examination, while this is far from being the only qualification required for entrance into the civil service.

15. But, admitting that the principle of competition were adopted, the Court would suggest the expediency of introducing the change gradually, as it is only experience which can show whether it will tend to the great object of improving the qualifications of our servants, or whether, without accomplishing that object, it may not result in practically giving the nomination to the examiners.

16. The Court observe, that it is intended to vest in the Board the sole power, not only of appointing examiners, but also of framing the regulations under which they are to act. So long as the nominations remain with the Court, there is an obvious propriety in committing exclusively to the Board the power of regulating the examinations, but if the nominations are to be placed beyond the influence of the Court, we submit that the regulations should be framed by them, subject to the Board's control.

17. The arrangements as respects the Military Seminary will, we trust, be revised. We cannot understand upon what ground it can be wished to disturb a system which, in the opinion of all competent authorities, so fully accomplishes every object that can be desired for the public service, a result, moreover, attributable to competition within the institution.

18. With respect to the changes proposed in the Indian department of the government, there are some points to which the Court feel it necessary to call your attention.

19. Sections 15 to 18 of the Bill relate to the eventual creation of a new presidency in India, and provide for the government of Agra, of Bengal, and of the territory that it may be proposed to form into such new Presidency, being conducted by a Lieutenant-Governor until the new Presidency shall be formed; but the Court think that it is now established, that the preferable form of government for the portion of any substantive presidency which may not have its separate army and separate civil service, is that of Lieutenant-Governor, whose authority shall be defined by the Governor-General in council, and be subject to modification as circumstances may suggest. We would especially bring to notice that the sections, as at present drafted, make no provision for the retention, in the hands of the Governor-General in council, of the management

of the army of Bengal, and of the local administration of the presidency town, with its institutions. The Court suggest that the Bill should contain a clause permitting the Governor-General in council to make such arrangements.

20 The enlargement of the Legislative Council in India is greater and more expensive than the Court would deem necessary. They admit the expediency of some enlargement, but the addition of seven paid Members seems to be excessive. One from each of the Establishments of Bengal, Madras, and Bombay, with one selected by the Governor-General, would, in the Court's opinion, be ample, and the persons so selected, with the ex-officio Members proposed by the Bill, would constitute a Council sufficient to legislate for India. The Court also think, that the Council so constituted, if it be permanent, would be the best tribunal to judge of the measures proposed by the Law Commission since 1834, and that they would have ample time for the purpose, and thus the expense of a separate Commission in England might be avoided. But the Court would suggest, that if the enlarged Legislative Council thus created were to hold periodical sessions, the temporary detachment of Members from the other Presidencies would be productive of less inconvenience from the withdrawing of their services from administrative duties, while it would very materially reduce the expense.

21 The Court observe, that the new arrangement is to be continued "during the pleasure of Parliament," though, under the Act of 1834, the pecuniary interests of the Company as a corporation will continue to be identified with the financial prosperity of India until 1874.

22 The Court will be glad to be favoured, at as early a period as possible, with the sentiments of Her Majesty's Government upon the points embraced in this letter, in order that they may consider the expediency of presenting a petition to the House of Commons, and of further consulting the General Court, whose concurrence, as you are aware, is necessary in any arrangement for the future Government of India through the East-India Company and their Executive.

We have, &c

(Signed) RUSSELL ELLICE
J OLIPHANT

The Right Honourable
Sir Charles Wood Bart, M P,
&c &c &c

II.

LETTER *from the* PRESIDENT *of the* BOARD OF CONTROL *to the* CHAIRMAN *and* DEPUTY CHAIRMAN *of the* EAST-INDIA COMPANY.

India Board,
July 5th, 1853

II

GENTLEMEN.

Letter from the President of the Board of Control to the Chairman and Deputy Chairman, 5th July, 1853.

I have had the honour of receiving your letter of the 1st inst, transmitting to me the observations of the Court of Directors of the East-India Company on the proposed plan of Her Majesty's Government for the future administration of India, and, in compliance with your request, I lose no time in replying to your communication.

It was perhaps to be expected, that the General Court of Proprietors and the Court of Directors should deprecate any change in their constitution and powers and privileges; but I regret to find such strong objections stated on their part to almost every part of our proposals. It of course depends upon the wisdom of Parliament what shape the Bill shall ultimately assume; but it is obvious that the Government would not have properly performed its duty if it had proposed the Bill in any other shape than that which it believed to be best calculated to insure the good government of India.

They had hoped for a greater concurrence of opinion from the Court of Directors, but your letter renders it incumbent upon me to convey to you not only the reasons for the particular changes to which you have stated objections, but also the general views of Her Majesty's Government on the subject of the future administration of Indian affairs.

I may, in the first place, be permitted to remind you of the totally altered position in which the East-India Company now stands, from that which it has occupied on every former occasion of legislating for the government of India. Then, they were a company engaged in large commercial concerns, and possessing a large commercial capital in India and elsewhere. Now, their commercial character has ceased, their commercial concerns are substantially closed, the dividends of their stock are indeed secured on the Indian territorial revenue; but, beyond this, they have no necessary connection whatever with India. It may be advisable, that as the instruments of the past government of India, they should again be made available for its future administration, but they have no claim to be continued, except in so far and in such shape as may be conducive to the good government of our Indian territories.

On the other hand, it is obvious, that the attention of Parliament is likely to be more and more called from year to year to Indian affairs. The circumstances of the more rapid and increased communication with India, and the greater number of Europeans visiting that country, are alone quite sufficient to produce

this result, and it must be expected, that the administration of India will occupy a larger portion of the time and consideration of Parliament.

To Parliament, however, it is not the Court of Directors, but Her Majesty's Ministers, who are responsible for all that is done in regard to India, and with this practical increase of responsibility, a corresponding increase of power becomes necessary, especially in the selection of the persons by whom that administration is to be carried on, of which the ultimate responsibility rests on themselves.

It has indeed, as you must be aware, been strongly urged by many persons, that the present anomalous form of Home Government should be entirely abolished, and that for it should be substituted a simpler form, more in accordance with that which exists as to all the other dependencies of the Crown, and that with the avowed responsibility, the action of the responsible Minister of the Crown should be made more direct and immediate.

It is only right to look forward to the possibility of such a course being adopted at some future time, and it would have been unwise in Her Majesty's Ministers not to have borne in mind this contingency in the measures which they have now proposed to Parliament.

In their opinion, whatever may be the case hereafter, the time is not come for any such extensive change, and they have deemed it advisable to maintain the Court of Directors as an independent body and an integral part of the Government of India.

Her Majesty's Government have freely admitted the progress which has been made in India during the last twenty years. They concur in the opinion which has been expressed by the Committees of the Houses of Parliament, as to the favourable tenor of the evidence with respect to Indian administration in recent years, and without entering into any question as to the share which the Home or the Indian portion of the Government may have had in what has been done, I have felt it to be my duty to defend the Government of India against the exaggerated charges which have been brought against it.

It is entirely in accordance with these views that Her Majesty's Ministers have thought it advisable to preserve the present form of Government.

It does not, however, appear to them, that any view entertained by the Committees of the two Houses favourable to the general character of the Indian Government, or any opinion which has been expressed by myself, or any one of my colleagues, implied that it was incapable of improvement. And whilst we preserve the essential elements of the present form of Government, we should not have done our duty if we had neglected this opportunity of introducing such changes into the constitution of the Court, as well as into other parts of the Indian Government, as, we believe, will render it more competent to conduct with advantage the administration of Indian affairs.

I will now proceed to state to you, as concisely as I can, the reasons for the main changes to which the Court of Directors has objected

The two first points are the reduction in the number of Directors and the introduction of persons nominated by the Crown.

In regard to the first point, I would remind you, that both in 1813 and in 1833, it was the opinion of the ablest statesmen that the number might be advantageously reduced to twelve. In the dissent of Mr Tucker, one of the ablest of the then Directors, he stated his opinion that sixteen Directors might well conduct the territorial business. It is true that in 1833 the number of the Court was left at twenty-four, but at that time the commercial concerns of the Company had to be wound up, which operation has now been entirely accomplished

Considering the Court of Directors in the only light in which it can now be viewed, that of an Executive Council of Government, Her Majesty's Government have been surprised at learning that any person should recommend so large a body as twenty-four; whilst, judging from all experience in other similar cases, a much smaller body would be more likely to perform, satisfactorily, the duties intrusted to it. In retaining so large a number as eighteen, Her Majesty's Government were actuated more by a regard to the number at present existing than to that really required for the performance of the duty.

They were not unmindful either of the consideration to which you refer—of the independence of the Court—but they entertain too high an opinion of the gentlemen whom they trust to see in the Direction, to believe that, even in much smaller numbers, they would forfeit that character of honourable independence which has always distinguished the Court of Directors.

In regard to the second point, Her Majesty's Government consider it to be conceded on all hands that some measure should be adopted for introducing more readily into the Court that class of Indian servants who have, according to the almost uniform tenor of the evidence, been very generally excluded by the necessity of a long, and, in some cases, an expensive canvass

It is very doubtful whether any change can be introduced which will effectually remedy the evils of the canvass, and the introduction of one-third of the members of the Court by nomination of the Crown from Indian servants of a certain standing, was adopted after much consideration as the mode most likely to insure the best selection of the individuals, as well as their independence in the Court

If they were to be selected by the Court itself, beyond the obvious objection to all self-elected bodies, the persons so chosen could hardly avoid feeling themselves dependent upon the majority of their colleagues to whom they owed their seats. It is clear that any person, however high his qualification for the office might be, who happened to be disagreeable to a bare majority of the Court, could never obtain a seat in the direction, and if party spirit happened, as in

some former times, to run high in the Court, the majority of the day would be able to perpetuate their own power, and overwhelm their opponents by introducing only their own partisans

It seemed to Her Majesty's Government, therefore, that this mode of selection would necessarily affect the independence of the individuals selected and might produce an effect upon the Court itself most prejudicial to its usefulness and power

Nor do they see that the nomination by the Crown is open to the objections stated in your letter. It must be exercised by persons responsible to Parliament and to public opinion for the exercise of their discretion. It is limited to persons having served ten years in India, who have been very much removed from the influence of the party politics of this country. With the increased responsibility of ministers for Indian affairs, it is our conviction that they would have no interest so strong as that of selecting the ablest men amongst the persons experienced in Indian affairs

If the whole body were nominated at once by the Crown as was proposed by Mr Wynn in 1833, or even a third of the Court is so proposed, and permanently, it might create an undue influence in the hands of that political party in the state which made the nomination, but with the opportunity of changing one-third of the number of nominated members every two years, if their conduct should be open to the charge of being actuated by party spirit it is certain, considering the frequent change of ministers in this country, that any political party capable of taking the Government would be able to prevent an undue preponderance of power in the hands of its opponents

The condition of the nominated members has been assimilated in all respects to that of those who are to be elected, and Her Majesty's Government feel the most perfect confidence that their high feeling of duty, their habitual regard for the welfare of India, and the habits of daily intercourse with their elected colleagues, will effectually prevent the nominated members of the court from either being dependent on the Government, or forming a separate party in the Court

Her Majesty's Government are not unaware of the personal sacrifices which some of the Directors may be called upon to make, especially in performing the painful duty of selecting those who, according to the proposed scheme, are to form the future Court. That mode was adopted as the one most likely to insure the best selection of the future Directors. Her Majesty's Government still believe it to be a better mode than other alternatives which have been suggested, the most obvious one being, that the General Court of Proprietors should elect the fifteen or twelve Directors who are to remain

I will only say with regard to your observations on the proposed system of entry by competition at Haileybury and Addiscombe, that Her Majesty's Government is perfectly aware that other qualifications are required beyond mere book learning for both the civil and the military services in India, but

they are not aware that there will be any greater difficulty in insuring the presence of those qualifications under the proposed than under the present system. Nor do they understand how the *nomination* can be said to be vested in the examiners in any other sense than that the *selection of the best-qualified candidates* is necessarily to be made by them, as is that of the candidates for the highest honours at our universities.

In respect to your observations as to the power to erect presidencies in India, I will only observe that we have not acted as in 1833, in positively creating a new presidency, but have merely taken the power to do so.

We are well satisfied with the administration of affairs by the Lieutenant-Governor of the North-Western Provinces; but in so vast an Empire as India, it is impossible to foresee what changes may occur, and with an indefinite period for the continuance of the Act, Her Majesty's Ministers thought it wise to provide the power of making any arrangement which future experience and further knowledge might render advisable.

The Commission for the purpose of revising the drafts of laws and incomplete projects of the Law Commission, is proposed only as a temporary measure for this sole purpose. We have the advantage of the presence in this country of many of the gentlemen who took the most active part in that Commission, and it is not intended that it should cause any material expense, nor is it possible that this indispensable work could be either so well or so cheaply accomplished in any other manner. There are, besides the arrangement of the incomplete projects of the late Law Commission, many reforms in the Indian regulations, which will require no inconsiderable degree of attention, and beyond what may be attained by the temporary labours of this Commission, Her Majesty's Government believe that there will be still very much labour required, and much to do in revising and consolidating the laws and regulations in India.

It is with a view to this object, as well as to the current business of legislation, that instead of proposing a separate Law Commission in India, they have proposed an enlargement of the Legislative Council, and they rely upon the exertions of the legislative councillor, and the unofficial members of the council, to perform this most important and necessary duty. They are impressed with the belief that the presence of members from different parts of India, acquainted with the various habits, and native laws and customs, of the widely-differing regions of that country, is quite essential for this purpose; and they believe also, that in this duty they will find full and adequate employment.

I observe that you have stated the extra number of paid members at seven. There is no reason why so many should be appointed, unless there is an actual necessity for it. The Bill provides for the appointment of one member from each Presidency and Lieutenant-Governorship. At present, therefore, there would be one for Bengal, Madras, Bombay, and the North-Western Provinces, but there would be no absolute necessity in Bengal for appointing a person without other employment, where a civil servant resident at Calcutta, already in the enjoyment of a salary, might be named. In this case there would be only three paid councillors.

and if the fifth province is created, the number of legislative councillors receiving salaries merely as such would only be raised to four

A power is taken to appoint two others if the Governor-General should find the numbers inadequate for the work, but this can only be done with the sanction of the Home Government. Her Majesty's Government, however, consider the due performance of the duties of the Legislative Council, and its being filled by competent persons, to be of such paramount importance, that no consideration of saving a few thousand pounds ought to interfere with obtaining the services of a sufficient number of competent persons

Her Majesty's Government trust that this explanation of the views by which they have been actuated in framing the proposals for the future Government of India will tend to remove the objections stated by the Court of Directors. They have been, and still continue, most sincerely anxious that the Government of India should be carried on with the willing co-operation of the Court, and of all the persons taking a part, be it greater or less, in the administration of Indian affairs, and they rely on the sense of public duty, by which they are confident that every Director will be actuated, to prevent any inconvenience arising from any partial or temporary difference of opinion

But Her Majesty's Government would have been alike forgetful of their duty and of the mighty interests in this country and in India, for the present and future welfare of which they are responsible, if they allowed themselves to be deterred by any considerations from the course which they believe to be the best calculated to insure the good government of our Indian empire.

I have the honour to be,

Gentlemen,

Your obedient Servant,

(Signed) CHARLES WOOD

Russell Ellice, Esq
Major Oliphant