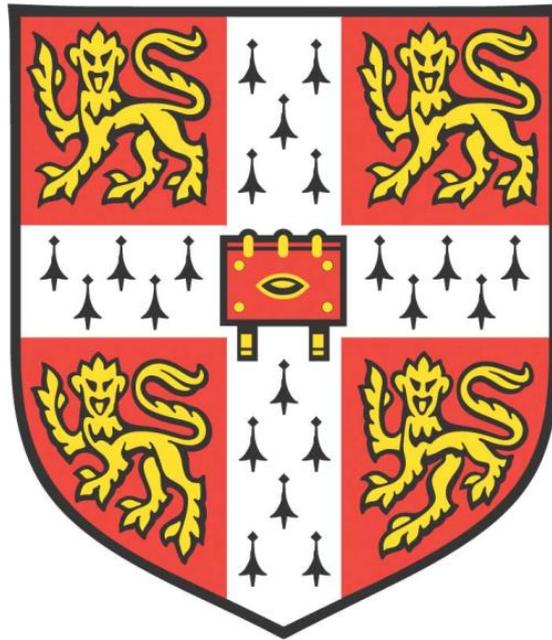


BRITISH POLITICS, IMPERIAL IDEOLOGY, AND
EAST INDIA COMPANY REFORM, 1773-1784



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PREFACE

This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared herein or specified in the text. It is not substantially the same as any work that has already been submitted before for any degree or other qualification except as declared herein or specified in the text. I further state that no substantial part of my thesis has already been submitted, or, is being concurrently submitted for any such degree, diploma or other qualification at the University of Cambridge or any other university or similar institution except as declared herein or specified in the text. The main body of the text (excluding footnotes and bibliography) does not exceed the prescribed word limit of 80,000 words as set by the Faculty of History's Degree Committee.

ABSTRACT:
BRITISH POLITICS, IMPERIAL IDEOLOGY, AND EAST INDIA COMPANY
REFORM, 1773-1784
BEN GILDING

This dissertation analyses the various factors behind the British East India Company's metamorphosis from a mercantile corporation into a semi-privatised imperial agency in the crucial period between Lord North's Regulating Act in 1773 and Pitt's India Act of 1784. To untangle these factors, this dissertation engages with three core themes. Firstly, it posits a reciprocal constitutional and legal relationship between the East India Company and the British state, situating the Company as a central but destabilising force in domestic constitutional crises, while also arguing that domestic political factors fundamentally shaped the structure and development of the early British Raj. Secondly, building on the work of David Armitage and P.J. Marshall on imperial ideology, this dissertation examines contemporary thought and ideas on the concept of 'empire' and how the acquisition of territory in South Asia by a mercantile corporation profoundly challenged the prevailing normative conceptions that the British Empire was 'Protestant, commercial, maritime and free.' By drawing upon a wide range of sources including pamphlets, newspapers, handbills, speeches, and private correspondence this work exposes the diversity of contemporary views towards the newly-acquired 'empire in the East' and examines how they crystallised into movements for imperial reform. The third theme of this dissertation focuses on the effect of 'distance' on the governance of the East India Company and examines the ways in which reforms were influenced by this central factor as it intersected with notions of sovereignty and jurisdiction in the metropole. By utilising the attempts to remove Warren Hastings from the post of Governor General of Bengal as a case study, this chapter seeks to highlight London's position as a discursive centre of the empire. It therefore engages with debates on the structure of empires, including the metropole/periphery divide, and the usefulness of network analogies. Analysing these political, constitutional, and ideological factors in East India Company reform throws into sharp relief the connections between

British political and constitutional developments in this period and the unprecedented expansion of the Empire into far-flung and diverse locales.

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A PhD dissertation, while a product of one's own labours, results in the accumulation of a great number of debts. It is a great pleasure to be able to acknowledge as many as I can recall and beg the pardon of any whom I have inadvertently omitted.

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This dissertation would not have been possible without generous funding from the Cambridge Trust and SSHRC and for that I will be forever grateful.

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And last, but certainly not least, I wish to recognise a person who has endured countless hours of soliloquous debates, discussions, and rants about eighteenth-century politics, East India Company reforms, and everything around it. For that alone, Sophie Willis deserves my most sincere thanks. But it is for her constant encouragement, assistance, and affection that I dedicate this work to her, without whom it would have been a far more difficult and far less pleasant task.

ABBREVIATIONS

<i>AHR</i>	<i>American Historical Review</i>
BL	British Library
<i>BP&P</i>	<i>Bengal Past & Present</i>
<i>Cobbett</i>	William Cobbett ed., <i>Parliamentary History of England to 1803</i> , 36 vols. (London, 1806-1820).]
<i>EHR</i>	<i>English Historical Review</i>
<i>FWIHC</i>	<i>Fort William-India House Correspondence</i> , 21 vols. (Delhi, 1949-1985)
<i>HJ</i>	<i>Historical Journal</i>
HMC	Historical Manuscripts Commission
IOR	India Office Records, British Library
<i>JBS</i>	<i>Journal of British Studies</i>
<i>JICH</i>	<i>Journal of Imperial and Commonwealth History</i>
<i>MAS</i>	<i>Modern Asian Studies</i>
TNA	National Archives, Kew
NLS	National Library of Scotland
NRS	National Records of Scotland
<i>WMQ</i>	<i>William and Mary Quarterly</i>
WWM	Wentworth Woodhouse Muniments, Sheffield Archives

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INTRODUCTION

In light of the proliferation of works on the East India Company in recent years, it is surprising that almost none have focused specifically on the metropolitan dimensions of its transformation from a monopolistic mercantile corporation into a substantial territorial power in South Asia.¹ While Clive's military and diplomatic victories and the so-called 'Plassey Revolution' marked the beginning of this metamorphosis, it was in the crucial decade between the passing of Lord North's Regulating Act in 1773 and Pitt's India Act of 1784 that the foundations were laid for the later British Raj.² It was during this decade, which marks the chronological boundaries of this work, that Britons most clearly wrestled with the idea of an 'empire in the East' and Parliament passed the reforms that defined the relationship between the British state and the East India Company until well into the nineteenth century.³ North's Regulating Act was the first genuine attempt by a British government to impose some level of order and structure upon the Company's vast new territories. William Pitt the Younger's India Act in 1784, on the other hand, settled the major contours of the Company's government for the remainder of its rule on the subcontinent. This dissertation sheds new light on the crucial developments in this period that resulted

¹ Very recent exceptions by James Vaughn and Spencer Leonard perhaps point to a renewed interest in the metropolitan dimension. They both, however, situate the major contours of this transformation in the 1760s. See James Vaughn, *The Politics of Empire at the Accession of George III: The East India Company and the Crisis and Transformation of Britain's Imperial State* (New Haven, CT: Yale University Press, 2019); Spencer Leonard, "'The Capital Object of the Public": The 1766-7 Parliamentary Inquiry into the East India Company,' *EHR* 132, no. 558 (2017): 1110-1148; Spencer Leonard, "'A Theatre of Disputes": The East India Company Election of 1764 as the Founding of British India,' *JICH* 42, no. 4 (2014): 593-624.

² On the term, 'Plassey Revolution', see Sushil Chaudhury, *The Prelude to Empire: Plassey Revolution of 1757* (New Delhi: Manohar, 2000); see also Vaughn, *Politics of Empire*; Willem G.J. Kuiters, *The British in Bengal, 1756-1773: A Society in Transition Seen Through the Biography of a Rebel: William Bolts (1739-1808)* (Paris: Les Indes savantes, 2002): 40-48; and P.J. Marshall, *Bengal: The British Bridgehead, Eastern India, 1740-1828* (Cambridge: Cambridge University Press, 1987): 77-80.

³ The use of the phrase 'empire in the East' in this dissertation takes its inspiration from contemporary attempts to differentiate it from the 'western' empire in America and the West Indies. See, for instance, *Thoughts on Improving the Government of the British Territorial Possessions in the East Indies* (London: T. Cadell, 1780): 23; and Hugh Elliot to William Eden, 26 December 1783 in BL, Auckland Papers, Add. MS. 34419, ff. 317-318.

in a reluctant British state taking upon itself the supervision of the East India Company and its territories. It also traces the Company's transition in this decade from being something of an *imperium in imperio* (or, an empire within an empire)⁴ to what came to resemble a department of the British state.

This dissertation, however, is not simply another history of the East India Company during this period. Rather, it uses the issue of East India reform between 1773 and 1784 as a case study in order to analyse the broader connections between domestic and imperial politics in the late eighteenth century. To this end, it is predominantly a study of the metropolitan dimensions of the debates concerning the Company's acquisition of an empire, albeit one that is sensitive to the critical importance of the dialogical relationship between the various poles of authority both in Britain and India. London is thus the setting for most of the analysis herein precisely because of its role as a discursive and communicative centre of the Empire. This approach facilitates the connection of debates on East India Company reform with concurrent domestic political issues as well as those from other parts of the Empire, such as the impact of the American Revolutionary War. In this way, I have tried to build on the pioneering work of P.J. Marshall in *The Making and Unmaking of Empires*, by investigating the ways in which British policy towards India was shaped by other domestic and imperial concerns.⁵

⁴ Defined as an '[i]ndependent or supreme authority exercised or claimed within the jurisdiction of another authority' in 'imperium in imperio n.' *OED Online*. September 2019. Oxford University Press. (Accessed 7 October 2019). This was a label commonly applied to the Company by contemporaries, see speech of George Dempster, 18 May [1772] in *Cobbett's Parliamentary History of England from the Earliest Period to the Year 1803* (36 vols, 1805-20), xvii, cols. 474-475; speech of Henry Dundas, 1 December 1783 in *Ibid.*, xxiii, col. 1402; speech of William Pitt, 23 January 1784 in *Ibid.*, xxiv, col. 409; Sir George Colebrooke, *Retrospection: Or Reminiscences Addressed to My Son Henry Thomas Colebrooke, esq.* (London: Bradbury, Agnew, & Co., 1899): 32; 'Important Queries on India Concerns, for the serious Consideration of the Public' in *London Evening Post*, 8 May 1773; *Gazetteer and New Daily Advertiser*, 11 June 1779; *Impartial considerations on a bill now depending in Parliament, for establishing certain Regulations for the better Management of the Territories, Revenues, and Commerce of this Kingdom in the East-Indies* (London, 1783): 7.

⁵ P.J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America, c. 1750-1783* (Oxford: Oxford University Press, 2005).

I. HISTORIOGRAPHY

Any work of this kind, seeking to contribute to domestic political, constitutional, and imperial histories, necessarily builds upon and responds to a diverse body of scholarship. The following historiographical review engages with three major themes. First, it discusses the high political scholarship on the East India Company and British politics more generally in the late eighteenth century as well as the challenges and opportunities associated with incorporating wider extraparliamentary debates in the press. Secondly, it engages with the rapidly expanding historiography on the East India Company and where this dissertation fits into this diverse body of work. And thirdly it seeks to situate my analysis of the Company's governance in the context of works on the structure of empires and the metropole-periphery divide.

A. *THE METROPOLITAN CONTEXT AND HIGH POLITICS*

Studies on the relationship between the East India Company and British domestic politics in the late eighteenth century have tended to be high political in nature. As such, the prejudices of Namierite historiography still loom large, as several scholars have recently pointed out.⁶ The standard texts on this subject, by Lucy Sutherland, P.J. Marshall, and C.H. Philips, while important scholarly contributions, are also undeniably products of their mid-twentieth century scholarly context.⁷ The most crucial argument shared by these authors was that Indian policy in the metropole was determined by the rise and fall of parties or factions rather than upon the contested ideologies and debates (both inside and outside of Parliament) that often transcended party wrangling. This is particularly true of Sutherland's work, which focuses

⁶ Vaughn, *Politics of Empire*, 9-10; and Leonard, "A Theatre of Disputes", 596. Their description of P.J. Marshall as a 'Namierite' in light of his more recent work on ideas of empire seems to be a mischaracterisation. See P.J. Marshall, *Making and Unmaking of Empires*, chapters 5-6.

⁷ Lucy Sutherland, *East India Company in Eighteenth-Century Politics* (Oxford: Clarendon Press, 1952); P.J. Marshall, *Problems of Empire: Britain and India, 1757-1813* (London: George Allen and Unwin, 1968); C.H. Philips, *The East India Company 1784-1834* (Manchester: Manchester University Press, 1961).

predominantly on the political infighting among the Company's stockholders and directors at their London headquarters. Parliament fits into her narrative primarily insofar as Westminster politicians themselves purchased the requisite qualifications of East India stock and participated in the debates of the Company's 'little parliament', its General Court of Proprietors, and in the election of directors who served as the Company's executive body.⁸

More recent historians of the metropolitan dimensions of the debates on East India reform have broadened these discussions to involve ideas and ideologies, ascribing to them a role alongside the older 'structural' accounts of parliamentary behaviour.⁹ To a lesser extent, they have widened the scope of politics to include contributors outside of the institutions of Parliament and East India House, a trend which this dissertation seeks to expand upon, given the vast proliferation of publications on India and the East India Company in the 1770s and 1780s. However, they have also tended to focus primarily on the extent to which the metropole had a hand in directing the processes of imperial expansion, as a corrective to what are described as the 'sub-imperialist' approaches to British imperialism in India pioneered by Christopher Bayly and P.J. Marshall.¹⁰ However, this dissertation also traces the influence of issues raised by East India reform on British domestic politics and the Constitution. By emphasising the reciprocal nature of the relationship between the politics of reform in the metropole and the expansion of empire in South Asia, I argue that these two historiographical branches ought to be complementary.

⁸ Philip Lawson and Jim Phillips, "'Our Execrable Banditti': Perceptions of Nabobs in Mid-Eighteenth-Century Britain,' *Albion* 16 (1984): 225; Holden Furber, Review of *East India Company in Eighteenth-Century Politics* by Lucy Sutherland, *The Economic History Review* 6, no. 1 (1953): 85-86. For more on the nature of the Company's General Court, see H.V. Bowen, 'The "Little Parliament": The General Court of the East India Company, 1750-1784,' *HJ* 34 (1991): 857-872.

⁹ H.V. Bowen, *Revenue and Reform: The Indian Problem in British Politics, 1757-1773* (Cambridge: Cambridge University Press, 1991): chapter 2; Vaughn, *Politics of Empire*, chapters 5-6; Leonard, "'A Theatre of Disputes",' 593-624.

¹⁰ Vaughn, *Politics of Empire*, 3-6; see also P.J. Marshall, 'British Expansion in India in the Eighteenth Century: A Historical Review,' *History* 60, no. 198 (1975): 28-43; C.A. Bayly, *Indian Society and the Making of the British Empire* (Cambridge: Cambridge University Press, 1998): 1-5, 45-77.

Another major limitation of recent works on the metropolitan debates concerning the East India Company is their chronology. They seem to focus almost exclusively on the period between 1757 and 1773 as the crucial period of the Company's transformation in Britain. There were certainly a number of key moments in this period, notably the first instances of the use of government funds to influence the election of directors at East India House, the first East India Company inquiry in 1767, and the resulting financial agreement with the Chatham administration. The chronology typically extends to the passage of North's Regulating Act in 1773, which was the first genuine attempt by a British government to impose a limited parliamentary supervision over the Company's affairs. However, North's reforms initiated a decade-long experiment in parliamentary interference into the government of the Company both in Britain and India. Moreover, it was widely recognised as being both temporary and experimental by contemporaries.¹¹ In practice, the Regulating Act resolved virtually none of the issues associated with the East India Company in British politics, whether one considers the question of the Company's sovereignty, its place within the British Constitution, or its overseas maladministration. In fact, this dissertation shows that it created many additional problems. Because North's reforms were part of a *process* rather than a singular event, there is considerable value in tracing the continuity of debates concerning India between 1773 and 1784, the period which forms the chronological parameters of this study. Given that Pitt's India Act is widely recognised as having settled the main contours of the relationship between the British state and the East India Company until well into the nineteenth century, this study posits 1784 rather than 1773 as the decisive transformative moment in the relationship between the Company and the state.

¹¹ Speech of Lord North, 10 June [1773], *Cobbett*, xvii, col. 903; Speech of Sir Thomas Rumbold, 30 April 1781, *Cobbett*, xxii, cols. 122-123; Thomas Pownall, *The Right, Interest, and Duty of Government, as Concerned in the Affairs of the East Indies. Revised Edition* (London, 1781): vi; and *Annual Register* (1773): 102.

The works discussed thus far have one crucial aspect in common: they agree that in some way the East India Company played a considerable role in domestic politics in the period leading up to North's Regulating Act. Such a view corresponds with more recent research emphasising the importance of the imperial dimension in the lives of eighteenth-century Britons.¹² However, many influential monographs on domestic politics in the 1770s and 1780s have been written with virtually no mention of the role of empire in British society. This is even more clearly the case when considering the East India Company. Whether one considers works on the Association movement, economical reform, the respective powers of the monarchy and Parliament (in other words, the major domestic political issues between 1773 and 1784), empire in general, but more particularly the East India Company, is seen to have played a minimal role.¹³ Even when the Company became deeply entangled within domestic politics, such as during the stand-off over the respective India legislation of Fox and Pitt, it is often regarded as being incidental to larger political or constitutional crises.¹⁴ I argue, on the other hand, that issues surrounding the Company played a crucial and hitherto neglected role in domestic political debates between 1773 and 1784. The Company was not only a major catalyst for the political

¹² See, for example, Kathleen Wilson ed., *A New Imperial History: Culture, Identity and Modernity in Britain and Empire, 1660-1840* (Cambridge: Cambridge University Press, 2004); Kathleen Wilson, *The Sense of the People: Politics, Culture and Imperialism in England, 1715-1785* (Cambridge: Cambridge University Press, 1998); Catherine Hall and Sonya O. Rose eds., *At Home with the Empire: Metropolitan Culture and the Imperial World* (Cambridge: Cambridge University Press, 2006); and Margot Finn and Kate Smith eds., *The East India Company at Home, 1757-1857* (London: UCL Press, 2018). For a prominent early call for such studies, see Philip Lawson, 'The Missing Link: The Imperial Dimension in Understanding Hanoverian Britain,' *HJ* 29 (1986): 747-751.

¹³ Ian Christie, *Wilkes, Wyvill and Reform: The Parliamentary Reform Movement in British Politics 1760-1785* (London: Macmillan, 1962); Ian Christie, *The End of North's Ministry 1780-1782* (London: Macmillan, 1970); Earl Reitan, *Politics, Finance, and the People: Economical Reform in the Age of the American Revolution, 1770-92* (Basingstoke: Palgrave Macmillan, 2007); Herbert Butterfield, *George III, Lord North, and the People, 1779-1780* (London: G. Bell & Sons, 1949).

¹⁴ John Cannon, *The Fox-North Coalition: Crisis of the Constitution 1782-84* (Cambridge: Cambridge University Press, 1969); Paul Kelly, 'British Politics 1783-4: The Emergence and Triumph of the Younger Pitt's Administration,' *Historical Research* 54, no. 129 (1981): 62-78; L.G. Mitchell, *Charles James Fox and the Disintegration of the Whig Party, 1782-1794* (Oxford: Oxford University Press, 1972); Michael McCahill, *Order and Equipoise: The Peerage and the House of Lords, 1783-1806* (London: Royal Historical Society, 1978).

and constitutional crises of the 1770s and 1780s but the legislation designed to reform the Company also had important implications for British constitutional equipoise in ways that have hitherto been neglected by historians.

This dissertation takes advantage of the significant expansion of published material concerning the East India Company in the 1770s and 1780s in order to provide a more well-rounded account of the political debates it provoked. By analysing material from a wide range of printed media—including magazines, pamphlets, newspapers, handbills, novels, ballads, poems, and sermons—alongside the correspondence of officials and parliamentarians and the records of parliamentary debates, my approach takes inspiration from John Brewer’s *Party Ideology and Popular Politics*.¹⁵ Brewer argued that this wider body of printed material constituted an ‘alternative structure of politics’—alternative, of course, to Namier’s structure of politics which was almost exclusively confined to members of the House of Commons. However, the term ‘alternative structure’, in describing the products of print culture, can be somewhat misleading in that it stresses an opposition between two distinct political worlds with little permeability between them.¹⁶ This dissertation argues that there is considerable benefit to be drawn from incorporating the extraparliamentary discussions of political, constitutional, and imperial issues into the same analytical frame as those of parliamentarians and academic theorists, as they circulated in the burgeoning print culture of Hanoverian Britain.

Historians are divided over the extent to which parliamentary politicians engaged with the press in the late eighteenth century.¹⁷ However, the expansion of

¹⁵ John Brewer, *Party Ideology and Popular Politics at the Accession of George III* (Cambridge: Cambridge University Press, 1976).

¹⁶ See, for example, Bob Harris’s criticism in *Politics and the Rise of the Press: Britain and France, 1620-1800* (London: Routledge, 1996): 29-30.

¹⁷ For works expressing scepticism of political engagement with the press, see in particular J.C.D. Clark, *The Dynamics of Change: The Crisis of the 1750s and English Party Systems* (Cambridge: Cambridge University Press, 1982): 3; see also J.C.D. Clark, *English Society 1660-1832: Religion, Ideology and Politics During the Ancien Regime* (Cambridge: Cambridge University Press, 2000). On the other side of the equation, for those who feel that the press played an important role in the political

the publishing of parliamentary debates in the early 1770s allowed the reading public to engage with their affairs to a much greater extent.¹⁸ The result was that there was often considerable continuity between the reports of parliamentary debates and the content of pamphlets and the pseudonymous letters frequently inserted into newspapers. Newspaper letters and pamphlets were regularly addressed specifically to MPs and graphic satires grotesquely exaggerated their parliamentary rhetoric.¹⁹ On the other side, parliamentarians frequently made both positive and negative references to newspapers and pamphlets in debates and in their private correspondence.²⁰ Lord North and Charles Fox even attributed the unpopularity of their India Bill and their subsequent dismissal to James Sayer's famous prints.²¹ To facilitate a more comprehensive analysis of the debates concerning East India reform, this dissertation examines the parliamentary debates and extraparliamentary

(including parliamentary) culture of the day, see Troy Bickham, *Making Headlines: The American Revolution as Seen through the British Press* (De Kalb, IL: Northern Illinois University Press, 2009): 114; Hannah Barker, *Newspapers, Politics, and English Society* (London: Longman, 2000): 126; Jeremy Black, *The English Press in the Eighteenth Century* (Philadelphia, PA: University of Pennsylvania Press, 1987): 114-115; and Robert Darnton, 'An Early Information Society: News and Media in Eighteenth-Century Paris,' *AHR* 105, no. 1 (2000): 1-35.

¹⁸ P.D.G. Thomas, 'The Beginning of Parliamentary Reporting in Newspapers, 1768-1774,' *EHR* 74 (1959): 623-636; P.D.G. Thomas, 'John Wilkes and Freedom of the Press (1771),' *Bulletin of the Institute of Historical Research* 33 (1960): 86-98; and W.C. Lowe, 'Peers and Printers: The Beginnings of Sustained Press Coverage of the House of Lords in the 1770s,' *Parliamentary History* 7 (1988): 241-256.

¹⁹ See, for example, *A Letter to the Right Honourable Lord North; on the East-India Bill now depending in Parliament* (London: John Almon, 1772); Francis Dobbs, *A Letter to Lord North and Mr Fox* (London: J. Stockdale, 1784); Nathaniel Brassey Halhed, *A Letter to Governor Johnstone, &c., &c., On India Affairs* (London, 1783); John Scott, *A Letter to the Right Honourable Charles James Fox* (London: J. Stockdale, 1783); see also Christopher Reid, *Imprison'd Wranglers: The Rhetorical Culture of the House of Commons 1760-1800* (Oxford: Oxford University Press, 2012): 48.

²⁰ See, for example, William Eden to Morton Frederick Eden, 27 January [1784] in BL, Auckland Papers, Add. MS. 34419, f. 342; speech of George Hardinge, 27 November 1783 in *Cobbett*, xxiii, col. 1257; King George III to Lord North, 1 November 1776 in Fortescue ed., *Correspondence of King George the Third from 1760 to December 1783* (London: Macmillan, 1927), iii, 400-401; Charles Jenkinson to John Robinson, 24 March 1783 in Erridge Park, Robinson Papers, No. 504; *Considerations on the Present Situation of Affairs, the State of Party's and L.N.s particular situation*, 10 February 1783 in NLS, Stuart Stevenson Papers, MS. 8259, f. 3; and William Woodfall to Charles Jenkinson, 19 December 1779 in BL, Liverpool Papers, Add. MS. 38212, f. 274.

²¹ Horace Twiss ed., *The Public and Private Life of Lord Chancellor Eldon, with Selections from his Correspondence* (London: John Murray, 1844), i, 162; speech of Lord North, 8 March [1784] in *Cobbett*, xxiv, col. 744.

discourse within a single frame. The intense debates raging in the wider public reveal the ideological context—the matrix of political, constitutional, moral, and economic arguments—that informed the competing programmes of East India reform. Only by viewing them together is it possible to assess the levels of knowledge and interest displayed by metropolitan Britons towards India and the East India Company and the ways in which its acquisition of vast territories in Bengal challenged the prevailing ideological conceptions of empire.

B. EAST INDIA COMPANY STUDIES

Although this dissertation is not strictly speaking a history of the East India Company, it fills a gap in the current historiography, namely that no work has focused solely on the metropolitan debates surrounding East India reform in the period between 1773 and 1784. It therefore participates in what is a burgeoning historiography on the Company. Philip Stern has rightly identified several distinct bifurcations within this historiography.²² These divisions, in many ways, reflect contemporary debates over the nature and governance of the Company. Historians are divided over the relative importance of the Company's commercial and political functions, as well as the extent to which its governance emanated primarily from the metropole or from the presidencies in India.

The debate over the commercial and political character of the East India Company is particularly prominent in studies of its early history. The traditional narrative, most influentially traced by K.N. Chaudhuri, depicts the Company as an innovative joint-stock enterprise designed primarily to provide its investors with dividends.²³ This approach has frequently been carried too far by business historians

²² Philip Stern, 'History and Historiography of the English East India Company: Past, Present, and Future!' *History Compass* 7, no. 4 (2009): 1148.

²³ K.N. Chaudhuri, *The Trading World of Asia and the English East India Company, 1660-1760* (Cambridge: Cambridge University Press, 1978); Chaudhuri, *Trade and Civilization in the Indian Ocean: An Economic History from the Rise of Islam to 1750* (Cambridge: Cambridge University Press, 1985); and Chaudhuri, 'The Economic and Monetary Problems of European Trade into Asia

who have attempted to portray the Company as a forerunner of the modern multinational corporation.²⁴ Such studies, however, tend to stress what they see as innovative aspects of the Company's structure—i.e. those that most closely resemble features of modern corporations. They also often portray the Company's efforts at controlling the actions of its overseas servants as remarkably effective. The fact that parliamentarians and the wider public were engaged in decades of strenuous debates from the 1760s to the 1780s over how to reform the Company in order to prevent the maladministration of its overseas servants and assert more effective control from the metropole rather suggests that the Company's own measures were not particularly successful.²⁵ The principal-agent problem, or in other words the problem of local discretion associated with delegated governance, proved to be one of the most difficult to resolve and had a long history beyond the passage of Pitt's India Act.²⁶ Recently, Emily Erikson has picked up on Chaudhuri's emphasis on the primacy of the economic dimension of the Company's early history. However, rather than praising efficiency of the Company's institutional structure, her work emphasises the

during the Seventeenth and Eighteenth Centuries,' *Journal of European Economic History* 4, no. 2 (1975): 323-358.

²⁴ Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational* 2nd edn (London: Pluto Press, 2012): 5; Sashi Sivramkrishna, 'From Merchant to Merchant-Ruler: A Structure-Conduct-Performance Perspective of the East India Company's History, 1600-1765,' *Business History* 56, no. 5 (2014): 789-815; Ann Carlos and Stephen Nicholas, 'Theory and History: Seventeenth-Century Joint-Stock Chartered Trading Companies,' *Journal of Economic History* 56 (1996): 916-924; Ann Carlos and Stephen Nicholas, 'Giants of an Earlier Capitalism: The Early Chartered Companies as an Analogue of the Modern Multinational,' *Business History Review* 62, no. 3 (1988): 398-419; G.M. Anderson, R.E. McCormick, and R.D. Tollison, 'The Economic Organization of the English East India Company,' *Journal of Economic Behavior and Organization* 4 (1983): 221-238; S.R.H. Jones and S.P. Ville, 'Efficient Transactors or Rent-Seeking Monopolists? The Rationale for Early Chartered Trading Companies,' *Journal of Economic History* 56, no. 4 (1996): 898-915; Nicholas Kyriazis and T. Metaxas, 'Path Dependence, Change and the Emergence of the First Joint-Stock Companies,' *Business History* 53, no. 3 (2011): 363-374; and Jagjeet Lally, 'The East India Company in the Age of Revolutions: A Long View from the Western Indian Ocean,' Adam Matthew, *East India Company* (2017).

²⁵ See, for instance, Herbert Hilder, 'The East India Company's Regulation of its Servants – A Study in Failure: Bengal in the 1760s,' *BP&P* 97 (1978): 1-23.

²⁶ For a discussion of the principal-agent problem in the context of the Dutch VOC, see Julia Adams, 'Principals and Agents, Colonialists and Company Men: The Decay of Colonial Control in the Dutch East Indies,' *American Sociological Review* 61, no. 1 (1996): 12-28.

Company's decentralized organisation and its reliance on 'the intertwining of private and Company interests.'²⁷

Erikson's work, however, cuts against the grain of much of the recent scholarship on the Company, led by Philip Stern, which emphasises its political and judicial dimensions as a corporate body politic. Stern's work situates the Company within the broader context of corporate and chartered bodies which, as he points out, 'had done the business of governing the early modern "empire".'²⁸ Stern argues that the Company-state was one among many 'competing and overlapping political and constitutional forms in both alliance and tensions with the national state and its claims to coherent and central power' in the early modern world.²⁹ Such a notion, however, that corporations 'competed' for sovereignty with 'national' institutions such as the Crown or Parliament can easily be taken too far so as to veil what Paul Halliday has noted as the symbiotic yet subservient relationship between corporations and the Crown. They were, he argues, 'extensions of crown government itself,' beholden to the Crown for their existence and 'subservient to his [*sic*] needs.'³⁰ Furthermore, Stern's arguments also suggest that, since the Company had long possessed a political and judicial character in its overseas operations, the so-called 'Plassey revolution' and its acquisition of the *diwani* (or revenue collection rights of Bengal) did not actually involve as crucial a transformation as most historians have suggested.³¹ In other words, Stern argues that the Company's transformation from merchant to sovereign was a difference of degree rather than kind. However, the weight of other scholarship which focuses more closely on the 'revolutionary' implications of the Company's acquisition of *de facto* sovereignty

²⁷ Emily Erikson, *Between Monopoly and Free Trade: The English East India Company, 1600-1757* (Princeton, NJ: Princeton University Press, 2014): 1-2.

²⁸ Philip Stern, *The Company-State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011): 90.

²⁹ Stern, *Company-State*, 6.

³⁰ Paul Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998): 33, 54.

³¹ Stern, *Company-State*, 207; see also A.M. Fraas, "'They Have Travailed into a Wrong Latitude": The Laws of England, Indian Settlements, and the British Imperial Constitution, 1726-1773,' (Unpublished PhD thesis, Duke University, 2011).

over vast territories in India between 1757 and 1765 appears to militate against Stern's bold claims. While acknowledging the value of Stern's work in correcting the traditional historiographical tendency to view the Company's early history primarily in commercial terms, this dissertation corroborates a body of other work recognising the Company's dramatic political and commercial metamorphosis after 1757.³²

Given its political and constitutional dimensions, my research also seeks to contribute to the analysis of the phenomenon identified by William Pettigrew as 'corporate constitutionalism.'³³ Several aspects of this dissertation fit neatly within this concept; for example, the focus on the development of the Company's own constitution (its charter) in response to the 'revolutionary' transformation in its overseas operations and also the examination of the Company's major influence on British constitutional issues which have hitherto been studied almost exclusively in domestic terms. However, unlike Pettigrew's description of the approach, I argue

³² Emily Erikson, *Between Monopoly and Free Trade*, 6, 65; H.V. Bowen, 'Britain in the Indian Ocean Region and Beyond: Contours, Connections, and the Creation of a Global Maritime Empire,' in H.V. Bowen, Elizabeth Mancke, and John G. Reid eds., *Britain's Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850* (Cambridge: Cambridge University Press, 2012): 45-54; H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006) 5-7; Robert Travers, 'Imperial Revolutions and Global Repercussions: South Asia and the World, c. 1750-1850,' in David Armitage and Sanjay Subrahmanyam eds., *The Age of Revolutions in Global Context, c. 1760-1840* (Basingstoke: Palgrave, 2010): 147; K.N. Chaudhuri, 'The English East India Company and its Decision-Making,' in Kenneth Ballhatchet and John Harrison eds., *East India Company Studies: Papers Presented to Sir Cyril Philips* (Hong Kong: Asian Research Service, 1986); Tony Ballantyne, *Orientalism and Race: Aryanism in the British Empire* (Basingstoke: Palgrave, 2002): 20-22; Richard Bourke, *Empire & Revolution: The Political Life of Edmund Burke* (Princeton, NJ: Princeton University Press, 2015): 557; Kumkum Chatterjee, 'History as Self-Representation: The Recasting of a Political Tradition in Bengal and Bihar,' *MAS* 32, no. 4 (1998): 913; and Santhi Hejeebu, 'The Colonial Transition and the Decline of the East India Company, c. 1746-1784,' in Latika Chaudhary, Bishnupriya Gupta, Tirthankar Roy, and Anand V. Swamy eds., *A New Economic History of Colonial India* (London: Routledge, 2016): 33.

³³ William A. Pettigrew, 'Corporate Constitutionalism and the Dialogue between the Global and Local in Seventeenth-Century English History,' *Itinerario* 39, no. 3 (2016): 487-525; see also the connected roundtable discussion: David Armitage, 'Wider Still and Wider: Corporate Constitutionalism Unbounded,' *Ibid.*, 501-503; Paul D. Halliday, 'Speaking Law to the Corporate Person,' *Ibid.*, 504-506; Vicki Hsueh, 'Constitutional Turns and Corporate Responses to the Empire of Uniformity,' *Ibid.*, 506-509; Tom Leng, "'Corporate Constitutionalism," the Merchant Adventurers, and Anglo-European interaction,' *Ibid.*, 509-512; and Philip Stern, 'Parasites, Persons, and Princes: Evolutionary Biology of the Corporate Constitution,' *Ibid.*, 512-515.

that ‘corporate constitutionalism’ need not exclusively involve trading corporations, nor corporations operating in transnational or transoceanic contexts. The ‘corporate solidarity’ discussed in chapter three, whereby domestic corporations of all kinds banded together with the East India Company in a common defence of their exclusive rights based on their shared legal foundations, suggests that corporate ‘constitutional posturing’ could be as powerful a force even in a mostly domestic context. Far from suggesting that the approach of ‘corporate constitutionalism’ is flawed, this dissertation contributes to the argument that it ought to be expanded to include the myriad ‘local’ corporate bodies which shared the same constitutional basis in law and faced similar challenges without necessarily traversing the globe. By examining these shared experiences and the reciprocal influences between the British Constitution and the East India Company’s charters, this dissertation provides a greater understanding of how corporate constitutional forms, transformed by the experiences of imperial activities overseas, intersected with domestic constitutional debates.

C. NETWORKS AND IMPERIAL STRUCTURES

Works on the East India Company also differ considerably over the respective importance of the roles played by governments in the metropole or agents ‘on the spot’ in the process of imperial expansion. Lucy Sutherland rather controversially defended the exclusively metropolitan dimensions of her work by claiming that the history of the East India Company might be written ‘with scarcely a reference to India.’³⁴ Today, one is far more likely to encounter the opposite argument: that the Company’s directors were unable to effectively supervise its overseas operations and were faced with acknowledging a series of *faits accomplis* presented to them by their employees abroad.³⁵ One could very easily argue,

³⁴ Sutherland, *East India Company*, 44; see also H.V. Bowen, *Revenue and Reform*, 3.

³⁵ H.V. Bowen, ‘Investment and Empire in the Later Eighteenth Century: East India Stockholding, 1756-1791,’ *The Economic History Review* 42, no. 2 (1989): 192-193; P.J. Marshall, *Problems of*

however, that the Company's employees in India were also frequently faced with *faits accomplis* each time Parliament imposed thoroughgoing reforms into the structure of their overseas affairs.³⁶ This undermines the extent to which the processes of imperial expansion ought to be seen as unidirectional. In many ways, these divisions are an offshoot of the broader debates in imperial history over the respective roles of the metropole and periphery. My research seeks to add nuance to the bifurcation between metropole and periphery in the case of the East India Company's governance of Bengal by focusing on the transoceanic dialogical relationship inherent in the Company's delegated sovereignty.

One of the major ways in which imperial historians in recent years have attempted to overcome the binary nature of the metropole/periphery divide is through the introduction of metaphors to describe the underlying structure of empires, such as webs or networks. Such metaphors often consciously seek to decentre the metropole and instead emphasise the more fragile yet dynamic ties between various other 'nodal' points within the imperial structure. These analyses, however, have been criticised for failing to 'trace an underlying logic to the way they developed', or in other words, of not paying adequate attention to the hierarchical and asymmetrical power relations necessarily involved in the imperial context within which they developed.³⁷ Some have even drawn out the network metaphor to such extremities that the boundaries between distinct imperial polities, whose fringes were considerably blurred and permeable, are brought almost entirely into question. In

Empire, 52; P.J. Marshall, 'British Expansion in India in the Eighteenth Century,' 30; Philip Lawson, *The East India Company. A History* (London: Longman, 1993): 107; Bourke, *Empire & Revolution*, 353; B.B. Misra, *The Central Administration of the East India Company, 1773-1834* (Manchester: Manchester University Press, 1959): 19.

³⁶ See, for instance, Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007): 163, 177, 201.

³⁷ David A. Bell, 'The Global Turn: The Network as an Historical Metaphor,' *The New Republic*, 7 October 2013, 59; see also Peer Vries 'Writing the History of the Global and the State,' in Maxine Berg ed., *Writing the History of the Global: Challenges for the 21st Century* (Oxford: Oxford University Press, 2013): 204-205. While being mildly critical of the 'vague' use of network as a metaphor for imperial relational and commercial connections, David Hancock still stresses the extent to which they were 'egalitarian' or '*nonhierarchical*' see his 'The Trouble with Networks: Managing the Scots' Early-Modern Madeira Trade,' *Business History Review* 79, no. 3 (2005): 467-491.

such studies, the British Empire can find itself relegated to a merely ‘imagined’ community.³⁸ Perhaps the strongest criticism has come from Joanna Innes, who claims that the use of networks as a historical metaphor has rarely transcended the superficial. She argues that the appeal of networks lies in the malleability of the term, with it being so easily applicable to commercial, political, and social connections. However, such flexibility, she argues, ultimately undermines the metaphor’s ability to open up ‘new conceptual horizons.’³⁹ Innes’s criticism certainly holds weight, and while some works such as Emily Erikson’s *Between Monopoly and Free Trade*, which reimagines the East India Company in its pre-Plassey form as a ‘networked firm’, draw strong interpretations and arguments from large quantities of organised data, many other works either use networks or webs simply as descriptive metaphors for the structure of the empire under discussion or fail to take full advantage of the wealth of data at their disposal.⁴⁰ Such a networked analysis of the East India Company’s role as a territorial sovereign in the post-Plassey period has yet to be undertaken and, as Erikson points out, would follow a fundamentally different pattern from her work on its early history.⁴¹ While my research does not involve this kind of data-driven network analysis, it does put forward the argument that the network metaphor can be usefully applied to make

³⁸ See, for instance, Onur Ulas Ince, ‘Not a Partnership in Pepper, Coffee, Calico, or Tobacco: Edmund Burke and the Vicissitudes of Colonial Capitalism,’ *Polity* 44, no.3 (2012): 347; see also Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 2006); Mark Granovetter, one of the pioneers of social network theory, discusses the problems associated with establishing the boundaries of networks in his ‘The Strength of Weak Ties,’ *The American Journal of Sociology* 78, no. 6 (1973): 1370.

³⁹ Joanna Innes, “‘Networks’ in British History,” *The East Asian Journal of British History* 5 (2016): 51-72.

⁴⁰ One project in particular, whose data collection makes for an impressive visualisation and certainly contains strong potential but whose resulting monograph does not appear to make full use of the data in its aggregate or accumulated form is Emma Rothschild’s, *The Inner Life of Empires: An Eighteenth-Century History* (Princeton: Princeton University Press, 2011). For the data visualisation, see The Centre for History and Economics, *Visualising Historical Networks*, <https://sites.fas.harvard.edu/~histecon/visualizing/index.html> (Accessed 4 August 2019).

⁴¹ Erikson, *Between Monopoly and Free Trade*, 174-176; Philip Stern suggests it could take a similar form to the work of Julia Adams on the Dutch East India Company. See Stern, ‘History and Historiography of the English East India Company: Past, Present, and Future!’ *History Compass* 7, no. 4 (2009): 1152; and Julia Adams, *The Familial State: Ruling Families and Merchant Capitalism in Early Modern Europe* (Ithaca, NY: Cornell University Press, 2005).

sense of the dense mixture of overlapping institutional and private connections involved in the Company's governance.⁴²

One crucial feature of modern European transoceanic empires that the network metaphor brings very effectively to the fore is their strong reliance on epistolary and other forms of written communication.⁴³ Tony Ballantyne has noted that, although 'the ultimate basis of imperial authority was force or the threat of force, colonial states fetishized written records and the value of documentation.'⁴⁴ In the case of the East India Company, its strong and relatively successful efforts to instil a culture of meticulous record-keeping were not merely attempts to keep abreast of the latest commercial trends but were rather, as Betty Joseph has described, 'an instrument of governance.'⁴⁵ The Company also went to great lengths to control the dissemination of information concerning its affairs in the metropole. However, the strong vested interests of its overseas servants in keeping their stockholding agents, friends, and family members minutely informed severely limited the Company's ability to keep its business out of the public eye.⁴⁶ It was

⁴² Elizabeth Mancke points out the institutional expressions within imperial networks such as joint-stock companies, see her 'Empire and State' in David Armitage and Michael J. Braddick eds., *The British Atlantic World, 1500-1800* 2nd ed. (Basingstoke: Palgrave, 2009): 195-196; see also John McAleer, *Britain's Maritime Empire: Southern Africa, the South Atlantic and the Indian Ocean, 1763-1820* (Cambridge: Cambridge University Press, 2017): 9-10, 157; and Kathleen Wilson, 'Introduction: histories, empires, modernities,' in Wilson ed., *A New Imperial History: Culture, Identity and Modernity in Britain and Empire, 1660-1840* (Cambridge: Cambridge University Press, 2004): 18-19.

⁴³ Ian K. Steele, *The English Atlantic, 1675-1740: An Exploration of Communication and Community* (Oxford: Oxford University Press, 1986): 265; Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago, IL: University of Chicago Press, 2008): xvii; and Bowen, *Business of Empire*, 180.

⁴⁴ Ballantyne, *Orientalism and Race*, 9.

⁴⁵ Betty Joseph, *Reading the East India Company, 1720-1840: Colonial Currencies of Gender* (Chicago, IL: University of Chicago Press, 2004): 6; Philip Stern, 'Company, State, and Empire: Governance and Regulatory Frameworks in Asia,' in Bowen, Mancke, and Reid eds., *Britain's Oceanic Empire*, 135-136.

⁴⁶ See, for instance, *Annual Register* (1775): 133; Court of Directors to the Governor General and Council of Bengal, 31 May 1781 in *FWIHC*, viii, 310; Court of Directors, to the Governor General and Council of Bengal, 21 September 1785 in *FWIHC*, ix, 264; Warren Hastings to Josias Du Pre, 6 January 1773 in G.R. Gleig ed., *Memoirs of the Life of the Right Hon. Warren Hastings, First Governor-General of Bengal* (London: Richard Bentley, 1841), i, 267; see also Hilder, 'The East India Company's Regulation of its Servants,' 12-13; and Jeremy Osborn, 'India, Parliament and the Press under George III: A Study of English Attitudes towards the East India Company and Empire in

therefore often as difficult for contemporaries as it is for historians today to disentangle the public from the private. The uneven and diverse networks of families, friends, colleagues, patrons, and clients shared information and misinformation and engaged in both financial and political speculation (which, in the Company's case, often went hand-in-hand). They also sought to deliberately circumvent the relatively sluggish official modes of transportation—which often shipped letters at the same speed and according to the same schedule as passengers and goods—in order to gain the upper hand on their opponents.⁴⁷ The events surrounding Warren Hastings's supposed resignation, in particular, provide a privileged opportunity to study these phenomena as they intersected with the power-dynamics not only between the Company and its servants in India but also with the dual poles of imperial power in London: Westminster and Leadenhall Street.

Another aspect of imperial networks upon which there is a growing body of literature is their inherent 'frictions' and the very real possibility of their failure.⁴⁸ Margaret Makepeace, for example, has calculated that almost five percent of the East India Company's sailings ended in some form of disaster—either being lost at sea or

the Late Eighteenth and Early Nineteenth Centuries,' (Unpublished DPhil thesis, University of Oxford, 1999): 64.

⁴⁷ On speculation as a means of coping with the problem of distance, see Will Slauter, 'Forward-Looking Statements: News and Speculation in the Age of the American Revolution,' *The Journal of Modern History* 81, no. 4 (2009): 767. On financial speculation in the East India Company linked to access to private political information, see H.V. Bowen, 'Lord Clive and Speculation in East India Company Stock, 1766,' *HJ* 30, no. 4 (1987): 905-920; and Bowen, "'The Pests of Human Society': Stockbrokers, Jobbers, and Speculators in Mid-Eighteenth Century Britain,' *History* 78, no. 252 (1993): 38-53; on the limitations of the connection of the Company's communication due to the structure of their trade, see Bowen, *Business of Empire*, 157.

⁴⁸ Margot Finn, '«Frictions» d'empire: les réseaux de circulation des successions et des patrimoines dans la Bombay coloniale des années 1780,' *Annales. Histoire, Sciences Sociales* 65, no. 5 (2010): 1175-1204; David Hancock, 'The Trouble with Networks: Managing the Scots' Early-Modern Madeira Trade,' *Business History Review* 79, no. 3 (2005): 467-491; S.R.H. Jones and S.P. Ville, 'Efficient Transactors or Rent-Seeking Monopolists? The Rational for Early Chartered Trading Companies,' *The Journal of Economic History* 56, no. 4 (1996): 898-915; Sarah Pearsall, *Atlantic Families: Lives and Letters in the Later Eighteenth Century* (Oxford: Oxford University Press, 2008): 36, 44-47; and Rhys Jones, 'Temporal Claustrophobia at the Continental Congress, 1774-1776,' Presented at the Cambridge American History Seminar, 19 February 2018.

captured by enemies.⁴⁹ The case study of Hastings's resignation provides many examples of the failure of the existing communicative infrastructure to provide the institutional connections necessary to support the style of government envisioned in Britain for their territorial possessions in India. While scholars such as Ian Steele have quite rightly warned against anachronistically characterising transoceanic communications in this period as 'slow,' the evidence provided in this dissertation suggests that contemporaries recognised the distance in space and time between Britain and India as a considerable problem, and their evident frustration spurred numerous innovative attempts to overcome it.⁵⁰ Writing in 1846, the son of Chief Justice Sir Elijah Impey remarked that '[t]he means which, in our times, seem to have annihilated space, and to have brought Bombay, and even Calcutta, to the vicinity of London, were all unknown in the days of my father; and to the tedious intercourse between England and India, both he and the Governor General [Hastings] owed many a long season of doubt and anxiety.'⁵¹ Such doubts and anxieties, such 'time-consciousness' as Steele terms it, encouraged them to seek out means of alleviating the problems associated with distance, while in the meantime, rather than simply awaiting orders or instructions from the metropole, important figures such as Impey and Hastings saw opportunities to implement policies of their own.⁵² Such communicative 'frictions' and the innovations they spawned were a crucial feature of imperial governance in the late eighteenth century and, as this dissertation shows,

⁴⁹ Margaret Makepeace, 'The India Office Records: A History,' Adam Matthew, *East India Company*, 2017; see also Nick Robins, *The Corporation that Changed the World*, 30; George K. McGilvary, *Guardian of the East India Company: The Life of Laurence Sullivan* (London: Tauris, 2006): 120.

⁵⁰ Ian K. Steele, 'Time, Communications and Society: The English Atlantic, 1702,' *American Studies* 8, no. 1 (1974): 1-2, 21; see also Steele, *English Atlantic*, introduction.

⁵¹ Elijah Barwell Impey ed., *Memoirs of Sir Elijah Impey* (London: Simpkin, Marshall, and Co., 1846): 123-124.

⁵² Impey and Hastings, for example, created a new high court of appeal in India, the Sadr Diwani Adalat, with Impey as its chief justice, in order to resolve the tensions between the Supreme Court and the Supreme Council over jurisdiction on revenue matters in lieu of a resolution from Britain. See Thomas Curley, *Sir Robert Chambers: Law, Literature, and Empire in the Age of Johnson* (Madison, WI: University of Wisconsin Press, 1999): 313-315; L.P. Dutt, 'Administration of Justice in Bengal in the Last Decades of the 18th Century,' *BP&P*, 54 (1937): 18-25; and Neil Sen, 'Warren Hastings and British Sovereign Authority in Bengal, 1774-1780,' *JICH* 25, no. 1 (1997): 71.

had a dramatic impact on the British government's efforts to reform the East India Company between 1773 and 1784.

II. DISSERTATION STRUCTURE

In order to unravel the various factors behind the Company's metamorphosis from a mercantile corporation into a semi-privatised imperial agency, this dissertation engages with three core themes across five chapters. They can be roughly divided into the constitutional, the ideological, and the structural. The first three chapters focus on different dimensions of the domestic and imperial constitutional issues raised by the Company's acquisition of a territorial empire. The fourth chapter discusses the extent to which the Company's newly conquered territories challenged the prevailing normative conception that the British Empire was 'Protestant, commercial, maritime, and free.' Chapter five addresses the structural elements of the Company's place within the British Empire through the problem of distance and the ways in which it impeded attempts to impose reforms from the metropole. Analysing the increasingly intertwined relationship between the East India Company and the British state through these themes allows for a much more precise identification of their reciprocal influence upon one another. This is key to understanding the future development of British imperial interests in India at the same time as it sheds new light on contemporary ideas of empire and the nature of the British Constitution as it manifested itself both domestically and overseas.

The opening two chapters serve a dual purpose. Firstly, their structure is such that they provide a narrative backbone to the otherwise thematic dissertation. Secondly, and more importantly, they drive the narrative forward through the injection of the often-neglected significance of the politics of East India Company reform in the constitutional disputes of the early decades of George III's reign.

The first chapter traces the development of East India reform from the debates on Lord North's Regulating Act in 1773 through to the end of North's ministry in 1782. In so doing, it argues that the debates on East India reform and the

intervention of the British state in the Company's affairs can only be understood in the context of the domestic constitutional disputes over the relative powers of the Crown and Parliament. Widespread fears that the British government's acquisition of the Company's patronage could open the floodgates to 'a new tide of corruption' and upset the domestic constitutional equipoise ensured that North's innovative reform legislation was moderate enough to obtain the support of both a fiercely independent East India House and an apprehensive Parliament.⁵³ In fact, the reform legislation was so benign that it forced Treasury officials to attempt to control the Company with woefully inadequate powers. The result was that the ministry was forced to turn to the machinery of 'old corruption' (for example, bribery through the distribution of government contracts or the provision of seats in Parliament) in order to ensure that it possessed any substantial influence in the Company's major decision-making bodies.⁵⁴ The operation of the Regulating Act, steeped as it was in corrupt practices, fed into the opposition discourse surrounding the necessity of parliamentary and economical reform in ways which have been neglected by historians. North's India reforms, having been shaped by pre-existing constitutional disputes, led to the increasing intersection between East India reform and domestic constitutional politics. In so doing, and through their abject failure to rein in the Company's malpractices, they also set the stage for the 'crisis of the constitution' discussed in the second chapter.⁵⁵

Chapter two picks up the narrative from the first and focuses on the critical period between the coming to power of the Fox-North Coalition in early 1783 and the passage of Pitt's India Act in the summer of 1784. During this period the Company's affairs underwent their most sustained parliamentary discussion. They utterly dominated British politics and were the catalyst for the constitutional stand-

⁵³ Speech of Edmund Burke, 18 December [1772] in *Cobbett*, xvii, cols. 672-673.

⁵⁴ W.D. Rubinstein, 'The End of "Old Corruption" in Britain 1780-1860,' *Past & Present* 101 (1983): 55-86.

⁵⁵ The term 'crisis of the constitution' is borrowed from John Cannon's influential work *The Fox-North Coalition: Crisis of the Constitution 1782-84*.

off between the three branches of the legislature following the King's rather coercive advice that the House of Lords should reject Fox's India Bill. Contemporaries feared that Fox's Bill could effectively establish the East India Company as a 'fourth order of the common-wealth', rivalling the King, Lords, and Commons in its domestic political power.⁵⁶ While acknowledging that Fox's and Pitt's India legislation participated in a broader constitutional crisis which had been brewing since the accession of George III, this chapter argues that they were far more than incidental or extraneous to this process. Building on the arguments of the previous chapter, that the East India Company had already become intertwined in British domestic constitutional politics, this chapter seeks to resituate the India reform legislation brought forward by Fox and Pitt as critical elements in inciting the climax of the constitutional crisis and in settling the terms of its denouement through the Pittite victory in the election of 1784 and the passage of Pitt's India Act. One of its consequences was that the Company's affairs would never again so tangibly shake the foundations of the British Constitution. Conversely, the domestic political and constitutional stand-off between Fox and Pitt and the resulting reform legislation ultimately had a substantial influence upon the Company's position within British imperial state apparatus into the nineteenth century. The far more moderate reforms proposed by Pitt won the day and established the Company's rather anomalous place as an arms-length imperial agency. This chapter thereby also provides a challenge to imperial histories which relegate the role of the metropole.

The third chapter takes a rather different approach to the constitutional issues raised by East India reform during this period. It focuses on the Company's charters, its founding documents and written constitutions. This chapter argues that debates over the Company's chartered rights had a significant influence upon the nature and extent of the state's interference in the Company's affairs. The Company's charters also informed contemporary perceptions and legal opinions about whether its

⁵⁶ Edmund Burke, *A Representation to His Majesty by the Right Honourable Edmund Burke on Monday, June 14, 1784* (London: J. Debrett, 1784): 20.

territories and revenues in Bengal constituted a part of the British Empire or whether they could be justifiably treated as the private property of a body of merchants. It therefore situates the East India Company in the context, not only of other chartered overseas trading corporations, but also among the numerous municipal, religious, and educational corporate bodies whose very existence drew from the same font of Crown and, increasingly, parliamentary authority.

The Company's charter could be both a blessing and a curse. On the negative side, its charter clearly underlined the subordinate status of the Company-state. Corporations were, as Thomas Hobbes famously described, 'many lesser Commonwealths in the bowels of a greater, like wormes in the entrayles of a naturall man.'⁵⁷ The Pratt-Yorke opinion reinforced this subordination by providing an ambiguous legal framework to the question mark over the Company's sovereignty in South Asia, which explicitly doubted the propriety of granting conquered territories to 'a Trading Company.'⁵⁸ At the same time, however, the Company's status as a chartered corporation could enable it to draw upon the sympathies and fears of fellow corporate bodies in order to defend its chartered rights against the encroachments of Parliament. This process, I have termed 'corporate solidarity.' While acts of corporate solidarity were rare and usually unsuccessful in preventing or mitigating parliamentary action, this chapter argues that the unique blend of circumstances in the early months of 1784 highlights the ability of a well-timed surge of corporate solidarity to galvanise extraparliamentary opinion and influence the composition of a new Parliament. In this case, it helped to rouse support for Pitt's fledgling and ailing minority government and aided in swinging crucial constituencies in Pitt's favour in the election of 1784. By assisting the Pittite election victory, the East India Company was able to benefit from a reform programme that preserved its corporate independence to a considerable degree. The Company's

⁵⁷ Thomas Hobbes, *Leviathan* (Richard Tuck ed.) Rev. Student Edn (Cambridge: Cambridge University Press, 1996): 230.

⁵⁸ 'His Majesty's Attorney and Solicitor Generals Report, on the Petition of the *East India Company*,' 24 December 1757 in TNA, Chatham Papers, PRO 30/8/99, pt. ii, f. 4.

charters were therefore crucial in defining its place within the British Empire and also served as an important rallying cry for those defending what they felt to be the Company's corporate rights and property.

Chapter four takes a more ideological approach. This chapter shows the ways in which the Company's acquisition of an empire in India challenged the prevailing ideological conceptions of the British Empire as 'Protestant, commercial, maritime, and free.'⁵⁹ It begins by assessing the levels of interest shown by the British public in the Company's territorial acquisitions, as measured through the proliferation of various forms of print media, from pamphlets to newspaper paragraphs. It also analyses the extent and quality of the knowledge available to metropolitan Britons on the Company and the East Indies and how they evaluated the information they received. It was upon the basis of this body of knowledge that parliamentarians and the public alike engaged in debates and drafted proposals to reform the East India Company. It finds that the levels of interest displayed by metropolitan Britons in the Company's affairs were markedly uneven, both over time and across the population. The future of the British interests in India periodically became the predominant political issue in times of financial and political crisis, such as in 1772-3 and 1783-4. Yet while the Company never entirely disappeared from the public view after 1765 it was often dwarfed by issues such as the secession of the American colonies. Just how well-informed or well-read individual contributors to Indian debates were is difficult to assess. However, the sheer quantity of printed material of various forms from books and pamphlets to plays and graphic satires suggests that the British public had ample opportunities to draw upon a substantial, if not necessarily accurate and reliable, body of knowledge concerning the Company's affairs. Many were also sceptical about the bias of first-hand accounts from returned Company servants but had few alternative sources of information. None of this, however, prevented them from expressing views and proposing programmes of East India reform as Britons

⁵⁹ David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000): 8.

attempted to grapple with the challenges associated with the possession of an ‘empire in the East.’

The chapter then moves on to provide at least a partial corroboration to P.J. Marshall’s claim that ‘Empire in India was almost the antithesis of the ideals that the British Empire should be Protestant, commercial, maritime and free.’⁶⁰ It does so by analysing each of the particular ways in which the Company could be said to have challenged these normative ideological categories, as they manifested themselves in contemporary debates. While the Company’s territorial acquisitions signalled a departure from the ‘blue-water’ strategy which had previously characterised Britain’s overseas ventures, it never entirely displaced that system. The two coexisted as competing ideological conceptions, each perhaps being more relevant to different contexts within the diverse range of polities that comprised Britain’s overseas Empire.

The fifth and final chapter analyses the problem of distance in the governance of far-flung imperial interests. It does so by utilising the case study of the abortive resignation tendered on behalf of Warren Hastings (the Governor General of Bengal) as an instance—or rather a multitude of instances—wherein the problems associated with governing at a distance, such as information asymmetries and miscommunication, prevented the North administration from following through with their programme of East India reform. This chapter argues that the divisions within the government-appointed Supreme Council of Bengal effectively stymied the implementation of North’s reforms. Furthermore, the failure of Hastings to abide by his agent’s resignation on his behalf only exacerbated and prolonged the tensions and indecision which characterised British affairs in India in the 1770s. Such communicative ‘frictions’ or failures, spawned innovative attempts to circumvent or ameliorate the communicative obstacles associated with the governance of the

⁶⁰ P.J. Marshall, ‘Empire and British Identity: The Maritime Dimension,’ in David Cannadine ed., *Empire, the Sea, and Global History: Britain’s Maritime World, c. 1760-c. 1840* (Basingstoke: Palgrave, 2007): 53.

Company's distant territories.⁶¹ However, such innovations were riddled with their own potential drawbacks which could (and did) aggravate the delicate tensions inherent in the dialogical and delegated governance of Bengal in the late eighteenth century. Faster 'overland' routes through the Red Sea and Persian Gulf were prone to political and military disruption. Likewise, the critical first-hand information possessed by agents deputed to the metropole was often rendered obsolete by the rapidly shifting circumstances of the Company's early governance of Bengal.

This chapter therefore brings to the fore the close-knit communicative networks of private friends and family members who played a crucial role in the process of imperial governance during the disputes in the Bengal Supreme Council. Together these public and private networks generated what many historians have referred to as a 'paper empire'.⁶² The metaphor is perhaps more apt than initially intended as it also reveals the fragility of the Company's governance in the early years of their territorial sovereignty in Bengal. These weaknesses are thoroughly exposed in the events surrounding Hastings's supposed resignation and this chapter argues that they were major factors behind the British state's inability to successfully implement the reform agenda initiated by Lord North in 1773.

The five chapters of this dissertation highlight several major themes involved in the relationship between the East India Company and the British state in the crucial formative decade between 1773 and 1784. Taking such a thematic approach provides a deeper understanding of each of the major factors influencing the trajectories of East India reform. It also encourages the analysis of the many ways in which the Company 'impinge[d] all along on British domestic history during the first

⁶¹ On the 'frictions' in imperial networks, see Finn, '«Frictions» d'empire,' 1175-1204.

⁶² Ian K. Steele, *The English Atlantic*, 265; Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago, IL: University of Chicago Press, 2008): xvii; Bowen, *Business of Empire*, 180; and Tony Ballantyne, 'Contesting the Empire of Paper: Cultures of Print and Anti-Colonialism in the Modern British Empire,' in Jane Carey and Jane Lydon eds., *Indigenous Networks: Mobility, Connections and Exchange* (Abingdon: Routledge, 2014): 219-240.

twenty-five years of the reign of George III, and deeply affect[ed] its course.⁶³ This dissertation therefore helps to reveal not only the contested ideas of empire circulating in the metropole during this period but also provides a strong case for further study into the crucial intersections between domestic and imperial politics in late eighteenth-century Britain.

⁶³ Lewis Namier, 'East India Company,' in Namier, *Crossroads of Power: Essays on 18th Century England* (London: Hamilton, 1962): 162-163.

CHAPTER I

‘A NEW TIDE OF CORRUPTION’? EAST INDIA COMPANY REFORM AND THE
BRITISH CONSTITUTION, 1773-1782

[T]here is no form of government so happily framed, nor state of human nature so perfect, in which the power, opulence, territorial possessions, and revenues of that company, would not have excited the avarice and ambition of their rulers, as well as the envy and jealousy of their equals.¹

INTRODUCTION

The relationship between the East India Company and the British state was a question of the first importance concerning the nature and composition of the British Empire in the late eighteenth century. It was also a crucial factor in British domestic politics and became one of the predominant issues that shaped the ideological foundations of the factional politics of George III's early reign. The Company's rapid acquisition of territories and revenues in the wake of the Seven Years' War rendered it (and its employees) an object of considerable envy and concern among politicians and the wider public alike. Repeated calls for the right of the 'public' to a share of the Company's newfound affluence raised significant questions over the sanctity of chartered rights, the aptness of mercantile government, and the security of private property. Even if it was admitted, however, that the public were entitled to share of the Company's profits, the precise nature of that relationship was among the most controversial issues in eighteenth-century British politics and raised fundamental constitutional concerns. How was it possible, for example, to admit even a portion of the revenues projected to arise from the East Indies without disrupting the delicate 'mixed and balanced' constitution established by the

¹ *Annual Register* (1773): 64.

Revolution Settlement?² This chapter examines the North administration's efforts to address this fundamental question as they attempted to implement reforms in the Company's governance in the wake of an acute financial crisis and repeated accusations of fraud, rapine, and oppression among the Company's overseas servants in the early 1770s. In doing so, it reveals the reciprocal influence of debates concerning the nature of the British Constitution and the future of the East India Company. The two became increasingly intertwined in a period which was defined by its acute imperial and constitutional crises. This chapter reveals that the hesitant and indecisive nature of Lord North's Regulating Act of 1773 was influenced by genuine constitutional fears which were themselves exacerbated by pre-existing constitutional tensions, particularly those surrounding the overgrown influence of the Crown. Although they have seldom been discussed together, this chapter argues that the debates on East India Company reform help to reveal contemporary perceptions on the nature of the British Constitution in the formative decades of George III's reign. Equally, one cannot trace the anomalous development of the East India Company as a semi-independent imperial appendage without reference to the constitutional issues raised by its proposed incorporation into the burgeoning structures of the British state.

Previous histories tracing the relationship between the East India Company and British domestic politics have differed markedly on how far they deem imperial issues to have played a role in shaping the ideological and structural contours of British politics and the Constitution. The work of Lucy Sutherland conforms closely to the then-prevailing Namierite conception of politics driven by self-interest and patronage, which, in truth, is far more apt for the analysis of a trading company engaged in the governance of imperial possessions than for describing the diverse

² Earl A. Reitan, 'I. From Revenue to Civil List, 1689-1702: The Revolution Settlement and the "Mixed and Balanced" Constitution,' *HJ* 13, no. 4 (1970): 571-588.

interests and motivations present in eighteenth-century British Parliament.³ However, Sutherland's impressive work has been rightly criticised for focusing too much on the factional infighting at India House at the expense of analysing the wider political context both inside and outside of Parliament.⁴ Marshall's early work focusing on the metropolitan context, while more sensitive to the ideas and policies behind the debates on the East India Company in this period, still argues that the contours of Company reform were driven by 'twists in British domestic politics which owed nothing, or virtually nothing, to Indian issues.'⁵ While Huw Bowen's *Revenue and Reform* provides a more rounded analysis of the 'Indian problem in British politics', his chronology extends only to North's Regulating Act of 1773.⁶ Far from marking the apogee of East India Company reform, the passage of this legislation initiated a decade-long experiment in parliamentary interference into the government of the Company. Likewise, C.H. Philips's important work on the Company begins only in 1784 with the passage of Pitt's India Act.⁷ Rather than focusing exclusively on the moments of crisis in 1773 and 1783-4, this study argues that the intervening period of reform was crucially transformative for the relationship between the British state and the East India Company.

³ See, particularly Lewis Namier, *England in the Age of the American Revolution* 2nd ed. (Basingstoke: Macmillan, 1961); and Lewis Namier, *Structure of Politics at the Accession of George III* 2nd ed. (New York: St. Martin's Press, 1957). For a recent and judicious interpretation on Namier as historian, see D.W. Hayton, *Conservative Revolutionary: The Lives of Lewis Namier* (Manchester: Manchester University Press, 2019); see also Linda Colley, *Namier* (London: Palgrave, 1989). For an interesting account from a former student on Sutherland's relationship with Namier's writings, see P.J. Marshall, review of *Ideology and Empire in Eighteenth-Century India: The British in Bengal*, by Robert Travers, *MAS* 42, no. 6 (2008): 1290.

⁴ Holden Furber, review of *East India Company in Eighteenth-Century Politics* by Lucy Sutherland, *The Economic History Review* 6, no. 1 (1953): 85-86; see also Philip Lawson and Jim Phillips, "'Our Execrable Banditti': Perceptions of Nabobs in Mid-Eighteenth-Century Britain," *Albion* 16 (1984): 225.

⁵ Marshall, *Problems of Empire: Britain and India, 1757-1813* (London: George Allen and Unwin, 1968): 22.

⁶ H.V. Bowen, *Revenue and Reform: The Indian Problem in British Politics, 1757-1773* (Cambridge: Cambridge University Press, 1991).

⁷ C.H. Philips, *The East India Company 1784-1834* (Manchester: Manchester University Press, 1961). On Philips's Namierite roots see Kenneth Ballhatchet and John Harrison eds., *East India Company Studies: Papers Presented to Sir Cyril Philips* (Hong Kong: Asian Research Service, 1986): 7.

It is also the case that the more general constitutional histories of Britain, which at present compose a considerably dated historiography, contain few significant references to the eighteenth-century Empire and almost none in particular to the East India Company.⁸ Where India is mentioned at all, it is predominantly in the context of the post-1858 transfer of power from the Company to the Crown. William Anson's *Law and Custom of the Constitution*, for example, deliberately disregards any discussion of the relationship between the East India Company and the state. For Anson, it is self-evident that 'a student will know or learn how a trading company with a temporary charter grew into a territorial sovereign, subordinate to the English Crown.'⁹ A student might indeed gain an impression of this from reading, as Anson suggests, the preamble of 53 Geo. III, c. 155, which describes the territories of the Company as 'subject to the undoubted sovereignty of the Crown.'¹⁰ However, reading this clause alone entirely disregards the diverse and conflicting views of eighteenth-century Britons towards the East India Company and ignores the important constitutional arguments not only concerning the Company's relationship with the British state but also on its place within the structures (theoretical or otherwise) of the British Empire. Volumes on constitutional history by F.W. Maitland, A.V. Dicey, Walter Bagehot, and E. Neville Williams contain a

⁸ An edited volume is currently under preparation by Professor Peter Cane and Dr. Harshan Kumarasingham on the constitutional history of the United Kingdom which it is hoped will rejuvenate this aging historiography. Furthermore, David Armitage and Linda Colley have both also emphasised the importance of written constitutionalism in global history, a sign of increased interest in the field of constitutional history. See David Armitage, *The Declaration of Independence: A Global History* (Cambridge, MA: Harvard University Press, 2000); Linda Colley, 'Empires of Writing: Britain, America and Constitutions, 1776-1848,' *Law and History Review* 32, no. 2 (May 2014): 237-266; see also Lauren Benton, 'From International Law to Imperial Constitutions: The Problem of Quasi-Sovereignty, 1870-1900,' *Law and History Review* 26, no. 3 (2008): 595-619; and Dylan Lino, 'Albert Venn Dicey and the Constitutional Theory of Empire,' *Oxford Journal of Legal Studies* 36, no. 4 (2016): 751-780.

⁹ William R. Anson *The Law and Custom of the Constitution. Part II. The Crown* (Oxford: Clarendon Press, 1896): 280.

¹⁰ See 53 Geo. III, c. 155 in *A Collection of Charters and Statutes relating to the East India Company; with An Appendix containing Acts and Parts of Acts, Relating to Shipping, Duties, Regulations for Export and Import, &c. &c., which in general do not solely relate to the East India Company* (London: George Eyre and Andrew Strahan, 1817): 1130-1131.

similar scarcity of discussion of India or the eighteenth-century Empire.¹¹ M.A. Thomson and D.L. Keir both discuss the development of the British state's interference of the affairs of the Company but do not engage in any discussion of how East India reform may have helped to inform contemporary understandings of the domestic Constitution.¹² The result is a rather one-sided discussion that emphasises the development of the governing institutions of British India rather than the British domestic Constitution.

This chapter addresses this imbalance by uncovering the reciprocal constitutional relationship between the East India Company and the British state as it emerged through the process of reforming the Company between 1773 and 1784. One of the primary means through which this will be undertaken is inspired by John Brewer's *Party Ideology and Popular Politics at the Accession of George III* which takes what must still be considered a pioneering contextual approach to the constitutional debates of the early years of George III's reign. While Brewer's work makes no mention of India or the East India Company, the manner in which it engages with constitutional problems as they arose and were debated upon particular political issues is an approach that has been adopted in this dissertation.¹³ Taking seriously the constitutional debates from a wider spectrum, beyond both the halls of Westminster and the usages laid out in state papers, enables the recovery of a complex dialogue on the conventions and tenets of the Constitution as they intersected with the particular events that ultimately helped to shape future

¹¹ F.W. Maitland, *The Constitutional History of England* (Cambridge: Cambridge University Press, 1919); A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (London: Macmillan, 1915); Walter Bagehot, *The English Constitution* (Boston: Little, Brown, and Company, 1873); E. Neville Williams, *The Eighteenth Century Constitution 1688-1815: Documents and Commentary* (Cambridge: Cambridge University Press, 1960).

¹² Mark A. Thomson, *A Constitutional History of England, Vol. IV. 1642-1801* (London: Methuen, 1938): 372-4, 443; Keir, *The Constitutional History of Modern Britain*, 449-454. Their discussions rely heavily on A.B. Keith, *A Constitutional History of India 1600-1935* (London: Methuen & Co., 1936).

¹³ The only imperial issue discussed by Brewer is that of America and he does link this to key constitutional questions concerning the relationship between representation and the rights of legislation. See John Brewer, *Party Ideology and Popular Politics at the Accession of George III* (Cambridge: Cambridge University Press, 1976): 202.

constitutional practice. In this manner, it will be argued that the East India Company carried with it an acute constitutional threat to the supposed 'balance' in the established order in Britain from the very moment it obtained the revenues and territorial sovereignty of Bengal.

In order to analyse the reciprocal constitutional relationship between the East India Company and the British state, this chapter traces the North administration's hesitant steps toward reforming the Company as well as the opposition's increasingly sophisticated incorporation of the issue into their more general constitutional arguments against the ministry. These constitutional debates had the dual effect of invigorating the already robust critique of the burgeoning influence of the Crown while at the same time serving to restrict the extent to which the North government was willing to engage in a far-reaching reform of the Company. It then goes on to examine how the operation of North's Regulating Act caused the Company to become progressively more associated with domestic forms of political corruption through the disbursement of government contracts and the provision of seats in Parliament, and thereby became an important target of the economical reform movement.

I. DISAPPOINTED EXPECTATIONS AND HESITANT STEPS TOWARDS COMPANY REFORM

While the parliamentary debates concerning the East India Company in the 1760s encompassed a broad range of material, the resulting legislation was narrow in scope.¹⁴ It avoided any decision on the Company's right to territorial sovereignty in India and attempted to reform only the most glaring abuses in the Company's government at home. Despite accusations of speculation and oppressions among the Company's servants emerging from the parliamentary inquiry of 1767, the

¹⁴ Bowen, *Revenue and Reform*, chapter 4; Philip Lawson, 'Parliament and the First East India Inquiry, 1767,' *Parliamentary History* 1 (1982): 99-114; Marshall, *Problems of Empire*, 30.

government distanced itself from any interference in the Company's affairs in India.¹⁵ While focusing primarily on obtaining a share of the Company's revenues, the government was able to avoid the more potentially damaging criticism that it sought to control the Company's internal affairs and thereby to engross the vast patronage at its disposal. However, by 1773, a combination of factors resulted in the government being forced to take upon itself a far more comprehensive reform of the Company's affairs both at home and abroad. The rising tide of complaints against the maladministration of the Company's servants and a severe financial crisis provided the immediate impetus for Lord North's unprecedented intervention into East India affairs. The following section examines how revelations of oppressions in India and the failure of the Bengal revenues to live up to the lofty expectations established by Lord Clive in 1767 all but forced a reluctant administration to take upon itself the burden of reforming the East India Company.

Ever since news arrived of the Company's acquisition of the *diwani* rights in Bengal, it fuelled the expectation that a large surplus—either of specie or goods—would somehow be transported to Britain that would both enrich the stockholders of the Company and leave enough in reserve for the state to apply to the payment of its expansive and ever-increasing debts. Such optimism caused the Company's stockholders to attempt to raise their dividend to a record 12 ½ percent and likewise spurred the Chatham administration into carving for themselves an annual fund of £400,000. The opposition expressed fears of the constitutional danger posed by such a fund, if it were to be applied to objects such as the civil list debts or to augment the secret service funds.¹⁶ Such a plan, it was feared, could render the monarch

¹⁵ See, in particular, the examination of the Chairman, George Dudley on 9 April 1767 in BL, Add. MS 18469, f. 61

¹⁶ See, for example, Edmund Burke to James De Lancey, 31 December 1772 in Lucy Sutherland ed., *The Correspondence of Edmund Burke* (Cambridge: Cambridge University Press, 1960) ii, 398-399; see also, Horace Walpole, *Memoirs of the Reign of King George the Third*, ed. G.F. Russell Barker (London: Lawrence and Bullen, 1894), ii, 276-277; and Duke of Newcastle to James West, 19 January 1768 in BL, Newcastle Papers, Add. MS. 32988, f. 50. On the nature of secret service money, see Lewis Namier, *Structure of Politics*, 173-234.

financially independent of Parliament.¹⁷ This step, it was argued, would be ‘the last Stroke aimed at the Liberty of these Kingdoms, since with such an additional Revenue the Crown will only be too powerful for all Idea of Opposition ever more to arise.’¹⁸ By the early 1770s, however, after several years of receiving payments from the Company, such a fund was beginning to be seen as indispensable to the state coffers. The Bengal revenues were still considered by many to be a ‘blessing from heaven’ and even those who had opposed the Chatham administration’s India policies were beginning to wonder what would become of Britain if ‘divested of the revenue she receives annually from the Company.’¹⁹ Grenville’s and Townshend’s policies of American taxation had backfired amidst colonial recalcitrance and non-importation agreements. The East India Company’s empire, therefore, was increasingly seen as ‘the great resource of this country.’²⁰

Such ‘golden dreams’, as many began to refer to them, clashed with the increased reports of peculation, oppression, and maladministration by the Company’s overseas servants as well as news of the outbreak of war with Hyder Ali of Mysore and the accumulation of French troops in Mauritius.²¹ Upon hearing of the conflict with Hyder Ali in the spring of 1769, the value of East India Company stock dropped dramatically. The timing could hardly have been worse, given the

¹⁷ Letter ‘To the *Independent and unprejudiced* Members of Parliament,’ *Public Advertiser*, 5 December 1772.

¹⁸ *St. James’s Chronicle or the British Evening Post*, 30 November 1776.

¹⁹ Speech of George Dempster, 4 March [1770] in J. Wright ed. *Sir Henry Cavendish’s Debates of the House of Commons during the Thirteenth Parliament of Great Britain, Commonly Called the Unreported Parliament* (London: Longman, Orme, Brown, Green, & Longmans, 1841), ii, 340; speech of Sir George Colebrooke, 4 March [1770] in *Ibid.*, 341.

²⁰ Speech of George Grenville, 25 April [1770] in Wright ed., *Cavendish’s Debates*, i, 546; see also Alexander Dalrymple, *A General View of the East India Company in January 1769 to which are added Some Observations on the Present State of their Affairs* (London, 1772): 81-82. On American taxation, see P.D.G. Thomas, *British Politics and the Stamp Act Crisis: The First Phase of the American Revolution 1763-1767* (Oxford: Oxford University Press, 1975); P.D.G. Thomas, *The Townshend Duties Crisis: The Second Phase of the American Revolution, 1767-1773* (Oxford: Oxford University Press, 1987); John L. Bullion, *A Great and Necessary Measure: George Grenville and the Genesis of the Stamp Act 1763-1765* (Columbia, MO: University of Missouri Press, 1982).

²¹ See letter signed ‘Veridicus’ in *Public Advertiser*, 10 April 1772; and the letter signed ‘An Old Proprietor’ in *Public Advertiser*, 4 August 1772. On the news of war with Hyder Ali, see Sutherland, *East India Company*, 191.

massive speculation in stock occasioned by the annual elections of Company directors for which stock-splitting campaigns were still being organised. The crash in the value of the Company's stock meant that Laurence Sullivan, the Earl of Shelburne, and William Burke, among many others involved in stock-splitting, accumulated enormous debts.²² The result was that the Company's subsequent plan to send three supervisors with extraordinary powers to oversee and reform their governments in India was as much an effort to recoup the lost fortunes of the aforementioned individuals as it was a genuine attempt to reform abuses in their governance overseas.²³ Nonetheless, such efforts came to naught and the dangers of the ocean voyage to India were laid bare by the loss of the *Aurora*, the frigate carrying all three supervisors.²⁴ The uncertainty of the fate or whereabouts of the *Aurora*, however, created a considerable delay in further attempts at reform. Directors in London could not have been aware with any degree of certainty that the ship was lost until several years after its departure from London in late 1769.²⁵ Compounded with this, news also arrived by 1771 of a severe drought in Bengal, which, alongside mismanagement and profiteering among the Company's servants, led to mass-migration, widespread famine, and the deaths of millions of Bengalis.²⁶

²² James Macleane, *Reward is Secondary: The Life of a Political Adventurer and an Inquiry into the Mystery of 'Junius'* (London: Hodder & Stoughton, 1963): 228-235. Lucy Sutherland and John A. Woods, 'Speculations of William Burke' in Sutherland, *Politics and Finance in the Eighteenth Century* (London: Hambledon Press, 1984): 327-360. Laurence Sullivan to Henry Vansittart, 28 May 1770 in Bodleian Library, Sullivan Papers, MS. Eng. hist. b. 190, ff. 7-8.

²³ Sutherland, *East India Company*, 195-200. See also the correspondence between Charles Wolfran Cornwall, Laurence Sullivan, and Sir George Colebrooke between June and August 1769 in De Bertodano papers; and Sir George Colebrooke, *Retrospection; or Reminiscences Addressed to My Son Henry Thomas Colebrooke, esq.*, (London: Bradbury, Agnew, & Co., 1898-1899), i, 140-155.

²⁴ The supervisors were Henry Vansittart, Luke Scrafton, and Colonel Francis Ford. See Governor and Council of Bengal to the Court of Directors, 8 September 1770 in Amba Prasad ed., *FWIHC*, xiv, 227; and Colebrooke, *Retrospection*, i, 158-159.

²⁵ See, for example, 'Letter I.' in *Public Advertiser*, 28 August 1772; Lord Elibank to William Young, 11 March 1771 in A.C. Murray ed., *The Five Sons of Bare Betty* (London: John Murray, 1936): 164; and Warren Hastings to Mrs. Vansittart, 23 February 1772 in G.R. Gleig ed., *Memoirs of the Life of the Right Hon. Warren Hastings, First Governor-General of Bengal* (London: Richard Bentley, 1841), i 230-231; Parliamentary Diary of Matthew Brickdale, 2 March 1772, University of Bristol Special Collections, DM 129/6.

²⁶ Warren Hastings to Sir George Colebrooke, 3 April 1773 in Gleig ed., *Memoirs of Warren Hastings*, i, 309-310. Amartya Sen argues that the best estimates place the death toll at ten million,

As Robert Travers noted, the famine ‘raised troubling questions about the long-term health of the Bengal economy, and its capacity to service the Company’s voracious demands for tribute.’²⁷ Indeed, some in Britain even measured the severity (or lack thereof) of the Bengal famine by the extent to which the Company were still able to collect the revenues and to purchase the investment in goods to be shipped back to Europe.²⁸ The ‘golden dreams’ of East Indian revenues rescuing the British state from its financial woes may have endured but they were certainly dampened in the wake of growing evidence of the practical difficulties of remitting them to Britain and the oppressive governance seemingly required to maintain their collection in India.

Clamours against the Company’s Indian employees, already fairly common, were exacerbated by two incendiary and widely read publications that offered a sharp critique of the Company’s government in Bengal. William Bolts’s *Considerations on India Affairs* and Alexander Dow’s third volume of *The History of Hindostan*, both printed in 1772, were each the product of disappointed ambition and targeted the governance of Lord Clive and his successor Harry Verelst.²⁹ However, despite their bias, they were responsible, as Joseph Price later asserted, for fixing ‘in the minds of my fellow subjects, a rooted detestation to their countrymen,

see his *Poverty and Famines. An Essay on Entitlement and Deprivation* (Oxford: Oxford University Press, 1983): 39. Om Prakash, in contrast, has argued that ‘the death toll is unlikely to have been anywhere near this figure’, see his ‘The English East India Company and India,’ in H.V. Bowen, Margarete Lincoln, and Nigel Rigby eds., *The Worlds of the East India Company* (Rochester, NY: Boydell and Brewer, 2002): 15-16. Contemporary estimates in Britain ranged from three million to three thousand, see Horace Walpole to Horace Mann, 22 March 1771 in Lewis *et al.* eds., *Walpole Correspondence*, xxiii, 282.

²⁷ Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007): 72-73.

²⁸ John Calcraft to the Earl of Chatham, 24 March 1771 in W.S. Taylor and J.H. Pringle eds., *The Correspondence of William Pitt, Earl of Chatham* (London: John Murray, 1840), iv, 123.

²⁹ They faced criticism on this account, see the letter signed ‘Veridicus’ in *Public Advertiser*, 10 April 1772; and ‘Anti-Veridicus’ in *Public Advertiser*, 17 April 1772; see also A. Francis Steuart ed., *The Last Journals of Horace Walpole During the Reign of George III From 1771-1783* (London: John Lane, 1910), i, 72-73.

who have been serving the Company' in India.³⁰ One former Company servant reported to Warren Hastings, who had recently been appointed governor of Bengal, that the works of Bolts and Dow had 'raised the public Indignation ag[ains]t the servants of the Company' and were 'swallowed greedily by the Public, whose Eyes are fixed on the correction of these Abuses by the Interposition of Parliament.'³¹ In response to the public outcry, the government intimated that they would bring forward legislation 'for supplying defects or remedying abuses.'³² The King's Speech, by avoiding any specific mention of the East Indies or the Company, did not commit the government to take any particular action. However, Frederick Vane's speech, seconding the House of Commons' Address of Thanks, made it clear that the vague references to 'various and extensive' national concerns, were in fact allusions to the 'malversation of the East India Company's servants.' He complained that 'at present the Company had not that power over their servants, to compel their orders to be obeyed; nor to prevent them from enriching themselves in an arbitrary manner at the expence [*sic*] of the Company, ruin to the nation, and perhaps...the entire loss of those dominions to Great Britain.'³³ Despite making this important announcement, however, the government took no steps in this session to take the East India Company's affairs into account.

³⁰ Joseph Price, *Five Letters from a free merchant in Bengal to Warren Hastings esq...* (London, 1783): 51. On the prevalence of this negative view of returned Company servants, see Tillman Nechtman, *Nabobs: Empire and Identity in Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 2013); Philip Lawson and Jim Phillips, "'Our Execrable Banditti';" 224-241; and James Holzman, *The Nabobs in England: A Study of the Returned Anglo-Indian, 1760-1785* (New York: Columbia University Press, 1926).

³¹ Ralph Leycester to Warren Hastings, 12 March 1772 in BL, Hastings Papers, Add. MS. 29133, f. 72; these views are corroborated in John Caillaud to Warren Hastings, 27 March 1772 in BL, Hastings Papers, Add. MS. 29133, ff. 90-91; and Marquess of Rockingham to Charles Turner, [c. 7 April 1772] in Sheffield Archives, Rockingham Papers, WWM/R/1/1402.

³² *Cobbett*, xvii, col. 233; see also *Annual Register* (1772): 84-85.

³³ Speech of Frederick Vane in *Cobbett*, xvii, col. 237. Vane was later critical of the 'tardiness with which the ministry proceeded last session into the consideration of East India affairs' and 'took shame to himself for speaking so warmly of East India concerns, when he moved the Address to the King's Speech; that he would not have taken this step, had he suspected that the ministry would have suffered the whole session almost to expire without making a single motion upon this subject.' See his speech of 18 December [1772] in *Ibid.*, cols. 661-662. See also Namier and Brooke eds., *The House of Commons 1754-1790: III Members K-Y* (London: Secker & Warburg, 1985): 572-573.

In spite of the government's inactivity, the announcement greatly alarmed the Company's directors, who were spurred into taking action to pre-empt further government interference.³⁴ The Company had been conducting an internal investigation into their own affairs for some time but the King's Speech appears to have been the catalyst for their preparing a set of regulations, in the form of a parliamentary bill, which was accepted by their stockholders on 4 March and presented to Parliament on the 16 April.³⁵ Laurence Sullivan, who presented the Company's reform bill to the Commons argued that it had two objects: 'that of restraining the governor and council from all trade, and that of establishing a proper mode of administering justice, by extending the authority of the court of justice at Calcutta over all Bengal.'³⁶ The bill encountered strong opposition before its specific terms were even announced on the grounds that it would be improper for Parliament to undertake reforms without a full inquiry into the Company's affairs to determine whether the reforms were adequate or necessary.³⁷ Outside of Parliament, it was widely questioned whether reforms framed by the Company's leaders, given their undoubted complicity in aspects of their overseas governance, could possibly be adequate to resolving what was widely seen as a humanitarian crisis in Bengal.³⁸ The debate was dominated, however, by the speeches of the infamous 'nabobs' Lord Clive and Thomas Rumbold, who both engaged in a defence of their own conduct and those of their fellow Company servants in India against popular prejudices. While doing so, however, they also opposed the Company's reform bill and called

³⁴ 'Eumenes,' *A plan for the government of Bengal, and for the protection of the other British Settlements in the East Indies* (London: John Almon, 1772): 3-4.

³⁵ Minutes of the General Court of Proprietors, 4 March 1772 in BL, IOR/B/258, 31-32; Debate in the Commons on the East India Judicature Bill, [16 April 1772] in *Cobbett*, xvii, col. 464.

³⁶ Speech of Laurence Sullivan, 30 March [1772] in *Cobbett*, xvii, col. 328 and Colebrooke, *Retrospection*, ii, 14-15.

³⁷ Speeches of Charles Wolfran Cornwall and George Johnstone, 30 March [1772] in *Cobbett*, xvii, cols. 328, 366; see also, Speech of Isaac Barré, 13 April [1772] in *Ibid.*, col. 461.

³⁸ Letter signed 'Nemesis' in *Public Advertiser*, 19 March 1772; and letter signed 'An Enemy to East-India Oppression' in the *Gazetteer and New Daily Advertiser*, 26 March 1772.

for an inquiry which they were confident would result in their total exoneration.³⁹

The reform bill was equally unpopular among the Company's servants in India, who felt that new restrictive measures were punishing those currently stationed in India for the sins of their predecessors.⁴⁰ The strategy of the government at this stage, however, was to let the bill come before Parliament before committing themselves.⁴¹

In the meantime, further events overtook the slovenly manner in which the government was approaching East India affairs. Evidently frustrated with the government's inertia and buoyed by the calls for an inquiry during the introduction of Sullivan's reform bill, John Burgoyne moved for the formation of a parliamentary select committee to 'enquire into the nature, state, and condition of the East India Company, and of the British affairs in India.'⁴² In defence of his motion, Burgoyne argued that 'I never conceived it possible that parliament could be called upon by any men whatever, to apply a remedy without any information of the disease.'⁴³ Notwithstanding opposition to the inefficacy of select committees and the fears that its membership would be stacked with individuals connected to the ministry, Burgoyne's motion was passed without a division.⁴⁴ The select committee, despite its expansive mandate and the nature of the evidence brought before it, focused primarily on examining the misdeeds of individual Company servants in India, with particular attention to Clive.⁴⁵ However, in the short term, the appointment of

³⁹ Speeches of Lord Clive and Thomas Rumbold, 30 March [1772] in *Cobbett*, xvii, cols. 328-366. Clive's speech was also later published as a pamphlet, see *Lord Clive's Speech in the House of Commons, 30 March 1772* (London, 1772).

⁴⁰ John Graham to Sir William Mayne, 7 November 1772 in NRS, Kinross House MSS, GD29/2136; see also Hastings's criticism of the judicial measures: Warren Hastings to Josias Dupré, 8 October 1772 in Gleig ed., *Memoirs of Warren Hastings*, i, 263.

⁴¹ North claimed that he had not yet seen the bill on 30 March 1772 in *Cobbett*, xvii, col. 381.

⁴² Speech of John Burgoyne, 13 April [1772] in *Cobbett*, xvii, cols. 453-459. For further complaints of the government's indolence and the 'virtue' of Burgoyne in moving for an inquiry, see the letter signed 'Indus' in *Gazetteer and New Daily Advertiser*, 26 August 1772.

⁴³ Speech of John Burgoyne, 13 April [1772] in *Cobbett*, xvii, col. 455.

⁴⁴ For the opposition to the committee, see speeches of Thomas Townshend and George Dempster, 13 April [1772] in *Ibid.*, cols. 460, 461; on North's support, see speech of Lord North, 13 April [1772] in *Ibid.*, col. 460.

⁴⁵ See, for instance, the letter to Lord North signed 'Brunswick' in *Public Advertiser*, 27 November 1772 and letter to Lord Clive ironically signed 'Friend of Lord Clive' in *Public Advertiser*,

Burgoyne's select committee provided a strong argument for rejecting Sullivan's reform bill and it was allowed to drop at the end of the session.⁴⁶

II. FINANCIAL CRISES AND PARLIAMENTARY COMMITTEES: THE PRELUDE TO REFORM

The select committee was permitted to sit throughout the summer due to its appointment so late in the parliamentary session. It did so in order to provide the information required for an otherwise ill-informed Parliament to engage in the process of reforming the East India Company, an issue upon which very few MPs had any direct or relevant experience. However, it was the severe financial crisis of 1772 that ultimately brought the government to engage in substantial reform of the East India Company for the first time. Furthermore, it was during the debates on the government's intervention in the closing months of 1772 that the opposition began to develop their constitutional arguments against East India Company reform.

Late in the summer of 1772, the Company experienced an acute liquidity problem. It defaulted on required customs payments to the government and was refused access to further short-term credit by the Bank of England.⁴⁷ These circumstances were sharply exacerbated by the bills drawn by the Company's servants in India for repayment in London, which were a common method by which

6 July 1772; see also Jeremiah Dyson to Sir Gilbert Elliot, 19 August 1772 in NLS, Minto Papers, MS 11019, f. 36. Nechtman, *Nabobs*, 82; Rothschild, *The Inner Life of Empires: An Eighteenth Century History* (Princeton, NJ: Princeton University Press, 2011): 71.

⁴⁶ Speech of Charles Wolfran Cornwall, 18 May [1772] in *Ibid*, 464-465; Richard Bourke, *Empire & Revolution: The Political Life of Edmund Burke* (Princeton, NJ: Princeton University Press, 2015): 358; McGilvary, *Guardian of the East India Company: The Life of Laurence Sullivan* (London: Tauris, 2006): 180-181.

⁴⁷ See Bowen, *Revenue and Reform*, 103; and Bowen, 'Investment and Empire,' 190. On the importance and scarcity of credit in eighteenth century Britain see John Brewer, 'Commercialization and Politics,' in Neil McKendrick, John Brewer, and J.H. Plumb, *The Birth of Consumer Society: The Commercialization of Eighteenth-Century England* (London: Europa Publications, 1982): 209-210. On financial crises more generally and the significance of the crisis of 1772, see Julian Hoppit, 'Financial Crises in Eighteenth-Century England,' *Economic History Review* 39, no. 1 (1986): 39-58.

private fortunes were remitted to Britain.⁴⁸ There was considerable debate over whether the issue in the Company's finances was simply a temporary shortage of cash or a structural problem related to the failure of the Bengal revenues to live up to their inflated expectations. Laurence Sullivan, for example, reported that directors were acting upon accounts made up as late as March 1772 that showed the Company to be in a 'flourishing state.'⁴⁹ Nonetheless, the government, foreseeing the potentially catastrophic danger posed to public credit by the Company's bankruptcy, was forced to call for Parliament to meet early specifically for the consideration of the Company's affairs.⁵⁰

The issues facing parliamentarians upon their return in November were complicated by the fact that the Company had continued to attempt their own internal measures of reform. Following the defeat of Sullivan's reform bill in June, the Company's directors had returned to consider an earlier idea of sending out a supervisory commission, similar to that which was lost in the *Aurora* in 1769. This threw the Company into disarray as they fought over the number of supervisors, the nature of their powers, and the names of those who would fill the positions.⁵¹ In

⁴⁸ For a discussion of the difficulties involved in remittances of private fortunes from India, see Margot Finn, '«Frictions» d'empire: les réseaux de circulation des successions et des patrimoines dans la Bombay coloniale des années 1780.' *Annales. Histoire, Sciences Sociales* 65, no. 5 (2010): 1175-1204. The amount that could be remitted was limited by statute, but in 1771 in particular the Company's servants in India had drawn bills worth over £1 million despite having been ordered not to exceed £200,000. See the examination of the Company's accountant, 23 December [1772] in *Cobbett*, xvii, col. 676; see also the Marquess of Rockingham to William Dowdeswell, 30 November 1772 in Sheffield Archives, Rockingham Papers, WWM/R/1/1415a.

⁴⁹ Laurence Sullivan to Warren Hastings, 28 April 1773 in BL, Hastings Papers, Add. MS. 29133, ff. 533-534. By March 1773 he was arguing the same thing in Parliament, see *Cobbett*, xvii, col. 815.

⁵⁰ Welbore Ellis to Charles Jenkinson, 11 October 1772 in BL, Liverpool Papers, Add. MS. 38207, f. 178; and Horace Walpole to Horace Mann, 4 November 1772 in Lewis *et al.* eds., *Walpole Correspondence*, xxiii, 441-442.

⁵¹ Among the dozens of letters and essays in the newspapers as well as pamphlets both for and against the project of the supervisory commission, several stand out: 'Friend to Fair Discussion,' *A Letter to the Proprietors of East-India Stock, on the Subject of sending Supervisors with extraordinary Powers to India* (London: S. Bladon, 1772); 'Eumenes,' *A Plan for the government of Bengal*, 23-42; and 'Old Proprietor, and Former Servant of the East India Company,' *A Letter to Sir George Colebrooke, Bart. on the subjects of supervision and dividend* (London, 1772). See also, the letter signed 'Constitutionalist' in *Morning Chronicle*, 9 December 1772 and letter 'To the Proprietors of the East-India Company' signed 'Philindus' in *Gazetteer and New Daily Advertiser*, 18 November

order to come to terms with the issues which had, in Burke's words, 'shaken [the Company] to its foundations' the ministry settled on the plan of forming a secret committee, to run alongside Burgoyne's select committee, that would focus on the Company's finances.⁵² The prospect of the Company's affairs being inquired into secretly by a ministerial committee was heavily criticised by the opposition.⁵³ One newspaper writer, pre-empting the parliamentary opposition, saw it as yet another example of the '*Dark Intrigues* [that] have *characterized* this Reign.'⁵⁴ Another, more explicitly, hoped the secret committee would not be responsible for 'squeez[ing] large sums of money from any guilty Asiatic plunderers, to be applied to *Court purposes*...[and] increasing the powers of corruption in the Crown, already much too great.'⁵⁵ North, on the other hand, justified his committee by declaring its purpose to be 'to lay bef.[ore] the H.[ouse of Commons] a sufficient, plain, clear, & methodical account of the present situation of the Company' in respect to their 'debts, credits, and effects...as also to the management and present situation of the[ir] affairs.'⁵⁶ The members of the secret committee were appointed on 28 November and began their work immediately. The first issue on their agenda was to investigate the Company's appointment of commissioners. The second, and equally important, was to produce an account of the expenses incurred during the 1769 supervisory commission.⁵⁷ The initial objective of the secret committee, therefore, was to rush through a report, arguing that the Company ought to be restrained from

1772. For a retrospective account of the difficulties concerning the supervision, see Laurence Sulivan to Warren Hastings, 28 April 1773 in BL, Hastings Papers, Add. MS. 29133, ff. 533-534.

⁵² Edmund Burke to John Stewart, 30 October 1772 in Sutherland ed., *Burke Correspondence*, ii, 358-359; and King George III to Lord North, 26 November 1772 in Sir John Fortescue ed., *The Correspondence of King George the Third from 1760 to December 1783* (London: Macmillan, 1927), ii, 408.

⁵³ See Brickdale Diary, 26 November 1772, Bristol, DM 129/6, 35-38.

⁵⁴ Letter 'To Lord North' signed 'Brunswick' in *Public Advertiser*, 30 November 1772. Emphasis in original.

⁵⁵ Letter 'To Lord North' signed 'One of the People' in *London Evening Post*, 5 December 1772. Emphasis in original.

⁵⁶ Speech of Lord North, 26 November [1772] in BL, Egerton MS 243, ff. 21-22; and speech of Lord North, 28 November [1772] in *Cobbett*, xvii, col. 528.

⁵⁷ Minutes of the Court of Directors, 1 December 1772 in BL, IOR/B/88, 294-297.

sending a supervisory commission to India until Parliament could inquire into the Company's accounts and stabilise its finances on the grounds that such a commission was too expensive in their present distressed circumstances.⁵⁸ The administration, therefore, sought to seize the initiative by once again postponing the Company's own reform efforts.

The Company's directors were caught off-guard by the speed of the secret committee's proceedings. On the same day that the committee delivered their first report and presented the bill in Parliament to temporarily restrain the Company from sending out supervisors, the Company had only just arranged a ballot to send a petition complaining about the creation of the secret committee. As a result, the proprietors rejected the petition and immediately moved to oppose the restraining legislation instead.⁵⁹ They predominantly opposed the restraining bill on the grounds that it was a violation of the Company's chartered right to appoint their own servants and that the government was therefore unlawfully interfering in their private affairs.⁶⁰

It was in the debates on the bill to restrain supervisors that the opposition first began to articulate what would become one of the most substantial arguments against legislation to reform the East India Company, namely that the ministry were attempting to seize the Company's vast patronage as well as its revenues. George Johnstone insinuated that Lord North was only in favour of a supervisory commission '[a]s long as government imagined that its own creatures would share the plunder of Bengal.' For Johnstone, the ministry's attempts to take control of the supervisory commission were only 'the beginning of hostilities'. He feared that this would establish a precedent for further government interference in the Company's

⁵⁸ See Sheila Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century, Vol. 136: George III Secret Committee Reports, 1-7, 1772-73* (Wilmington DE: Scholarly Resources Inc., 1975): 3-6.

⁵⁹ Minutes of the General Court, 7 December 1772, BL, IOR/B/88, 323.

⁶⁰ Minutes of the General Court, 11 December 1772, *Ibid.*, 341-343. See also the arguments of Sir Elijah Impey and James Adair, the Company's counsel, to the House of Commons, 18 December [1772] in *Cobbett*, xvii, cols. 651-652.

affairs.⁶¹ William Dowdeswell of the Rockinghamite opposition took up Johnstone's argument, claiming that the restraint of supervisors was only a preliminary measure to the government's seizing the Company's territorial revenues. This, he argued, would throw 'a double weight into the scale of the crown; that the influence of the crown was already too extensive, and that liberty would be at an end forever, if such a vast accession of places and pensions was made to those [already] in the gift of the ministry.'⁶² Burke, as was his wont, capped the crescendo of the opposition, arguing that the 'places and pensions...furnished by the British establishment' were already too great and he conjured his fellow parliamentarians to imagine what would 'become of us, if Bengal, if the Ganges pour in a new tide of corruption?' This bill, he asserted, was 'the first step towards a total invasion of the Company's territories in Bengal.'⁶³

The Company was already widely believed to 'have more and greater places to give away than the first Lord of the Treasury.'⁶⁴ If the Crown somehow gained an ascendancy over the Company, it was believed that it would transform the 'Constitution into the worst Species of Despotism, by throwing the whole Patronage of the East India Company into the Hands of...any Minister whom the King may please to name, and thus inevitably afford the Means of retaining a determined Majority in every Question that can be agitated in P[arliament].'⁶⁵ The constitutional arguments concerning the potential for the revenue and patronage of the East India Company to unbalance the British Constitution which had received their first airing in 1767 were further developed and more strongly articulated when the Company's affairs came to dominate the British political scene in 1772-3.

⁶¹ Speech of George Johnstone, 18 December [1772] in *Cobbett*, xvii, col. 660.

⁶² Speech of William Dowdeswell, 18 December [1772] in *Ibid.*, col. 666.

⁶³ Speech of Edmund Burke, 18 December [1772] in *Ibid.*, cols. 672-673.

⁶⁴ Horace Walpole to Horace Mann, 19 July 1769 in Lewis *et al.* eds., *Walpole Correspondence*, xxiii, 133. Rockingham reportedly held a similar view, see Frank O'Gorman, *The Rise of Party in England: The Rockingham Whigs, 1760-82* (London: George Allen & Unwin, 1975): 299.

⁶⁵ Letter 'To the Proprietors of India Stock' signed 'Watchful' in *Public Advertiser*, 18 August 1772; see also letter signed 'Veritas' in *London Evening Post*, 25 August 1772.

On the other hand, from a ministerial perspective, John Burgoyne addressed the ways in which this issue could restrict the government's efforts to reform the Company. He argued that '[i]f the legislature has not powers and wisdom, so to model and regulate the sovereignty of the state in India, or so to delegate its powers as to prevent the influence of the crown in England, let it never be attempted.'⁶⁶ The ministry, therefore, had to be cautious of being seen to interfere too much in the Company's affairs. The place of the East India Company's patronage in the constitutional arguments of the early reign of George III, far from being merely an opposition shibboleth, was a genuine concern affecting ministerial efforts to reform the Company. Its articulation during the debates on the restriction of supervisors was, as Burke prophesied, only a prelude to the emphasis that would be placed on the patronage of the Company in the following decade of reform.⁶⁷

Notwithstanding the strong opposition rhetoric, the bill passed the Commons by a commanding majority of 153-28.⁶⁸ The issue was important enough, however, that Burke was unwilling to let it pass with only a 'silent vote' in opposition. Indeed, he had urged the Dukes of Portland and Richmond to come to London to coordinate with the Company in opposition to 'this monstrous Bill.'⁶⁹ Despite the poor showing in the division, Burke felt it was right for the Rockinghams to show 'our confidence in the Rectitude of our own principles...[t]o divide shewed a Weakness in Numbers; to shrink from the Division would have shewn a weakness of Mind and indecision of Character; which is, or ought to be, of ten times worse consequence to us.'⁷⁰ Their disappointing numbers, however, were somewhat self-inflicted. In late 1772, following unsuccessful attempts to oppose the government on issues such as the

⁶⁶ Speech of John Burgoyne, 13 April [1772] in *Cobbett*, xvii, col. 458.

⁶⁷ Speech of Edmund Burke, 18 December [1772] in *Ibid.*, cols. 672-673.

⁶⁸ The King was overjoyed by the margin of victory, see King George III to Lord North, 19 December 1772 in Fortescue ed., *Correspondence of George III*, ii, 417.

⁶⁹ Edmund Burke to the Duke of Portland, 18 December 1772 in University of Nottingham, Manuscripts and Special Collections, Portland (Welbeck) Papers, Pw F 2075.

⁷⁰ Edmund Burke to the Marquess of Rockingham, 7, 10 [January] 1773 in Sutherland ed., *Burke Correspondence*, ii, 403.

Middlesex election crisis and the repeal of Townshend's American duties, the Rockingham opposition were split over whether or not to participate in an organised secession from Parliament.⁷¹ They were well aware that the problems afflicting the East India Company would occasion important parliamentary business but the Duke of Richmond, in particular, felt strongly that the government would be unable to undertake any significant action before the Christmas holidays.⁷² On the basis of these convictions, Richmond notoriously remained at Goodwood, entertaining guests with fox hunting.⁷³ The parliamentary opposition, therefore, just like the Company themselves, were caught out by the speed with which the government acted to restrain the Company from sending supervisors.

Despite his apparent indifference, however, Richmond did not 'suddenly become interested in the politics of the East India Company' as one biographer has argued.⁷⁴ He was, in fact, among the strongest advocates of the Company in the government's encroachment upon their dividends and revenues in 1767.⁷⁵ Although Richmond wished to remain in Goodwood till after Christmas, he concluded his

⁷¹ Duke of Richmond to the Marquess of Rockingham, 2 November 1772 in Sheffield Archives, Rockingham Papers, WWM/R/1/1411. Both William Dowdeswell and the Duke of Portland argued that the political circumstances did not warrant a secession, see Edmund Burke to William Dowdeswell, 6, 7 November 1772 in Sutherland ed., *Burke Correspondence*, ii, 362; and Marquess of Rockingham to Edmund Burke, 20 November 1772 in *Ibid.*, 379. For more on the botched Rockinghamite secession, see Warren Elofson, 'The Rockingham Whigs in Transition: The East India Company Issue 1772-1773,' *EHR* 104, no. 413 (October 1989): 959-960. On the Middlesex election crisis, see P.D.G. Thomas, 'The House of Commons and the Middlesex Elections of 1768-1769,' *Parliamentary History* 12, no. 3 (1993): 233-248; see also George Rudé, *Wilkes and Liberty: A Social Study of 1763-1774* (Oxford: Clarendon Press, 1962): 37-90.

⁷² Duke of Richmond to Edmund Burke, 2 December 1772 in Sutherland ed., *Burke Correspondence*, ii, 389-390.

⁷³ Duke of Richmond to Edmund Burke, 25 November 1772 in *Ibid.*, 387; Duke of Richmond to James Adair, 1 December 1773 in Alison G. Olson ed., *The Radical Duke: Career and Correspondence of Charles Lennox, Third Duke of Richmond* (Oxford: Oxford University Press, 1961): 161-162; see also the faux Lords protest mocking Richmond for fox hunting rather than 'doing the public Business in Parliament' in *Public Advertiser*, 28 December 1772.

⁷⁴ Olson ed., *The Radical Duke*, 11

⁷⁵ Private Journal of the Duke of Bedford, 17 June 1767 in Wright ed., *Cavendish's Debates*, i, 604; the Duke of Richmond to the Marquess of Rockingham, 12 June 1767, in Sheffield Archives, Rockingham Papers, WWM/R/1/797.

letter to Burke by offering to come to Parliament if necessary.⁷⁶ Evidently, Burke felt Richmond's attendance was necessary to coordinate a respectable opposition to the bill both in the Company's Court of Proprietors and in Parliament. He had already been working with the Company to arrange petitions to Parliament and he hoped that alongside the arguments of the Company's counsel the opposition Lords could present a strong protest.⁷⁷ In this way, the opposition could compensate for their lack of numerical strength by a strong rhetorical opposition.

Burke's wishes came to fruition. Richmond emerged from Goodwood and provided a strong defence of the Company in the Lords, leading Burke to proclaim 'that he was an host of debaters in himself.'⁷⁸ He needed to be, however, since only six opposition Lords voted against the restraining bill in a very thin House.⁷⁹ The resulting protest, signed by five of those peers, was a strong affirmation of the principles upon which they opposed the government's renewed attempts to encroach upon the Company's affairs.⁸⁰ It contained their clearest statement yet of the extent to which the Company's territorial expansion had in fact become a critical feature of the major domestic constitutional disputes of the period. The final paragraph of the protest contained the most significant point, that the bill restraining the Company from appointing supervisors:

⁷⁶ Duke of Richmond to Edmund Burke, 25 November 1772 in Sutherland ed., *Burke Correspondence*, ii, 387; Richmond made similar promises to the Duke of Portland in a letter of 2 December 1772 in Nottingham, Portland (Welbeck) Papers, Pw F 6317.

⁷⁷ Edmund Burke to the Duke of Portland, 18 December in Nottingham, Portland (Welbeck) Papers, Pw F 2075. For Burke's participation in the Company's ballots on the petitions to Parliament see, Edmund Burke to the Duke of Portland, 5 December 1772 in *Ibid.*, Pw F 2074.

⁷⁸ Edmund Burke to the Marquess of Rockingham, 7, 10 [January] 1773 in in Sutherland ed., *Burke Correspondence*, ii, 408.

⁷⁹ Lords Debate, 23 December 1772 in *Cobbett*, xvii, cols. 675-682.

⁸⁰ On Lords protests see Clyve Jones, 'Dissent and Protest in the House of Lords, 1641-1998: An Attempt to Reconstruct the Procedures Involved in Entering a Protest into the Journals of the House of Lords,' *Parliamentary History* 27, no. 3 (2008): 309-329; W.C. Lowe, 'The House of Lords, Party, and Public Opinion: Opposition Use of the protest, 1760-1782,' *Albion* 11, no. 2 (1979): 143-156; and Ben Gilding and Richard Connors, "'Hereditary Guardians of the Nation": The House of Lords and the East India Company in the Age of the American Revolution,' *Parliamentary History* 39, no. 1 (forthcoming, 2020).

*appears to us to be part of a design long since formed, and never abandoned, for enlarging the influence of the crown, (already far too prevalent and extensive), by the introduction of ministerial authority, in the nomination to the numerous employments now in the gift of the Company.*⁸¹

This bill, they argued, was ‘evidently a leading part in that design.’ Since their former protest in 1768, the opposition arguments had shifted subtly but crucially in response to the increased government interference in the Company’s affairs. In 1768 they had only focused on the dangers posed by a ‘fund of corruption’, whereas by 1773 they argued that the Crown was attempting to avail itself of the Company’s lucrative employments, a charge which would only increase as North’s reforms took effect.⁸²

III. RELIEF AND REFORM: THE GENESIS OF NORTH’S REGULATING ACT

Following the Company’s defeat over the appointment of supervisors, the directors turned to the difficult task of attempting to extricate the Company from its precarious financial situation. Their strategy involved three key features. The first involved finding an outlet for what had quite literally become a ‘mountain’ of tea stockpiled in their warehouses.⁸³ The 17,500,000 lbs of tea was, as Huw Bowen has described, a ‘depreciating asset...worth over £2 million.’⁸⁴ In order to tackle this problem the Company sought permission from the Treasury to receive a drawback on all teas re-exported to continental Europe and for the government to drop its threepence duty on

⁸¹ *Lords Journals*, xxxiii, 490-492; the protest was signed by Richmond, Torrington, Boyle, Portland, and Devonshire.

⁸² Beaumont Hotham, who was among a relatively extensive list of those approached by the Company to become supervisors in the year 1772, claimed that the Commission was of an indefinite duration and that a position upon it would come with a salary of £10,000 per year and an ‘unlimited credit for our expences.’ See Beaumont Hotham to the Duke of Portland, 7 September 1772 in Nottingham, Portland (Welbeck) Papers, Pw F 5365.

⁸³ Richard Connors ‘A Storm in a Tea-Cup: Tea and the British Atlantic in the Age of the American Revolution,’ in T. Stephen Henderson and Wendy G. Robicheau eds., *The Nova Scotia Planters in the Atlantic World 1759-1830* (Fredericton: Acadiensis, 2010): 185.

⁸⁴ H.V. Bowen, ‘Tea, Tribute and the East India Company, c. 1750-1775’ in Stephen Taylor, Richard Connors, and Clyde Jones eds., *Hanoverian Britain and Empire* (Rochester, NY: Boydell and Brewer, 1998): 171.

tea collected in America.⁸⁵ North initially poured cold water on this idea but it was revived later in the year and the resulting legislation became the basis for the Boston Tea Party. Secondly, the Company voted to reduce their dividend to 6%, thereby triggering the clause in the Act of 1769 that allowed them to suspend the payment of £400,000 to the government.⁸⁶ The final step of their plan involved soliciting from the government a loan of £1.5 million to allow them to repay their immediate creditors. Lord North responded favourably to these steps. However, he added as a note of caution, that ‘it is very improbable that Parliament will think fit to direct that an application to be made of Public Money for the relief of the Company without making at the same time some effectual Provision for preventing the Repetition of the same Errors and Abuses as have brought the Company into their present difficulties.’ He also intimated that reform proposals ought to originate from the Company rather than Parliament.⁸⁷

Relief, therefore, was to be accompanied by reform. In the eyes of the ministry, the two were inseparable. From the perspective of those in the Company and their supporters in opposition, however, by waiting for the Company to petition for relief and to bring forward proposals, Lord North was attempting to entrap the Company via the doctrine of *volenti non fit Injuria*.⁸⁸ The difficulty, according to the Company’s chairman, Sir George Colebrooke, was in ‘[s]ettling a plan of regulations to suit the palate of Directors, proprietors, and Parliament. We want their Money, they want power, [or] at least a check upon our power.’⁸⁹ Rockingham saw the same

⁸⁵ See Minutes of the Court of Directors, 6 January 1773 and Minutes of the General Court, 7 January 1773 in BL, IOR/B/88, 379, 384. Sir George Colebrooke reported on 9 February 1773, however, that ‘on Consulting of some of the most considerable Houses in the Foreign Trade there was no sufficient Encouragement to enter upon an Exportation to all parts of Europe as their demands were generally confined to Green Teas.’ See Minutes of the General Court, 9 February 1773 in *Ibid.*, 447.

⁸⁶ Minutes of the General Court, 29 December 1772, *Ibid.*, 362.

⁸⁷ Lord North to the Chairman and Deputy Chairman, 23 January 1773 in *Ibid.*, 414-415.

⁸⁸ ‘To a willing person, no injury is done.’

⁸⁹ Sir George Colebrooke to Laurence Sullivan, [24 January 1773], De Bertodano Papers. The date is inferred from the receipt of North’s letter of the 23rd, referred to as ‘last night’ in the letter as well

danger, that North's negotiating strategy was for the Ministry to 'keep on the Reserve or lay by [sic] only to avail themselves of...as many Concessions, as the Terror that hangs over the Company, may drive the Company into.'⁹⁰ Just as the Grafton ministry in 1768-9 had been accused of extorting money from the Company by threatening to withhold its dividends (see figure 1.1), so the North ministry was charged with making the financial relief necessary to prevent the Company's bankruptcy contingent on the acceptance of reforms which would involve some kind of state oversight if not outright control over the Company's affairs.⁹¹ If the Company did not, as a result of its 'past Experience and...thorough knowledge of their present situation', come forward with its own proposals for reform, North threatened that Parliament would draft their own plan of regulations.⁹²

On the basis of these conditions from the ministry, the directors were inclined to petition for a loan and produce a programme of reform. However, there were a considerable number of proprietors who were far less keen to give in to the terms imposed by the ministry for financial relief. The Duke of Richmond took the lead of this group of disaffected proprietors and formed an opposition to the Court of Directors. Thus, although the directors won votes to apply to Parliament for a loan and to send a petition with a set of propositions for reform, it was not long before Richmond and the opposition within the Company were attempting to frustrate the process.⁹³ They began by altering the terms of some of the proposals of the petition, amending a clause to allow the Company to increase their dividends before the

as the reference in the letter to summoning a General Court on 'Tuesday' which refers to the Court held on the 26th when North's letter was first publicly read.

⁹⁰ Marquess of Rockingham to James Adair, 11 February 1773, in BL, Adair Papers, Add. MS. 50830, ff. 116-117.

⁹¹ See, for instance, the letter 'To the East India Company' signed 'Plassey' in *Public Advertiser*, 29 May 1773; and the letter signed 'An Injured Proprietor' in *London Chronicle*, 3 June 1773.

⁹² Lord North to the Chairman and Deputy Chairman, 16 February 1773 in BL, IOR/B/88, 472.

⁹³ On 24 February the proprietors voted 405-199 to apply to Parliament for a loan, see Minutes of the General Court, *Ibid.*, 487; on 1 March they voted 337-84 to send a petition with proposals for reform to Parliament, see Minutes of the General Court, *Ibid.*, 509.

proposed loan from the government was fully paid off.⁹⁴ North immediately rejected this amended proposal and Parliament passed resolutions to counteract it.⁹⁵ To hold the directors to account over the provision of the Company's patronage, and to ensure the government had not yet taken control of it, the opposition proprietors also voted to request a list of the appointments made by the Company since the restraining of the supervisory commission.⁹⁶ In this manner they continued to disrupt the negotiations between the ministry and the Company for several months. Opposition to North's ministry may have been futile in Parliament, but the Rockinghams and their allies found in the Company's General Court a means of frustrating the ministry's reforms. Although the Rockinghams were primarily concerned with the potential for the Company's patronage to augment the influence of the Crown, they sought to incite the jealousies of the independent proprietors by claiming that the ministry intended to appropriate their potentially lucrative appointments to the East Indies.

Awaiting the Company's proposals for reform, Lord North introduced four resolutions concerning the loan. Together they established that the government would supply the Company with £1,400,000 in order to relieve them from their nearly bankrupt state and affirmed the government's negotiating strategy that regulations must accompany relief.⁹⁷ Throughout late March and April 1773 the Company was preoccupied with attempting to frame their own reform proposals, just as North had requested. The tedious procedure of bringing them before the General Court and debating them clause-by-clause meant that it was not until 12 May that the

⁹⁴ Minutes of the General Court, 12 March 1773, *Ibid.*, 529; at the next General Court on 15 March the proprietors voted 167-52 for the opposition proposition to raise the dividend, see *Ibid.*, 532.

⁹⁵ Minutes of the Court of Directors, 17 March 1773, *Ibid.*, 538; see also speech of Lord North, 9 March 1773 in *Cobbett*, xvii, col. 812. The resolutions of 23 March 1773 restricted the dividend to 6% until the Company had repaid the loan to government, see *Ibid.*, col. 814.

⁹⁶ Minutes of the General Court, 17 March 1773, *Ibid.*, 543. They were duly presented on 26 March 1773 but nothing further is mentioned of them in the minutes, see *Ibid.*, 553-5. Presumably there were no glaring irregularities.

⁹⁷ Speech of Lord North, 9 March 1773 in *Cobbett*, xvii, cols. 805-806; see also Brickdale Diary, 9 March 1773, Bristol, DM 129/8, 1-6.

Company petitioned the government to consider their proposals for reform.⁹⁸ By this time, however, North, evidently frustrated with the lack of progress, had passed a series of resolutions imposing conditions upon the Company in the event that they accepted the loan from government. These provisions included a restriction of dividend to six percent until the loan was repaid and a proposal that the state should have a share in the profits of the Company's territorial revenues after the repayment of their debts.⁹⁹ The Company responded by rejecting these impositions and petitioned Parliament to be allowed to receive the loan without such 'exacting terms.'¹⁰⁰ When the Company's petition rejecting the conditions of the loan was presented, however, North proceeded immediately to introduce the bill which would become his famous Regulating Act of 1773.¹⁰¹ In doing so, North had outmanoeuvred the Company and again rendered abortive their internal attempts at reform.

IV. NORTH'S REGULATING ACT AND THE 'NEW TIDE OF CORRUPTION'

North's Regulating Bill included provisions designed to improve the Company's affairs both in Britain and India. One of its principal measures involved lengthening the duration of the terms for which directors of the Company were elected by the stockholders from one to four years. This, North argued, would provide much needed stability in the Company's leadership and would ensure that their orders were followed by their servants in India.¹⁰² Under the new rules, only six of the twenty four directors would be up for election in any given year and this, it was hoped, would put an end to the stock-splitting campaigns which the legislation of 1767 had

⁹⁸ Minutes of the General Court, 12 May 1773 in BL, IOR/B/89, 115.

⁹⁹ Minutes of the General Court, 29 April 1773 in *Ibid.*, 47.

¹⁰⁰ Minutes of the General Court, 30 April 1773 in *Ibid.*, 66-69. The petition was received in the House of Commons on 3 May, see *Cobbett*, xvii, cols. 848-850.

¹⁰¹ Speech of Lord North, [3 May 1773] in BL, Egerton MS 246, ff. 32-44.

¹⁰² *Ibid.*, 38-39.

so evidently failed to curb.¹⁰³ Its opponents argued that this measure transformed the Company ‘from a democracy to an aristocracy, or rather an oligarchy’ by placing the directors entirely at the disposal of the ministry.¹⁰⁴ The reduction in their number up for election in any given year, it was argued, would allow the ministry to ensure their own candidates were elected.¹⁰⁵ In another measure attempting to curb stock-splitting and stock-jobbing, North proposed that the amount of stock necessary to qualify an individual to vote in the General Court of Proprietors be increased from £500 to £1000. North’s Bill also reformed the government of Bengal. A Governor General and Supreme Council of four members were established and given a superintending power over the other presidencies on the issues of diplomacy and war. The Governor General and Council would be appointed by Parliament, with two positions reserved for the Company’s servants already in India.¹⁰⁶ The final major provision of the bill was to erect a Supreme Court of Judicature in Calcutta, consisting of a chief justice and three puisne judges who were to be appointed by the Crown. North’s Bill was therefore the first attempt to reform the governing structures of the Company. The manner in which it imposed minor yet precisely targeted reforms of the Company’s governance gave significant latitude for speakers

¹⁰³ Lucy Sutherland, ‘Lord Shelburne and East India Company Politics 1766-9,’ in Sutherland, *Politics and Finance*, 183; Sutherland, *East India Company*, 182; H.V. Bowen, “‘Dipped in the Traffic’”: East India Stockholders in the House of Commons 1768-1774,’ *Parliamentary History* 5 (1986): 40.

¹⁰⁴ Joseph Price, *The Saddle Put on the Right Horse; Or, An Enquiry into the Reasons why certain Persons have been denominated Nabobs* (London, 1783): 73.

¹⁰⁵ Speech of Colonel Barré, 18 May [1774] in *Cobbett*, xvii, col. 1339; William Dalrymple to John Graham, 20 November 1775 in NRS, GD29/2127; ‘Abstract of some of the Clauses of the East-India bill now depending in Parliament, with occasional Remarks,’ in *London Evening Post*, 3 June 1773; George K. McGilvary, *East India Patronage and the British State: The Scottish Elite and Politics in the Eighteenth Century* (London: Tauris Academic, 2009): 147.

¹⁰⁶ The reasoning for this was not, as has been assumed, to provide the Company with a certain amount of ‘representation’ in the new Council, but rather, as Lord North explained to the King, a practical measure to ensure that there was another member of the Council with local knowledge should anything happen to Warren Hastings, who was to be designated governor general. See Lord North to King George III, [8 June 1773] in Fortescue ed., *Correspondence of George III*, ii, 497. For the view that it was a ‘compromise’, see Travers, *Ideology and Empire*, 145. The ‘characteristically elaborate compromise’ discussed by Sutherland was in their mode of appointment, not the individuals appointed, see Sutherland, *East India Company*, 262.

both for and against it to dispute whether or not it provided any substantial addition to the powers of the Crown.

Earlier in the year, the Marquess of Rockingham expressed optimism that ‘the idea of the Ministry seizing—*directly* or *indirectly* the patronage of the E:[ast] I:[ndia] Company does begin to alarm *many* both in and out of Parliament.’¹⁰⁷ The numerous letters mounting in the press on the subject of East India Company reform appear to corroborate this claim. Even when they are critical of the Rockinghams for attempting to ‘prostitute the Company’ as a means of promoting the factious ‘Designs of Opposition,’ writers still tended to criticise the attempts of government to ‘betray the India Company into the Hands of the Crown.’¹⁰⁸ One writer in particular, while admitting the ‘mischiefs that has [*sic*] happened’ in India, argued that it would be much better and safer for the British Constitution to leave the patronage and revenues in the hands of the Company, divided among the twenty four directors ‘who serve their own Friends and fifteen hundred Proprietors,’ than to concentrate it in the power of the Crown or Minister. Laying open the ‘vast Field of Asiatic Offices and Expectations’ to the Crown would, in ‘[o]ne artful Stroke of the Pen...destroy all the happy Consequences of the Revolution’.¹⁰⁹ Edmund Burke espoused a similar argument, claiming that ‘he would sooner have the Company itself totally overthrown...than have the base of the English constitution undermined’ by attempts to reform the Company.¹¹⁰

There were two prevailing views in opposition to the argument that the Constitution was endangered by East India Company reform in 1773. First, and by far the most prevalent, were the continued prejudices directed towards the

¹⁰⁷ Marquess of Rockingham to Edmund Burke, 9 February 1773 in Sutherland ed., *Burke Correspondence*, ii, 423. See also, *The Present State of the British Interest in India: with a Plan for Establishing a Regular System of Government in that Country* (London: J. Almon, 1773): 75.

¹⁰⁸ See the letter ‘To the Proprietors of India Stock’ signed ‘Indus’ in *Public Advertiser*, 25 February 1773; for other instances, see the letter signed ‘Foresight’ in *Bingley’s London Journal*, 2 January 1773; and ‘East India Intelligence’ in *Public Advertiser*, 24 May 1773.

¹⁰⁹ Letter ‘To the Members of the House of Commons’ signed ‘Z’ in *Public Advertiser*, 8 March 1773.

¹¹⁰ Speech of Edmund Burke, 5 April [1773] in *Cobbett*, xvii, col. 837.

Company's servants in India. Second, was the argument that North's Regulating Act was so moderate that it posed no threat to the Company's independence or the British Constitution.

The revelations of maladministration, oppression, and rapine emerging from Burgoyne's select committee continued apace throughout the debates on reform. Negative representations of the Company's servants, labelled indiscriminately as 'nabobs', had reached such a level of notoriety as to spawn songs, poems, and even several plays.¹¹¹ Even the Company's servants in India, thousands of miles from the gossip of the metropolis, remarked upon the 'popular odium to which your servants have been received, which flattered the prejudices of the publick.'¹¹² Such 'prejudices' in many cases outweighed the fears that East India reforms might endanger the British Constitution. In fact, it was widely believed that returned 'nabobs' were already undermining the Constitution by purchasing property and obtaining seats in Parliament with their 'Asiatic' wealth. They were thereby seen as subverting the established social orders and further corrupting an already 'rotten' electoral system.¹¹³ Such widespread views led Burke to complain that 'the popular Madness coincides with the Court Politicks' and that it was undermining the success of the opposition.¹¹⁴ Previously Burke had attributed the opposition's poor showing in divisions to the natural advantage of ministries in calling Parliament together

¹¹¹ Samuel Foote, *The Nabob: A Comedy in Three Acts. As it is performed at the Theatre-Royal in the Haymarket. Written by the late Samuel Foote, Esq. and now published by Mr. Colman* (London: T. Cadell, 1778); *A Letter to the Right Honourable Lord North, on the Present Proceedings Concerning the East-India Company* (London, 1773); and Richard Clarke, *The Nabob; or, Asiatic Plunderers. A Satyrical Poem, in a Dialogue between a Friend and the Author* (London: J. Townsend, 1773). See also Holzman *The Nabobs in England*, 95-96.

¹¹² Letter from the Governor and Council of Bengal to the Court of Directors, 10 November 1773 in R.P. Patwardhan ed., *FWIHC*, vii, 232-233.

¹¹³ Nechtman, *Nabobs*, 76; see also the letter signed 'Severus' in *Morning Chronicle*, 25 May 1772; Horace Walpole to Horace Mann, 30 April 1783 in Lewis *et al.* eds., *Walpole Correspondence*, xxv, 399-400; even George III arranged his strategy toward the 1774 election under the impression that 'the Nabobs, Planters and other Volunteers are not ready for the Battle.' See King George III to Lord North, 24 August 1774 in Fortescue ed., *Correspondence of George III*, iii, 125-126.

¹¹⁴ Edmund Burke to John Cruger, 16 April 1773 in Sutherland ed., *Burke Correspondence*, ii, 429-430.

before Christmas.¹¹⁵ When North sent out a ‘call of the House’ to secure a better attendance after the Easter holidays, Burke was required to admit the unpopularity of the opposition’s stance. Although North’s reform programme was run separately from that of Burgoyne’s select committee, his Regulating Act bore the appearance of attempting to curb future oppressions and peculation in India and therefore received a significant boon from the popular backlash against nabobs.¹¹⁶

The second major current running against the opposition’s constitutional argument was the belief that North’s reforms were so benign that they did not constitute anything approaching the threat that the Rockinghams and others were complaining of.¹¹⁷ Perhaps the clearest statement of such a view outside of Parliament appeared in the *London Chronicle*. A letter signed ‘Cecrops’, argued that the Crown gained very little from North’s regulations: ‘If four places in Bengal...will endanger the constitution, the constitution is a d—ned crazy one indeed!’¹¹⁸ This argument, while frankly stated, is also quite misleading. North’s reforms gave Parliament the right to appoint all five members of the Bengal Supreme Council. They also gave the Crown a direct appointment of the four Supreme Court judges. On the surface of it, this may seem like a trivial distinction, but the opposition argued that such patronage was merely the tip of an iceberg. Dowdeswell claimed that the minister who appoints the Governor General and Council ‘will h.[ave] the most weight w.[ith] [them]...in all rewards that are to be distributed [and] [i]n all appointments and promotions that are to be had in India.’¹¹⁹ Similarly, where

¹¹⁵ Edmund Burke to James De Lancey, 31 December 1772 in *Ibid.*, 398-399.

¹¹⁶ North wished to be considered as just another member of Parliament while participating in the debates on the findings of Burgoyne’s select committee, see the speech of Lord North, 10 May [1773] in *Cobbett*, xvii, col. 867. He was responding to an earlier criticism by Isaac Barré that the proposed resolutions against Clive should have come from the ministry.

¹¹⁷ Steuart ed., *Last Journals*, 229-230, 235; *London Evening Post*, 3 June 1773; letter signed ‘A Spy’ in *St. James’s Chronicle or the British Evening Post*, 6 July 1773.

¹¹⁸ Letter signed ‘Cecrops’ in *London Chronicle*, 3 June 1773. Cecrops was the name of the mythical founding King of Athens. See also ‘No Party Man’ in *Morning Chronicle*, 2 August 1773 who argues that the opposition arguments against extending the power of the Crown are ‘far fancied ills, which, at the worst, but potentially exist.’

¹¹⁹ Speech of William Dowdeswell, [10 June 1773] in BL, Egerton MS 250, ff. 128-129.

Thomas Townshend, usually a supporter of the Rockinghams, sensed no danger in North's provision to increase the duration of directors' terms of office, Edmund Burke saw in it an attempt to place 'the Direction under the certain influence of the Crown.'¹²⁰

The dispute in question was perhaps best illustrated by Lord Clive. He agreed with Burke that 'he would rather see the East India Company's possessions swallow'd up in the sea, than made the means of slavery to this nation.' However, he also noted that he felt Parliament ought to assist the Company 'in this desperate situation.' Clive did not see in North's reforms any plan for government to 'take possession of the whole E.I.C.' He admitted he could not 'see the least trace of such a design...the least glimpse as [Burke] expresses it, of the fox's tail, peeping thro' the lion's skin.'¹²¹ Burke's analogy is a useful one for characterising the views of many who were opposed to North's East India reforms. It is a reference to Plutarch's life of Lysander, the Spartan admiral, who, defying the expectation that 'the descendants of Heracles should not wage war by deceit' argued instead that 'where the lion's skin will not reach, it must be patched out with the fox's.'¹²² Burke was thereby articulating his view that the ministry were pretending to act in good faith towards the Company but were in fact, taking advantage of its distressed circumstances to gradually assume control of its patronage. Indeed, as he wrote to Rockingham earlier in the year, Burke was worried that even their close associates may not oppose North's reforms, with the excuse that 'they will oppose the design of seizing on the Companys Patronage when that design is openly avowed by the Court.' But Burke was convinced that '[i]t never will be avowed in its extent...the

¹²⁰ Speech of Thomas Townshend, [28 May 1773] in BL, Egerton MS 249, f. 90; and speech of Edmund Burke, [10 June 1773] in BL, Egerton MS 250, ff. 192-193.

¹²¹ Speech of Lord Clive, [3 May 1773] in BL, Egerton MS 246, ff. 87-88.

¹²² Bernadotte Perrin trans., *Plutarch's Lives* (Cambridge, MA: Harvard University Press, 1959) iv, 251. Lysander's comment is a reference to the skin of the Nemean Lion, worn by his 'ancestor' Hercules, which may not cover his whole body and therefore exposes certain weaknesses that could be covered up by using the cunning of a fox. It is also probably a reference to Aesop's fable of the ass in the lion's skin, who is given away, in some versions, when the ass's tail and ears are spotted by the fox.

plan never will...be executed at one stroke. The Business will be done covertly and piecemeal; and our friends will help it forward in the detail, and thus completely finish it; in hopes of sometime or other opposing it in the gross.’¹²³ Burke and others, therefore, found building the constitutional case against North’s reforms to be a difficult one because of the relative ‘moderation’ of the legislation itself. The effectiveness of their criticisms required a subscription to the broader conspiratorial myth that the Treasury or the Crown were engaged in an attempt to engross additional revenues and patronage to subvert the balance of the Constitution.¹²⁴

While buoyed by the general prejudices against nabobs and the view that his ‘regulations were moderate’, North still felt the need to foster the appearance that the Company was in some degree consenting to the financial relief and regulations.¹²⁵ Taking inspiration from his experience in getting an agreement with the Company passed easily through Parliament in 1769, North had initiated the process of reform by encouraging the Company to petition Parliament for relief. Although he had imposed a set of regulations in return for the financial assistance of the state, and had even set strict conditions on the loan, North’s plan was certainly relatively moderate. The King, for example, encouraged North to go as far as deciding the question of the Company’s right to its territorial sovereignty, and suggested forcing the Company to accept the loan by passing legislation to stop their dividends for three years so that

¹²³ Edmund Burke to the Marquess of Rockingham, 7, 10 January 1773 in Sutherland ed., *Burke Correspondence*, ii, 411. Burke was particularly concerned at this time that usual friends such as Thomas Townshend, Charles Wolfran Cornwall, and Lord George Germain were not supportive of their stance in opposition to North’s India legislation, see Elofson, ‘Rockingham Whigs in Transition,’ 961; and G.H. Guttridge, *English Whiggism and the American Revolution* (Los Angeles, CA: UCLA Press, 1963): 49.

¹²⁴ This view, however, was hardly confined to the Rockingham Whigs, it is clearly laid out, for instance in the letter ‘To the Proprietors of East-India Stock’ in *Public Advertiser*, 11 April 1775; and a similar letter, possibly by the same author in *Morning Chronicle*, 12 April 1775.

¹²⁵ Horace Walpole, in particular, emphasised the importance of the moderation of North’s reforms in getting them passed through Parliament. See Steuart ed., *Last Journals*, i, 229-230, 235; see also Horace Walpole to Horace Mann, 15 June 1773 in Lewis *et al.* eds., *Walpole Correspondence*, xxiii, 490-491.

they ‘must then come on their knees for what they now seem to spurn.’¹²⁶ It was also widely believed that the faction of North’s Cabinet formerly associated with the Duke of Bedford were also pushing for strong punitive measures against the Company.¹²⁷ North, therefore, in coming to moderate terms with the East India Company, had to push back against opposition from the Crown and from within his own Cabinet.

Despite North’s relative moderation, when the Company unanimously petitioned against the ‘disadvantageous and unreasonable’ conditions in the Loan Bill, any façade that his measures were undertaken with the consent of the Company was shaken. The Company’s petition even explicitly revoked their former petition of 1 March which had requested the loan in the first place.¹²⁸ Clearly influenced by Richmond’s participation in the Company’s General Courts, the final paragraph of the petition justified the Company’s rejection of the loan on the grounds that they would not wish to be seen by posterity as ‘having been accessory to measures which by vesting unnecessarily in the Crown the disposal of so many great and lucrative Employments in India, tend...not only to bring Ruin upon this Company but to destroy the just Balance of this free constitution.’¹²⁹

In order to render the bill more palatable to both the moderate opposition in the Company and to the House of Commons, North was forced to withdraw several of the Loan Bill’s more controversial clauses. In particular, he expunged the clause purporting to grant the Company permission to maintain the territorial revenues for a period of six years. Many both inside and outside of Parliament feared that this clause implied that the sovereignty of Bengal belonged to the Crown when this

¹²⁶ King George III to Lord North, 15 May 1773 in Fortescue ed., *Correspondence of George III*, ii, 484.

¹²⁷ Colebrooke, *Retrospection*, ii, 25-26; Edmund Burke to Charles O’Hara, [22 May 1773] in Sutherland ed., *Burke Correspondence*, ii, 434-435.

¹²⁸ Minutes of the General Court, 11 June 1773 and 23 June 1773 in BL, IOR/B/89, 213, 239-241.

¹²⁹ Minutes of the General Court, 23 June 1773 in *Ibid.*, 240-241.

question still had not been directly decided.¹³⁰ The bill, as amended, also removed any mention of the public's right to a share of the Company's revenues after their bond debt was reduced. In return for these conciliatory amendments, however, North also added a clause into the bill which made the Company's acceptance of the loan compulsory.¹³¹ Thus amended, the Loan Bill had a relatively easy passage through Parliament. It could no longer be said that North was assisting the Company with their consent, but the concessions certainly made a bitter pill easier to swallow for the more moderate opposition both inside and outside of Parliament.¹³² The granting of these concessions also reinforced the belief that North's reforms were not 'of so violent a nature as faction has endeavoured to represent it.'¹³³

The only remaining legislative hurdle was to pass the much more controversial Regulating Bill in the House of Lords. The opposition to the bill initially followed a familiar course when the Company petitioned to be heard by their counsel against it. Rather anomalously, however, the Duke of Richmond, after attempting to recreate the parliamentary response to the South Sea Bubble by calling for a conference between the Lords and Commons, submitted a protest against the vote rejecting that measure.¹³⁴ The protest complained about the way in which the Lords was being treated by the Commons in a manner foreshadowing their later disputes in the crisis caused by Fox's India Bill in 1783-4.¹³⁵ The House of Peers, Richmond argued, had 'exerted the greatest diligence through the whole of a very

¹³⁰ Letter signed 'Bahar' in *St. James's Chronicle or the British Evening Post*, 22 June 1773; Speech of Richard Sutton, 17 June [1773] in *Cobbett*, xvii, col. 928.

¹³¹ The amendments were largely due to the work of Charles Wolfran Cornwall or at the very least he was the public face of a preconcerted plan. He was the cousin and brother-in-law of Charles Jenkinson, who had drafted the initial bill. See Earl of Shelburne to the Earl of Chatham, 26 June 1773 in Taylor and Pringle eds., *Chatham Correspondence*, iv, 282-283; and Speech of Charles Wolfran Cornwall, [15 June 1773] in *Cobbett*, xvii, col. 924.

¹³² As P.D.G. Thomas pointed out, North permitted the Company to export tea duty-free to America which also 'sugared the pill.' See his *Lord North* (London: Allen Lane, 1976): 66.

¹³³ *London Evening Post*, 3 June 1773.

¹³⁴ *Lords Journals*, xxxiii, 670; Colebrooke, *Retrospection*, ii, 25-26.

¹³⁵ See Richmond's speech in *An Authentic Account of the Debates in the House of Lords, on Tuesday, December 9, Monday, December 15, and Wednesday December 17, 1783...* (London: J. Debrett, 1783): 28; see also Gilding and Connors, "'Hereditary Guardians of the Nation,'" (forthcoming, 2020).

long session' in the case of the South Sea Company in 1720 and engaged in a 'strict parliamentary inquisition into facts, before they thought themselves authorized to resort to an extraordinary use of the legislative powers.'¹³⁶ In spite of this, the Regulating Bill passed through the Lords with ease. This precipitated another protest attacking North's reforms which, as before, served as a strong statement of the principles upon which the parliamentary opposition attempted to counteract North's India legislation. In this regard, the protest of 1773 differed from its predecessors. In order to avoid arguing that the Crown should not have a nomination of the judges of Calcutta's new Supreme Court, the protest attacked 'the election of executive officers in parliament' as 'plainly unconstitutional.' Not only was it 'calculated for extending a corrupt influence in the crown', freeing ministers from responsibility while leaving them the patronage, they argued that the bill contradicted the separation of powers between the Crown and Parliament. Traditionally, they asserted, the nomination was placed in the Crown while the check upon their appointment rested in Parliament. North's Regulating Act, 'by confounding those powers which the constitution meant to keep separate, has destroyed this controul.'¹³⁷ The opposition, therefore, specifically targeted the parliamentary appointment of the Governor General and Supreme Council of Bengal.¹³⁸ However, by attacking the constitutionality of parliamentary appointments to the offices of the East India Company, the opposition (and particularly Rockinghamite) peers opened themselves up to the charge of inconsistency when they attempted to implement their

¹³⁶ See the protest of 11 June 1773 in *Lords Journals*, xxxiii, 670-671. The relatively narrow subject matter of this protest resulted in it being printed in far fewer locations than its predecessor in December 1772 or its successor on 19 June 1773. It was only printed in *Middlesex Journal*, 15 June 1773; *Morning Chronicle*, 15 June 1773; and *Public Advertiser*, 15 June 1773. It was signed by Richmond, Rockingham, Fitzwilliam, Portland, Milton, Devonshire, and Ponsonby.

¹³⁷ Protest of 19 June 1773 in *Lords Journals*, xxxiii, 681-682. This protest was printed in *London Chronicle* 22 June 1773; *Middlesex Journal*, 22 June 1773; *Morning Chronicle*, 22 June 1773; *Lloyd's Evening Post*, 23 June 1773; *Town and Country Magazine, or, Universal repository of knowledge, instruction and entertainment*, July 1773, 373-374. An extract was even printed of it in *Morning Chronicle*, 24 November 1783, in response to the re-emergence of the regulation of the East India Company as the dominant issue in British politics.

¹³⁸ See the debates on this topic in BL, Egerton MS 246, ff. 43-44; BL, Egerton MS 250, ff. 122-123, 157.

own reforms of the Company in 1783. They also argued that disenfranchising the £500 India stockholders and forcing the directors to submit their communications from India to the ministers, turned them ‘into mere instruments of the court...to extend influence of the worst kind in the worst manner in which it can be exerted.’¹³⁹ As rhetorically powerful as the Lords protests were in attacking what they saw as ‘the manifest contradiction and absurdity’ of North’s Indian legislation, they were, as a matter of course, a signal of the opposition’s defeat in Parliament. The dissenting peers declared that, ‘after struggling vainly against these evils, we have nothing left but the satisfaction of recording our names to posterity, as those who resisted the whole of this iniquitous system, as men who had no share in betraying to blind prejudices or sordid interest every thing that has hitherto been held sacred in this country.’¹⁴⁰

The Lords protests may have signified the cessation of the legislative opposition to North’s Regulating Act, but, with their strong statement of principles and wide publication, they also marked the beginning of a year-long attempt by the Duke of Richmond and his erstwhile supporters among Company’s stockholders to frustrate the implementation of North’s reforms. For example, Richmond, at the head of a committee of proprietors, drafted a set of alternate instructions to the Supreme Council of Bengal, intended to subvert key aspects of the Regulating Act.¹⁴¹ Ultimately, Richmond’s opposition was halted by a series of defeats at East India House which followed the Regulating Act’s disenfranchisement of over one

¹³⁹ *Lords Journals*, xxxiii, 681-682. See also the letter ‘To Lord North’ signed ‘Atticus’ in *Public Advertiser*, 14 October 1773 in which he specifically cites the arguments of the protest, describing the Company, in North’s hands, as ‘*the most dangerous Engine of Oppression that ever a Tyrant ventured to assume.*’

¹⁴⁰ *Ibid.*, 681-2.

¹⁴¹ The Directors’ original instructions can be found in BL IOR/B/258, 303-315. Richmond’s alternate instructions, delivered on 15 December 1773 are in BL, IOR/B/258, 321-338. In early 1774, the lists of instructions occasioned widespread debate in the press, see, in particular, *Public Advertiser*, 20, 21, and 22 January 1774; and *Gazetteer and New Daily Advertiser*, 19 January 1774.

thousand stockholders who held less than £1,000 of stock.¹⁴² Utilising one of the central corporate institutions of the City as the locus for opposition activity was unorthodox for a peer, particularly one of ducal rank, and many of Richmond's aristocratic colleagues in the Rockingham party were far less inclined to participate.¹⁴³ The defeat of Richmond's opposition, in the election of twenty-four new directors of the Company in April 1774 marked the high point of the Rockinghamite opposition to the reform of the East India Company for nearly a decade.¹⁴⁴ When the Company re-emerged as the predominant issue in British politics following the introduction of Charles James Fox's famous India Bill in 1783, the shadow of their previous constitutional arguments loomed large.

North's Regulating Act received a mixed reception from contemporaries, and historians have been just as diverse in their views upon it. Ian Christie and Philip Lawson emphasised the 'limited nature' of North's reforms and argued that they were restricted to restoring confidence in the Company's finances and diplomacy in India. Frank O'Gorman, on the other hand, saw it as a 'massive extension of state intervention.'¹⁴⁵ The reality probably lies somewhere between the two. It undoubtedly represented a crucial milestone in the relationship between the Company and the state but must be seen in its context as both a temporary and preliminary measure. It was certainly an innovative piece of legislation in that it represented the first genuine attempt by any British government to impose reforms

¹⁴² For a discussion of the disenfranchisement of proprietors in 1773, see Bowen, "'Little Parliament'", 868.

¹⁴³ Admiral Augustus Keppel to the Marquess of Rockingham, 15 March 1773, Sheffield Archives, Rockingham Papers, WWM/R/1/1428; Marquess of Rockingham to Edmund Burke, [post 13 December 1773], in Sutherland, ed., *Burke Correspondence*, ii, 497.

¹⁴⁴ Horace Walpole wrote of the occasion: 'there ended the Duke of Richmond's Indian Campaign, in which his spirit, address, insinuation and application had greatly distinguished him and acquired a large number of adherents, by whom he had so long balanced the power of Government at a moment when Opposition had in a manner given up the contest in Parliament.' See Steuart ed., *Last Journals*, i, 301.

¹⁴⁵ Ian Christie, 'The Changing Nature of Parliamentary Politics, 1742-1789,' in Jeremy Black ed., *Politics and Society from Walpole to Pitt, 1742-1789* (Basingstoke: Macmillan, 1990): 117; Lawson, *East India Company: A History* (London: Longman, 1993): 121; and O'Gorman, *Rise of Party in England*, 298.

that comprehended the Company's new circumstances as a sovereign power in India. George III, for one, was rather pleased with his minister's legislation. He reflected that it 'seems to me to be as perfect as the first attempt of redressing the dreadful evils that the rapacity of individuals have occasioned, and by annual additions may in the end in some degree curb if not eradicate what otherways must render that trade the ruin, instead of a source of restoring the finances, of this Country.'¹⁴⁶ Even Lord Chatham seemed to agree. Although he felt that the regulations were '*defective and faulty*', he could not help but praise the fact that North had at least made 'an attempt towards reformation in a case so urgent.'¹⁴⁷ Two factors mentioned here are crucial: first, the continued belief, despite the Company's near-bankruptcy, that it could still provide much-needed financial relief to the British state, and secondly that North's Act would have to be revisited annually, or at least regularly, in order to provide effective oversight and reform.¹⁴⁸ North, himself, tempered expectations in the debate on the bill's third reading. He argued that no single measure could resolve the problems resulting from the Company's acquisition of an empire in India. Rather, he declared to Parliament that 'Bengal & the Indian Continent are going to be one of the great, constant objects of parliamentary attention.'¹⁴⁹ Burke recognised the same features in North's plans. He referred to the Regulating Act as 'very crude and very confused' but feared that the administration wished to tinker with their plan in order to commit 'further infractions of the Charter,' and procure 'further additions to the power of the Crown.'¹⁵⁰

¹⁴⁶ King George III to Lord North, 3 May 1773 in Fortescue ed., *Correspondence of George III*, ii, 480.

¹⁴⁷ Earl of Chatham to the Earl of Shelburne, 17 June 1773 in BL, Bowood Papers, Add. MS. 88906/1/7, f. 28. Huw Bowen evaluates it in a similar manner, albeit casting some aspersion upon Chatham and North's predecessors in office for not having attempted the same. See his *Revenue and Reform*, 187.

¹⁴⁸ In a letter to North on 29 May 1773 George III repeated these sentiments, hoping that the Regulating Act would 'introduce a continual inspection from Parliament into the State of the Company which alone can save it from destruction.' See Fortescue ed., *Correspondence of George III*, ii, 492-493. See also King George III to Lord North, 11 June 1773 in *Ibid.*, 500-501.

¹⁴⁹ Speech of Lord North, 10 June 1773 in BL, Egerton MS 250, ff. 242-243.

¹⁵⁰ Edmund Burke to the Committee of Correspondence of the General Assembly of New York, 2 July 1773 in Sutherland ed., *Burke Correspondence*, ii, 442.

V. 'NORTH'S REGULATING ACT IN OPERATION'

As it happened, the East India Company did not receive as regular and comprehensive attention from Parliament as North had envisioned. Between 1774 and 1781, the Company received nothing approaching the sustained consideration of the flashpoint moments in 1767 and 1773. Part of the reason for this lies in one element of the reforms themselves. In order to assist the Company financially the ministry passed the Tea Act on 10 May 1773, granting the Company's request to be allowed to re-export tea to America duty-free. The legislation also allowed the Company itself to ship and sell the tea in America, whereas previously they had been required to sell the tea to merchants in Britain who would then export it to America.¹⁵¹ Despite the requests of the Company and criticism of opposition in the Commons, North refused to take off the American tea duty, arguing that '[i]f the East India Company will export tea to America, they will very much increase that duty, and consequently very much facilitate carrying on government in that part.'¹⁵² North's goal was to solve the issues of revenue in America and provide an outlet for the transmission of the Bengal revenues through the article of tea in a single piece of statesmanlike legislation. However, the Americans were alarmed at what many saw as an attempt to use the East India Company to establish a form of despotism and tyranny in the western part of the Empire just as they had in the east.¹⁵³ As is well known, such feelings boiled over, leading to the destruction of the tea in Boston harbour and the refusal to accept it in other American ports. The ministerial backlash against the destruction of private property placed the American colonies and Britain

¹⁵¹ Speech of Lord North, 26 April 1773 in BL, Egerton MS 246, ff. 1-2.

¹⁵² Speech of William Dowdeswell, 26 April 1773 in *Ibid.*, ff. 4-5.

¹⁵³ See 'Hampden' *The Alarm. Number II.* (New York, 1773); and 'Hampden' *The Alarm, Number IV.* (New York, 1773); John Norton to Peyton Randolph, Robert Carter Nicholas, and Dudley Diggs, 6 July 1773 in Frances Norton Mason ed., *John Norton & Sons Merchants of London and Virginia: Being the Papers from their Counting House for the Years 1750 to 1795* (Devon: Latimer Trend & Co., 1968): 337.

on a course towards armed conflict.¹⁵⁴ The resulting engrossment of ministerial and political attention upon the more pressing issue of the rebellion in the American colonies played a considerable role in preventing Parliament from revisiting the terms of the Regulating Act.

Another factor precluding due consideration of the East India Company's affairs through the latter part of the 1770s and the early 1780s was Lord North's unwillingness to engage in the difficulties of reforming the Company while his ministry was under heavy attack over its handling of American and Irish questions. The correspondence and reports of meetings from the period seem to suggest that North was experiencing debilitating bouts of depression.¹⁵⁵ This was probably brought on by the burdens of office and not least by the fact that he was being pressured by the King to continue to prosecute and take responsibility for a war against fellow subjects in America, to which he had become increasingly opposed.¹⁵⁶ North's 'indolence', as it was often termed at the time, resulted in a series of temporary arrangements being made with the Company in the early 1780s, extending the provisions of the Regulating Act a year at a time in anticipation of a more significant reappraisal of the Company's affairs.

It would be wrong, however, to conceive of this period as one in which the Company's affairs were absent from British politics. While they were certainly

¹⁵⁴ P.D.G. Thomas, *Tea Party to Independence: The Third Phase of the American Revolution, 1773-1776* (Oxford: Clarendon Press, 1991); on the Boston Tea Party, see Benjamin Woods Labaree, *The Boston Tea Party* (Oxford: Oxford University Press, 1964); and Benjamin L. Carp, *Defiance of the Patriots: The Boston Tea Party and the Making of America* (New Haven, CT: Yale University Press, 2010).

¹⁵⁵ For instances of North's depression, see Alexander Wedderburn to William Eden, [n.d. ca. 1779] in BL, Auckland Papers, Add. MS. 46491, f. 84; John Robinson to Charles Jenkinson, 20 April 1780 in BL, Loan MS, 72/29, ff. 29-30; Lord North to King George III, 18 May 1780 in Fortescue ed., *Correspondence of George III*, v, 60-61; John Scott to Warren Hastings, 26 June 1782 in BL, Hastings Papers, Add. MS. 29154, ff. 496-505; John Crawford to Henry Dundas, [n.d. early 1782] in NRS, Melville Papers, GD51/1/1; John Robinson to King George III, 19 September 1777 in Eridge Park, Robinson Papers, No. 146.

¹⁵⁶ See, for example, the correspondence between George III and Lord North in February and March 1778, in particular Lord North to King George III, [29 January 1778] in Fortescue ed., *Correspondence of George III*, iv, 28. See also Stephen Conway, 'From Fellow-Nationals to Foreigners: British Perceptions of the Americans, circa 1739-1783,' *WMQ* 59, no. 1 (2002): 65-100.

dwarfed by the attention given to the American Revolutionary War, which by 1778 had developed into a truly global conflict, the Company's affairs remained an important topic of political discussion. In many ways, the decade in which the Regulating Act governed the relations between the Company and the British state resulted in the consolidation of the Company's affairs as a central component in contemporary constitutional discourse. The American War, while it drew attention away from East India affairs, also had the effect of entrenching the belief that the opulence of the East Indies could prove to be the 'salvation' of Britain. Many commentators began to see the Company's empire as a compensation for the expected loss of Britain's dominions in the west.¹⁵⁷ Furthermore, the Company, its patronage, and its revenues became increasingly entangled in the movement for economical reform.

The early relationship between the state and the Company following the acquisition of substantial territories in Bengal had developed to include mutually beneficial patronage arrangements. Ministers, or even prominent opposition politicians, could often get friends or dependants appointed to writerships or cadetships (the lowest positions among the Company's covenanted servants) while Company directors often received, in return, either seats in Parliament, government contracts, or, at the very least, support in the next election at India House.¹⁵⁸

¹⁵⁷ See the Minutes of the Council of Fort William, 22 June 1778 in BL, North (Sheffield Park) Papers, Add. MS. 61865, ff. 99-105; *Annual Register* (1781): 192; Samuel Pechell to Warren Hastings, 27 November 1781 in BL, Hastings Papers, Add. MS. 29151, ff. 410-413; Alexander Macaulay to Lord Lewisham, 17 March 1783 in HMC, *Eleventh Report, Appendix, Part V. The Manuscripts of the Earl of Dartmouth* (London: Her Majesty's Stationery Office, 1897), iii, 265-266; and Thomas Graham to Warren Hastings, 24 June 1782 in NLS, Kinross MSS, GD29/2140; 'On India Affairs' in *St. James's Chronicle or the British Evening Post*, 6 November 1781; 'Postscript. Retrospect of Politics. No. XXVIII' in *London Packet or New Evening Post*, 29 July 1782.

¹⁵⁸ See, for instance, Laurence Sullivan to the Earl of Shelburne, 7 September 1761 in BL, Bowood Papers, Add. MS 88906/3/24, f. 56 and Laurence Sullivan to the Earl of Shelburne, 2 November 1761 in *Ibid.*, f. 60; Lord Clive to George Grenville, 13 December 1763 in W.J. Smith ed., *The Grenville Papers: being the correspondence of R. Grenville, Earl Temple, and the Rt. Hon. G. Grenville, their friends and contemporaries* (London: John Murray, 1852), ii, 183; George Grenville to Lord Holland, 8 February 1765 in John R.G. Tomlinson ed., *Additional Grenville Papers, 1763-65* (Manchester: Manchester University Press, 1962. For cases in which prominent opposition politicians were courted, see Sir George Colebrooke to the Duke of Portland, [ca. 5 January 1770] in Nottingham, Portland

Following the passage of North's Regulating Act, this symbiotic relationship between the Company and the state was considerably strengthened by the government's attempts to supervise the Company's affairs through the management of the election of directors, their policies, and their appointments. It was widely believed that several provisions in the Act, particularly those reducing the number of stockholders eligible to vote and increasing the duration of the directors' terms of office, were designed to assist government in its attempts to manage the Company.¹⁵⁹ Isaac Barré, who was a hesitant supporter of North's Regulating Act in 1773, pointed out the following year that, 'his lordship's secretary [John Robinson]...has nothing to do but to go with the least hint or intimation that such promotions would be agreeable to the treasury, they are obeyed.' The Crown, he argued, had 'filched the power and patronage of that Company' instead of utilising its resources for the benefit of the nation as a whole.¹⁶⁰ In a candid exchange on the same subject several years later, North denied that he had 'filched or sought patronage' from the Company, but admitted that '[h]is situation...as a minister, gave him a sort of relationship to the Company,' and that he had 'sometimes recommended, and his friends had sometimes been obliged'. He maintained, however, that 'the patronage of the Company was not in him.'¹⁶¹ The view from those within the Company was that 'ministerial Interest...is now the only Mode of

(Welbeck) Papers, Pw F 2988; see also Robert Jones to Lord North, 9 March 1770 in BL, North (Sheffield Park) Papers, Add. MS. 61866, f. 2.

¹⁵⁹ See, for example, George Dempster to Sir Adam Fergusson, 31 January 1774 in Fergusson ed., *Letters from George Dempster to Adam Fergusson*, 80-81; and letter 'To the Proprietors of East-India Stock' in *Morning Chronicle*, 12 April 1775; for evidence of the government's management of the Direction, see in particular, Lord North to John Robinson, 6 April 1776 in Eridge Park, Robinson Papers, No. 102.

¹⁶⁰ Speech of Isaac Barré, 18 May [1774] in *Cobbett*, xvii, col. 1339. John Robinson played a crucial role in this period, as Lord North's Treasury Secretary, in managing the government's interests in the East India Company. For more on Robinson, see Ian Christie, *Myth and Reality in Late Eighteenth-Century British Politics and Other Papers* (London: Macmillan, 1970): 145-182; Andrew Connell, 'John Robinson (1727-1802), Richard Atkinson (1739-85), Government, Commerce and Politics in the Age of the American Revolution: 'From the North,' *Northern History* 50, no. 1 (2013): 54-76; and Andrew Connell, "'The Potent Spirit of the Black-browed Jacko": New Light on the Impact of John Robinson on High Politics in the Era of the American Revolution, 1770-84,' *Historical Research* 86, no. 232 (May 2013): 292-312.

¹⁶¹ Speech of Lord North, 19 May 1779 in *Cobbett*, xx, cols. 658-659.

getting preferment.’¹⁶² James Macpherson cryptically informed Warren Hastings in Bengal that ‘safety, neither comes from the East, or the West, but from the *North*...[t]he old form of government remains, ostensibly, in Leadenhall Street; and the spring, which moves the machine, is in the treasury.’¹⁶³ It became, as Charles James Fox reported, notorious, ‘that the first lord of the Admiralty [Sandwich], and the Treasury...[attempted] to manage all questions at the India-house.’¹⁶⁴ Despite its relative moderation and the limited degree to which, at least *prima facie*, it impinged upon the rights and patronage of the Company, the Regulating Act came to be widely viewed in the manner in which the opposition had criticised it in 1773—not only woefully inadequate to the purposes of reform but also clearly directed towards augmenting the power and patronage of the Crown.

Although the Company had only narrowly escaped bankruptcy in 1773, there remained a persistent belief that it could still rescue Britain from the mountainous debt under which it laboured. Indeed, it had been argued at the time that the Company’s bankruptcy was caused by the speculation of their servants in India and that they deserved punishment, not for eating into the Company’s profits, but rather for squandering the opportunity for the British state to pay down its burgeoning national debt.¹⁶⁵ The onset of the War of American Independence strengthened the perceptions of the relative importance of the empire acquired by the Company in India. The loss, and before that even the expected loss, of the American colonies, fortified the view, already prevalent following the failure of American taxation in the 1760s, that the Company would be the salvation of the British Empire.¹⁶⁶ By the

¹⁶² William Dalrymple to John Graham, 20 November 1775 in NRS, Kinross MSS, GD29/2127.

¹⁶³ James Macpherson to Warren Hastings, 20 January 1782 in BL, Hastings Papers, Add. MS. 29152, f. 425.

¹⁶⁴ Speech of Charles James Fox, 6 March 1780 in *Cobbett*, xxi, cols. 160-161; see also letter signed ‘Old Steady’ in *Public Advertiser*, 17 July 1776; and Alexander Dalrymple, *Considerations on the present state of affairs between England and America* (London, 1778): 13-14.

¹⁶⁵ See, for instance, the letter signed ‘An Enemy to East-India Oppression’ in *Gazetteer and New Daily Advertiser*, 26 March 1772.

¹⁶⁶ See letter signed ‘Junius’ in *Morning Post*, 21 April 1783; and letter signed ‘Phocion’ in *Public Advertiser*, 28 November 1783.

time news arrived of Cornwallis's surrender at Yorktown, even ministers had begun to 'look upon the East as an indemnification of the loss we are likely to suffer in the West.'¹⁶⁷ The American War was turning enormously unpopular and was beginning to be seen as a 'drain to the strength and treasures of Great-Britain.'¹⁶⁸ In contrast, both policy-makers and commentators alike continued to see the 'empire in the East' as a vast source of wealth along the very same lines reported by Clive in 1766.¹⁶⁹ Well into the 1780s, the demand for further revenues was a considerable factor influencing British policies towards the East India Company. With Britain facing losses across the globe, the Company's territories in India came to be seen as 'the prop of all its Glory.'¹⁷⁰

As the rhetoric concerning the Empire turned toward the idea that the 'east' was compensating for the loss of the 'west,' there were growing concerns that the North ministry was also attempting to offset its former American patronage with that of the East Indies.¹⁷¹ Even Edmund Burke, for example, called upon Philip Francis, one of the Supreme Councillors appointed by North's Regulating Act, to utilise his 'Wisdom, diligence and fortitude...to compensate to us in the East what we have lost irrecoverably in the West.'¹⁷² Nonetheless, both positive and negative views emerged, concerning the potential for the East India Company to supply the patronage appointments lost by the rupture with the American colonies in the mid-1770s. Historians, too, disagree about the value and extent of patronage available to the British state from the North American colonies. Some follow Stephen Saunders

¹⁶⁷ Samuel Pechell to Warren Hastings, 27 & 28 November 1781 in BL, Hastings Papers, Add. MS. 29151, ff. 410-413, 430-431.

¹⁶⁸ *London Packet or New Evening Post*, 29 July 1782.

¹⁶⁹ John Robinson to Charles Jenkinson, 7 February 1781 in BL, Liverpool Papers, Add. MS. 38215, f. 188; see also *Public Advertiser*, 23 March 1779.

¹⁷⁰ Thomas Graham to John Macpherson, 8 August 1782 in NRS, Kinross MSS, GD29/2140.

¹⁷¹ Thomas Graham to Warren Hastings, 24 June 1782 in NRS, Kinross MSS, GD29/2140; for similar rhetoric, see Alexander Macaulay to Lord Lewisham, 17 March 1783 in *HMC Dartmouth*, iii, 265-266; and Henry B. Wheatley ed., *The Historical and Posthumous Memoirs of Sir Nathaniel Wraxall, 1772-1784* (London: Bickers & Son, 1884) iii, 3.

¹⁷² Edmund Burke to Philip Francis, 24 December 1778 in John A. Woods ed., *The Correspondence of Edmund Burke. Volume IV, July 1778-June 1782* (Cambridge: Cambridge University Press, 1963): 33.

Webb's model of a substantial 'garrison government' or, as David Armitage usefully corrected, an 'opportunity state' having been set up in the British North American colonies for current and former military officers, and others have factored in the increasingly important customs officials and government contractors.¹⁷³ Bernard Bailyn saw the American colonies as part of a 'complex pan-Atlantic political system...at the heart of eighteenth-century British politics.'¹⁷⁴ On the other hand, many scholars have noted the relatively small number of crown officials in the colonies, which can be attributed, in part, to the difficulty, traced by Cain and Hopkins's work, of 'exporting the revolution settlement, and...reconciling expanding financial and commercial interest with centralizing political tendencies.'¹⁷⁵

Nonetheless, many contemporaries on both sides of the Atlantic certainly felt that the Crown had a considerable amount of patronage at stake in its struggle to retain the American colonies.¹⁷⁶ Generally, the arguments were negative and argued that, having been deprived of the American patronage the ministers were seeking to

¹⁷³ Stephen Saunders Webb develops the concept of 'garrison government' in *The Governors-General: The English Army and the Definition of the Empire, 1569-1681* (Chapel Hill, NC: University of North Carolina Press, 1987); see David Armitage's corrective in 'Greater Britain: A Useful Category of Historical Analysis,' *AHR* 104, no. 2 (April 1999): 442. For those who emphasise the commercial aspect, see T.H. Breen, 'Ideology and Nationalism on the Eve of the American Revolution: Revisions *Once More* in Need of Revising,' *Journal of American History* 84 (1997): 22-23; Jacob M. Price, 'Who Cared About the Colonies? The Impact of the Thirteen Colonies on British Society and Politics, circa 1714-1775,' in Bernard Bailyn and Philip D. Morgan eds., *Strangers within the Realm: Cultural Margins of the First British Empire* (Chapel Hill, NC: University of North Carolina Press, 1991): 404; and Oliver M. Dickerson, 'Use Made of the Revenue from the Tax on Tea,' *New England Quarterly* 31, no. 2 (1958): 235.

¹⁷⁴ Bernard Bailyn, 'The Idea of Atlantic History,' *Itinerario* 20, no. 3 (1996): 37-38.

¹⁷⁵ P.J. Cain and A.G. Hopkins, 'Gentlemanly Capitalism and British Expansion Overseas, I, The Old Colonial System, 1688-1850,' *Economic History Review* 39, no. 4 (1986): 521; see also C.A. Bayly, *Imperial Meridian: The British Empire and the World, 1780-1830* (London: Longman, 1989): 89-93; and Aaron Graham, 'Corruption and Contractors in the Atlantic World, 1754-1763,' *EHR* 133, no. 564 (2018): 1093-1119.

¹⁷⁶ Jonathan Eacott has identified several American newspapers containing the same sentiments discussed in their British context here, see his *Selling Empire*, 235. He notes, in particular, the *Massachusetts Spy: Or, Worcester Gazette*, 22 January 1784.

replace it with a new fund of corruption from the East.¹⁷⁷ They were, in a sense, simply an extension of the existing arguments against the increasing influence of the Crown, albeit one that considered the British state's involvement in a global system of imperial patronage. Several examples, however, swam against this strong current of opinion. One pamphleteer argued that since 'that patronage has nearly set in the West, it may rise again in the East, without any alteration in the former equilibrium.'¹⁷⁸ The loss of the American colonies, then, could be construed as providing a strong constitutional argument for the British state not only regulating, but taking upon itself the governance of the Company's affairs in order to restore the desired constitutional equipoise.¹⁷⁹ This argument, however, was unlikely to resonate with those who felt the power of the Crown was overbearing even without the consideration of colonial patronage. It appears to have been far more commonly believed that if the ministry attempted to govern the East Indies as they had tried to govern America, that is, as a 'military province...under the patronage of the Crown,' they risked losing both.¹⁸⁰ Due to the moderation of North's reforms, if the ministry were to have any control over the governance of the East Indies they would need to exercise the mechanisms of 'old corruption.'

VI. CONTRACTS AND CORRUPTION: THE EAST INDIA COMPANY AND ECONOMICAL REFORM

That the East India Company had become a major element of constitutional debates in late-eighteenth century Britain is emphasised by its role in the movement for

¹⁷⁷ See Joseph Price, *A Letter to Edmund Burke, Esq.; On the latter Part of the Late Report of the Select Committee on the State of Justice in Bengal* (London, 1782): 49; and 'Letter V. To the Proprietors of East-India Stock' signed 'An Independent Proprietor' in *Morning Chronicle*, 3 May 1782.

¹⁷⁸ *Thoughts on Improving the Government of the British Territorial Possessions in the East Indies* (London: T. Cadell, 1780): 14.

¹⁷⁹ Letter signed 'Junius' in *Morning Post*, 21 April 1783; Andrew Stuart, *Considerations on the Present State of East-India Affairs by a Member of the Last Parliament* 2nd ed. (London: John Stockdale, 1784): 47.

¹⁸⁰ Speech of Edmund Burke, 31 May 1779 in *Cobbett*, xx, cols. 824-825.

economical reform. Earl Reitan's work has shown the deep connections between the rise of the economical reform movement and the lack of British success despite gross expenditure in the American War.¹⁸¹ Much less attention, however, has been paid to the extent to which the widespread perception that the East India Company had significantly augmented the Crown's patronage, shaped the debates leading up to the passage of John Dunning's famous motion that 'the influence of the Crown has increased, is increasing, and ought to be diminished.'¹⁸² While Rubinstein's influential article on the end of 'Old Corruption' mentions the importance placed on the East India Company and other 'closed municipal corporations' in the radical political writings of the period, he does not elaborate on the subject.¹⁸³ However, when one considers that one of the major aims of the economical reform movement was to 'cut off the *Ways and Means of Corruption*' in order to put an end to the '*Corruption of Men when chose into Parliament*' it is not difficult to see how the East India Company's bountiful patronage loomed large in the minds of contemporaries.¹⁸⁴ Debates on the East India Company overlapped with those of the economical reform movement in two ways. First was the means through which the ministry attempted to control the Company during the course of the Regulating Act, most notably in the awarding of contracts to prominent directors. Secondly, the Company's affairs intersected with the cause of economical reform on the issue of wasteful spending in the context of the commissioners for public accounts and the abolition of various offices. These coincided with the two major objects of the economical reform movement, as introduced by John Dunning on 6 April 1780:

¹⁸¹ Earl A. Reitan, *Politics, Finance, and the People: Economical Reform in the Age of the American Revolution, 1770-92* (Basingstoke: Palgrave Macmillan, 2007): 1, 31.

¹⁸² Ian Christie's 'Economical Reform and the "Influence of the Crown," 1780' *HJ* 12, no. 2 (1956): 144-154, does not make any mention of the involvement of the East India Company; nor does D.L. Keir's, 'Economical Reform, 1779-1787,' *Law Quarterly* 50, no. 199 (1934): 368-385; or Dennis Stephen Klinge's 'Edmund Burke, Economical Reform, and the Board of Trade, 1777-1780,' *The Journal of Modern History* 51, no. 3 (1979): 1185-1200.

¹⁸³ W.D. Rubinstein, 'The End of "Old Corruption" in Britain 1780-1860,' *Past & Present* 101 (1983): 55-86; Philip Harling uses virtually the same phrase, pursuing it no further in, 'Rethinking "Old Corruption",' *Past & Present* 147 (1995): 143.

¹⁸⁴ Marquess of Rockingham to Pemberton Milnes, 28 February 1780 in Sheffield Archives, Rockingham Papers, WWM/R/1/1881.

‘setting limits or paring down the increased, dangerous and alarming influence of the crown, and an œconomical expenditure of public money.’¹⁸⁵

In showcasing aspects of the growing influence of the Crown that he felt were particularly repugnant, Dunning pointed out in his famous speech that the East India Company’s patronage had become a ‘great source of influence...Directors were made contractors, and contractors directors, to serve the purposes of ministers.’¹⁸⁶ For the politically astute and particularly those associated with the opposition to the directors in East India House, these were not new revelations. As early as 1776, newspapers were reporting that six contracts, each worth a reported £7500 per year, were ‘lavished upon as many directors’ and that two among those directors were designated to replace Hastings and Barwell in the seats on the Supreme Council. They concluded, therefore, that ‘Reformation in the East is to be commenced by Corruption in England.’¹⁸⁷ Another writer noted that such contracts were ‘a Thing till now unheard of’ and formed a part of the Minister’s plot to gain ‘by Degrees that supreme Dominion in Leadenhall-street’ which will result through ‘the Extent of his *Goodness*...in the utter Ruin of the Company.’¹⁸⁸ Far from being confined to the artful squibs traded between opponents for the Company’s leadership, such characterisations of directors as ‘ministerial’ became a part of the strategies in the internal power struggles between those who supported the rights of the Company (and thereby Warren Hastings and Richard Barwell’s presence in the Supreme Council) and those who wanted to replace them with candidates more willing to tow the government line. George Vansittart, reporting the results of the Company’s election of directors in 1777 to Warren Hastings, noted that ‘Wombwell

¹⁸⁵ Speech of John Dunning, 6 April 1780 in *Cobbett*, xxi, cols. 340-341.

¹⁸⁶ Speech of John Dunning, 6 April 1780 in *The New Annual Register, or General Repository of History, Politics, and Literature, For the Year 1780* (London: G. Robinson, 1781): 250; and *The Universal Magazine of Knowledge and Pleasure*, April 1780, 201. See also, Norman Baker, *Government and Contractors: The British Treasury and War Supplies 1775-1783* (London: Athlone Press, 1971).

¹⁸⁷ Letter ‘To the Proprietors of East-India Stock’ signed ‘Old Steady’ in *Public Advertiser*, 17 July 1776

¹⁸⁸ Letter signed ‘An Independent Proprietor’ in *Public Advertiser*, 22 July 1776.

is Chairman & Devaynes Deputy, both ministerial men enjoying government contracts.’¹⁸⁹

Indeed, George Wombwell’s government contracts for victualling troops in America and Gibraltar during the American War became something of a symbol for the attempts to exclude contractors from the House of Commons (see figure 1.2).¹⁹⁰ Wombwell was brought into the House of Commons under the interest of Lord Sandwich and voted consistently with government. He was exposed to ridicule, however, when he stood up in the House of Commons and objected to the idea of putting contracts up for bidding. He claimed that in his experience of giving contracts through such a method in the East India Company, ‘[m]en inadequate to the accomplishment of the contracts, would at all times bid lower than men of ability and reputation, and they would do much more injury by serving the public badly, than the difference of the expence.’¹⁹¹ Thomas Townshend, who it will be remembered reluctantly supported North’s Regulating Act in the belief that it did not provide any augmentation to the influence of the Crown, was now firmly convinced otherwise.¹⁹² He politely reminded the House that Wombwell was himself a government contractor and subsequently insinuated that if he were to receive his just desserts he would be standing at the bar of the House rather than occupying one of its seats.¹⁹³ Such contracts, however, became entangled in the opposition narrative that Lord North was utilising the ‘power, riches, and patronage of the Company’ to support the war in America. The ‘nabobs of Leadenhall-street,’ declared Shelburne,

¹⁸⁹ George Vansittart to Warren Hastings, 21 April 1777 in BL, Hastings Papers, Add. MS. 29138, f. 342. A letter signed by a number of candidates in the so-called ‘Proprietors’ List’ of the opposition in the East India Company called attention to the government contracts held by many sitting directors, calling them ‘unconstitutional and insulting.’ See *Public Advertiser*, 11 April 1780.

¹⁹⁰ See, Norman Baker, *Government and Contractors: The British Treasury and War Supplies, 1775-1783* (London: Athlone Press, 1971): 32-34; Namier and Brooke eds., *The House of Commons 1754-1790: III Members K-Y*, 655; and Gordon-Parker, ‘Directors of the East India Company, 1754-1790,’ (Unpublished Ph.D. thesis, University of Edinburgh): 322-323.

¹⁹¹ Speech of George Wombwell, 5 May 1778 in *Cobbett*, xix, cols. 1096-1097.

¹⁹² See his speech on 16 April 1777 in *Ibid.*, col. 134.

¹⁹³ Speech of Thomas Townshend, 5 May 1778 in *Ibid.*, col. 1097.

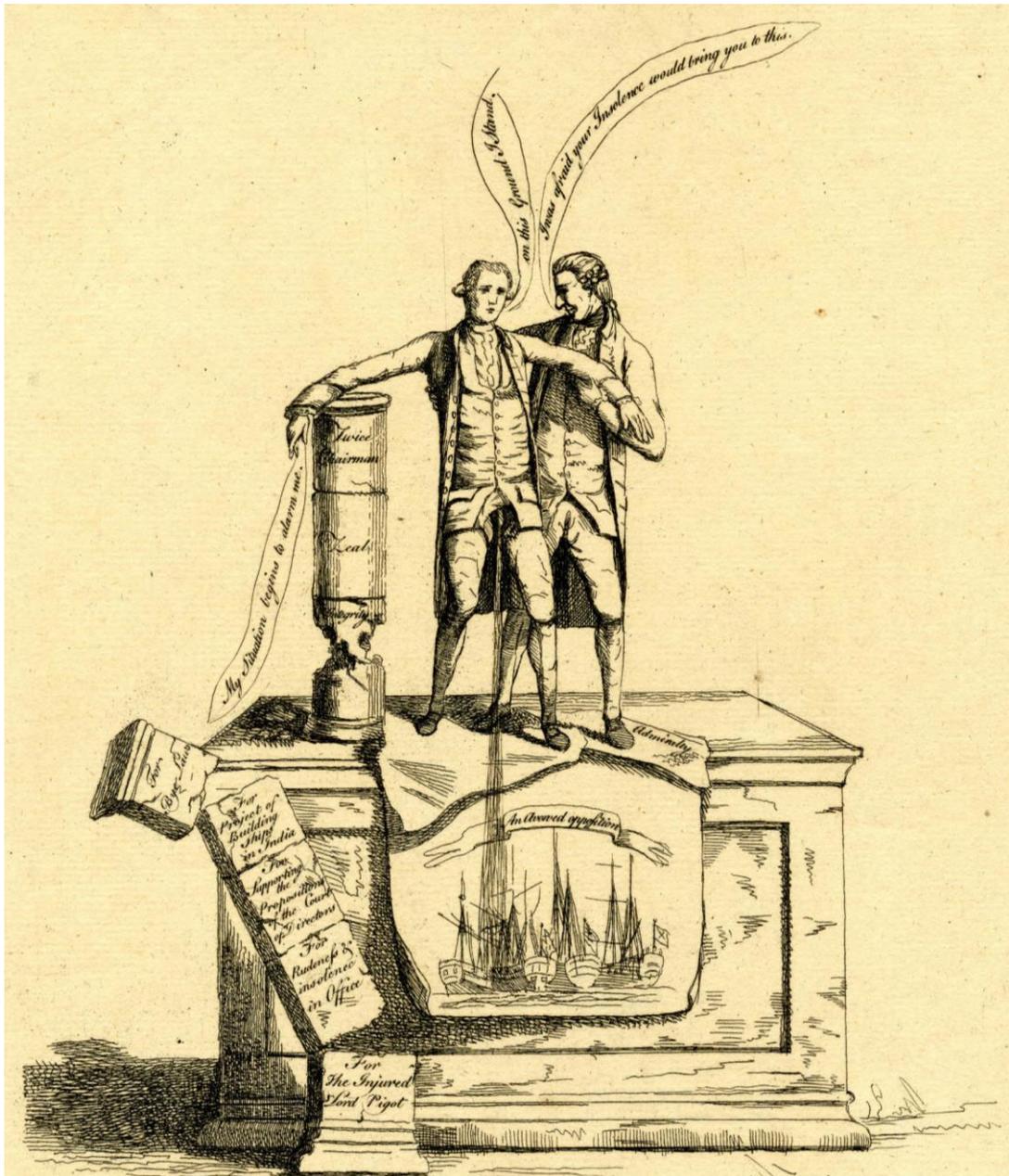


Figure 1.2. 'A Scene in Leadenhall Street, Humbly Inscribed to Sir George Wombwell Baronet, by the Engraver,' 29 March 1780. BM Satires 5655 © Trustees of the British Museum. This print shows Sir George Wombwell (left) being supported by his patron, the Earl of Sandwich, as he urinates over a paper depicting four ships, a reference to the opposition's attacks on Sandwich's conduct as First Lord of the Admiralty. Wombwell's integrity, represented as the bottom portion of the pillar supporting his right arm, is almost entirely eroded. Below them both is a collapsing pillar detailing aspects of Wombwell's ill conduct as chairman of the East India Company.

‘not content in the pillage of the East’, were now ‘plunging us into a war to enable them to pillage the West.’ The contracts, it was argued, solidified their support by ensuring that they had a vested monetary interest in continuing the war.¹⁹⁴ The opposition to Members of Parliament possessing government contracts was eventually successful when Philip Jennings Clerke’s Bill passed in 1782. The result, however, was that many MPs holding contracts chose to give up their contracts rather than lose their seats in Parliament.¹⁹⁵

The other major aspect of economical reform which intersected with debates on the East India Company was in the attempts to curtail what many considered to be wasteful public expenditure through the creation of commissioners of public accounts and the abolition of sinecurial offices.¹⁹⁶ Under the reasonable guise of discussing accountability in the disposal of public funds, the opposition took the opportunity to weave together their narrative against the influence of the Crown. Rockingham argued that it was not in domestic policy, but rather in ‘the system as applied to the measures pursued against America and the East India Company... that the plan of extending the influence of the crown, already become enormous and truly alarming, blazed forth in all its odious colours.’¹⁹⁷ Speaking more to the question at hand, Rockingham argued that in adopting their measures towards the East India Company, the ministry were guided neither by the desire for a revenue nor to ‘alleviate the public burdens’. The sum of £400,000 per year, thought so dangerous in 1767, was now considered so ‘paltry’ that the government was willing to give it up so long as they could aggrandise the influence of the Crown through the

¹⁹⁴ Speech of the Earl of Shelburne, 16 April 1778 in *Ibid.*, col. 184.

¹⁹⁵ Reitan, *Politics, Finance, and the People*, 103. This, among other economical reform measures has resulted in many historians commenting on the inefficacy of the legislation emanating from the movement. See Richard Pares, *Limited Monarchy in Great Britain in the Eighteenth Century* (London: The Historical Association, 1959): 27; Betty Kemp, ‘Crewe’s Act, 1782,’ *EHR* 68, no. 267 (1953): 258-263.

¹⁹⁶ On the commissioners and their activities, see John Torrance, ‘Social Class and Bureaucratic Innovation: The Commissioners for Examining the Public Accounts 1780-1787,’ *Past and Present* 78 (1978): 56-81; and Philip Harling, *The Waning of ‘Old Corruption’: The Politics of Economical Reform in Britain, 1779-1846* (Oxford: Oxford University Press, 1996): chapters. 2-3.

¹⁹⁷ Speech of the Marquess of Rockingham, 8 February 1780 in *Cobbett*, xxi, col. 1347.

deployment of the Company's patronage.¹⁹⁸ Rockingham concluded that the administration, therefore, that had 'so shamefully wasted and mis-spent the public treasure, entertained [not] a single idea of relieving the people, whom, in every other instance, they had so heavily burdened and oppressed.'¹⁹⁹ Shelburne, who had helped to negotiate the agreement with the Company in 1767 and who had reluctantly agreed with North's Regulating Act, now argued that the '[m]inisters and directors had secretly joined in a confederacy to prostitute the interests...of the proprietors...[and] the public.'²⁰⁰

In another aspect of the same debate in the House of Commons, Edmund Burke and others found occasion to attack the inefficacy of the Board of Trade, arguing that it had been transformed into a series of sinecure offices.²⁰¹ Burke rather rhetorically asked the House of Commons whether the Board of Trade had a role in drafting any of the legislation directed toward the East India Company since 1767. 'Did any one dream of referring them, or any part of them thither? Was any body so ridiculous as even to think of it?'²⁰² By 1780, however, even so prominent an imperial theorist as Thomas Pownall was arguing that to discuss the Board of Trade's 'superintendence over the settlement of Africa and the affairs of the East India Company...would be to libel and caricature the board.'²⁰³ Nonetheless, just as in the case of the contractors, by 1782 Edmund Burke had succeeded in passing legislation to abolish the Board of Trade. These measures, among other pieces of

¹⁹⁸ *Ibid.*, cols. 1347-1348.

¹⁹⁹ *Ibid.*, col. 1348.

²⁰⁰ Speech of the Earl of Shelburne, 8 February 1780 in *Ibid.*, cols. 1327-1328.

²⁰¹ On the Board of Trade's lack of executive authority in this period, see P.J. Marshall, 'The Eighteenth-Century Empire,' in Black ed., *Politics and Society from Walpole to Pitt*, 180; and Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States 1607-1788* (Athens: University of Georgia Press, 1986): 46.

²⁰² Speech of Edmund Burke, 11 February 1780 in *Cobbett*, xxi, col. 60. Perhaps Burke had forgotten that his sometime-ally Thomas Townshend had proposed precisely that in place of the select and secret committees investigating the Company in 1772-3. See the speech of Thomas Townshend, 13 April [1772] in *Cobbett*, xvii, col. 460; the argument was also printed, though not attributed to any particular individual, in *Annual Register* (1772): 103.

²⁰³ Speech of Thomas Pownall, 13 March 1780 in *Cobbett*, xxi, col. 251. For more concerning the Board of Trade's measures towards the Royal African Company in the 1750s, see Klinge, 'Edmund Burke, Economical Reform, and the Board of Trade,' 1189.

economical legislation were perceived to have deprived ministries of much-needed patronage.²⁰⁴ Indeed, just as many had argued that the loss of the thirteen American colonies deprived the Crown of a vital source of patronage, it was also felt that the economical measures had similarly curtailed the influence deemed to be necessary for the formation of stable majorities in Parliament.²⁰⁵ Historians may disagree about the effectiveness of economical reform legislation in curbing the influence of the Crown,²⁰⁶ but contemporaries certainly believed that it forced ministers to look for alternative sources of patronage, such as that possessed by the East India Company.²⁰⁷ Such was certainly the case when, in March 1783, despite nearly a decade of vehement opposition, Charles James Fox led the remnants of the Rockingham party into a deeply unpopular coalition with Lord North. Two parties had to be pacified in the division of spoils upon the formation of the ministry, and the decade from 1773 to 1783 had seen a considerable contraction of the variety of offices available for their disposal.²⁰⁸ As Edmund Burke reminded the Duke of Portland, ‘you want supplements to places and pensions. Other Ministries have had both... You have two parties & half an establishment.’²⁰⁹ The necessity of resolving

²⁰⁴ Reitan has calculated that ‘Burke’s Act abolished 47 places tenable with a seat in the House of Commons’ affecting a total of fifty seats, but the number of members who lost their seats as a result was 22. See his *Politics, Finance, and the People*, 104.

²⁰⁵ James Macpherson to John Macpherson, 6 June 1783 in BL, Macpherson Papers, IOR MSS Eur F291/125, f. 12; see also James Macpherson to John Macpherson, 12 July 1783 in *Ibid.*, f. 17.

²⁰⁶ Keir, ‘Economical Reform, 1779-1787,’ 370-2; Klinge, ‘Edmund Burke, Economical Reform, and the Board of Trade,’ 1185-7; Reitan, *Politics, Finance, and the People*; Rubenstein, ‘The End of “Old Corruption” in Britain,’ 55-86; A.S. Foord, ‘The Waning of “The Influence of the Crown”,’ *EHR* 62, no. 245 (1947): 484-507; and Butterfield, *George III, Lord North and the People*, 196, 322.

²⁰⁷ See ‘Letter V. To the Proprietors of East-India Stock’ signed ‘An Independent Proprietor’ in *Morning Chronicle*, 3 May 1782; Joseph Price to Warren Hastings, 10 August 1782, BL, Hastings Papers, Add. MS. 29155, f. 376; John Scott to Warren Hastings, 5 February 1783, BL, Hastings Papers, Add. MS. 29158, f. 63-4.

²⁰⁸ See, for instance, *Observations on the principles and tendency of the East India bills proposed by the Right Honourable Charles James Fox, and the Right Honourable William Pitt, with short Sketches of their Political Character* (London: J. Stockdale, 1784): 39-40.

²⁰⁹ Edmund Burke to the Duke of Portland, 11 April 1783 in F.P. Lock ed., ‘Unpublished Burke Letters (III), 1763-96,’ *EHR* 118, no. 478 (2003): 957.

such a conundrum, was widely believed to be the impetus behind their first substantial piece of legislation, Fox's infamous India Bill of 1783.²¹⁰

CONCLUSION

When the American War and economical reform were seen to have deprived the ministry of the patronage required to form stable administrations, the opposition accused them of looking to the East India Company as a mode of compensation each time they attempted to reform its affairs. After being forced into intervening in the Company's governance by financial crises and revelations of maladministration, the hesitant ministry of Lord North drafted innovative legislation designed to reform the Company with as little impact as possible upon the constitutional equipoise in Britain. Such constitutional fears ensured that North's Regulating Act was moderate enough to obtain the support of independent parliamentarians and many important stockholders in the Company. However, these same elements of moderation which restricted the extent to which the ministry's reforms impinged upon the Company's independence also forced it to engage with the machinery of 'old corruption' in order to ensure that it possessed any substantial influence in the Company's major decision-making bodies. Far from being merely an opposition shibboleth, therefore, concerns that reforming the East India Company could result in a dramatic augmentation of the influence of the Crown actually helped to shape the moderate contours, and therefore also the ineffectiveness of early reform legislation.

This chapter has revealed the extent to which East India reform was intimately linked with domestic constitutional issues and the ways in which they were mutually constitutive in this period. The analysis herein, it is hoped, could prove a basis for further studies of how the domestic Constitution was influenced by

²¹⁰ L.V. Harcourt ed., *The Diaries and Correspondence of the Rt. Hon. George Rose* (London: Richard Bentley, 1860), i, 43; see also James Macpherson to John Macpherson, 6 June 1783 in BL, Macpherson Papers, F291/125, f. 12; Francis Dobbs, *A Letter to Lord North and Mr. Fox* (London: J. Stockdale, 1784): 8-9; and Wheatley ed., *Wraxall Memoirs*, iii, 145-146.

empire. By viewing North's reforms as the initiation of a process of reform rather than an achievement of a goal, this chapter has also sought to expand the analysis of the politics of East India reform beyond the traditional end-date of 1773. The very operation of the Regulating Act, steeped as it was in corruption, fed into the opposition discourse surrounding the necessity of parliamentary and economical reform in ways which have been neglected by historians who have focused almost exclusively on the domestic contexts of these movements. The culmination of these movements with the re-emergence of East India reform as the predominant issue in British politics upon the fall of Lord North's ministry in 1782 set the stage for the crisis of the constitution which forms the subject of the following chapter.

CHAPTER II

A 'FOURTH ORDER OF THE COMMON-WEALTH'? EAST INDIA COMPANY REFORM AND THE CRISIS OF THE CONSTITUTION, 1783-1784

[I]f we are not able to contrive some method of governing India well, which will not of necessity become the means of governing Great Britain ill, a ground is laid for their eternal separation; but none for sacrificing the people of that country to our constitution.¹

INTRODUCTION

The previous chapter has shown that East India Company reform was seen to pose a genuine danger to the delicate constitutional equipoise held so dear by eighteenth-century Britons. This became increasingly clear as the North administration pursued progressively more interventionist policies into the Company's affairs. These problems became exacerbated, however, by the 'crisis of the constitution' which reached its climax in the two years following Lord North's resignation in the early months of 1782. The American War had effectively been lost with Cornwallis's surrender at Yorktown in October 1781 and the East India Company was once again thrust into the spotlight. The problem of East India reform became inextricably bound up in the broader constitutional stand-off between the monarch and his ministers over the formation of cabinets and the direction of policy which shook the British Constitution to its core. That Fox's and Pitt's India legislation participated in what was a larger 'crisis of the constitution', which had been brewing since the accession of George III, can hardly be denied.² However, the problem of situating the Company's new wealth and patronage within the existing structures of the British state had become one of the most controversial constitutional issues in the first decades of George III's reign. Indeed, if John Cannon is correct in stating that

¹ Speech of Edmund Burke, 1 December 1783 in *Cobbett*, xxiii, col. 1314.

² Michael W. McCahill, *The House of Lords in the Age of George III (1760-1811)* (Oxford: Wiley-Blackwell, 2009): 181, 184.

‘George’s concept of his rights must ultimately have led to a direct clash between the crown and the public, in which the existence of the monarchy itself must have been at stake’, then it is equally certain that if Britain was to maintain or strengthen its position as an imperial power in India then parliamentarians would have eventually had to confront the issue of the Company’s position within the existing state apparatus.³ The resolution of this issue necessarily involved with it disputes over the respective constitutional powers of the Crown and Parliament. J.G.A. Pocock perhaps best characterised the scope of the problem when he referred to the ‘crisis of George III’s monarchy between 1763 and 1783 [as] both a crisis within the realm, and interrelatedly a crisis in the relations between realm and empire.’⁴

It remains the case, however, that almost every historian who has focused on the constitutional crisis surrounding Fox’s and Pitt’s India bills has claimed that the successive attempts to reform the East India Company were merely a ‘pretext’ for the King’s removal of the unpopular Fox-North Coalition.⁵ According to this view, the India Bills were incidental or extraneous to the wider issues at stake concerning the right of the King to choose his ministers or the respective powers of the three legislative branches. While it is true that the King was anxiously awaiting an opportunity to dismiss the Coalition, the fact that he pulled the trigger over Fox’s India Bill rather than the disputes over the establishment of the Prince of Wales’s household, is revealing of the crucial importance of the East India Company in British constitutional politics. East India reform not only raised the prospect of

³ John Cannon, *The Fox-North Coalition: Crisis of the Constitution 1782-84* (Cambridge: Cambridge University Press, 1969): 71.

⁴ J.G.A. Pocock, ‘Political Thought in the English-speaking Atlantic, 1760-1790: (ii) Empire, Revolution and an End of Early Modernity,’ in Pocock ed., *The Varieties of British Political Thought, 1500-1800* (Cambridge: Cambridge University Press, 1993): 285.

⁵ P.J. Marshall, *The Impeachment of Warren Hastings* (Oxford: Oxford University Press, 1965): 22; P.J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America, c. 1750-1783* (Oxford: Oxford University Press, 2005): 215; L.G. Mitchell, *Charles James Fox and the Disintegration of the Whig Party, 1782-1794* (Oxford: Oxford University Press, 1972): 51, 91; Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational 2nd* ed. (London: Pluto Press, 2012): 134; W.T. Laprade, ‘Public Opinion and the General Election of 1784,’ *EHR* 31, no. 122 (April 1916): 225; Lucy Sutherland, *East India Company in Eighteenth-Century Politics* (Oxford: Clarendon Press, 1952): 366.

George III's abdication, but also generated questions over the constitutionality of the royal negative and monarchical interference in the House of Lords. Admixed with pre-existing tensions, legislation to reform the East India Company carried with it constitutional implications of the highest order. This chapter argues that the respective East India bills of Fox and Pitt carried in their measures the prejudices of their authors upon these wider constitutional disputes and therefore that they were a critical element in what Cannon described as 'the political and constitutional climax of the reign of George III.'⁶ East India reform was not only a crucial catalyst for the domestic constitutional crisis that gripped Britain in the winter of 1783-4 but also helped shape its outcome by delivering Pitt a strong majority in the 1784 election and enabling him to pass his own reform legislation which defined the major contours of the relationship between the Company and the British state for over a generation.

I. ABDICATION, ROYAL DISPLEASURE, AND THE PRINCE OF WALES'S HOUSEHOLD: CRISES OF THE COALITION

When Fox and North put aside their differences and forced George III to accept them as his ministers, they encountered both the animosity of the King and a wave of popular resentment.⁷ Coalition governments, as we have recently been reminded, have not been as uncommon in British parliamentary history as is often thought.⁸ However, the combination of Fox and North stood out to contemporaries because it

⁶ Cannon, *Fox-North Coalition*, ix.

⁷ Henry Dundas to Robert Dundas, 10 [February or March?] 1783 in NLS, Melville MSS, MS 6524, f. 27; Foord, *His Majesty's Opposition, 1714-1830* (Oxford: Clarendon Press, 1964) 382-383; B.W. Hill, 'Fox and Burke: The Whig Party and the Question of Principles, 1784-1789,' *EHR* 89, no. 350 (1974): 2; Linda Kelly, *Richard Brinsley Sheridan: A Life* (London: Sinclair-Stevenson, 1997): 107; Cindy McCreery, 'Satiric Images of Fox, Pitt, and George III: The East India Bill Crisis, 1783-84,' *Word and Image*, ix (1993): 165-166; L.G. Mitchell, *Disintegration of the Whig Party*, 52; John Money, 'Taverns, Coffee Houses and Clubs: Local Politics and Popular Articulacy in the Birmingham Area in the Age of the American Revolution,' *HJ* 14 (1971): 26; J.H. Rose, 'The Rout of a Coalition,' *The Nineteenth Century and After* 95 (March 1924): 454.

⁸ T.G. Otte and Jeremy Black eds., *Coalition Government in British Politics: From Glorious Revolution to Cameron-Clegg* (London: Social Affairs Unit, 2011): 1-36.

was not perceived to have been directed towards the resolution of any particular national object, in contradistinction to the Newcastle-Pitt war coalition in 1757, which was composed of parts at least as discordant as those of Fox and North.⁹ Just as the Coalition came under fire on pragmatic grounds for not aiming towards any particular national goal, the Rockingham Whigs, in particular, also faced harsh criticism for appearing to abandon their much-vaunted political consistency.¹⁰ The Coalition, therefore, was viewed with deep suspicion among both the public and fellow parliamentarians. The Duke of Richmond, who refused to enter the Coalition alongside his former Rockinghamite colleagues, noted that ‘one of three things must be true; either Lord North had given up his principles to the Duke of Portland,¹¹ the Duke of Portland to Lord North, or that the Cabinet was divided on every principle, and therefore no good could possibly be expected from either.’¹² The contentions of Fox and other Coalition supporters that ‘the principal ground of dispute between Lord North and his present colleagues in administration, was done away by the termination of the American war’ proved to be utterly unconvincing.¹³ One pamphlet

⁹ *The Coalition, or an Essay on the Present State of Parties* (London, 1783): 2-3. *The Beauties and Deformities of Fox, North, and Burke, Selected from their Speeches, From the Year 1770, down to the Present Time*, 5th ed. (London: J. Stockdale, 1784): x; on the Newcastle-Pitt Coalition, see Richard Middleton, *The Bells of Victory: The Pitt-Newcastle Ministry and the Conduct of the Seven Years War, 1757-1762* (Cambridge: Cambridge University Press, 1985).

¹⁰ Edmund Burke to the Marquess of Rockingham, 23 November 1772 in Sutherland ed., *Burke Correspondence*, ii, 384-385; speech of William Grenville, 20 November 1783 in *Cobbett*, xxiii, col. 1228; Frank O’Gorman, *The Rise of Party in England: The Rockingham Whigs, 1760-82* (London: George Allen & Unwin, 1975); Warren Elofson, *The Rockingham Connection and the Second Founding of the Whig Party, 1768-1773* (Montreal & Kingston: McGill-Queen’s University Press, 1996). See also the discussion in Boyd Hilton, *A Mad, Bad, and Dangerous People? England 1783-1846* (Oxford: Clarendon Press, 2006): 39-40, in which he contrasts the Namierite perspective, whereby the Fox-North Coalition was ‘perfectly natural’ to provide a stable government in a time of crisis with the ‘alternative interpretation which emphasises the importance of principle and ideology.’

¹¹ The Duke of Portland was the nominal first Lord of the Treasury in the Coalition ministry. For more on Portland, see David Wilkinson, *The Duke of Portland: Politics and Party in the Age of George III* (Basingstoke: Palgrave Macmillan, 2003).

¹² *A Full and Accurate Account of the Debates on the East-India Bill in the House of Lords on Tuesday the 9th, on Monday the 15th, Tuesday the 16th, and Wednesday the 17th of December, 1783* (London: J. Stockdale, 1784): 18.

¹³ William Godwin, *A Defence of the Rockingham Party in their Late Coalition with Lord North* (London, 1783); and *The Coalition, or an Essay on the Present State of Parties* (London, 1783); See also B.W. Hill, ‘Fox and Burke,’ 2-9.

in particular, *The Beauties and Deformities of Fox, North, and Burke*, exposed the absurdity of the flimsy apology for the Coalition's formation by turning their own past rhetoric against them. The differences between them, the pamphlet argued, were 'not occasioned by a variation of sentiment *on any one great national topic, or political point*, in particular: it was the SYSTEM of *Lord North* that *Mr. Fox* and *Mr. Burke* continually opposed, and invariably reprobated.'¹⁴ Indeed, as we have already seen, not only did the Rockinghams differ from Lord North on the topic of the East India Company, but they attempted to weave the individual aspects of their opposition to North's ministry into a coherent system.¹⁵ The fractures and inconsistencies of the Coalition, however, were even more clearly unveiled by their attempts to reform the East India Company which emerged as one of the most contentious episodes in British parliamentary history.

Through the sheer strength of their combined numbers in the House of Commons, the Fox-North Coalition forced the King to accept them as the only viable administration in the early months of 1783. The collapse of the relative political stability afforded by North's ministry between 1770 and 1782 placed a considerable strain on the King's mind and it is notorious that he even considered abdication, going so far as to draft a statement to that end.¹⁶ In 1782, his justification for abdication was his frustration that the House of Commons was blocking him from pursuing the war with America. George III was unwilling to throw himself 'into the hands of opposition' and give up this policy.¹⁷ The ministerial interregnum also considerably increased the King's dislike for both North and Fox. North, he felt,

¹⁴ *The Beauties and Deformities of Fox, North, and Burke*, viii. Emphasis in original. The pamphlet was so popular that it ran through five editions in its first year of publication. It certainly convinced the Earl of Hardwicke that the Coalition had previously differed on 'every Point wch came before the House during Ld N—th's Administration.' See Earl of Hardwicke to Philip Yorke, 9 February 1784 in BL, Hardwicke Papers, Add. MS 35381, f. 246.

¹⁵ For the clearest rendition of this systematic opposition narrative in its early years, see Edmund Burke's *Thoughts on the Cause of the Present Discontents* (London: J. Dodsley, 1770).

¹⁶ 'Draft Message from the King' [ca. March 1782] in Fortescue ed., *Correspondence of George III*, v, 425.

¹⁷ King George III to Lord North, 17 March 1782, *Ibid.*, 391.

had betrayed him by resigning on such short notice, without appointing a successor, and *only* in the face of a defeat in the House of Commons, which George III felt in no way obliged a minister to resign. North, for his part, lectured the King on the constitutional conventions that he felt prevented the monarch from opposing a resolution of the House of Commons.¹⁸ Nonetheless, North's resignation, combined with his failure to support the Shelburne administration's attempts to negotiate a peace in early 1783, significantly damaged what had previously been a strong bond between the two.¹⁹ Fox, on the other hand, was not only one of the predominant leaders of the opposition to the American War but was also among those whom George III blamed for leading astray the Prince of Wales.²⁰ As a result, when they combined to defeat the Shelburne administration in early 1783, the King tried desperately to find any alternative to accepting Fox and North as his ministers.

Throughout the months of March and April 1783, the King repeatedly attempted to persuade William Pitt the Younger to form a government. The extent of his desperation is revealed in a letter to Lord Thurlow, in which he declared that he was willing to 'attempt to catch at every thing, as I feel if some one will not assist Me, I must within a couple of days take the step I have so often hinted to you'—meaning, of course, abdication.²¹ On this occasion, however, his reasons for abdicating were more overtly constitutional. George III cited the failure of his long-running ambitions of putting an end to party divisions and of forming ministries composed only of 'the most respectable and most able Persons this Nation

¹⁸ See Lord North to King George III, [18 March 1782] in *Ibid.*, 395. In response, George III warned that '...if You resign before I have decided what I will do, You will certainly for ever forfeit my regard.' See King George III to Lord North, 19 March 1782 in *Ibid.*, 397.

¹⁹ King George III to John Robinson, 7 August 1782 in BL, Robinson Papers, Add. MS. 70990, f. 12; John Robinson to Lord North, 1 February 1783 in Eridge Park, Robinson Papers, No. 493; John Robinson to Charles Jenkinson, 17 September 1782 in BL, Liverpool Papers, Add. MS. 38567, ff. 107-112; William Grenville to Earl Temple, 17 March 1783 in Buckingham ed., *Memoirs of the Court and Cabinets of George the Third, from Original Family Documents* (London: Hurst and Blackett, 1853): 190; see also Ian Christie, 'George III and the Debt on Lord North's Election Account, 1780-1784,' *EHR* 78, no. 309 (1963): 715-724.

²⁰ L.G. Mitchell, *Charles James Fox* (Oxford: Oxford University Press, 1992): 62.

²¹ King George III to Lord Thurlow, 28 March 1783 in Fortescue ed., *Correspondence of George III*, vi, 314.

produced.²² More importantly, however, he was unwilling to submit to ‘the Obstinacy of a Powerful Combination that has long publicly manifested a resolution of not entering into Public Service, unless the whole Executive management of affairs is thrown entirely into their hands.’ By abdicating, he felt he might ‘awaken the various parties to a sense of their Duty and that they will join in the Support and Assistance of the Young Successor.’²³ He appears to have been convinced out of his determination to abdicate by Thomas Pitt, who advised the King to refuse to grant peerages and to allow the Coalition to attempt to tackle the difficult and almost inevitably unpopular issues of settling the definitive articles of peace, establishing the new taxes necessary to fund the national debt, and proposing a system of parliamentary reform.²⁴ In short, he counselled the King to ‘give Fox and North rope enough to hang themselves.’²⁵ The Fox-North Coalition, therefore, had set the stage for an unprecedented constitutional showdown over the control of the executive branch.

Following the Coalition’s formation, it was clear that George III was awaiting a prime opportunity to dismiss the ministers who he felt had forced themselves upon him. Writing to Earl Temple, the King described the Coalition as ‘the most unprincipled...the annals of this or any other nation can equal’ and which ‘cannot be supposed to have either my favour or confidence.’²⁶ He called on Temple

²² This rather contradicts the view propagated by Namier and P.D.G. Thomas that George III did not come to power with a clear set of ideas of how he would transform British politics, see Lewis Namier, *England in the Age of the American Revolution* (London: Macmillan, 1961): 62 and P.D.G. Thomas, “‘Thoughts on the British Constitution’ by George III in 1760,” *Historical Research* 60, no. 143 (1987): 361-363.

²³ ‘Draft of a Message from the King to the House of Commons’ [ca.28 March 1783] in Royal Archives, Windsor, GEO/MAIN/5366; see also another draft with similar content written around the same time in Royal Archives, Windsor, GEO/MAIN/5367.

²⁴ Thomas Pitt’s Memorandum, [7 March 1783] in Fortescue ed., *Correspondence of King George III*, vi, 267.

²⁵ Thomas Pitt’s Memorandum, 28 March 1783 in *Ibid.*, 318-319; for the specific quotation see Fortescue’s introduction, *Ibid.*, xi; see also Buckingham’s private notes in Buckingham ed., *Memoirs of the Court and Cabinets of George the Third*, i, 304.

²⁶ The King’s refusal to create new peerages became something of an obsessive preoccupation in Coalition circles in the spring and summer of 1783. See for example, Charles James Fox to the Earl of Upper Ossory, 12 August 1783 in BL, Fox Papers, Add. MS. 47579, ff. 23-24; Earl of Northington to

to ‘join other honest men in watching the conduct of this unnatural combination’ and hoped ‘many months will not elapse before...men of abilities and character will relieve me from [this] situation.’²⁷ That the King detested the Coalition is hardly in doubt. He was simply awaiting the opportune moment to dismiss them. Upon what grounds he would do so, however, was a crucial consideration, and in fact highlights the constitutional importance of the East India Company in eighteenth-century British politics.

In the early months of the Coalition ministry, the greatest threat to its continued existence was the establishment of a separate household for the Prince of Wales, who had recently come of age. This involved not merely setting up a new physical home for the prince but also providing a substantial sum for a number of courtly offices which it was feared, in true Hanoverian fashion, would result in the creation of an alternative court, rivalling that of the royal household, for the remainder of the reign. The fact that the Coalition fell on the question of East India Company reform rather than on the constitutional dynamite that revolved around issues of the Prince of Wales’s household highlights its importance as a domestic constitutional problem of the highest order.

Despite the general disapproval of the Coalition upon its initial formation in April 1783, they had succeeded in settling several controversial issues such as the Irish Appeals Act and an exceedingly unpopular new tax on receipts.²⁸ With East

Charles James Fox, 6 July 1783 in BL, Fox Papers, Add. MS. 47567, f. 7; and Charles James Fox to the Earl of Northington, 17 July 1783 in BL, Fox Papers, Add. MS. 47563, f. 9.

²⁷ King George III to Earl Temple, 1 April 1783 in Buckingham ed., *Memoirs of the Court and Cabinets of George III*, i, 218-219

²⁸ See Charles James Fox to the Earl of Upper Ossory, 18 April 1783 in BL, Fox Papers, Add. MS. 47579, ff. 21-22; and Duke of Portland to the Earl of Northington, 12 June 1783 in BL, Northington Papers, Add. MS. 38716, f. 65. For more on the Irish Appeals Act (23 Geo. III, c. 28) see Martyn J. Powell, *Britain and Ireland in the Eighteenth-Century Crisis of Empire* (Basingstoke: Palgrave Macmillan, 2003): 225-226. The Shelburne ministry’s previous commitment to that legislation, however, means that it could have given a false impression of the Coalition’s strength. The receipt tax, essentially a stamp duty on the receipts of business transactions, was genuinely unpopular but passed easily through the House of Commons by a vote of 145-40. It was viewed by many as the ‘twin brother in folly, oppression, and despotism’ to Fox’s East India Bill, see *Beauties and Deformities of Fox, North, and Burke*, x; ‘No Coalition! No Receipt Tax! No India Bill!’ was

India business postponed until the next session and the definitive peace treaty expected to be signed by the end of the summer, Fox, North, and Portland had good reason to be satisfied with their political situation. However, the gravity of the establishment of the Prince of Wales's household resulted in what Edmund Burke described as a 'Court Earthquake'.²⁹ As Leslie Mitchell pointed out, the so-called 'Whig' and 'Court' accounts of what passed between 13 and 17 June vary considerably.³⁰ Initially, both the King and Portland reached an agreement that there would be an establishment for the Prince of Wales of £100,000 per year and that this sum would consist of the revenues of the Duchy of Cornwall and an annual grant from Parliament.³¹ When Portland sent his official proposals to the King, however, he altered his ground by suggesting that the parliamentary portion ought to be offset by a sum from the Civil List revenues.³² This would have reduced the amount from the civil list available to the King himself, thereby seemingly reducing the influence of the Crown in the eyes of the Rockinghamites but in reality it would merely have obtained for them a greater share in the King's patronage by dividing it with the Prince of Wales. The King responded with a letter containing 'expressions of the bitterest Reproach' while also making substantial alterations of his own, reducing the Prince of Wales's establishment to £50,000.³³ By the time the two met, however, the King had changed his mind yet again and offered apologies to Portland for his

reportedly the chant at a meeting at Westminster Committee in February 1784, see the speech of Lord Mahon, 20 February [1784] in *Cobbett*, xxiv, col. 666.

²⁹ Edmund Burke to Adam Smith, 20 June 1783 in Ernest Campbell Mossner and Ian Simpson Ross eds., *The Correspondence of Adam Smith* (Oxford: Clarendon Press 1987): 286. Burke also claimed that the ministry was walking 'the Streets of Naples' in a reference to the recent earthquakes in Calabria and the threat of eruptions from Mount Vesuvius. See also Mark C.W. Sleep, 'Sir William Hamilton (1730-1803): His Work and Influence in Geology,' *Annals of Science* 25, no. 4 (1969): 319-338; and John Brewer, 'Scientific networks, Vesuvius and politics: The case of Teodoro Monticelli in Naples, 1790-1845,' *Incontri: Rivista Europea di Studi Italiani* 34, no. 1 (2019): 54-67.

³⁰ L.G. Mitchell, *Disintegration of the Whig Party*, 60.

³¹ Duke of Portland to the Earl of Northington, 20 June 1783 in BL, Northington Papers, Add. MS. 38716, ff. 66-68.

³² Draft of a letter from the Duke of Portland to King George III, [15 July 1783] in Nottingham, Portland (Welbeck) Papers, Pw F 4055.

³³ Richard Fitzpatrick to the Earl of Upper Ossory, 17 June 1783 in BL, Fox Papers, Add. MS. 47579, ff. 116-117.

former language.³⁴ The result was a compromise, whereby the Coalition and the Prince agreed to accept a lower sum than they had initially desired but one that would come from both Parliament and the Civil List.³⁵

There were points in this crisis, however, particularly after the King's strongly-worded letter to Portland, when even Charles Fox believed that the administration would not last.³⁶ The reason for the King's *volte-face*, was a widely reported meeting with Earl Temple in which it was supposed that he had agreed to form a new administration.³⁷ The resulting compromise has been widely attributed to the collapse of these plans for a ministerial alteration.³⁸ However, the establishment of a separate fund of £100,000 from Parliament incited fears that such a sum would enable the Coalition, even if dismissed, to remain a powerful opposition force in an alternative court established at Carlton House.³⁹ This was, in fact, precisely what many of the Coalition ministers were aiming for. Fox was even willing to follow the Prince's lead and resign from the ministry rather than accept the smaller sum.⁴⁰ The Prince of Wales's establishment, then, was a crucial constitutional issue. It also had the potential to lay the Coalition open to accusations of inconsistency with their

³⁴ Duke of Portland to the Earl of Northington, 20 June 1783 in BL, Northington Papers, Add. MS. 38716, ff. 67-68.

³⁵ Charles James Fox to the Earl of Northington, 17 July 1783 in BL, Fox Papers, Add. MS. 47563, f. 9-11; and Steuart ed., *Last Journals*, ii, 628-630; see also Amanda Foreman, *Georgiana: Duchess of Devonshire* (London: HarperCollins, 1999): 118-119.

³⁶ Charles James Fox to the Earl of Northington, 17 June 1783 in BL, Fox Papers, Add. MS. 47567, f. 1; see also the reports that had spread to Paris and Dublin: Duke of Manchester to Charles James Fox, 24 & 31 July 1783 in BL, Fox Papers, Add. MS. 47563, f. 105, 107; Earl of Northington to the Duke of Portland, 25 June 1783 in BL, Northington Papers, Add. MS. 38716, ff. 27-28.

³⁷ Duke of Portland to the Earl of Northington, 20 June 1783 in BL, Northington Papers, Add. MS. 38716, f. 68; and Richard Fitzpatrick to the Earl of Upper Ossory, 17 June 1783 in BL, Fox Papers, Add. MS. 47579, f. 117 in which he claimed, 'All this *we* suppose has been settled with the *Enemy*.'

³⁸ Duke of Portland to the Earl of Northington, 20 June 1783 in BL, Northington Papers, Add. MS. 38716, f. 68; E.A. Smith, *Whig Principles and Party Politics: Earl Fitzwilliam and the Whig Party 1748-1833* (Manchester: Manchester University Press, 1975): 41.

³⁹ *Ibid.*, f. 68.

⁴⁰ Duchess of Devonshire to the Prince of Wales, [ca. 17 June 1783] in Arthur Aspinall ed., *The Correspondence of George, Prince of Wales, 1770-1812* (London: Cassell, 1964) i, 125-126; this was no idle threat, see also Charles James Fox to the Earl of Northington, 17 July 1783 in BL, Fox Papers, Add. MS. 47563, f. 9-11.

economical reform measures.⁴¹ It is rather surprising, as Fox pointed out, that the King and his would-be ministers felt the Prince of Wales's establishment was not a strong enough ground upon which to dismiss the Coalition ministry, carrying, as it did, the potential to raise such popular issues as '*paternal authority, æconomy, moderate establishment, mischief-making between the father & son & many other plausible topics*'.⁴² Perhaps, given the ambitions of Earl Temple and the Younger Pitt, they thought in a similar manner to the Earl of Hardwicke, that '[p]eople do not like to be *Ill* with the *Young Court*.'⁴³ The dispute over the Prince of Wales's establishment *could* certainly have led to a change of ministers, as some have pointed out.⁴⁴ However, the fact that the Coalition was dismissed later in the year on the rejection of a Bill to reform the East India Company rather than upon the creation of a significant establishment for the Prince of Wales, underlines the importance of East India reform as a critical constitutional issue in British politics. It was the grave constitutional implications of East India Company reform and the popular clamour it raised that provided both the King and his new ministers with the courage to stand forth in defiance of the Coalition's vast majority in the House of Commons.

⁴¹ Speech of Spencer Stanhope at the 'General Meeting of the Freeholders of the County of York, held at the Castle of Yorke, on the 25th of March 1784' in Christopher Wyvill ed., *Political Papers, Chiefly Respecting the Attempt of the County of York, and Other Considerable Districts, Commenced in 1779, and Continued During Several Subsequent Years, to Effect a Reformation of the Parliament of Great Britain* (York, 1794-1802), ii, 339-340.

⁴² Charles James Fox to the Earl of Northington, 17 July 1783 in BL, Fox Papers, Add. MS. 47563, f. 9. Emphasis in original.

⁴³ Earl of Hardwicke to Philip Yorke, 24 June 1783 in BL, Hardwicke Papers, Add. MS. 35381. Emphasis in original. For similar reasoning, see Earl of Northington to Charles James Fox, 10 August 1783 in BL, Fox Papers, Add. MS. 47567, f. 16.

⁴⁴ E.A. Smith, *Whig Principles and Party Politics*, 41; see also Mitchell, *Disintegration of the Whig Party*, 61.

II. FOX'S INDIA BILL: 'AN ACT FOR REGULATING THE EAST-INDIA COMPANY, FOR THE BETTER GOVERNMENT OF GREAT BRITAIN'⁴⁵

It was only in mid-November that details of Fox's India Bill began to emerge and they proved a shock to most contemporaries.⁴⁶ James Macpherson, typically alert to political gossip and deeply interested in preserving the Indian career of his 'kinsman', John Macpherson, was expecting the ministry to propose 'moderate measures' but found instead that an 'absolutely total revolution was meant to take place, in India matters, both at home and abroad.'⁴⁷ Fox's India Bill sought a much deeper interference in the Company's affairs than any previous legislation. Based on the cumulative experience of the unintentional decade-long experiment of North's Regulating Act and the reports of the select and secret committees which had been sitting for over two years, it consciously sought to initiate a thorough reform of the Company's affairs by changing both personnel and policies.⁴⁸ Although the reports of the parliamentary committees were heavily criticised, they still served to confirm what had become a pervasive belief, that the deplorable mismanagement of the Company's affairs required comprehensive reformation.⁴⁹ Indeed, before Fox

⁴⁵ This was the humorous title given to Fox's Bill by Earl Gower, its name was in fact 'An Act for Vesting the Affairs of the East India Company in the Hands of certain Commissioners, for the Benefit of the Proprietors, and the Public.' See the speech of Earl Gower, 17 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 109.

⁴⁶ A letter cited in Lord Edmond Fitzmaurice's *Life of William, Earl of Shelburne* (London: Macmillan, 1912), ii, 282, purporting to show Shelburne having a knowledge of Fox's Bill and criticising its contents as early as 4 October, has been misdated. For the original, see Earl of Shelburne to Sir Francis Baring, 4 December 1783 in Baring Archives, Northbrook Papers, NP1.B1.1. The mid-November date is corroborated by Wheatley, *Wraxall Memoirs*, iii, 155; and Philip Yorke to Earl of Hardwicke, 14 November 1783 in BL, Hardwicke Papers, Add. MS. 35381, f. 155.

⁴⁷ James Macpherson to John Macpherson, 1 January 178[4] in BL, Macpherson Papers, MSS Eur F291/123.

⁴⁸ The Select Committee, headed by Edmund Burke and General Richard Smith, had been sitting since February 1781 and had produced 11 reports. Dundas's Secret Committee had been sitting from April 1781 to 1782 and had produced a further 6 reports. See Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vols. 138-145.

⁴⁹ The strongest criticism came from the partisans of Warren Hastings, see [Nathaniel Brassey Halhed], *The Letters of Detector, on the Seventh and Eighth Reports of the Select Committee and on the India Regulating Bill* (London, 1783). [Halhed], *A Letter to the Rt. Hon. Edmund Burke, on the subject of his late charges against the Governor-General of Bengal* (London, 1783); John Scott, *A Letter to the Right Honourable Edmund Burke* (London: J. Stockdale, 1783); and Joseph Price, *A*

introduced his measure into Parliament, Pitt had warned him not to bring anything ‘merely palliative’ and was evidently prepared to attack the government on the basis that they were not doing enough to regulate the Company.⁵⁰ Such encouragement, however, proved unnecessary. Fox’s reforms had already been drafted, and they went far beyond anything that Pitt and his followers were willing to support. The proposed measures, coming as they did in the wake of the economical reform movement and in the midst of a constitutional crisis over the relative rights of the Crown and his ministers, generated a perfect storm of controversy that ultimately proved fatal for an already unpopular Coalition ministry.

Fox’s India Bill involved vesting the control of the Company’s affairs both at home and abroad in a group of seven parliamentary commissioners.⁵¹ The control of the directors and proprietors over their governments in India was suspended for the duration of the act and their powers were transferred to the parliamentary commissioners. The commissioners, all of whom were to be parliamentarians, were named in the act and were to be assisted by nine assistant commissioners who were to be composed of individuals holding £2,000 or more of East India stock, the same qualification required to be a Company director. Vacancies in the commissioners were to be appointed by the Crown and the assistants were to be elected by the Company’s stockholders. The assistant commissioners would be responsible for the commercial activities of the Company, albeit subject to the supervision of the commissioners. The Company’s political, military, and diplomatic affairs would be vested in a London-based parliamentary commission. The only caveat was that the measure was supposedly temporary in duration, being limited to a term of four years,

Letter to Edmund Burke, Esq; on the latter Part of the late Report of the Select Committee on the State of Justice in Bengal (London, 1782).

⁵⁰ Speech of William Pitt, 11 November 1783 in *Cobbett*, xxiii, col. 1141; and speech of Thomas Pitt, 11 November 1783 in *Ibid.*, col. 1156.

⁵¹ For a copy of Fox’s Bill ‘For Vesting the Affairs of the East India Company in the Hands of certain Commissioners, for the Benefit of the Proprietors and the Public,’ see Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 341-354.

although many expressed fears that it could be extended indefinitely.⁵² Fox's measure was, as Sutherland described, 'a more sweeping attack on the independence of the Company than anyone had ever suggested since Beckford had blustered in the House of Commons in 1767.'⁵³ Given the incoherence of Chatham's India measures, however, Fox's Bill can surely be seen as the boldest attempt by the British state to interfere in the Company's affairs until the mid-nineteenth century.

Bold though it may have been, Fox's Bill was carefully drafted in an attempt to provide meaningful reforms of the Company's affairs while also remaining as consistent as possible with the previous principles and declarations of the Rockinghamites. Edmund Burke, so often the party's ideologue, declared as early as 1772 that 'we never denied, on the contrary, we always urged it, to be the Province and Duty of Parliament to superintend the affairs of this Company as well as every other matter of publick concern... We considered it as the Duty of Parliament to see, that the Company did not abuse its Charter privileges, or misgovern its asiatick possessions; but we thought it abominable to declare their dividends in the House of Commons; and to seize their Revenues into the hands of the Crown.'⁵⁴ At the same time he also argued that the party ought not to be bound to a 'servile adherence' to their former stance 'if six years experience had given us a reason to change it.'⁵⁵ Between 1767 and 1773, very little changed in the Rockinghamite position towards the East India Company. However, between 1773 and 1783 there was a dramatic alteration, driven largely by Burke's years of dedicated research in the select committee (1781-3), unearthing what they felt to be vast evidence of abuses in the Company's Indian governance. Their previous views, therefore, did not prevent them

⁵² William Pulteney, *The Effects to be expected from the East India Bill upon the Constitution of Great Britain* (London, 1784): 9; James Hutton ed., *Selections from the Letters and Correspondence of Sir James Bland Burges, Bart., Sometime Under-Secretary of State for Foreign Affairs* (London: John Murray, 1885): 64.

⁵³ Sutherland, *East India Company*, 398.

⁵⁴ Edmund Burke to the Marquess of Rockingham, 23 November 1772 in Sutherland ed., *Burke Correspondence*, ii, 385.

⁵⁵ *Ibid.*, 384-5.

from engaging in attempts to reform the Company through the medium of Parliament. However, their former principles did emphatically shape the *nature* of their reforms.⁵⁶ Fox's Bill stipulated that the commissioners would be appointed by Parliament rather than the Crown and that they could only be removed by the Crown through an address of 'either House of Parliament.' This was a clear attempt to avoid the accusation that the bill would increase the influence of the Crown.

Fox's Bill also shows a sensitivity to aspects of the economical reform movement. For example, taking inspiration from Clerke's Act, the bill specifically excluded those who were engaged in contracts with the Company or were involved in the purchase and sale of their imports from serving as either commissioners or assistant commissioners. This was criticised by Thurlow, however, who argued that Fox's commissioners were in fact government contractors and, by the logic of economical reform, ought also to be excluded from holding seats in Parliament.⁵⁷ It also stipulated that neither kind of commissioner was permitted to hold 'any Office, Station, or Employment' in the Company's service overseas and they were also ineligible to receive any office or sinecure from the Crown for the duration of their service. In the initial version of the bill as it was introduced to Parliament the commissioners were not to receive any salaries.⁵⁸ However, even when the Bill was amended to provide annual salaries of £500 for the assistant directors, Fox made it clear these would be paid by the Company rather than with public money. Further,

⁵⁶ Even Sutherland admitted that the Rockingham party's former opposition to North's India legislation and their much-vaunted consistency influenced Fox's India Bill, see *East India Company*, 398. For more on the progress of their views on East India Company reform as stated in Lords protests, see Ben Gilding and Richard Connors, "'Hereditary Guardians of the Nation": The House of Lords and the East India Company in the Age of the American Revolution,' *Parliamentary History* 39, no. 1 (forthcoming, 2020).

⁵⁷ Speech of Lord Thurlow, 9 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 9. Thurlow was turning their logic against them. For his opposition to economical reform, see Gore-Browne, *Chancellor Thurlow: The Life and Times of an Eighteenth-Century Lawyer* (London: Hamish Hamilton, 1953): 153-154.

⁵⁸ Edward Gibbon to the Lord Sheffield, 20 December 1783 in Rowland E. Prothero ed., *Private Letters of Edward Gibbon* (London: John Murray, 1896), ii, 85-86; see also the letter 'To the Proprietors of East-India Stock' signed 'An Old Proprietor' in *Gazetteer and New Daily Advertiser*, 13 April 1784.

he pointed out that since the Company's twenty-four directors had received accumulated salaries and perquisites of up to £7500 per year, there would actually be an annual saving to the Company of £3,000 through his scheme.⁵⁹

Another important aspect linked to economical reform in Fox's India legislation was contained in his second, and far less controversial India Bill. Primarily drafted by Edmund Burke with the assistance of Philip Francis, Fox's second India Bill focused on reforming the Company's government in India.⁶⁰ However, it also included several clauses relating to the eligibility of current or recently returned Company employees to sit in the House of Commons. The bill stipulated that no officeholder still in the service of the Company and no agent of any 'Native Prince in *India*, shall be capable of being a Member of, or of sitting or voting in the House of Commons.'⁶¹ Furthermore, the Bill also restricted those who had retired from or quit their posts in India from serving in the House of Commons upon their return to Britain for a period of time that was never determined. The clauses that excluded returned Company employees and the agents of Indian princes from holding seats in the Commons caused considerable concern in certain circles. James Macpherson, himself an agent of the Nawab of Arcot, was alarmed at the prospect of being excluded from Parliament and was also concerned that his allies, upon their return from India, would not be able to take up a seat in the House.⁶² Others felt it seemed 'calculated at once to preclude Mr. Hastings & all his friends from meeting in Parlia[men]t the violent indecencies of their antagonists & of securing to the new Commissioners an impossibility of Refutation with respect to any thing they might have chosen to advance in Parliament on the state of the

⁵⁹ Speech of Charles James Fox, 3 December 1783 in *Cobbett*, xxiv, col. 5-6.

⁶⁰ For evidence of Francis's assistance, see Edmund Burke to Philip Francis [23 October 1783] in Holden Furber ed., *The Correspondence of Edmund Burke, Volume V: July 1782-June 1789* (Cambridge: Cambridge University Press, 1965): 116. For a copy of Fox's Bill 'For the Better Government of the Territorial Possessions and Dependencies in India,' see Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 357-374.

⁶¹ Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 373.

⁶² James Macpherson to John Macpherson, 1 December 1783 in BL, Macpherson Papers, MSS Eur F291/125, f. 47.

Comp[an]ys affairs.’⁶³ Given that they were drafted by Burke and Francis, who made no secret of their desire to prosecute the Governor General, such fears were probably not unfounded. However, the temporary ineligibility of returned ‘nabobs’ from being elected to Parliament did accord with aspects of Wyvill’s parliamentary reform movement which criticised them as yet another form of corrupt influence on Britain’s legislative institutions.⁶⁴ Nonetheless, this did not prevent Wyvill himself from declaring that if Fox’s first Bill were allowed to pass, ‘reformation would be for ever defeated.’⁶⁵

There was some concern, even within the Coalition, that some of the Bill’s provisions deviated substantially from their former principles. Several days prior to its introduction, Earl Fitzwilliam expressed strong reservations about crucial aspects of Fox’s Bill. He had been approached by Portland to accept the role as the chairman of the new parliamentary commission. He expressed sincere misgivings about his fitness for the role, particularly given his lack of knowledge in Indian affairs.⁶⁶ However, he also called upon Portland to ‘read our protest in 1773.’ Fitzwilliam pointed, in particular, to the third reason given in their protest of 19 June 1773, which argued that the ‘election of executive officers in parliament is plainly unconstitutional’ because it was ‘calculated for extending a corrupt influence in the crown’ and ‘frees ministers from responsibility, whilst it leaves them all the effect of patronage.’ These measures, it was then argued, would ‘defeat the wise Design of the Constitution.’⁶⁷ In his letter to Portland, Fitzwilliam maintained that these points were ‘argued upon such general principles that I do not see the possibility of getting over it. No circumstances, no situation, can make any change in so general a

⁶³ ‘Skeleton of the Pending Act for India’ in NRS, Melville Papers, GD51/3/12-13.

⁶⁴ See, for example, the speech of Henry Duncombe, ‘at a General Meeting of the County of York, on the 19th of December, 1782’ in Wyvill ed., *Political Papers*, ii, 52-53.

⁶⁵ Christopher Wyvill to Thomas Arthington, 5 April 1784 in *Ibid.*, iv, 379-380.

⁶⁶ Earl Fitzwilliam to the Duke of Portland, 16 November 1783 in Nottingham, Portland (Welbeck) Collection, Pw F 3757.

⁶⁷ *Lords Journals*, xxxiii, 681-682.

principle.⁶⁸ As a signatory to the protests of 1773, Fitzwilliam felt uncomfortable participating in a policy evidently so contrary to the principles they had previously laid down. What is more, the remnants of the Rockingham party were now partners in a Coalition with many of those against whom they had protested in 1773.

On the other hand, Lord North could hardly be accused of inconsistency for invading the rights of the East India Company and its stockholders. Indeed, he even used his Regulating Act as an example to prove that Fox's Bill was not an unprecedented invasion of the Company's chartered rights, a mode of defence which must have been difficult to hear for many of his coalition partners.⁶⁹ However, the former Rockinghamites, who had publicly pledged themselves in defence of the Company over the course of the two decades prior to Fox's Bill, now found themselves accused of attempting to appropriate its patronage in precisely the manner in which they had previously attacked North.⁷⁰ Fitzwilliam even argued that he felt it would be 'ten times better to meet the thing boldly, & give the King the appointment for the purpose of creating *Responsibility* in those who advise him to appoint.'⁷¹ Fitzwilliam's last suggestion is particularly interesting because, although it is clear that Pitt and others were prepared to attack Fox for inconsistency in attempting to augment the influence of the Crown, if this advice were followed, the King would not have had as strong an excuse to oust the Coalition. Fox's Bill may still have been defeated in the Lords, but it would have raised a substantially different set of constitutional issues in the process. The contours of the constitutional

⁶⁸ Earl Fitzwilliam to the Duke of Portland, 16 November 1783 in Nottingham, Portland (Welbeck) Collection, Pw F 3757.

⁶⁹ Speech of Lord North, 27 November 1783 in *Cobbett*, xxiii, col. 1283.

⁷⁰ Fox, of course, had not signed any of the protests since he was not a peer. However, in 1773 he had spoken in support of North's Bill which could have lent some credibility to his consistency on the issue of East India Company reform if it were not for his gravitation towards the Rockingham Whigs and, more particularly, to Burke's views on India over the ensuing decade. See, for example, the report of a former speech of his in *Whitehall Evening Post*, 25 November 1783; this is corroborated by Philip Yorke in a letter to the Earl of Hardwicke of 4 December 1783 in BL, Hardwicke Papers, Add. MS. 35381, f. 174.

⁷¹ Earl Fitzwilliam to the Duke of Portland, 16 November 1783 in Nottingham, Portland (Welbeck) Collection, Pw F 3757 (emphasis in original).

crisis of 1783-4, therefore, were fundamentally shaped by the particularities of the Fox-North Coalition's attempt to reform the East India Company.

Far and away the most controversial aspect of Fox's Bill was the clause granting the new commissioners 'full Power and Authority to remove, displace, suspend, appoint, confirm, or restore' any of the Company's civil or military employees. Just as Lord North had predicted, when Fox introduced his Bill, it was this measure that attracted by far the most criticism.⁷² The attempt in Fox's Bill to evade the accusation that ministers were increasing the influence of the Crown by having Parliament appoint the commissioners only resulted in debates on the nature of the executive branch in the eighteenth-century Constitution, muddled as it was by the imprecise distinctions between the respective powers of the Crown and ministers.⁷³ William Pitt led the opposition from the Bill's first introduction, claiming that it was precisely the kind of measure that, had it been proposed by North several years earlier, Fox 'would have been the first to reprobate.' He argued further, that the influence of the Crown had never 'been in its zenith equal to what it would be, when it should find itself strengthened by the whole patronage of the East.'⁷⁴ Unlike North's Regulating Act, which at most only indirectly obtained access to the Company's patronage, Fox's Bill would have transferred it entirely to the parliamentary commissioners. With the Coalition possessing such a strong majority in the House of Commons it was clear that the commissioners would be ministerial appointees and that this would effectively place the Company's patronage in Fox's hands. Pitt and others argued that this would render Fox akin to an 'emperor of the East!'⁷⁵ Such rhetoric captured the popular imagination and led to the

⁷² Lord North to Charles James Fox, [ca. early November 1783] in BL, Fox Papers, Add. MS. 47561, f. 23.

⁷³ See also, *Some Considerations in Regard to the Dangerous Consequences which might ensue to the Constitution from the passing of the East India Bill* (London, 1784): 25-26.

⁷⁴ Speech of William Pitt, 18 November 1783 in *Cobbett*, xxiii, col. 1210.

⁷⁵ Speech of Richard Pepper Arden, 20 November 1783 in *Ibid.*, col. 1247; see also *Morning Chronicle*, 24 November 1783; the song 'Kiss my --- is no Treason' in *Public Advertiser*, 25 November 1783.

depiction of Fox variously as the Eastern despot 'Carlo Khan' or a reincarnated Cromwell. It also spawned some of the most effective and damaging satirical prints in British political history.



Figure 2.1. [James Sayer], 'Carlo Khan's Triumphal Entry into Leadenhall Street,' [5 December 1783]. BM Satires 6276 © Trustees of the British Museum.

In particular, Sayer's famous, 'Carlo Khan's Triumphal Entry into Leadenhall Street,' (figure 2.1) depicts Fox in stereotyped 'oriental' attire sitting astride an elephant with the face of North. Fox's triumphal march along Leadenhall Street, the location of the Company's London headquarters, is announced by Burke, the trumpeter. The image is memorable, but also deceptively astute and an impressive visual representation of the circumstances surrounding the Coalition's Indian legislation. The depiction of North as an elephant is reflective not only of his reputation as an indolent minister but also of the size and strength of his parliamentary interest, which was seen as carrying Fox into power. Carlo Khan is riding the elephant, directing its movements, just as Fox drafted and introduced the India Bill which was technically the responsibility of North's department.⁷⁶ A bespectacled Edmund Burke leads the procession, loudly trumpeting the arrival of the '*Basileus Basileōn*' or 'King of Kings'.⁷⁷ This reference to the title given by the ancient Greeks to Persian Emperors is depicted on a flag in which Fox's former title 'The Man of the People' is roughly scratched out. Burke's trumpeting is reminiscent of his growing reputation for passionate speeches decrying the abuses of the East India Company's governance in India and the bombastic and polemical nature of the select committee's reports, which were widely perceived to have paved the way for Fox's India measures. When Sir Richard Hill later recited a poem ridiculing Fox as the 'great Carlo Khan' in the House of Commons, North, in defending his colleague, all but admitted the effectiveness of the satirical attacks, declared that 'it was exactly that kind of idle nonsense about Carlo Khan, &c. that had misled the weak part of the country so strangely.'⁷⁸

⁷⁶ Lord Thurlow to Lord Gower [n.d., but post August 1783] in HMC, *Fifth Report, Part I* (London: George Edward Eyre and William Spottiswoode, 1876): 210; see also Wheatley ed., *Wraxall Memoirs*, iii, 146-147.

⁷⁷ The anti-Coalition *Whitehall Evening Post*, 16 December 1783 drew attention to the print, describing it as 'an etching of infinite merit.'

⁷⁸ Speeches of Sir Richard Hill and Lord North, 8 March 1784 in *Cobbett*, xxiv, cols. 743-744.

III. OPPOSITION TO FOX'S INDIA BILL: THE COST OF PATRONAGE AND THE CREATION OF A 'FOURTH ESTATE'

In order to back up claims that Fox's Bill had the potential to 'enslave the K[ing]' and 'overturn the Constitution' contemporaries began to engage in elaborate calculations to determine the amount of patronage that it would supposedly place in the hands of the minister.⁷⁹ The amount arrived at (see figure 2.2), roughly £2 million annually, though certainly exaggerated in many respects, was widely adopted by contemporaries both inside and outside of Parliament to emphasise the sheer scale of what could be thrown into the hands of the Minister by Fox's measure.⁸⁰ However, a week after publishing the account given in figure 2.2, the same author apologised to readers, claiming that 'it has operated in a Manner very different from what he intended. He meant, by such a Representation, to rouse the Jealousy and Vigilance of Members,' but after the strong vote in favour of Fox's Bill in the House of Commons, felt rather that publishing a calculation of the Company's patronage had instead held 'forth Lures for their Avarice' and thereby encouraged them to vote for Fox's Bill in expectation of receiving a division of the loaves and fishes.⁸¹

The actual figures were largely unknown, even to the directors of the Company itself, as ad-hoc offices and salaries were often created and paid for in India without their immediate knowledge. Furthermore, it is unlikely that ministers, even over the course of four years, would find it either prudent or possible to make

⁷⁹ See Countess Gower to [? Princess Augusta], 25 December 1783 in Arthur Aspinall ed., *The Later Correspondence of George III. Vol. I: December 1783 to January 1793* (Cambridge: Cambridge University Press, 1962): 8.

⁸⁰ See, for instance, Pulteney, *The Effects to be expected from the East India Bill upon the Constitution of Great Britain*, 17; *Morning Chronicle*, 24 November 1783; *Felix Farley's Bristol Journal*, 13 December 1783; and 'The Plain Case' signed 'Blunt' in *Whitehall Evening Post*, 8 April 1784. Some even suggested that it could be worth as much as £4 million, probably basing their figures on Lord Clive's earlier predictions of the total potential value of the Company's territorial acquisitions, see *A Brief and Impartial Review of the State of Great Britain, at the Commencement of the Session of 1783*. 3rd ed. (London, 1783): 37; and the letter 'To Mr. Secretary Fox' signed 'Malabar' in *Morning Chronicle*, 25 November 1783.

⁸¹ *Public Advertiser*, 2 December 1783; see also George Tierney, *Substance of a Speech Delivered at a General Court of Proprietors in Leadenhall-Street, on Wednesday, December 3, 1783* (London: J. Debrett, 1783): 37.

appointments for the vast majority of the Company's offices, given both the importance of local knowledge and experience and the reasonable expectation among those already in India of promotion by succession and seniority.⁸²

Nonetheless, Joseph Price, a well-informed albeit biased source, concluded that the overall patronage of the Company could enable ministers to purchase the support of up to 209 votes in the House of Commons.⁸³ Although the numbers were almost certainly inflated, there was an important consensus that the increased patronage, however large, that would be available to ministers, would eradicate any benefits derived from the economical reform movement.⁸⁴

BENGAL.		MADRAS.		BOMBAY.	
Governor-General, worth <i>per Annum</i>	£. 25,000	Governor, worth <i>annually</i>	25,000	A Governor to be immediately appointed, worth <i>per Annum</i>	30,000
Four Counsellors, at 10,000 <i>l.</i> <i>annually</i> each	40,000	Five Counsellors, all to be appointed by this Bill, at 5000 <i>l.</i> a Year each	25,000	Five Counsellors, at 5000 <i>l.</i> a Year each	25,000
About <i>Forty</i> other Places honestly worth 10,000 <i>l.</i> a Year each	400,000	Military Governments <i>nine</i> , worth 4000 <i>l.</i> <i>per Annum</i> each	36,000	Residents to be appointed, about 5, worth <i>yearly</i> 5000 <i>l.</i> each	25,000
About <i>one Hundred</i> worth 5000 <i>l.</i> each <i>per Annum</i>	500,000	Officers to be <i>annually</i> appointed to about 20,000 Men, at a Medium of 4 to every 1000, worth upon an Average, Batta included, about 300 <i>l.</i> a Year each	24,000	Officers to be appointed <i>annually</i> to about 15,000 <i>Men</i> , as we are to retain the <i>Budnors</i> Country, at the Medium of 4 to every 1000, worth, Batta included, 300 <i>l.</i> each	18,000
<i>One Hundred and Fifty</i> worth 2000 <i>l.</i> <i>yearly</i> each	300,000	About 20 Writers Places to be appointed <i>annually</i> , which may <i>fall</i> , and, perhaps, will be <i>fold</i> , for 1000 <i>l.</i> each	20,000	Military Stations about <i>four</i> , of which <i>one</i> will fall vacant every Year, worth 5000 <i>l.</i> each	5,000
Inferior Civil Departments, together about	100,000	Residents at Tanjore, and the Northern Circars, one of which, it may be supposed, will fall vacant every Year, worth, at least, 12,000 <i>l.</i> each	12,000	The Collection of the Revenue of the <i>Budnors</i> Country, worth about 700,000 <i>l.</i> <i>per Annum</i> , at the Rate of about 33 <i>per Cent.</i> to the Collectors	210,000
Officers to an Army of about 40,000 Men, about 5 in <i>annual</i> Appointment to each 1000, Batta included, at a Medium	60,000		142,000		313,000
Military Commands given away <i>annually</i> , at a Medium 10, worth 5000 <i>l.</i> each	50,000				
Writers Places <i>annually</i> about 30, which would <i>fall</i> , and, perhaps, may be <i>fold</i> , for 2000 <i>l.</i> each	60,000				
	1,545,000				
				The Total of the annual Amount of Appointments to be in the immediate Patronage of the Crown, or rather of the Minister, if the present Plan, for the Government of the East, takes Place	2,000,000
				Bengal	1,545,000
				Madrass	142,000
				Bombay and Bednors	313,000
					2,000,000

Figure 2.2. [Detail of 'Statement of the Influence to be acquired by the *great Reformer* and his Friends, in consequence of the Bill brought in by Mr. Secretary Fox,'] in *Public Advertiser*, 22 November 1783. © British Library.

⁸² Several writers pointed this out and stressed the importance of maintaining a system of 'gradation and succession', see *Morning Chronicle*, 5 January 1784; see also James Macpherson to John Macpherson, 7 July 1784 in BL, Macpherson Papers, MSS Eur F291/123; and Speech of George Dempster in *Cobbett*, xxiv, col. 423.

⁸³ Joseph Price, *A Ministerial Almanack: Addressed to the Right Hon. Lord Thurlow, in which is set forth and clearly explained, the Nature and Value of every Sort of Patronage now about to be transferred from the East India Company to the Crown* (London, 1783): 49.

⁸⁴ Stuart, *Considerations on the Present State of East-India Affairs*, 14-15.

Numerous individuals who had previously supported Fox and the opposition in attempting to push through economical and parliamentary reforms felt betrayed. Thomas Powys spoke for many of the independent country gentlemen in the House of Commons when he declared his pride in having voted for the reduction of the influence of the Crown. While this had been ‘in some degree effected,’ however, he felt that ‘the destruction of a few boards’ was a paltry measure in comparison ‘to the influence that would be created by putting the minister in possession of the whole patronage of the East India Company.’⁸⁵ Even prominent members of the Yorkshire Association felt that the entire purpose of their movement would be compromised ‘if Charles Fox had the Indies at [his] disposal.’⁸⁶ Other speakers such as John Ord and William Grenville were not only sceptical of the efficacy of the economical reforms passed in 1782, but questioned the consistency of those ‘who talked so much, and did so little, in respect to that reform which they so eternally rang into the ears of the people.’⁸⁷ James Boswell, on the other hand, the famed biographer of Samuel Johnson, outlined a peculiarly Tory perspective on the relationship between Fox’s India Bill and the movement for economical reform. He saw them as part of ‘one pre-conceived plan’ to diminish the power of the Crown. On the one hand, the economical reform movement ‘actually prevailed in having [the power of the Crown] rigidly curtailed’ and on the other hand Fox had concocted a plan to aggrandize his own power by accumulating an ‘enormous scheme of ministerial influence’ through his East India Bill.⁸⁸

⁸⁵ Speech of Thomas Powys, 1 December 1783 in *Cobbett*, xxiii, col. 1310; see also Speech of Sir Edward Astley, 26 November 1783 in *Ibid.*, cols. 1253-1254.

⁸⁶ William Mason to Christopher Wyvill, 22 January 1784 quoted in Mitchell, *Disintegration of the Whig Party*, 95.

⁸⁷ Speech of William Grenville, 20 November 1783 in *Cobbett*, xxiii, col. 1225; and the speech of John Ord, 1 December 1783 in *Ibid.*, col. 1395; see also letter signed ‘J.C.’ in *Public Advertiser*, 11 December 1783.

⁸⁸ James Boswell, *A Letter to the People of Scotland, On the Present State of the Nation* (Edinburgh: Charles Dilly, 1784): 16-19; see also *Whitehall Evening Post*, 11 December 1783 for a similar theory.

The ambiguity over whether Fox's Bill increased the influence of the Crown or the minister, or whether there was any difference between the two was a crucial aspect of the opposition to Fox's India Bill. As Lord Camden noted:

*There was something whimsical enough in this Bill being so to unite Whigs and Tories in a joint opposition to the principle. The Whigs were against any measure to introduce influence into Parliament, either by the subject or the Sovereign, the Tories because it was given to the subject not to the Sovereign.*⁸⁹

When the issue was raised in Parliament, Fox attempted to dismiss the distinction between 'ministerial power and crown power', putting forward the doctrine that they could not be considered as 'divided interests.' The only time a distinction could be made, he argued, was over the responsibility for the measures of government, which he admitted rested entirely in the ministers. By placing the nomination of the commissioners in Parliament, however, Fox argued that his Bill was increasing the influence of the Crown in the smallest degree possible.⁹⁰ For Fox, the conflation of interests and power between the minister and the Crown involved limiting the power of the monarch to choose their own ministers. From George III's perspective, however, this would render him a 'Cypher,' and he was far from alone in this defence of what he felt was the Crown's just prerogative.⁹¹ The ambiguity in the constitutional arguments against Fox's Bill forced Pitt to walk a tightrope in order to maintain the unity of an otherwise disparate opposition. Indeed, Fox saw through it and tried to exploit the weakness by pointing out that the opposition were 'endeavouring to injure us through two channels at the same time, through a certain great quarter, [i.e. the King] and through the people. They are attempting to alarm the first, by asserting that this Bill increases the influence of the ministry against the

⁸⁹ Earl Camden to Robert Stewart, 19 December 1783 in H.S. Eeles, *Lord Chancellor Camden and his Family* (London: Philip Allan, 1934): 157-158.

⁹⁰ Speech of Charles James Fox, 20 November 1783 in *Cobbett*, xxiii, 1241.

⁹¹ See 'Draft of a Message from the King to Parliament' [ca. 28 March 1783] in Royal Archives, Windsor, GEO/MAIN/5367; see also *Whitehall Evening Post*, 6 December 1783; speech of James Hamilton, 8 December 1783 in *Cobbett*, xxiv, col. 13; Philip Yorke to the Earl of Hardwicke, 17 December [1783] in BL, Hardwicke Papers, Add. MS. 35381, f. 190; and *Whitehall Evening Post*, 25 December 1783.

crown; and rousing the people, under an idea that it increases the influence of the crown against them.’⁹² By exposing this contradiction he was evidently hoping that they would turn against one another, thereby allowing the bill to pass. However, in an awkward but skilful speech, Pitt ‘venture[d] a paradox,’ arguing that Fox’s Bill tended ‘not only to diminish, but also to increase the influence of the Crown.’ By this, he clarified, that it increased the influence of the Crown in the long term, by providing the Crown with nominations to the vacancies, ‘but in the mean time, it increased only the influence of the present ministers, independent of the crown; and should they be driven from their places, they would carry this influence with them into private life, and it would be exerted against the Crown.’⁹³ Pitt therefore managed to avoid confronting the difficult constitutional question over the relative powers of the Crown and minister within the executive branch, a question at the heart of the larger constitutional crisis that had been building since the accession of George III. More importantly, he hinted at what would become the opposition’s main argument against Fox’s Bill: that it created ‘an influence unknown to the constitution...infinitely more dangerous than the influence of the crown.’⁹⁴

The peculiar nature of Fox’s India Bill generated the conditions within which Cannon’s ‘crisis of the constitution’ would be fought. Its authors were anxious to avoid a wanton accession of patronage to the Crown but equally determined to establish an ‘intimate connection...between the Publick & the Company’.⁹⁵ The opposition argument became increasingly damaging when it was argued that Fox’s

⁹² Speech of Charles James Fox, 1 December 1783 in *Cobbett*, xxiii, col. 1427.

⁹³ Speech of William Pitt, 1 December 1783 in *Ibid.*, cols. 1404-1405. This paradoxical argument was also taken up and discussed in Pulteney, *The Effects to be expected from the East India Bill upon the Constitution of Great Britain*, 7-9.

⁹⁴ Speech of Henry Dundas, 1 December 1783 in *Cobbett*, xxiii, col 1402; speech of Lord Thurlow, 9 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 7; *A warning voice; or an answer to the speech of the Right Honourable Mr. Secretary Fox, upon East-India affairs, on Tuesday the 18th of November 1783* (London, 1783): 8; letter ‘To the Real Electors of Westminster’ signed ‘A Brother Elector’ in *Public Advertiser*, 25 June 1784; and William Wyndham Grenville, *Thoughts on the present East India Bill: passed into a law, August 1784...* (London, J. Stockdale, 1784): 7.

⁹⁵ Duke of Portland to the Earl of Hardwicke, 2 January 1784 in BL, Supplementary Hardwicke Papers, Add. MS. 45030, f. 22.

Bill erected a ‘middle power’ in the state, ‘on the one hand holding the King in chains, and on the other ruling the people, through the medium of a corrupt majority in Parliament.’⁹⁶ It would place such power in the hands of ‘an Aristocracy’ that they could ‘carry their Influence *over the whole House* by Means of it.’⁹⁷ The Company’s patronage was deemed to be extensive enough that, if placed into the hands of Fox’s commissioners, it would establish what many began to refer to as a ‘fourth estate’ in the realm, independent of the King, Lords, and Commons that would unbalance the constitution and seize ‘the supreme authority of the state.’⁹⁸ By highlighting the ability of the Company’s patronage to establish a ‘fourth branch of the legislature’, the opposition had developed an argument that could combine the fears of parliamentary reformers, wishing to reduce what they felt was the excessive influence of the upper echelons of the aristocracy on the lower house, with the arguments of the King against being forced to submit to ‘the trammels of any self-created band.’⁹⁹ What is more, their success in the election of 1784 was due, at least in part, to the fact that these positions were in no way *necessarily* contradictory. One could, with equal consistency, support the right of the monarch to choose his own ministers while also pushing for parliamentary reforms to improve the representation of the people.¹⁰⁰

⁹⁶ Speech of the Earl of Abingdon, 15 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 39; see also *Public Advertiser*, 28 November 1783

⁹⁷ *Public Advertiser*, 29 November 1783; *Whitehall Evening Post*, 6 December 1783; James Macpherson described Fox’s Bill as establishing ‘an oligarchy...that will render the author of the Bill, perfectly independent, both of the Prince and the people.’ See James Macpherson to John Macpherson, 1 December 1783 in BL, Macpherson Papers, MSS Eur F291/125, f. 46.

⁹⁸ Speech of William Pitt, 4 August [1784] in *Cobbett*, xxiv, col. 1327; see also Alexander Dalrymple, *A retrospective view of the antient system of the East-India-Company, with a plan of regulation* (London, 1784): 43; Dobbs, *A Letter to Lord North and Mr. Fox*, 7; and letter signed ‘A.Z.’ in *Morning Chronicle*, 25 February 1784.

⁹⁹ ‘Draft of a Message from the King to Parliament,’ [ca. 28 March 1783] in Royal Archives, Windsor, GEO/MAIN/5367.

¹⁰⁰ See, for instance, the loyal address of the city of York in *London Gazette*, 3 February 1784; and ‘Proceedings of the General Meeting of the Freeholders of the County of You, held at the Castle of York, on the 25th of March, 1784’ in Wyvill ed., *Political Papers*, ii, 326; and Wyvill’s *A defence of Dr. Price and the Reformers of England* in Wyvill ed., *Political Papers*, iii, 73.



Figure 2.3. [James Sayer], 'A Transfer of East India Stock,' 25 November 1783. BM Satires 6271 © Trustees of the British Museum.

Fox and Burke attempted to counter the argument that the India Bill created a 'fourth estate.' They argued that if the Company's patronage constituted a fourth estate in the hands of ministers then it must have existed as such long before Fox's Bill. From the first introduction of his legislation, Fox argued that 'the influence of the Crown, in its most enormous and alarming state, was nothing, compared to the boundless patronage of the East India government, if the latter was to be used in influence of [the] House [of Commons].'¹⁰¹ He also expressed fears that the 'boundless patronage of the East was to be employed to prevent government from making a reform,' a rather strange tactic for one hoping that Parliament would trust him with such power.¹⁰² It was also somewhat ineffective in convincing his critics. A popular poem of the time directly called into question Fox's sincerity:

*He could prove it would break all our liberties down,
If a tenth part of India was given to the Crown;
He could prove vice versa, that India was small,
Nay, in the hands of his friends that 'twas nothing at all.*¹⁰³

The same could be said if one takes into account the success of print satires. Sayer's 'A Transfer of East India Stock' (see figure 2.3), while not quite as popular as 'Carlo Khan's Triumphal Entry into Leadenhall Street', is an excellent pictorial distillation of the opposition's main arguments against Fox's India Bill and serves as an ample reminder of how graphic satire could interact in a timely and effective manner alongside more traditional forms of print culture in both analysing and rendering intelligible the oftentimes esoteric wranglings of Westminster.¹⁰⁴ It depicts a colossal

¹⁰¹ Speech of Charles James Fox, 18 November 1783 in *Cobbett*, xxiii, col. 1205.

¹⁰² Indeed, Philip Yorke remarked on the 'imprudent' use of the phrase 'unbounded patronage' in a letter to the Earl of Hardwicke, 21 November 1783 in BL, Hardwicke Papers, Add. MS. 35381, ff. 161-163.

¹⁰³ 'The Fox and Geese; or a Late House of Commons in Westminster,' in *The Wit of the Day, or the Humours of Westminster. Being a Complete Collection of the Advertisements, Hand-bills, Puffs, Paragraphs, Squibs, Songs, Ballads, &c. which have been written and circulated During the late remarkable Contest for that City* (London, 1784): 110.

¹⁰⁴ For works analysing this relationship, see McCreery, 'Satiric Images of Fox, Pitt, and George III,' 163-185; Alexandra Halasz, *The Marketplace of Print: Pamphlets and the Public Sphere in Early Modern England* (Cambridge: Cambridge University Press, 1997); Diana Donald, *The Age of Caricature: Satirical Prints in the Reign of George III* (New Haven, CT: Yale University Press,

Charles Fox carrying East India House into the gateway of St. James's Palace, while trampling underfoot Dunning's famous motion against the influence of the Crown. It was 'difficult to conceive,' wrote Nathaniel Wraxall, the extent of 'the moral operation and wide diffusion of these caricatures through every part of the country.'¹⁰⁵ Indeed, Fox, like North, later admitted that Sayer's caricatures 'had certainly a vast effect upon the public mind' and 'had done him more mischief than the debates in Parliament or the works of the press.'¹⁰⁶ Fox's supporters could decry the increasing influence of the Crown as a 'childish phantom' or 'the ever at hand auxiliary of men out of office,' but, smacking as it did of hypocrisy, these arguments fell flat.¹⁰⁷

The denials of Fox and Burke that their Bill established a fourth estate in the realm were equally unconvincing. Their argument that the Company possessed the kind of united influence that could be exerted to thwart ministerial measures in Parliament did not excite particular fears at the time and historians since have determined that no such 'interest group' existed, in part because of the factional infighting within the Company itself.¹⁰⁸ Indeed, despite the strong opposition to Fox's Bill among the Company's stockholders, many directors wrote to North and

1996); Herbert M. Atherton, *Political Prints in the Age of Hogarth: A Study of the Ideographic Representation of Politics* (Oxford: Oxford University Press, 1974); Eirwen E.C. Nicholson, 'Consumers and Spectators: The Public of the Political Print in Eighteenth-Century England,' *History* 81, no. 261 (1996): 5-21.

¹⁰⁵ Wheatley ed., *Wraxall Memoirs*, iii, 254. Sir Richard Hill commented upon Sayer's 'A Transfer of East India Stock' in his speech in the House of Commons on the East India Bill on 27 November 1783 when he noted that Fox 'looked as if he really could carry the India House on his back, as a print just published humorously represented him to be doing'. See *Cobbett*, xxiii, col. 1289.

¹⁰⁶ Horace Twiss, *The Public and Private Life of Lord Eldon* (London: John Murray, 1844), i, 162.

¹⁰⁷ Letter to 'Mr. Secretary Fox' signed 'Malabar' in *Morning Chronicle*, 25 November 1783.

¹⁰⁸ P.J. Marshall, 'The Moral Swing to the East: British Humanitarianism, India, and the West Indies,' in P.J. Marshall, *'A Free Though Conquering People': Eighteenth-Century Britain and its Empire* (Aldershot: Ashgate, 2003): 77; Bowen, *Business of Empire*, 95-96; Lawson and Phillips, "'Our Execrable Banditti'," 228; Mitchell, *Disintegration of the Whig Party*, 67; and C.H. Phillips, 'The East India Company "Interest" and the English Government, 1783-1784,' *Transactions of the Royal Historical Society* 20 (1937): 92. See also Daniel Pulteney to the Duke of Rutland, 21 [March 1785] in HMC, *Fourteenth Report, Appendix, Part. I. The Manuscripts of his Grace the Duke of Rutland, K.G. Preserved at Belvoir Castle Vol. III* (London: Her Majesty's Stationery Office, 1894): 192-193.

Fox requesting appointments as either commissioners or assistant commissioners in the new scheme.¹⁰⁹ It was this belief, that the Company constituted a powerful parliamentary interest group, that lay behind Fox and Burke's arguments that the Company already existed as a 'fourth order of the common-wealth.' Parliament, Burke argued, had already established this fourth estate, and had repeatedly renewed its chartered privileges, and therefore Fox's Bill could not involve the creation of 'a new order in the state, by making occasional trustees for the direction of the Company.'¹¹⁰ Fox's own argument was simpler, albeit founded on an implicit critique of North's 1773 reforms. Fox asserted that the Company's Court of Directors already constituted a fourth estate. All his Bill did, he argued, was alter 'the nature of that estate.'¹¹¹ A ministerial influence that was previously 'secret and denied' would, through Fox's measure, become 'open and avowed' and responsible to Parliament.¹¹² The opposition retorted that North, when Minister, was only able to control 'about one twenty-sixth part of such appointments, *and no more!*' However, it remained substantially true that the appointments to major posts within the Company since 1773 had been made, if not directly by the minister, at the very least with his acquiescence.

IV. SECRET MEMORANDA, ROYAL ASSENT, AND THE DEFEAT OF FOX'S INDIA BILL

Despite the strength of the opposition arguments against Fox's India Bill, it passed through the House of Commons with comfortable majorities. However, the crucial

¹⁰⁹ Sir William James to Lord North, 19 November 1783 in BL, North (Sheffield Park) Papers, Add. MS. 61866, ff. 52-53; Lord North to Charles James Fox, [20 November 1783] in BL, Fox Papers, Add. MS 47561, f. 23; John Roberts to Lord North, 20 November 1783 in BL, North (Sheffield Park) Papers, Add. MS. 61866, f. 54; George Tatem to Lord North, 22 November 1783 in *Ibid.*, f. 62; and Samuel Martin to Lord North, 28 November 1783 in *Ibid.*, f. 66; *Public Advertiser*, 19 November 1783.

¹¹⁰ Edmund Burke, *A Representation to His Majesty by the Right Honourable Edmund Burke on Monday, June 14, 1784* (London: J. Debrett, 1784): 20.

¹¹¹ Speech of Charles James Fox, 16 July [1784] in *Cobbett*, xxiv, col. 1131.

¹¹² *Gazetteer and New Daily Advertiser*, 25 November 1783.

impact of Fox's India Bill, insofar as it affected the domestic Constitution, was not only to be found in the fears that it would transfer the Company's patronage to a newly erected oligarchy of parliamentary commissioners but also in the controversial manner by which the bill was eventually defeated in the House of Lords. The King's unprecedented and unconstitutional interference in the passage of the Bill in the upper chamber raised fundamental constitutional questions concerning the respective roles of the three legislative branches, the resolution of which ultimately shaped the future relationship between the British state and the East India Company.

The records of debates on Fox's India Bill reveal that the Coalition ministry was rhetorically defeated in the House of Lords, a fact that largely matched expectations.¹¹³ However, despite admitting that 'the majority of debaters is against us,' Fox still believed that 'in point of numbers...there is no cause to fear.'¹¹⁴ It is difficult to obtain a clear picture of the Coalition ministry's numerical strength in the Lords and, as McCahill has shown, it is uncertain whether even the Coalition themselves were aware of the precise numbers.¹¹⁵ The uniquely bold nature of the India Bill meant that even some of its traditional supporters voted against it in both houses of Parliament.¹¹⁶ Many peers, weighing the pros and cons of such a controversial piece of legislation, were genuinely unsure of which way to cast their votes.¹¹⁷ Furthermore, the Coalition ministry's storming of the closet, and the widespread rumours of the King's hostility toward them, placed a number of Crown officeholders in the Lords in an equivocal position before the King's views were

¹¹³ *Gazetteer and New Daily Advertiser*, 25 November 1783; *Public Advertiser*, 3 December 1783; *Morning Herald*, 5 December 1783.

¹¹⁴ Charles James Fox to the Duke of Manchester, 2 December 1783 in HMC, *Eighth Report, Part III* (London: George Edward Eyre and William Spottiswoode, 1881): 138.

¹¹⁵ McCahill, *House of Lords in the Age of George III*, 184.

¹¹⁶ For example, see *Anecdotes of the Life of Richard Watson, Bishop of Llandaff* (London: T. Cadel and W. Davies, 1817): 124-5.

¹¹⁷ Lord Chedworth to Thomas Crompton, 8 December 1783 in Thomas Crompton ed., *Letters from the late Lord Chedworth to the Rev. Thomas Crompton; written in the period from Jan. 1780, to May 1795* (Norwich: Charles Muskett, 1840): 29-31; Earl of Hardwicke to the Duke of Portland, 13 December 1783 in BL, Hardwicke Papers, Add. MS. 45030, f. 21; and the speech of the Bishop of Salisbury, 17 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 149-150.

revealed.¹¹⁸ For instance, the Duke of Marlborough offered profuse apologies to the King, claiming that ‘he did not see the late East India Bill in a dangerous light: he thought it calculated rather to increase than to diminish the power of the Crown, or he should not have given his proxy in support of it.’¹¹⁹ These factors militated against an accurate prediction of numbers for and against the measure in Parliament.¹²⁰ They also, however, reveal the impact of the revelation of the King’s views upon those who were equivocating.

The debates in the Lords and the numerical calculations in the months prior to the Bill’s introduction were entirely overshadowed by the actions of George III in December 1783. On 11 December, between the first and second readings of Fox’s India Bill in the Lords, Earl Temple had a conference with the King, during which they finalised the plan to defeat the Bill in the Lords rather than resort to the use of the royal negative.¹²¹ In the course of the meeting, George III provided Temple with a note that empowered him to say on behalf of the King ‘that whoever voted for the India Bill was not only not his friend, but would be considered by him as an enemy.’ As a signal of the depth of George III’s opposition to the India Bill, he further authorised Temple to ‘use whatever words he might deem stronger and more to the purpose.’¹²² Following this meeting, Earl Temple and others were involved in

¹¹⁸ Even the Prince of Wales voted for Fox’s Bill in the first instance, before making apologies to his father and staying away in later votes. See King George III to the Prince of Wales, 18 December 1783 in Aspinall ed., *Later Correspondence of George III*, i, 3; Prince Frederick to King George III, 2 January 1784 in *Ibid.*, 17; Wheatley ed., *Wraxall Memoirs*, iii, 267; see also, *General Evening Post*, 16 December 1783; *Public Advertiser*, 18 December 1783; and *Felix Farley’s Bristol Journal*, 20 December 1783.

¹¹⁹ Duke of Marlborough to King George III, 29 December 1783 in *HMC*, 8th Report, 57; Lord Fauconberg gave a similar apology and excuse, see his letter to George III in Aspinall ed., *Later Correspondence of George III*, i, 6-7.

¹²⁰ W.T. Laprade ed., *Parliamentary Papers of John Robinson, 1774-84* (London: Camden Society, 1922): 65-110; see also ‘Canvass of the House of Lords for the East India Bill’ [December 1783] in Eridge Park, Robinson Papers, No. 524.

¹²¹ For earlier evidence of this plan, see William Pitt to the Duke of Rutland, 6 December [1783] in Lord Mahon ed., *Correspondence between the Rt. Hon. William Pitt and Charles, Duke of Rutland* (London: William Blackwood and Sons, 1890): 5-6.

¹²² Duke of Buckingham ed., *Memoirs of the Court and Cabinets of George III*, i, 285. An alternative and stronger version of the King’s message is provided by John Burgoyne, who claimed to be relating ‘the precise Expressions used in the Conference’ from a source he refuses to reveal in

industriously propagating the news of the King's vehement opposition to Fox's India Bill in the hopes that it would persuade enough peers to defeat the Bill in the Lords.¹²³ The King's personal intervention was the crucial factor that rendered Fox's India Bill fatal to the ministry. As McCahill has argued, George III's message did not necessarily induce a decisive swing from the Coalition of the so-called 'party of the Crown,'¹²⁴ but it did persuade enough peers of diverse complexions to reject the bill on 17 December 1783.¹²⁵

Despite severe criticism in both Houses, Temple and his allies weathered the storm and Fox's India Bill was ultimately defeated, resulting in the fall of the Coalition ministry (see figure 2.4).¹²⁶ Through one of the most controversial

correspondence: 'I think this Bill unprecedented, unparliamentary, and subversive of the Constitution, as in producing a fourth Power which does not belong to it. If this Bill passes, I am no more a King. I shall look upon those, who support the Bill, not only as not my friends, but as my absolute Enemies. My Lord, if you can find terms stronger to express my Disapprobation, you have my authority to use them.' See John Burgoyne to the Earl of Northington, 15 December 1783, BL, Northington Papers, Add. MS. 38716, ff. 142-143.

¹²³ Wraxall recalled that 'Lord Temple, though one of the first individuals thus authorised, formed by no means the sole or exclusive medium through which the royal pleasure was so signified and circulated.' See Wheatley ed., *Wraxall Memoirs*, iii, 187; The Duke of Rutland reached out to the Bishop of Llandaff, see *Anecdotes of the Life of Richard Watson, Bishop of Llandaff*, 125; William Pitt contacted Lord Grantham, see I.R. Christie ed., 'Lord Grantham and William Pitt, 12 December 1783: A Side-Light on the Fall of the Fox-North Coalition,' *HJ* 34, no. 1 (1991): 143-145. The King himself called on Lord Weymouth to come to town, see Richard Atkinson to John Robinson, 12 December 1783 in Eridge Park, Robinson Papers, No. 526; John Robinson was charged with obtaining the votes of Lord Abergavenny, the Duke of Beaufort, and Lord Montague, see Charles Jenkinson to John Robinson, 5 December 1783 in Eridge Park, Robinson Papers, No. 523; and Lord Sydney attempted to persuade Lord Onslow to withdraw his proxy, see Lord Onslow to Lord Sydney, 15 December 1783, in Brotherton MSS, quoted from, Cannon, *Fox-North Coalition*, 134; Lord Onslow's story is corroborated by Charles Townshend in his letter to Fox of 14 December 1783, BL, Fox Papers, Add. MS. 47568, f. 218.

¹²⁴ The Bishops, Scottish representative peers, and household officeholders in the Lords. See D. Large, 'The Decline of the "Party of the Crown" and the Rise of Parties in the House of Lords, 1783-1837,' *EHR* 78, no. 309 (1963): 669-695. The contrary opinion was expressed in the *Morning Chronicle*, 8 December 1783: 'Many people imagine that Mr. Fox's Bill will be very close run in the Upper Assembly; but a man, may make a good shrewd guess, if he knows how wag my Lords the Bishops.' Richard Fitzpatrick, in a letter to his brother the Earl of Upper Ossory, remarking on the same phenomenon, claimed that 'The Bishops waver & *The Thanes fly from us*,' see BL, Fox Papers, Add. MS. 47579, f. 123.

¹²⁵ McCahill, *House of Lords in the Age of George III*, 186-189.

¹²⁶ Speech of William Baker, 17 December 1783 in *Cobbett*, xxiv, cols. 154-155; William Eden to the Earl of Northington, 12 December 1783 in BL, Chichester Papers, Add. MS. 33100, f. 456; see also William Windham to the Earl of Northington, 12 December, in *Ibid.*, f. 522. Charles James Fox

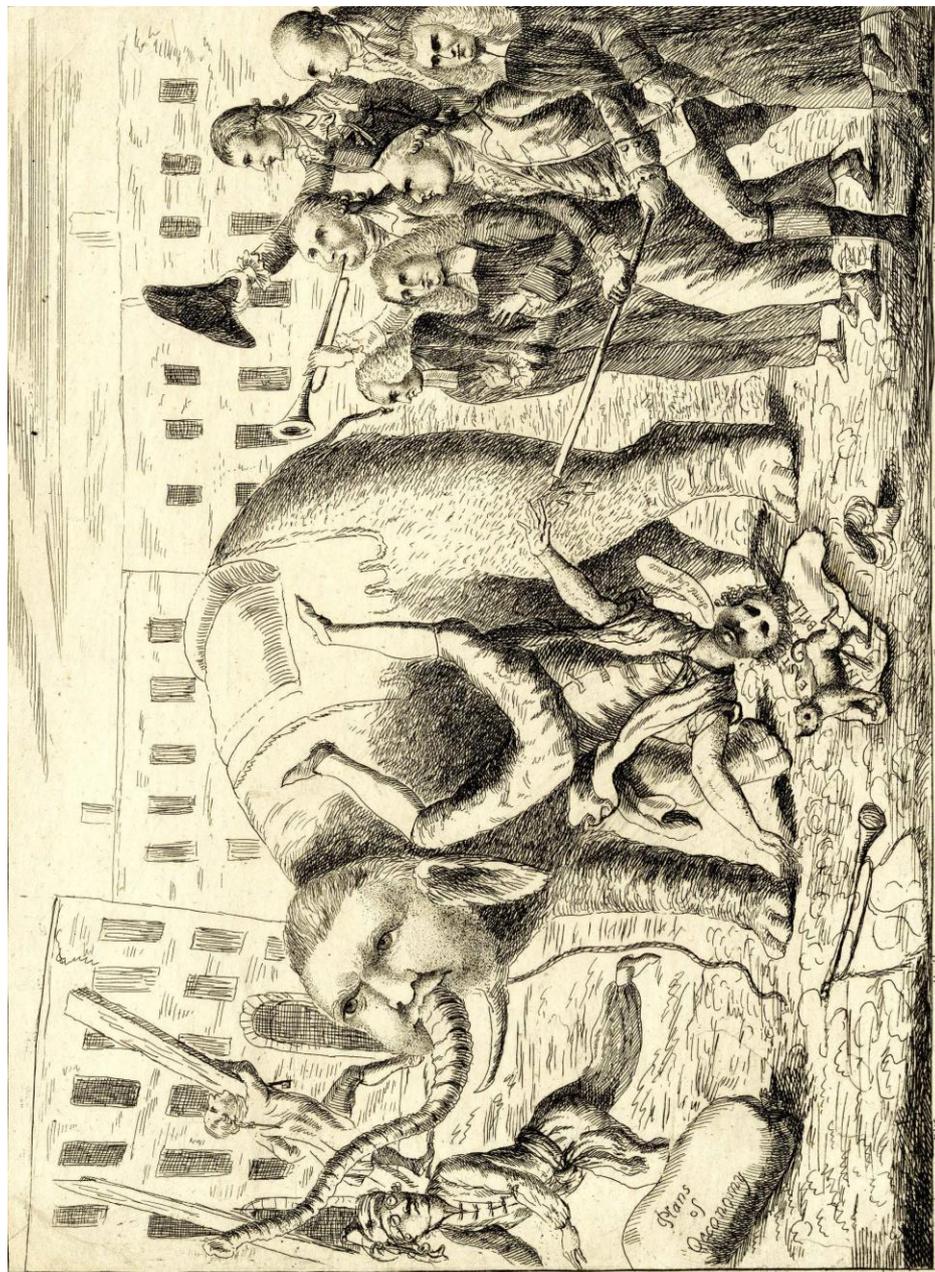


Figure 2.4. 'The Fall of Carlo Khan,' 24 December 1783. BM Satires 6286 © Trustees of the British Museum. This print, a sequel to figure 2.1, depicts the King, flanked by the opponents of Fox's India Bill, who are prodding the elephant (North), causing Fox to tumble and Burke to flee, symbolising the defeat of the coalition. Meanwhile, Pitt, in the background, tries heroically to reinforce the structure of the India House.

to the Duke of Portland, 13 December 1783 quoted in Mitchell, *Disintegration of the Whig Party*, 74; St Andrew St John to the Earl of Upper Ossory, 15 December 1783 in BL, Fox Papers, Add. MS. 47579, f. 145-146; see also Lord Loughborough to William Eden, [ca. 15 December 1783] in BL, Auckland Papers, Add. MS. 34419, f. 313; John Burgoyne to Thomas Pelham, 16 December 1783, in BL, Chichester Papers, Add. MS. 33100, ff. 468-9.

manoeuvres in British political history, the King had defeated Fox's bold attempt to reform the East India Company. Privately, Fox wrote that '[w]e are beat in the H[ouse] of L[ords] by such treachery on the part of the King, & such meanness on the part of his *friends*...as one could not expect even from him or them.'¹²⁷ Publicly, however, they engaged in a dispute over the respective roles of the King, Lords, and Commons in the legislative process. Indeed, George III reported that 'the political struggle is not as formerly between two factions for power, but it is now no less than whether a desperate faction shall not reduce the Sovereign to a mere tool in its hands.'¹²⁸ Given, the grave constitutional implications of incorporating the Company more formally into the existing structures of the British state, it is difficult to see how any other piece of legislation could have produced the same effects—both of destroying the powerful Coalition ministry and also undermining the very foundations of the eighteenth-century Constitution.

It is not clear when the King first became aware of the precise measures contained in Fox's India Bill but the extant evidence suggests that he acted with a degree of duplicity towards his ministers by privately plotting to oppose legislation to which he had publicly given at least tacit approval. Several sources claim that the Bill was presented to the King multiple times before being introduced into Parliament and that he had expressed no particular objection to it.¹²⁹ It is possible, as Wraxall suggested, that he was unable to detect the particular threat it seemed to pose to his own prerogatives.¹³⁰ However, it was certainly unfair of John Brooke to argue that George III 'never bothered with the details of legislation,' and that he

¹²⁷ Charles James Fox to Elizabeth Armistead, [17 December 1783] in BL, Fox Papers, Add. MS. 47570, f. 156.

¹²⁸ King George III to the Duke of Marlborough, 29 December 1783 in Aspinall ed., *The Later Correspondence of George III*, i, 14-15.

¹²⁹ Sir Gilbert Elliot to Hugh Elliot, December 1783 in Minto ed., *Life and Letters of Sir Gilbert Elliot*, i, 89-90; *Annual Register* (1784-5): 68; John Burgoyne to the Earl of Northington, 15 December 1783 in BL, Northington Papers, Add. MS. 38716, ff. 142-143; George Augustus North to Thomas Pelham, 16 December 1783, BL, Chichester Papers, Add. MS. 33100, f. 471-472; and John Dalrymple to Sir Gilbert Elliot, 20 April 1784 in NLS, Minto Papers, MS 11196, f. 1.

¹³⁰ Wheatley ed., *Wraxall Memoirs*, iii, 146-147.

simply acquiesced to Fox's India Bill because he believed in the 'principle' of East India reform.¹³¹ The King had, in the past, paid close attention to the Company's affairs. He wholeheartedly supported the efforts of Chatham and North while strenuously opposing those of Conway and Townshend.¹³² In the early 1770s, he even drafted an essay on reforming the Company, displaying a keen awareness of the extent of their financial and political woes and a solid understanding of the kinds of reforms that would be necessary to repair them.¹³³ While we have no indication of the King's early views on Fox's specific proposals for reform, Thurlow's thorough opposition suggests that, if the King conferred with him, he was unlikely to gain a positive impression of the India Bill.¹³⁴

As soon as Fox's measures were introduced into Parliament, indications began to emerge that those closest to the King vigorously opposed them. Charles Jenkinson, for instance, a long-time confidante of the King, raised serious concerns about the Bill's intended reduction of royal power. Because of the widespread, and not entirely unfounded, rumours about Jenkinson's proximity to the King, his speech caused some anxiety in Coalition circles that it was indicative of the King's views.¹³⁵ The fact that all indications pointed to Lord Mansfield and his nephew Lord Stormont also opposing Fox's Bill only added to the belief that the King looked

¹³¹ John Brooke, *King George III* (London: Book Club Associates, 1972): 251. G.M. Ditchfield argues, and the evidence from the Georgian Papers at Windsor attests to the fact, that George III paid close attention to the details of policy and particularly those concerning the East India Company, see his *George III: An Essay in Monarchy* (Basingstoke: Palgrave Macmillan, 2002): 115-118.

¹³² See, for instance, King George III to the Duke of Grafton, 9 December 1766 in Royal Archives, Windsor, GEO/MAIN/549; King George III to the Duke of Grafton, 7 March 1767 in *Ibid.*, GEO/MAIN/613.

¹³³ See GEO/ADD/32/1698-1699.

¹³⁴ Lord Thurlow to Lord Gower [n.d., but post August 1783] in *HMC 5th Report, Part I*, 210; see also Wheatley ed., *Wraxall Memoirs*, iii, 146-147.

¹³⁵ Charles James Fox to the Earl of Upper Ossory, 21 November 1783 in BL, Add. MS. 47579, f. 35; *Gazetteer and New Daily Advertiser*, 26 November 1783; *General Evening Post*, 13 December 1783; see also Sir George Cornwall to Sir Gilbert Elliot, [December 1783] in NLS, Minto Papers, MS. 11196, f. 17-18; Richard Fitzpatrick to the Earl of Upper Ossory, 21 November 1783, in BL, Add. MS. 47579, f. 121.

upon it unfavourably.¹³⁶ Since the King had not told them directly, however, Fox and the other ministers were inclined to assume either that the King would remain silent or that these rumours about his opposition to the Bill were false.

The first clear indication of George III's disapproval of Fox's India Bill comes from a memorandum penned in collaboration by Lords Temple and Thurlow and delivered to the King by the latter on 1 December.¹³⁷ In the memorandum, they desired to know whether the King agreed with them that Fox's Bill was 'a plan to take more than half the royal power, and by that means disable [the Crown] for the rest of the reign.' In order to defeat the bill, however, they argued that it must be opposed in the Lords, and that the only means of success would be for the King to acquaint peers 'with his wishes, and that in a manner which would make it impossible to pretend a doubt of it.'¹³⁸ This memorandum, therefore, established both the goal of defeating the Bill in the Lords *and* the means by which this was to be accomplished. It is important to note, however, that the memorandum argued that a change of ministers was the only way to avoid Fox's India Bill; not that the India Bill was simply an ideal opportunity for the King to dismiss his ministers, as it has been commonly viewed.¹³⁹ Even in the most secretive and private communications,

¹³⁶ John Scott reported the opposition of Lords Mansfield and Stormont to Warren Hastings, see his letter of 10 November 1783, BL, Hastings Papers, Add. MS. 29161, f. 36; it was known to Philip Yorke and had also become a common rumour in the press, see Philip Yorke to the Earl of Hardwicke, 28 November 1783 in BL, Hardwicke Papers, Add. MS. 35381, ff. 168-170; *Gazetteer and New Daily Advertiser*, 26 November 1783; *Whitehall Evening Post*, 27 November 1783; *General Evening Post*, 29 November 1783; *Public Advertiser*, 3 December 1783; Lord Mansfield had reportedly been shown a draft of the bill in early November and had warned Fox not to pursue it, see Harcourt ed., *Diaries and Correspondence of George Rose*, i, 45; and *Gazetteer and New Daily Advertiser*, 2 January 1784; see also John Scott to Warren Hastings, 20 December 1783 in BL, Hastings Papers, Add. MS. 29161, ff. 194-203.

¹³⁷ There is evidence that Temple was meeting the King before December 'upon particular business', but at that stage there was 'no idea of change [in ministers].' See Earl Temple to Lord Mornington, 6 November 1783 in Buckingham ed., *Memoirs of the Court of and Cabinets of George III*, 281.

¹³⁸ Memorandum of 1 December 1783, in *Ibid.*, 289. By 5 December, Charles Jenkinson reported to John Robinson that '[y]ou may be assured that the King sees the bill in all the horrors that you & I do.' See Eridge Park, Robinson Papers, No. 523.

¹³⁹ See, for example, P.J. Marshall, *The Impeachment of Warren Hastings*, 22; see also P.J. Marshall, *The Making and Unmaking of Empires*, 215; Nick Robins, *The Corporation that Changed*

Fox's India Bill was portrayed as a dangerous constitutional innovation. Furthermore, the fact that Pitt only consented to forming a ministry at the last moment suggests that it was a direct response to a unique and particularly dangerous piece of legislation.¹⁴⁰ That a question concerning the East India Company could have provoked so severe a reaction is also one that should not be surprising. From 1767, it was clear that any question of genuine Company reform would require the establishment of some means by which its revenues and patronage could be incorporated into the British state apparatus without unbalancing the Constitution.

One crucial feature of Temple and Thurlow's memorandum has often been overlooked. The argument that the House of Lords was the best location to defeat the Bill emerged from two presuppositions. First, that it was virtually impossible to break Fox's Commons majority in time enough to defeat the Bill, which ruled out the lower chamber.¹⁴¹ More importantly, however, they argued that '[t]he refusing the Bill, if it passes the Houses is a violent means.'¹⁴² In other words, the prerogative power of the monarch to veto legislation was considered to be too violent a step to be taken with prudence. It was a crucial part of the Constitution but had fallen out of use under the Hanoverians to such an extent that it had become questionable, even to the conservative mind of Thurlow, whether its continued use was either legitimate or advisable.

The last recorded use of the royal negative to veto parliamentary legislation occurred in 1708 when Queen Anne withheld her assent to a bill for settling the

the World: How the East India Company Shaped the Modern Multinational 2nd ed. (London: Pluto Press 2012): 134; and Sutherland, *East India Company*, 366.

¹⁴⁰ See Lord Clarendon's reports on negotiations with Pitt to form a new ministry on 9 and 12 December 1783 in Bodleian Library, MS. Clarendon dep. c. 347, 604-607.

¹⁴¹ The opposition in the House of Commons repeatedly attempted to delay the progress of Fox's Bill through petitions and calling for papers and accounts from the Company. Pitt also moved for a call of the House in an attempt to bring as many country members to the early sitting of Parliament as possible. See speech of William Pitt, 18 November 1783 in *Cobbett*, xxiii, col. 1211; and speech of William Grenville, 20 November 1783 in *Ibid.*, col. 1226.

¹⁴² Buckingham ed., *Memoirs of the Court and Cabinets of George III*, i, 289.

Scottish militia.¹⁴³ When the prospect of its use was raised in 1783 over Fox's India Bill, opinions were sharply divided over whether British monarchs still possessed the power to overrule Parliament. To complicate matters, Fox's Bill would have been vetoed *against* the advice of ministers, which would surely have been an even more controversial and potentially unconstitutional use of the prerogative than that of 1708. Indeed, the issue of royal assent has proven to be a controversial one to this day, with numerous commentators pondering whether the monarch could, on ministerial advice, have refused to give royal assent to a bill prepared and passed from the opposition benches to prevent the UK from leaving the EU without a deal in early 2019.¹⁴⁴ It has proved a divisive issue through the ages. In 1885, A.V. Dicey argued that the 'Crown's right to refuse assent to bills which have passed through the Houses of Parliament is practically obsolete.' In making this point, he referred specifically to the instance when George III 'abstained from using the Crown's right to dissent from proposed legislation, but availed himself of his influence in the House of Lords to procure the rejection of the measure.' There could be 'no stronger proof', he argued, 'that the right of veto was more than a century ago already obsolete.'¹⁴⁵ In 1783, however, the issue was in no way as clear-cut as Dicey

¹⁴³ David W. Hayton, *The House of Commons 1690-1715, I: Introductory Survey* (Cambridge: Cambridge University Press, 2002), 383; for more on the Scottish militia issue in eighteenth century politics, see David R. Raynor ed., *Sister Peg, a pamphlet hitherto unknown by David Hume* (Cambridge: Cambridge University Press, 1982): 12-13. Geoffrey Holmes notes that the use of the royal negative in 1708 'produced not even a ripple of political excitement at the time, let alone a sense of constitutional "occasion"'. See Geoffrey Holmes, *British Politics in the Age of Anne* (Revised ed., London: Hambledon Press, 1987), 186.

¹⁴⁴ See, for instance, Robert Craig, 'Could the Government Advise the Queen to Refuse Royal Assent to a Backbench Bill?', *U.K. Constitutional Law Blog*, 22 January 2019. <https://ukconstitutionallaw.org/> (Accessed 27 May 2019); Stephen Laws and Richard Ekins, *Endangering Constitutional Government: The Risks of the House of Commons Taking Control*. Policy Exchange, 31 March 2019. <https://policyexchange.org.uk/publication/endangering-constitutional-government/> (Accessed 27 May 2019); see also the letter to *The Times*, 3 April 2019, signed by a number of leading academics, arguing that the Queen's use of royal assent is 'purely ceremonial', see <https://publiclawforeveryone.com/2019/04/03/royal-assent-letter-to-the-times/> (Accessed 27 May 2019).

¹⁴⁵ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 55-56. It is interesting to note that Dicey's one caveat in making these statements about royal assent is that it had (in 1885) proven quite useful for maintaining the relationship between Britain and its colonies by maintaining the right of the monarch to veto legislation passed by the parliament of a self-governing colony.

suggested. While opinion was deeply divided, an analysis of the press suggests that the majority opinion, at least in the extreme case of Fox's India Bill, was in favour of the King exercising his right to withhold the royal assent.¹⁴⁶ Of the opinions in favour of the King exercising his legislative veto, many of them saw it as the culmination of a legislative process in which they, too, could participate. For example, one writer argued that further opposition was intended against the India Bill after its passage in the Lords 'as follows: The protesting Peers, dissenting Commons, Corporation of London, present Directors of the India Company, and all the Proprietors that oppose it, are to wait on the King with a petition, requesting that his Majesty would with-hold his Royal Assent.'¹⁴⁷ The very idea of petitioning the King to promote the use of his royal negative foreshadows the campaign of loyal addresses to the throne in support of his actions in dismissing the Coalition ministry and defeating the India Bill that took place in early 1784.¹⁴⁸ The opposite view, though far less prominent, argued that the royal prerogative of vetoing legislation had been lost to the Constitution through lack of usage.¹⁴⁹ Even Wraxall, an opponent of Fox's India Bill, admitted that the royal negative had become 'scarcely known to the British constitution' and that 'all past experience' suggested that 'no British sovereign could venture to oppose himself personally against the representatives of the people sustained by the peers.'¹⁵⁰

While few went so far as to argue that the King no longer possessed this right, the consideration nonetheless weighed heavily even with the King's staunchest supporters. Temple and Thurlow felt it would be a 'violent' measure. Clarendon

¹⁴⁶ See, for example, *Gazetteer and New Daily Advertiser*, 11 December 1783; *Whitehall Evening Post*, 11 December 1783; *Morning Herald*, 13 December 1783; *Whitehall Evening Post*, 13 December 1783; *Whitehall Evening Post*, 16 December 1783; *Whitehall Evening Post*, 25 December 1783; and 'Vincit Veritas!' signed 'A Plain Man' in *The Wit of the Day*, 5-6.

¹⁴⁷ *Gazetteer and New Daily Advertiser*, 11 December 1783. Several other writers urged the drafting of petitions to persuade the King to refuse royal assent, see *Gazetteer and New Daily Advertiser*, 12 December 1783; *Morning Herald*, 13 December 1783.

¹⁴⁸ See, Cannon, *Fox-North Coalition*, 185-190; and Donald R. McAdams, 'Addresses to the King and the Fox-North Coalition,' *Huntington Library Quarterly* 35, no. 4 (1972): 381-385.

¹⁴⁹ *General Evening Post*, 13 December 1783.

¹⁵⁰ Wheatley ed., *Wraxall Memoirs*, iii, 164.

argued that ‘nobody who prefers a calm to a storm’ would advise such a policy.¹⁵¹ For the same reason, Fox and John Burgoyne felt confident that there was ‘not Boldness enough to, give the Negative of the Crown’ to the India Bill.¹⁵² Wraxall reported, however, that ‘if the bill had actually passed the House of Lords,’ George III had taken the resolution ‘to have nevertheless refused to give it the royal assent.’ Whether or not this was true, Wraxall was evidently relieved that ‘the middle line’ adopted by the King prevented the necessity of recurring to such ‘painful extremities’ as refusing the royal assent.¹⁵³ Yet, by relying upon the Lords to kill the legislation, George III and his advisors effectively avoided sole responsibility for defeating the Bill and dismissing the ministry.

If the royal negative was still, strictly speaking, constitutionally valid in 1783, it was nonetheless considered a ‘violent’ and ‘painful’ measure. Despite the fact that it had not been used since 1708, the royal negative remained a recognizable if debatable prerogative power and was a constitutional mechanism widely believed to have been available to George III in the autumn of 1783. By analysing the political and constitutional discourse surrounding Fox’s India Bill it becomes clear that there was no consensus that the royal negative was an ‘obsolete’ power in the Constitution. Therefore, the use of this episode as a precedent for the obsolescence of the monarch’s power to refuse royal assent to legislation is misleading. The royal negative remains a disputed power to this day.¹⁵⁴ Nonetheless, the East India Company had once again forced British politicians to clarify crucial aspects of the

¹⁵¹ Earl of Clarendon to Baron d’Alvensleben, 4 December 1783, Bodleian, MS. Clarendon dep. c. 347, f. 603.

¹⁵² John Burgoyne to the Earl of Northington, 15 December 1783, BL, Northington Papers, Add. MS. 38716, f. 143.

¹⁵³ Wheatley ed., *Wraxall Memoirs*, iii, 192. Adding weight to Wraxall’s rumours that the King was willing to take desperate measures, however, was George III’s description of feeling as if he were ‘[o]n the edge of a precipice’ in the days after the defeat of Fox’s Bill and he once again threatened abdication if Pitt was unable to form a stable ministry. See King George III to William Pitt, [n.d. ca. 22 January 1784] in Harcourt ed., *Diaries and Correspondence of George Rose*, i, 50-51.

¹⁵⁴ Paul Seaward, ‘The Veto,’ *History of Parliament Blog*, 15 April 2019. <https://historyofparliamentblog.wordpress.com/2019/04/15/the-veto/> (Accessed 27 May 2019); see also Vernon Bogdanor, *The Monarchy and the Constitution* (Oxford: Clarendon Press, 1997): 124-133.

domestic Constitution, underlining its centrality to the political and constitutional debates of the period. Moreover, the interference of the King, if not his royal veto, had been used to defeat a measure to reform the Company, an issue upon which all sides were agreed some action needed to be taken. The rejection of Fox's measures, combined with the unique political circumstances in the first half of 1784, had a substantial effect on the settlement of the relationship between the East India Company and the British state.

V. PITT'S FIRST INDIA BILL: PRAGMATIC COMPROMISE OR HYPOCRITICAL 'PALLIATIVE'?

The period between the defeat of Fox's India Bill and the election of 1784 saw the introduction of Pitt's first attempt to pass legislation to reform the East India Company. During the course of the parliamentary debates on Fox's Bill he had pledged himself that, if the House rejected that bill, he would 'bring forward a bill for the regulation of India, not subject to these objections, not charged with this violence.'¹⁵⁵ By doing so he had set himself a particularly difficult task. As Portland pointed out following the defeat of Fox's Bill, 'considering the very intimate connection which must subsist between the Publick & the Company It will be difficult to prevent the Ruin of both by any means that will not be liable to as much objection as those which were lately submitted in Parliament.'¹⁵⁶ Pitt felt certain, however, that the support given to Fox's Bill in the Commons derived primarily from 'the prevailing opinion that some regulation was necessary.' He nevertheless required a plan that would be deemed 'adequate to the purpose' and also that would

¹⁵⁵ Speech of William Pitt, 1 December 1783 in *Cobbett*, xxiii, col. 1406. This speech was presumably the source of the erroneous rumours that Pitt would present an alternative bill to reform the Company in early December, see *Morning Herald*, 5 December 1783 and *Morning Chronicle*, 8 December 1783.

¹⁵⁶ Duke of Portland to the Earl of Hardwicke, 2 January 1784 in BL, Supplementary Hardwicke Papers, Add. MS. 45030, f. 22.

‘receive the approbation of impartial and independent men.’¹⁵⁷ Pitt did not shy away from the issue at hand, as some have argued.¹⁵⁸ In fact, Pitt revelled in the unpopularity of Fox’s Bill for political purposes. His ministry, he argued, was formed ‘chiefly on the ground of the India Bill.’ Their duty was to propose an alternative system to prove that ‘[t]hey had not opposed the last Bill by cavilling; they had not objected to it from envy to the parents of it.’¹⁵⁹ The task Pitt faced was to accomplish the same objective of India reform but ‘in a safer...more moderate...more constitutional’ way.¹⁶⁰

Throughout their opposition to Fox’s Bill, Pitt and his supporters had been cooperating closely with a powerful group of Company stockholders including Laurence Sullivan, George Johnstone, and Richard Atkinson.¹⁶¹ These proprietors dominated the committee formed by the Company for the purpose of opposing Fox’s Bill and upholding their chartered and property rights.¹⁶² When Fox’s Bill was defeated, Pitt, along with his close ally and expert on Indian issues, Henry Dundas, spent much of the Christmas recess engaged in negotiations with this committee of the Company. Their object was to come to a consensus on how the important reforms contained in Dundas’s abortive India Bill of 1783—which was torpedoed by the fall of Shelburne’s ministry—could be altered to the satisfaction of the Company’s leading proprietors.¹⁶³ The strategy was, in fact, somewhat reminiscent of North’s in 1772-3, whereby the reforming initiative would be seen to come from

¹⁵⁷ William Pitt to Sir Archibald Edmonstone, 2 January 1784 in HMC, *Report on Manuscripts in Various Collections Vol. V. The Manuscripts of Col. Mordaunt-Hay of Duns Castle; Sir Archibald Edmonstone of Duntreath; Sir John James Graham of Fintry, etc.* (Hereford: His Majesty’s Stationery Office, 1909): 180.

¹⁵⁸ Philips, ‘The East India Company “Interest” and the English Government, 1783-1784,’ 94.

¹⁵⁹ Speech of William Pitt, 12 January 1784 in *Cobbett*, xxiv, col. 271.

¹⁶⁰ *Ibid.*, 271.

¹⁶¹ Philips, *East India Company*, 25-26; Sutherland, *East India Company*, 403-405; Philips, ‘The East India Company “Interest” and the English Government, 1783-1784,’ 94; McGilvary, *Guardian of the East India Company*, 253-254.

¹⁶² See Minutes of the General Court, 21 November 1783 in BL, IOR/B/99, 588; and Minutes of the General Court, 19 December 1783 in *Ibid.*, 700-701.

¹⁶³ The Company had ‘strongly opposed’ Dundas’s Bill, see Sutherland, *East India Company*, 409; see also Minutes of the Court of Directors, 1 May 1783 in BL, IOR/B/99, 51; and Minutes of the General Court, 1 May 1783 in *Ibid.*, 53.

the Company itself. This approach, it was hoped, would ‘have the effect of rendering the plan much more palatable to Parliament than if it had not had that sanction.’¹⁶⁴ The committee of proprietors put forward a motion stating the Company’s willingness ‘to treat in an amicable manner...upon all such Regulations of the Company’s affairs as shall appear to be for the General Welfare of the Publick and the Company.’ This motion was passed unanimously in both the Courts of Directors and Proprietors.¹⁶⁵ This opened the door to several meetings over the Christmas vacation between Pitt, Dundas, and the leading members of the Company’s committee.¹⁶⁶ The result was a compromise, by which neither side got ‘all the objects we had in view.’¹⁶⁷ For example, Pitt and Dundas had to give up the idea of creating a new secretary of state for India as well as some of the more substantial military powers proposed for the Governor General.¹⁶⁸ Atkinson, on the other hand, had to give up the measures of reducing the number of the Company’s directors from twenty-four to sixteen and of vesting the appointment of the Company’s Chairman in the Crown.¹⁶⁹ Nonetheless, the negotiated proposals were placed before the proprietors and accepted by a vote of 250-56 in the Company’s General Court.¹⁷⁰ In stark and deliberate contrast to Fox, Pitt had succeeded in getting the Company to agree to his reform proposals. It must be admitted, however, that it was only in the

¹⁶⁴ King George III to William Pitt, 11 January 1784 in J.H. Rose, *Pitt and Napoleon: Essays and Letters* (London: G. Bell and Sons, 1912): 202.

¹⁶⁵ Minutes of the Court of Directors, 20 December 1783 in BL, IOR/B/99, 705; and Minutes of the General Court, 20 December 1783 in *Ibid.*, 706.

¹⁶⁶ *London Chronicle*, 27 December 1783; *General Evening Post*, 30 December 1783; *Felix Farley’s Bristol Journal*, 3 January 1783; *Morning Chronicle*, 5 January 1784; see also Richard Atkinson to John Robinson, 29 December 1783 in Eridge Park, Robinson Papers, No. 549; and Richard Atkinson to John Robinson, 30 December 1783 in *Ibid.*, No. 550.

¹⁶⁷ Richard Atkinson to John Robinson, 31 December 1783 in Eridge Park, Robinson Papers, No. 551.

¹⁶⁸ See Dundas’s Bill in Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 109-166; and Sutherland, *East India Company*, 408-409.

¹⁶⁹ See Richard Atkinson to Henry Dundas, 22 July 1784 in Holden Furber ed., ‘The East India Directors in 1784,’ *Journal of Modern History* 5, no. 4 (1933): 484; see also Philips, *East India Company*, 28.

¹⁷⁰ Minutes of the Court of Directors, 8 January 1784 in BL, IOR/B/99, 743-748; Minutes of the General Court, 8 January 1784 in *Ibid.*, 749-754; and Minutes of the General Court, 10 January 1784 in *Ibid.*, 760. See also, the letters between William Pitt and King George III, 8-10 January 1784 in Aspinall ed., *Later Correspondence of George III*, i, 18-19.

context of the greater threat of Fox's Bill that the Company could ever have been brought to come to an agreement with Pitt on such terms as they did. They chose what they saw as the lesser of two evils.¹⁷¹

The resulting bill was a short and relatively simple one. Even its erstwhile proponents, such as Richard Atkinson, complained that it left 'a vast deal to be done by a subsequent Bill for the regulations of affairs in India, which in truth *is the whole of the difficulty*.'¹⁷² Pitt's Bill created a board composed of privy councillors, who would have 'Superintendance and Controul over all the *British Territorial Possessions in the East Indies*' and over the civil and military affairs of the Company.¹⁷³ The most controversial aspects of the Bill however, were those granting to the Crown control over some aspects of the Company's patronage and also the power to nominate and remove members of the new privy council board. For example, the Bill stipulated that the nomination of the military commanders of the Company's presidencies would be vested in the Crown. It also gave the Crown not only the right to remove Governors or Councillors in any of the Company's presidencies in India but also the power to veto the individuals proposed by the Company's Court of Directors to these offices. Pitt argued that these provisions gave 'the crown the power of guiding the politics of India with as little means of corrupt influence as possible.'¹⁷⁴ He added that it only gave to the Crown the same kind of 'sway over its Indian...as over its other dependencies.'¹⁷⁵ Furthermore, the Bill revoked the power of the Court of Proprietors to dispute the orders or resolutions of the Court of Directors 'after His Majesty's Pleasure shall have been signified upon

¹⁷¹ John Scott to Warren Hastings, 11 January 1784 in BL, Hastings Papers, Add. MS. 29161, ff. 321-329.

¹⁷² Richard Atkinson to John Robinson, 31 December 1783 in Eridge Park, Robinson Papers, No. 551.

¹⁷³ Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 403-404. A concise account by Pitt of the major propositions of his Bill is printed in Philips, *East India Company*, 27.

¹⁷⁴ Speech of William Pitt, 23 January 1784 in *Cobbett*, xxiv, col. 407.

¹⁷⁵ *Ibid.*, col. 410.

the same.¹⁷⁶ The Bill, then, unlike Fox's, left most of the powers of the Company's Directors and Proprietors intact, while subjecting them to the scrutiny of a privy council board. Pitt hoped, thereby, to obtain the support of moderate MPs without offending the Company's stockholders.

The introduction of Pitt's Bill, however, did not go according to plan. Despite the Coalition's dismissal, and the so-called 'rat catching' of John Robinson, who attempted to pressure MPs to support Pitt's new ministry, Fox and North continued to possess a strong majority in the House of Commons (see figure 2.5).¹⁷⁷ When Pitt attempted to introduce his India Bill, as the first measure of the new administration and a test of its strength, he was rebuffed by Fox who moved for the orders of the day to be read and to resume the committee on the state of the nation which passed 232-193.¹⁷⁸ This was a strategic move to prevent Pitt's ministry from gaining an initial victory on the basis of the unpopularity of Fox's Bill and the general appetite for East India reform. By focusing attention on the controversial manner by which the Pitt ministry had come to power, Fox was able to rally his supporters, who argued that Pitt was using India as a pretext for a factious opposition to the Fox-North Coalition.¹⁷⁹ This tactic was also reflected in Foxite propaganda, whereby 'Carlo Khan's Triumphal Entry into Leadenhall Street' was juxtaposed with 'Master Billy' (Pitt), attempting to ride his 'hobby-horse' of 'despotism' and 'aristocracy' into the Treasury offices, only to find the door locked by the resolutions of Fox's Commons majority (see figure 2.6).

When Pitt did bring in his Bill several days later, the main arguments of the opposition were that it did not go far enough to reform the Company, that it vested the Company's patronage in the Crown, and that it did not actually possess the consent of the Company. The nature of Pitt's opposition to Fox's Bill made his task

¹⁷⁶ Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 35, 410.

¹⁷⁷ See also John Cannon, 'Robinson, John (1727-1802)' *Oxford Dictionary of National Biography* <https://doi.org/10.1093/ref:odnb/23852> (Accessed 29 May 2019).

¹⁷⁸ *Cobbett*, xxiv, col. 299.

¹⁷⁹ See Speech of Thomas Erskine, 12 January 1784 in *Ibid.*, col. 277.

far more difficult. As one relatively neutral commentator noted, '[o]n the one hand, every thing taken away from the Company in favour of the Crown, must be...a derogation from their Charter. On the other, every privilege and power to be left in the hands of those, who, it was not denied, had grossly abused them, must...stand in the way of all reformation.'¹⁸⁰ Not only had Pitt, as mentioned above, pledged himself to bring in a less violent and objectionable mode of reform but on the very first day of the previous session, before even hearing the specifics of Fox's Bill, he had warned Fox not to produce 'measures of palliation, or measures of a temporary nature.'¹⁸¹ Pitt's words, however, came back to haunt him as his own scheme was accused of being an example of 'precisely what Mr. Pitt declared he would reprobate; that is "a palliative—a half measure"'.¹⁸² Compared to Fox's Bill, wrote one commentator, Pitt's was but a 'temporary scaffolding.'¹⁸³ Fox himself argued that Pitt's Bill was 'inadequa[te] to the end for which it was proposed,' that is, it 'tends to no reformation [of the Company] at home, [and] to no correction of abuse abroad.'¹⁸⁴

Pitt's Bill was also accused of increasing the influence of the Crown. The arguments, in this case, had shifted in the wake of the heavy criticism faced by Fox's Bill. Rather than denounce outright the accumulation of the influence of the Crown, critics tended to point out that it differed from Fox's in that it was deceptive. Instead of being an 'open and avowed' system, it was to be 'artfully disguised under the masquerade of a negative.'¹⁸⁵ Fox argued that Pitt's bill created a division of power between the directors and the superintending board. When the system worked well,

¹⁸⁰ *Popular topics; or, the grand question discussed: In which the following subjects are considered; viz. the King's prerogative, the privileges of Parliament, secret influence, and a system of reform for the East-India Company* (London, 1784): 10.

¹⁸¹ Speech of William Pitt, 11 November 1783 in *Cobbett*, xxiii, col. 1141.

¹⁸² *Gazetteer and New Daily Advertiser*, 9 January 1784.

¹⁸³ *A Letter from a Member of the House of Commons to his Constituents, on the Great Constitutional Questions Lately Agitated in Parliament* (London, 1784): 15.

¹⁸⁴ Speeches of Charles James Fox, 20 and 23 January 1784 in *Cobbett*, xxiv, cols. 388, 399.

¹⁸⁵ *Gazetteer and New Daily Advertiser*, 9 January 1784; see also *Morning Chronicle*, 10 January 1784.

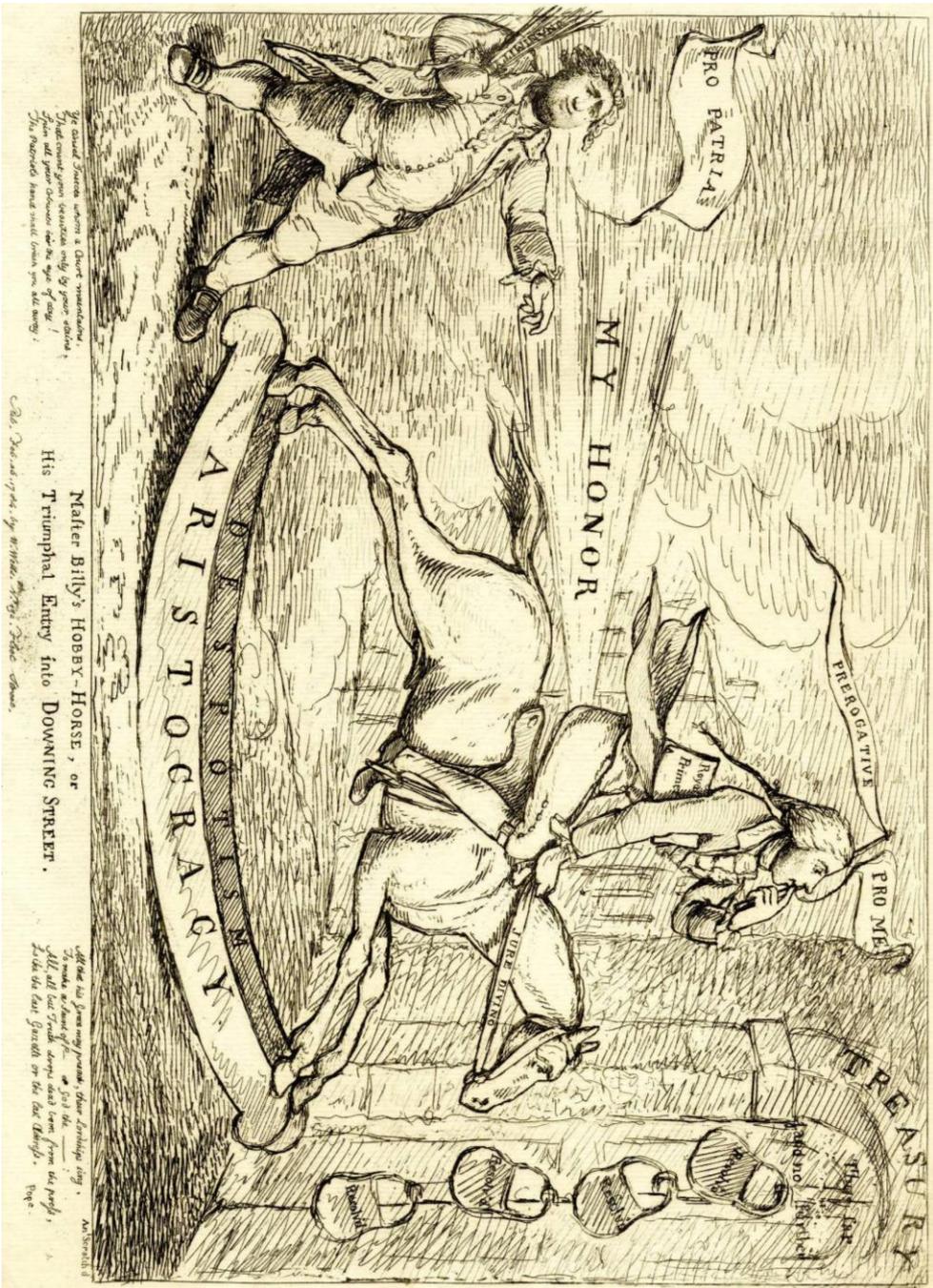


Figure 2.6. 'Master Billy's hobby-horse, or his triumphal entry into Downing Street,' 26 February 1784. BM Satires 6425 © Trustees of the British Museum.

he argued, it would be an engine for increasing the influence of the Crown but ‘when the courts of superintendents and directors are at variance, anarchy will be the effect.’¹⁸⁶ Burke added that the influence arising from the patronage of Pitt’s bill ‘would be the more dangerous, as those who were to have the distribution of the whole in reality, though perhaps not in name, would be removable at the will and pleasure of the Crown.’¹⁸⁷ Therefore, as Thomas Erskine argued, ‘it armed the crown with additional power, without stipulating any responsibility whatever.’¹⁸⁸

Pitt’s bill was also attacked for failing to live up to its claim that it possessed the Company’s consent. Fox questioned the extent to which Pitt’s bill could claim to have the consent of the Company when only two hundred and fifty proprietors voted in favour of it out of a total electorate of over fourteen hundred.¹⁸⁹ Stephen Lushington, one of the Company’s directors, agreed and argued that the propositions had not been communicated to the directors prior to their discussion in the General Court.¹⁹⁰ George Johnstone, in response, admitted that the directors had not been given prior notice of the propositions but pointed out that since that time they had adopted them unanimously.¹⁹¹ He also responded to Fox’s argument, suggesting that it was a ‘strange mode of reasoning’ to claim that the sense of a legislative body ‘was not expressed by the members present on any question, but by those who were absent, if the latter surpassed in numbers the former.’¹⁹² Indeed, by such reasoning, most votes in eighteenth-century parliaments would have been invalid.

However, Fox’s argument grew stronger when it was suggested that both sides should come together to form a unity government and make concessions on

¹⁸⁶ Speech of Charles James Fox, 23 January 1784 in *Cobbett*, xxiv, col. 396; see also speech of Charles James Fox, 14 January 1784 in *Ibid.*, col. 337.

¹⁸⁷ Speech of Edmund Burke, 16 January 1784 in *Ibid.*, col. 354.

¹⁸⁸ Speech of Thomas Erskine, 23 January 1784 in *Ibid.*, cols. 402-405.

¹⁸⁹ Speech of Charles James Fox, 14 January 1784 in *Ibid.*, col. 332.

¹⁹⁰ Speech of Stephen Lushington, 14 January 1784 in *Ibid.*, col. 339; see also Minutes of the Court of Directors, 8 January 1784 in BL, IOR/B/99, 748 for proof of his assertion.

¹⁹¹ Speech of George Johnstone, 16 January 1784 in *Cobbett*, xxiv, cols. 355-356.

¹⁹² *Ibid.*, col. 356.

their respective India policies.¹⁹³ Fox argued that Pitt could make no concessions to his Bill ‘without falling into that very error or crime which had been made such a ground of attack upon his [Fox’s] Bill, namely the acting without the consent, or against the will of the parties concerned.’ In other words, if Pitt made concessions his measure could no longer claim to be based on the propositions to which the Company had consented.¹⁹⁴ Ultimately, despite earning the praise of some for its moderation, the preponderant opinion in the House of Commons went against Pitt’s Bill and it was rejected before any concessions could be made.¹⁹⁵ Thus, in his first attempt to walk the constitutional tightrope between reforming the East India Company and avoiding the a dangerous accumulation of influence that could unbalance the Constitution, Pitt faltered, only to be gifted a second opportunity by the safety net of a general election.

VI. EASTERN COLLUSION? THE ELECTION OF 1784 AND THE GENESIS OF PITT’S INDIA ACT

The Fox-North Coalition had attempted to avoid a dissolution of Parliament since they were dismissed from office in December 1783.¹⁹⁶ The fact that the King had not taken this step and therefore called a general election was widely believed to be the reason behind the resignation of Earl Temple as secretary of state just a few days into the birth of Pitt’s ministry.¹⁹⁷ However, by March 1784, in the face of a rapidly

¹⁹³ Cannon, *Fox-North Coalition*, 175-177; see also William Pitt to Thomas Grosvenor, 31 January 1784 and 1 February 1784 in Nottingham, Portland (Welbeck) Papers, Pw F 7699, 7700; and Duke of Portland to Lord North, 29, 31 January and 2 February 1784 in BL, North (Sheffield Park) Papers, Add. MS. 61862, ff. 29-34.

¹⁹⁴ Speech of Charles James Fox, 20 January 1784 in *Cobbett*, xxiv, col. 388.

¹⁹⁵ *Ibid.*, col. 412; see also Brian Connell ed., *Portrait of a Whig Peer: Compiled from the Papers of the Second Viscount Palmerston, 1739-1802* (London: A. Deutsch, 1957): 149.

¹⁹⁶ Richard Rigby to John Robinson, 18 December 1783 in Eridge Park, Robinson Papers, No. 540; John Burgoyne to the Earl of Northington, 24 December 1783 in BL, Chichester MSS, Add. MS. 33100, ff. 486-487.

¹⁹⁷ Paul Kelly, ‘The Pitt- Temple Administration, 19-22 December 1783,’ *HJ* 8 (1974): 157-161; Peter Jupp, ‘Earl Temple’s Resignation and the Question of a Dissolution in December 1783,’ 309-313; and E.A. Smith, ‘Earl Temple’s Resignation, 22 Dec. 1783,’ *HJ* 6, no. 1 (1963): 91-97.

declining Commons majority, the Coalition was forced to back down on its threat to withhold the supplies, which allowed the King to call a snap election, and thereby provide Pitt's government with a compliant lower chamber. There has been a considerable debate among scholars about whether the election of 1784 was unique among eighteenth-century general elections for having been fought on national issues, such as East India Company reform, and furthermore over the extent to which public opinion on these issues can be said to have influenced the result of the election.¹⁹⁸ For the purposes of this chapter, however, the most important aspect is that the general election delivered Pitt a comfortable majority in the House of Commons. By all indications, popular opinion appears to have been on the side of Pitt and against Fox and his India Bill, and this influenced both the number of contests in constituencies with a wider franchise as well as the political affiliations of the members who were returned.¹⁹⁹ Between January and March, over two hundred loyal addresses flowed in from towns, boroughs, and counties across the kingdom

¹⁹⁸ For scholars who emphasise the importance of public opinion and the unique politicisation of the election, see John Cannon, *Fox-North Coalition*, 215-216; M.D. George, 'Fox's Martyrs: The General Election of 1784,' *Transactions of the Royal Historical Society* (1939): 133-168; Paul Kelly, 'Radicalism and Public Opinion in the General Election of 1784,' *Historical Research* 45 (1972): 73-88; Hilton, *Mad, Bad, Dangerous*, 43-44; H.T. Dickinson, *The Politics of the People in Eighteenth-Century Britain* (London: St. Martin's Press, 1994): 54; Murray Scott Downs, 'George III and the Royal Coup of 1783,' *The Historian* 27, no. 1 (1964): 73-74; Foreman, *Georgiana*, 140-159; Hill, 'Fox and Burke,' 3-4; Alexander Lock, 'The Electoral Management of the Yorkshire Election of 1784,' *Northern History* 67, no. 2 (2010): 271-296; Marshall, *Problems of Empire*, 24, 42; Mitchell, *Disintegration of the Whig Party*, 92-93; N.C. Phillips, *Yorkshire and English National Politics 1783-4* (Christchurch: University of Canterbury Press, 1961); and Sutherland, *East India Company*, 410-412. For those who argue, on the contrary, that the 1784 election was managed by the Treasury with the assistance of finance from the East India Company, see W.T. Laprade ed., *Parliamentary Papers of John Robinson*, xi-xviii; Laprade, 'Public Opinion and the General Election of 1784,' 224-237; W.T. Laprade, 'William Pitt and Westminster Elections,' *AHR* 18, no. 2 (1913): 253-274; Holzman, *The Nabobs in England*, 59-63; Lucyle Werkmeister, *The London Daily Press 1772-1792* (Lincoln, NE: University of Nebraska Press, 1963): 13; more recently, see Andrew Connell, 'John Robinson, Richard Atkinson, Government, Commerce and Politics,' 271-273.

¹⁹⁹ See, for instance, the propagation of pamphlets against Fox's India Bill being industriously propagated through the county of Yorkshire, in Henry Zouch to Earl Fitzwilliam, 9 February 1784 and Peter Wentworth to Earl Fitzwilliam, 11 & 16 February 1784, quoted in Cannon, *Fox-North Coalition*, 221; see also the evidence of the unpopularity of Fox's Bill in Namier and Brooke eds., *The House of Commons 1754-1790: I, Survey, Constituencies, Appendices*, 91; and for the canvassing on behalf of Pittite candidates by the Yorkshire Association, see Dickinson, *The Politics of the People*, 47.

thanking the King for dismissing the Coalition and for installing a new set of ministers, thereby preserving the balanced constitution established at the 1688 Revolution.²⁰⁰ The addresses were signed by thousands and can be seen as marking a turning point toward what has been called the ‘apotheosis of George III.’²⁰¹

Whether or not the wealth of the East India Company was brought to bear in turning the tide of the election of 1784 in favour of Pitt and the Crown, many contemporaries began to speculate that the ministry had made some sort of bargain to win the Company’s support.²⁰² Charles Jenkinson felt that the election results proved ‘the People of this Country are Monarchical, & however they may like to see a Minister to be attacked, they will not (if they are not deceived) suffer their Prince to be insulted.’²⁰³ Others, however, were more sceptical, and subsequent events were to corroborate their fears that the ministry had bound itself inextricably to support factions within the Company either hostile to reform or at the very least materially interested in covering up past abuses.

There were repeated reports in the press that Pitt was continuing to meet with the Company’s directors in the weeks before and after the election, fuelling speculation that ‘a new bill for regulating the affairs of the Company...will be among the first business introduced to the new Parliament.’²⁰⁴ The King’s speech opening the session confirmed that an East India bill would be among the first and most important acts of the new Parliament. It also outlined the continuation of Pitt’s cautious approach to reforming the Company, acknowledging the ‘just anxiety’ of

²⁰⁰ On the addresses, see McAdams, ‘Addresses to the King and the Fox-North Coalition,’ 381-385; A.S. Foord, *His Majesty’s Opposition, 1714-1830* (Oxford: Clarendon Press, 1964): 399; and Hilton, *Mad, Bad, Dangerous*, 43.

²⁰¹ Linda Colley, ‘The Apotheosis of George III: Loyalty, Royalty and the British Nation 1760-1820,’ *Past and Present* 102 (1984): 122.

²⁰² For historians who emphasise the role of the Company’s wealth, see Laprade ed., *Parliamentary Papers of John Robinson*, xviii; Robert Gore-Browne, *Chancellor Thurlow: The Life and Times of an Eighteenth Century Lawyer* (London: Hamish Hamilton, 1953): 223; Marshall and Todd eds., *Writings and Speeches of Edmund Burke*, v, 26; and Smith, *Whig Principles*, 97.

²⁰³ Charles Jenkinson to John Robinson, 18 April 1784 in Eridge Park, Robinson Papers, No. 604.

²⁰⁴ *Whitehall Evening Post*, 18 March 1784; *Gazetteer and New Daily Advertiser*, 26 April 1784; *General Evening Post*, 6 May 1784; *Whitehall Evening Post*, 6 May 1784.

Parliamentarians ‘to provide for the good government of our possessions’ in the East Indies, while at the same time hoping that they would ‘never lose sight of the effect which any measure to be adopted for that purpose may have on our own constitution, and our dearest interests at home.’²⁰⁵ It was, however, widely believed that a new dimension had been added to the equation following the general election. If Pitt’s first attempt at an India Bill had been accused of being ineffectual because he had obtained the Company’s consent to the reforms, the strength of the Company’s interest in the new House of Commons led to reports that even ‘greater sacrifices are now to be made to them’ in the new legislation.²⁰⁶

Pitt’s second attempt to reform the Company was a far more sophisticated piece of legislation, and contained a peculiar mixture of concessions to the Company and extensive powers to the Crown that reflected divisions within both the ministry and the Company. On the one hand, there was the impetus, from Dundas and Atkinson, to radically reform the Company’s home government to reduce the power of the directors in favour of the new Board of Control.²⁰⁷ On the other hand, there was strong opposition from within the Company against removing the patronage of the directors and against giving an unlimited superintending power to the Governor General of Bengal over the other presidencies in India. Additionally, the Company was in a far stronger bargaining position in July 1784 than it had been in January. The Company’s acceptance of the relatively harsh terms of Pitt’s first bill was a reflection of their desperate situation, having just been rescued from the persecution of Fox’s. While Fox continued to hold out the prospect that he would reintroduce his failed India Bill, it is no surprise that the Company sought to compromise with Pitt

²⁰⁵ King’s Speech Opening the Session, 19 May 1784 in *Cobbett*, xxiv, col. 805; this was corroborated in the addresses of thanks in both houses of Parliament, see Speech of Lord Macclesfield, [19 May 1784] in *Ibid.*, col. 807; and Speech of John James Hamilton, [19 May 1784] in *Ibid.*, col. 831.

²⁰⁶ *Gazetteer and New Daily Advertiser*, 22 May 1784.

²⁰⁷ See, for instance, Richard Atkinson to Lady Anne Barnard, 21 July 1784 in NLS, Crawford Papers, Acc. 27/2/22; and Richard Atkinson to Henry Dundas, 22 July 1784 in Holden Furber ed., ‘The East India Directors in 1784,’ *Journal of Modern History* 5, no. 4 (1933): 484.

as far as possible.²⁰⁸ By the summer, however, Pitt's ministry had a strong parliamentary majority and was assisted in this by the election of a solid batch of MPs associated with the Company, most of whom supported Pitt's government.²⁰⁹ Their support could easily be lost, however, if the reforms failed to match their expectations. Moreover, the previously united front within the Company, created by the fear of Fox's India Bill, had disintegrated in the election of directors in April, as Richard Atkinson, Sir Francis Baring, and James Macpherson broke with Laurence Sullivan, and thus the powerful Hastings connection, in a row over who would fill the positions of chairman and deputy chairman.²¹⁰ In passing his new set of regulations, therefore, Pitt had to contend with a far greater probability that the Company would not be brought to acquiesce even to a resubmission of his previous bill.

The first section of Pitt's second India bill, as it was presented to the House of Commons in July 1784, was indeed largely a resubmission of his bill from January. However, Pitt's second bill was far more comprehensive and contained two further sections. One dealt specifically with the government of British India and was based on Fox's uncontroversial second India Bill and Henry Dundas's failed bill from May 1783, and therefore faced very little opposition. The last section was a truly innovative yet convoluted method of attempting to secure the punishment of those accused of offences in India through the creation of a unique quasi-parliamentary tribunal. Unlike previous India legislation, however, which had been worked out in advance and pushed through Parliament with the strength of

²⁰⁸ Philip Yorke to the Earl of Hardwicke, [n.d. ca. 17-18 December 1783] in BL, Hardwicke Papers, Add. MS. 35381, ff. 192-193; Earl of Hardwicke to Philip Yorke, 24 January 1784 in *Ibid.*, f. 229; Wheatley ed., *Wraxall Memoirs*, iii, 273, 303; *London Chronicle*, 24 January 1784; speech of Charles James Fox, [23 January 1784] in *Cobbett*, xxiv, cols. 420-421.

²⁰⁹ C.H. Philips has calculated that Pitt gained the support of at least thirty-six members of Parliament associated with the East India Company, fifteen of whom were elected for the first time in 1784. See Philips, *East India Company*, 29-30.

²¹⁰ Differing accounts of the dispute are given in Laurence Sullivan to Stephen Sullivan, 10[?] November 1784 in Bodleian Library, Sullivan Papers, MS. Eng. hist. b. 190, ff. 32-37; James Macpherson to John Macpherson, 20 April 1784 in BL, Macpherson Papers, F291/123; Richard Atkinson to John Robinson, 15, 19, 20, 21 April 1784 in Eridge Park, Robinson Papers, Nos. 602, 605, 606, 607.

government majorities, Pitt's India Act, as it would become known, was dramatically altered during the legislative process through the intervention of parliamentarians associated with the Company.

When introducing the Bill to Parliament, Pitt argued that his bill was intended to strike a balance between 'doing the most good to India...with the least injury to our constitution.'²¹¹ He asserted that it was impossible to reform the Company 'without giving to some body of men an accession of power; but [that] it was his duty to vest it where he should have reason to think it would be least liable to abuse.'²¹² As a result, Pitt's bill attempted to separate, as far as possible, the patronage of the Company from the Board of Control. Indeed, it was stipulated that nothing contained within the bill should be construed to give the Board 'the Power of nominating or appointing any of the [Company's] Servants'.²¹³ Pitt's Bill gave the Crown the right to appoint commanders-in-chief and a negative upon the Company's appointment of governors and councillors. These 'great appointments', he argued, were not the 'sort of patronage for the public to entertain a jealousy about' due to their infrequency.²¹⁴ As for the remainder of the patronage, which was potentially more regularly available, Pitt subjected the Company to the kinds of economical measures and bureaucratic reforms being promoted by the commissioners for public accounts.²¹⁵ His bill not only restricted the directors from appointing any further civil or military servants until they had compiled a list of 'offices, places and employments' and made 'every practicable Retrenchment and Reduction' in their establishments in India, but it also imposed the process of promotion by seniority 'in a regular progressive succession,' thereby restricting the extent to which patronage

²¹¹ Speech of William Pitt, 6 July 1784 in *Cobbett*, xxiv, col. 1087; William Grenville defended the bill with similar rhetoric in his *Thoughts on the present East India Bill: passed into a law, August 1784* (London: J. Stockdale, 1784): 7-8.

²¹² *Ibid.*, cols. 1086-1087.

²¹³ *House of Commons Sessional Papers*, vol. 46, 108

²¹⁴ Speech of William Pitt, 6 July 1784 in *Cobbett*, xxiv, col. 1095.

²¹⁵ John Torrance, 'Social Class and Bureaucratic Innovation: The Commissioners for Examining the Public Accounts 1780-1787,' *Past and Present* 78 (1978): 56-81.

appointments could result in rapid enrichments.²¹⁶ Echoing those who had previously argued that they would rather see the Company ‘totally overthrown...than have the base of the English constitution undermined,’²¹⁷ Pitt argued that his plan ensured that the Company’s patronage would be ‘diffused and placed in Bengal’ where it could do the least harm to the British Constitution.²¹⁸

VII. DRAFTED BY DELINQUENTS? THE FUTILE OPPOSITION TO PITT’S INDIA ACT

However, the bill as it was introduced to Parliament proved to be unacceptable to many of the Company’s leaders with whom Pitt had been negotiating since late 1783. Atkinson reported that the bill was brought in ‘*without communication* and full of Errors and Infirmities.’²¹⁹ The ministry’s plan, as he saw it, involved ‘tak[ing] care of that degree of Controul which is necessary for government to exercise, & let[ting] the Company apply for any alterations on the other side that they think fit.’²²⁰ The directors, therefore, outlined their objections to the bill clause by clause, which they then presented to Pitt. They also gave notice to their solicitors to prepare themselves to oppose the bill ‘in case it shall be found necessary.’²²¹ However, two aspects of their statement differed from previous Company opposition to reform legislation. They only considered petitioning Parliament against ‘those heads which the Company find exceptionable’, rather than opposing the entire bill as subversive of their rights and property. They also expressed a hope that the Bill could be amended in the committee stage which would avoid the necessity of petitioning.²²²

²¹⁶ *House of Commons Sessional Papers*, vol. 46, 126, 128.

²¹⁷ Speech of Edmund Burke, 5 April 1773 in *Cobbett*, xvii, col. 837.

²¹⁸ Speech of William Pitt, 6 July 1784 in *Ibid.*, xxiv, col. 1095.

²¹⁹ Richard Atkinson to Lady Anne Barnard, 21 July 1784 in NLS, Crawford Papers, Acc. 27/2/22.

²²⁰ Richard Atkinson to Lady Anne Barnard, ‘Wednesday Night’ [n.d. ca. July 1784] in NLS, Crawford Papers, Acc. 27/2/18.

²²¹ Minutes of the Court of Directors, 14, 15 July 1784 in BL, IOR/B/100, 196-213.

²²² *Ibid.*, 213.

When the bill was in committee, dramatic amendments were made that fundamentally altered the relationship between the British state and the East India Company. For example, clauses requiring the nominations of governors and councillors of the Company's presidencies to be approved by the King were removed. So too were those granting the Crown the right to appoint commanders-in-chief. The increased powers of the Governor General over the other presidencies, so strongly pressed for by Dundas, were also removed.²²³ From the perspective of the Company's directors, these amendments represented a genuine compromise. While they certainly altered crucial aspects of the bill concerning the respective rights of the Company and the British state, they were not a complete capitulation to the designs of the directors, which would have occasioned almost the wholesale re-drafting of the legislation.

The amendments were, however, significant enough to occasion considerable criticism from the parliamentary opposition and commentators in the press, who saw it as proof that Pitt owed his position as minister to the East India Company.²²⁴ More particularly, it was felt that Pitt had capitulated to the interest groups surrounding Warren Hastings and the Nawab of Arcot, which became known as the 'Bengal Squad' and 'Arcot interest' respectively, many of whom were believed to be responsible for the most grievous acts of peculation, oppression, and maladministration in the Company's Indian governance.²²⁵ Fox stopped short of a direct accusation in Parliament, claiming instead that '[i]f the Bill had been framed by the delinquents themselves, it could not...have been more directly calculated to perpetuate the abuses.'²²⁶ Burke and others, however, were far more explicit, directly

²²³ They would later be added as a condition for Earl Cornwallis's appointment as Governor General in 1786, see Philips, *East India Company*, 43.

²²⁴ *Morning Chronicle*, 26 July 1784; *Morning Herald*, 30 July 1784.

²²⁵ See, for example, Wheatley ed., *Wraxall Memoirs*, iii, 6. On the 'Bengal Squad', see Philips, 'The East India Company "Interest" and the English Government, 1783-1784,' 98; and Marshall, *Impeachment of Warren Hastings*, 24. On the 'Arcot interest', see McGilvary, *Guardian of the East India Company*, 258-262; and Philips, *East India Company*, 30.

²²⁶ Speech of Charles James Fox, 16 July [1784] in *Cobbett*, xxiv, col. 1126.

accusing Pitt of allowing the ‘delinquents and their Agents’ to draft the Bill.²²⁷ Philip Francis claimed that ‘the whole principle of the first part of the India Bill seems to be given up in Compliment to the Directors, and they have made it a *Caput mortuum*.’²²⁸ Even some of those who supported Pitt’s administration felt that he had gone too far in altering his India Bill in order to ‘accommodate all parties.’²²⁹ There are, indeed, strong reasons to suspect that the clauses included in Pitt’s Act for securing the payment of the creditors of the nawab of Arcot, were included in return for assistance in overthrowing the Coalition and in the general election.²³⁰ Whether or not these accusations were true, Pitt’s Act could hardly claim to be, as Grenville praised it, ‘an *emblem* of the purity and integrity of the mind from whence it has proceeded.’²³¹ The future relationship between the East India Company and the British state for decades to come was fundamentally shaped by the particular political circumstances of the winter of 1783-4.

The strongest critique of Pitt’s conciliation to the East India Company came in a parliamentary confrontation between Richard Brinsley Sheridan, Lord North, and William Pitt in the last stage of the Bill’s passage through the Committee. Sheridan, after arguing that ‘the Bill had been so altered, so mangled, and so transformed, that it did not appear like the same Bill’, claimed that it was a result of Pitt capitulating to the ‘Indian phalanx, those Swiss guards of Eastern speculation’ who had overthrown the Fox-North Coalition and thereby taught their successors

²²⁷ Edmund Burke to Sir Gilbert Elliot, 3 August [1784] in Furber ed., *Burke Correspondence*, v, 165-166.

²²⁸ Philip Francis to Edmund Burke, 20 July 1784 in *Ibid.*, 160-161. ‘*Caput mortuum*’ is a Latin term derived from alchemy meaning ‘worthless residue’ or, more literally, ‘dead head’ see ‘caput mortuum, n.’ *OED Online*. Oxford University Press, <https://www.oed-om.ezp.lib.cam.ac.uk/view/Entry/27671?> (Accessed 11 June 2019). The term was used in the same manner to describe Pitt’s India Bill in a paragraph of the *Morning Herald*, 30 July 1784, possibly further evidence of Philip Francis’s use of the newspaper press in his political opposition.

²²⁹ Daniel Pulteney to the Duke of Rutland, 17 July [1784] in *HMC Rutland*, 126.

²³⁰ See, Marshall and Todd eds., *Writings and Speeches of Burke*, v, 26; Brown, *Chathamites*, 103; McGilvary, 261-262; and Furber, ‘East India Directors in 1784,’ 481-482.

²³¹ Grenville, *Thoughts on the present East India Bill*, 52.

‘how to value and respect their friendship.’²³² North acknowledged the failings of his own Regulating Act of 1773 but argued that Pitt’s Bill had abandoned any improvements it had made over its predecessor in the committee phase.²³³ He hoped that the power of the directors would have been restricted and that the British government would have more power to superintend the Company’s affairs but lamented that he expected little attention would be paid to the critiques of the parliamentary opposition, since, ‘unlike the East India directors, they were not able to overturn an administration.’²³⁴ This forced from Pitt his only admission that ‘the wishes of the directors prevailed much stronger with the present ministers’ than the views of opposition MPs. However, he added that it was only right that those who were ‘deeply interested in the regulations of the Bill’, those who had a ‘great stake in the business’ had been able to advise the government and its policy.²³⁵ Nonetheless, the term ‘India Bench’, reportedly coined by Burke to refer to those who sat above the ‘Treasury Bench’ in the House of Commons, became a common mode of describing the subordination that was believed to have taken place during the drafting of Pitt’s India Act.²³⁶

As Lord North admitted, the parliamentary opposition to Pitt’s Indian reform was weak both rhetorically and numerically. Moreover, the relative lack of controversy in the press compared with Fox’s Bill no doubt reflected a sense of ‘Indian fatigue’ among the British public who had witnessed the reform of the Company being used, as Fox described, as ‘a shuttlecock of government’ for almost

²³² Speech of Richard Brinsley Sheridan, 26 July [1784] in *Cobbett*, xxiv, cols. 1200-1201. For more on Sheridan’s political career, see Kelly, *Richard Brinsley Sheridan* and David Francis Taylor, *Theatres of Opposition: Empire, Revolution, & Richard Brinsley Sheridan* (Oxford: Oxford University Press, 2012).

²³³ For a similar opinion to North’s, see *Public Advertiser*, 2 August 1784.

²³⁴ Speech of Lord North, 26 July [1784] in *Cobbett*, xxiv, cols. 1203-1204.

²³⁵ Speech of William Pitt, 26 July [1784] in *Ibid.*, col. 1206.

²³⁶ *Bath Chronicle*, 5 August 1784; *Morning Herald*, 6 August 1784; *The Rolliad, in Two Parts; Probationary Odes for the Laureatship; and Political Miscellanies* (London: J. Ridgway, 1795): 45; see also, *Criticisms on the Rolliad, An Epic Poem* (London: J. Ridgway, 1785): 32-33; and Wheatley ed., *Wraxall Memoirs*, iii, 6-7.

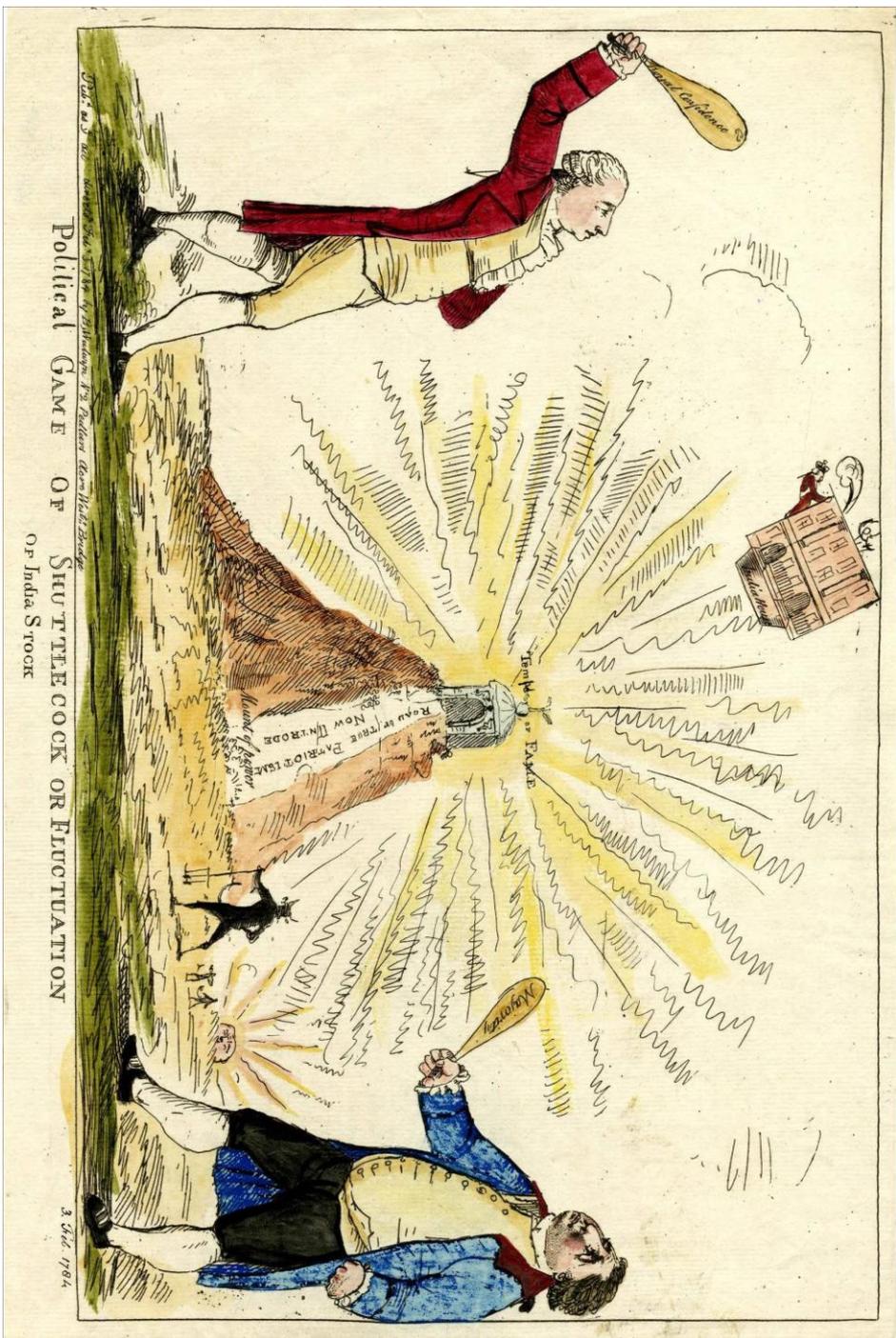


Figure 2.7. Political Game of Shuttlecock or Fluctuation of India Stock, '3 February 1784. BM Satires 6400 © Trustees of the British Museum. This print depicts Pitt and Fox playing battledore using the India House as a shuttlecock. Between them stands the 'Mount of Power' and the 'Temple of Fame,' presumably the prize of victory.

three years unabated (see figure 2.7).²³⁷ It did, however, face similar kinds of criticism to its predecessors. Even though Pitt clearly went out of his way to leave patronage in the hands of the directors, Fox and others accused it of ‘increas[ing] the influence of the crown without actually reforming the abuses of India.’²³⁸ Pitt’s Act was therefore charged with leaving the management of the Company ‘in the hands of those persons who had been accessory to measures which were the sources of all those evils which had introduced ruin into their affairs.’²³⁹ It was difficult, however, for the Fox-North Coalition to argue that a bill containing a clause specifically denying the Board of Control any access to patronage was increasing the influence of the Crown. They were forced to adopt the more nebulous argument that the bill was ‘a scheme of dark and delusive art’ and seemed like a covert attack on the Company’s rights similar to that by which the Company had obtained the *de facto* sovereignty of Bengal.²⁴⁰ Nonetheless, despite his strong public rhetoric, Fox was utterly despondent in private about the prospects for a successful opposition against Pitt’s India measures.²⁴¹ Indeed, he felt that his opposition to Pitt’s India Bill had actually been counterproductive since ‘the majority is much more *against* us than *for* the Ministry’ and its India Bill ‘which had begun to excite much discontent till I opposed it.’²⁴² Philip Francis, not a member of the Coalition, but certainly allied with them on the issue of India reform, complained bitterly that he had been ‘literally left *alone*’ to oppose Pitt’s Bill in the House of Commons.²⁴³ Indeed, even in the Lords, the opposition offered little resistance, gathering only five peers to sign a protest that merely attacked the peculiar features of Pitt’s Act, rather than focusing on their fears for the Constitution. This in itself seems to be a testament to the success with which

²³⁷ Speech of Charles James Fox, 23 January 1784 in *Cobbett*, xxiv, col. 396.

²³⁸ Speech of Charles James Fox, 16 July [1784] in *Cobbett*, xxiv, col. 1132. See also, *St. James’s Chronicle or the British Evening Post*, 13 July 1784; and the letter signed ‘M.M.’ in *St. James’s Chronicle or the British Evening Post*, 22 July 1784.

²³⁹ Speech of Charles James Fox, 28 July [1784] in *Cobbett*, xxiv, col. 1276.

²⁴⁰ Speech of Charles James Fox, 16 July [1784] in *Ibid.*, cols. 1127-1128.

²⁴¹ Charles James Fox to the Duke of Portland, 1 August 1784 in BL, Fox Papers, Add. MS. 47561, f. 84.

²⁴² Charles James Fox to the Duke of Portland, 27 July 1784 in *Ibid.*, ff. 80-81.

²⁴³ Philip Francis to Edmund Burke, 20 July 1784 in Furber ed., *Burke Correspondence*, v, 160.

Pitt had mitigated the most controversial constitutional dangers associated with East India Company reform.²⁴⁴

CONCLUSION

Pitt's India Act of 1784 was the definitive settlement of the relationship between the East India Company and the British state until well into the nineteenth century.²⁴⁵ A significant aspect of its success was the manner in which it seemed to neutralise the immediate threat that East India Company reform was believed to pose to the British Constitution. It did so by maintaining the Company as a kind of arms-length imperial agency, by preserving the patronage in the hands of the Company's directors, and imposing governmental control only on the political, military, and diplomatic aspects of the Company's affairs in India. Some feared that the legislation still allowed the Crown, through 'judicious management' to nominate their own appointees and to control the whole of the Company's affairs.²⁴⁶ Others well-versed in the Company's affairs saw that ministers had missed an opportunity to assert closer and more effective control over the Company. John Robinson, who tried in vain to control the Company during the North administration, noted that 'it is as it was before...and [the ministers] ought not to be surprized at it, when *they have set the Directors* higher, given them more power, & more firmly established them.'²⁴⁷ James Macpherson agreed, noting that '[o]ur rulers perceive their error, when, now, it is too late; and I think they will be reduced to the old mode of private canvassing, if they hope either

²⁴⁴ The protest of 9 August 1784 argued that Pitt's Act was false because 'it provides no effectual remedy for the evils it affects to cure', unjust because it forces all people returning from India to submit accounts of their possessions upon their arrival in Britain, and unconstitutional because it establishes a new court of judicature within which the 'subject is unnecessarily deprived of his most inestimable birthright, a trial by jury.' See *Lords Journals*, xxxvii, 149. Commentary on the protest was full of ridicule, see, for example, *Morning Post*, 14 August 1784.

²⁴⁵ Philips, *East India Company*, 33; P.J. Marshall, *Problems of Empire*, 43-44. For more on the later charter renewals, see Philips, *East India Company*, 77-78, 181-192, 287-299; Bowen, *Business of Empire*, 252-253, 260-298.

²⁴⁶ *Annual Register* (1784-1785): 80-81.

²⁴⁷ John Robinson to Charles Jenkinson, 24 September 1784 in BL, Loan MS 72/29, 169.

to support friends or to obtain for them situations.’²⁴⁸ Indeed, in the first months of his leadership of the new Board of Control, Dundas, seeing the operation of ‘a determined faction in the India House’ struggling to maintain the remnants of the Company’s independence against the encroachments of the new board, referred to his task as nothing short of ‘Quixotic.’²⁴⁹ Despite the India Act explicitly disavowing the interference of the Board of Control in the Company’s patronage, Henry Dundas pushed strongly for Cornwallis to replace Warren Hastings as Governor General of Bengal, and for other appointments which he saw as central to his plans for reforming the Company’s Indian governance.²⁵⁰ Although its provisions caused Dundas unenviable difficulties in attempting to superintend the Company’s affairs, Pitt’s India Act effectively removed the Company as a major issue of British domestic politics. By effectively linking the East India Company and the imperial government, as P.E. Roberts described it, Pitt had ensured that future debates would focus on the place of India in the Empire and rather than upon its domestic dimensions which had predominated prior to 1784.²⁵¹

It is clear, however, that, in addition to their obvious imperial dimensions, a considerable body of opinion saw the attempts by Fox and Pitt to reform the East India Company as being inextricably linked to the wider domestic ‘crisis of the constitution.’ This chapter has revealed that their respective India legislation played a crucial and hitherto underappreciated role in both inciting the climax of this crisis and in settling the terms of its denouement through the Pittite victory in the election

²⁴⁸ James Macpherson to John Macpherson, 31 August 1784 in BL, Macpherson Papers, F291/123.

²⁴⁹ Henry Dundas to William Grenville, 27 October 1784 in HMC, *Thirteenth Report, Appendix, Part III. The Manuscripts of J.B. Fortescue, Esq. Vol. I* (London: Her Majesty’s Stationery Office, 1892): 240-241.

²⁵⁰ James Macpherson to John Macpherson, 18 November 1784 in BL, Macpherson Papers, F291/123; Richard Atkinson to John Robinson, 4 September 1784 in Eridge Park, Robinson Papers, No. 619; William Pitt to King George III, 23 September [1784], Aspinnall ed., *Later Correspondence of George III*, i, 94-95; and Lord Loughborough to William Eden, [n.d. ca. late 1784], in BL, Auckland Papers, Add. MS. 34419, ff. 429-430.

²⁵¹ P.E. Roberts, ‘The Company and the State, 1772-86’ in H.H. Dodwell ed., *Cambridge History of India, Vol. V. British India, 1497-1858* (Cambridge: Cambridge University Press, 1929): 202. P.J. Marshall has noted that ‘[a]fter 1784 Indian issues lost most of their political significance, and interest in them naturally declined.’ See Marshall, *Impeachment of Warren Hastings*, 189.

of 1784 and the passage of Pitt's India Act. This chapter has, therefore, illustrated critical aspects of the reciprocal relationship between the attempts to reform the East India Company and domestic constitutional crises. The peculiar nature of Company reform, involving as it did the prospect that either the Crown or a faction in Parliament could gain access to an immense amount of patronage, forced politicians to confront and attempt to resolve the constitutional crisis that had been gathering force since the accession of George III. Conversely, the manner by which this domestic crisis was resolved fundamentally shaped the future relationship between the British state and the East India Company.

CHAPTER III

‘WHAT IS THE [COMPANY]-STATE?’ CHARTERED RIGHTS, TERRITORIAL
SOVEREIGNTY, AND CORPORATE SOLIDARITY IN THE REFORM OF THE
EAST INDIA COMPANY

*People trudge to the other end of the town to vote who shall govern
empires at the other end of [the] world*¹

INTRODUCTION

The nature of the East India Company’s charter was one of the most controversial aspects of the attempts to reform its governance in the late eighteenth century. Questions of sovereignty and property rights, inherent in arguments over the Company’s charter, provide crucial insights into contemporary understandings of the nature of parliamentary supremacy and the security of private property in Hanoverian Britain and its Empire. They are also revealing of the attitudes of Britons towards the relationship between the British state and the East India Company, and more specifically whether the Company’s territories in India constituted a part of a global British Empire. While the theoretical and ideological aspects of the Company’s place in the Empire will be examined in the following chapter, the present chapter focuses on the more tangible and structural elements of this relationship, the founding documents and written constitutions of the Company: its charters.

The charters establishing, extending, and expanding the privileges of the Company served to connect its forms of government with other chartered bodies in Britain and throughout the Empire. These ranged from the metropolitan town, city, and borough corporations to the chartered colonies in North America. However, the Company’s unique development, particularly from the mid-eighteenth century

¹ Horace Walpole to Horace Mann, 19 July 1769 in W.S. Lewis, Warren Hunting Smith, and George L. Lam eds., *Walpole Correspondence*, xxiii, 133.

onwards, also serves to highlight the idiosyncrasies of the expansion of British interests on the Indian subcontinent, rendering problematic attempts to draw direct comparisons with other chartered bodies.² This did not stop parliamentarians and political commentators alike, in debates concerning East India Company reform, from generalising about the common foundations of chartered privileges. They did so in a manner equally revealing of the still relatively diverse nature of political and constitutional rights in eighteenth-century Britain and also the extent to which this diversity was being challenged (and even threatened) by an increasingly bold Parliament which was asserting itself more thoroughly in both the domestic and imperial arenas.³ Charters, then, can be said to have both connected and divided the political institutions of the British Empire.

Granted by the Crown and increasingly confirmed by parliamentary statute, charters established various political, religious, educational, colonial, and mercantile bodies with a common and recognisable legal form. Philip Stern has done much in recent years to highlight the extent to which chartered bodies coexisted alongside other political institutions in early modern Britain, ‘operat[ing] within, aside, and

² On British expansion in India see P.J. Marshall, ‘British Expansion in India in the Eighteenth Century: A Historical Review,’ *History* 60, no. 198 (1975): 28-43; Marshall, *Bengal: The British Bridgehead, Eastern India 1740-1828* (Cambridge: Cambridge University Press, 1987); Bayly, *Indian Society and the Making of the British Empire* (Cambridge: Cambridge University Press, 1988); Rudrangshu Mukherjee, ‘Early British Imperialism in India: A Rejoinder,’ *Past & Present* 106 (1985): 169-173; Holden Furber, *John Company at Work: A Study of European Expansion in India in the Late Eighteenth Century* (Cambridge, MA: Harvard University Press, 1948).

³ H.T. Dickinson, ‘The Eighteenth-Century Debate on the Sovereignty of Parliament,’ *Transactions of the Royal Historical Society* 26 (1976): 189-210; Dickinson, ‘George III and Parliament,’ *Parliamentary History* 30, no. 3 (2011): 395-413; Joanna Innes, ‘The Local Acts of a National Parliament: Parliament’s Role in Sanctioning Local Action in Eighteenth Century Britain,’ *Parliamentary History* 17 (1998): 23-47; John V. Jezierski, ‘Parliament or People: James Wilson and Blackstone on the Nature and Location of Sovereignty,’ *Journal of the History of Ideas* 32 (1971): 95-106; Martin S. Flaherty, ‘The Empire Strikes Back: *Annesley v. Sherlock* and the Triumph of Imperial Parliamentary Supremacy,’ *Columbia Law Review* 87 (1987): 593-622; Peter Jupp, *The Governing of Britain, 1688-1848: The Executive, Parliament, and the People* (Oxford: Routledge, 2006); Julian Hoppit, ‘Patterns of Parliamentary Legislation 1660-1800,’ *HJ* 39, no. 1 (March 1996): 109-131; Richard R. Johnson, ‘Parliamentary Egotisms: The Clash of Legislatures in the Making of the American Revolution,’ *Journal of American History* 74 (1987): 338-362.

sometimes in conflict with the sovereign Crown.’⁴ Particularly in the case of the East India Company, Stern has put forward the compelling argument that its charters hold the key to understanding it as a political body—a Company-state—adorned with various aspects of delegated sovereignty over its forts and factories in India well before the battle of Plassey and the subsequent acquisition of the *diwani* rights in the mid-1760s.⁵ His arguments provide a welcome rejoinder to works describing the Company’s early development almost exclusively in commercial terms and see it as far more reminiscent of, and indeed even a precursor to, the modern multinational corporation.⁶ However, Stern’s arguments can be carried too far into the eighteenth century so as to diminish the significance of the 1760s and 1770s as a crucial turning point for the political and commercial structures of the Company. By doing so, Stern downplays the extent to which the reinterpretation of the Company’s chartered rights in response to these developments radically altered the relationship between the Company and the British state.

A focus on the political and sovereign aspects of the Company’s affairs also invites treatment alongside the increased attention in recent decades given to the development of a culture of imperial constitutionalism emerging in the early modern British Atlantic World. Important work has recently emphasised the influence of

⁴ Philip Stern, ‘“Bundles of Hyphens”: Corporations as Legal Communities in the Early Modern British Empire,’ in Lauren Benton and Richard J. Ross eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013): 24.

⁵ Philip Stern, *The Company-State: Corporate Sovereignty & the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011); Edward Cavanagh has attempted to extend Stern’s Company-State idea to the Hudson’s Bay Company. However, it is still far from clear whether or not it is useful to define corporate sovereignty in the early modern period in terms of ‘statehood,’ which, if anything, seems to be a misleading epithet. See Cavanagh, ‘A Company with Sovereignty and Subjects of its Own? The Case of the Hudson’s Bay Company, 1670-1763,’ *Canadian Journal of Law and Society* 26, no. 1 (2011): 25-50.

⁶ Philip Stern, ‘Seeing (and Not Seeing) Like a Company-State: Hybridity, Heterotopia, Historiography,’ *The Journal for Early Modern Cultural Studies* 17, no. 3 (2017): 106. For works focusing on the commercial aspects of the Company’s early (and even sometimes later) history, see, for example, Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational* 2nd edn (London: Pluto Press, 2012): 5; and Ann Carlos and Stephen Nicholas, ‘Theory and History: Seventeenth-Century Joint-Stock Chartered Trading Companies,’ *Journal of Economic History* 56 (1996): 916-924.

charters granted for the formation of colonies in North America upon the written constitutional tradition which was solidified and disseminated by the American Revolution.⁷ The charters granted to the East India Company were also frequently seen as constitutional documents, particularly by its stockholders and employees.⁸ Indeed, the Company's charter was regarded not only as providing security for the property of the stockholders, but also as the legal instrument through which arguments over whether it held both sovereignty and possession of the expansive territories in Bengal were contested. These contested claims of sovereignty and possession (or *imperium* and *dominium*) were at the heart of imperial crises in both the eastern and western flanks of the British Empire.⁹ Viewing them, as contemporaries often did, within the same constitutional tradition—whether that be as a singular British Constitution emanating to its colonial dependencies or as

⁷ Linda Colley, 'Empires of Writing: Britain, America and Constitutions, 1776-1848,' *Law and History Review* 32, no. 2 (May 2014): 245-246; see also Jack Greene, *Constitutional Origins of the American Revolution* (Cambridge: Cambridge University Press, 2011); Jack Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States 1607-1788* (Athens, GA: University of Georgia Press, 1986); and David Armitage, *The Declaration of Independence: A Global History* (Cambridge, MA: Harvard University Press, 2008).

⁸ See for instance, the letter signed 'An Independent Proprietor' in *Public Advertiser*, 9 September 1772; speech of Edmund Burke, 7 December [1772] in *Cobbett*, xvii, col. 567; letter to Lord North signed 'Your Unknown Obedient Servant' in *Public Advertiser*, 13 January 1774; speech of George Rous, 21 March 1780 in *Cobbett*, xxi, cols. 314-315; speech of William Grenville, 20 November 1783 in *Ibid.*, xxiii, cols. 1225, 1228; Edward Gibbon to Lord Sheffield, 20 December 1783 in Prothero ed., *Letters of Gibbon*, ii, 85-86; *Popular topics; or the grand question discussed...* (London, 1784): 23; and perhaps most notably, Peter Auber, *Analysis of the Constitution of the East India Company* (London, 1826): xiii. A letter 'To the Directors B—the and G—ry' signed 'A Looker-On' in *Public Advertiser*, 21 October 1772 was even more explicit, claiming that '[t]he Charter of the Company is their Magna Charta.'

⁹ On the distinction between *imperium* and *dominium*, see David Armitage, *Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000): 175-176; Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010): 5 n.; Ken Macmillan, 'Imperial Constitutions: Sovereignty and Law in the British Atlantic,' in H.V. Bowen, Elizabeth Mancke, and John G. Reid eds., *Britain's Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850* (Cambridge: Cambridge University Press, 2012): 92; H.G. Koenigsberger, 'Composite States, Representative Institutions and the American Revolution,' *Historical Research* 62, no. 148 (1989): 135-153; Elizabeth Mancke, 'Negotiating an Empire: Britain and Its Overseas Peripheries, c. 1550-1780,' in Christine Daniels and Michael V. Kennedy eds., *Negotiated Empires: Centers and Peripheries in the Americas, 1500-1820* (London: Routledge, 2002): 238-239, 245. This chapter, however, makes use of the words 'sovereignty' and 'possession', which were the terms used by contemporaries to describe these phenomena as they intersected with the East India Company's interests in Bengal.

competing metropolitan and imperial constitutions—is revealing of their interconnections as well as their idiosyncrasies. Both of these are equally crucial to understanding the difficulties faced by the British state in incorporating its diverse imperial interests into a coherent legal and political framework.

This chapter, therefore, traces the development of the East India Company's charter over time and examines the legal and parliamentary disputes over the Company's right to exercise sovereign powers over territories outside the purview of the British Crown. By analysing the impact of the 'Plassey Revolution' on the Company-state and the failure of the existing legal framework to comprehend the Company's new sovereign status, this chapter highlights the domestic and imperial dimensions of the debate on chartered rights. It argues that the Company's charter and its status as a corporate body were crucial elements of the domestic constitutional arguments surrounding the 'sanctity' of chartered rights as forms of property. It also underlines the important role played by debates surrounding the Company's charter in establishing its place within the Empire which dramatically influenced the trajectories of reform legislation.

I. CHARTERED ORIGINS

Before delving into the importance of debates concerning the Company's chartered rights and their relationship both to domestic constitutional discourse and to the Company's place within the Empire, it is important to be clear at the outset what is meant by the Company's charter. While many histories date the existence of the East India Company to a charter granted by Elizabeth I in 1600, the events surrounding the Glorious Revolution and their impact on the Company significantly complicate this picture. With the ascendancy of Parliament after 1688, the validity of charters granted by the Crown under the later Stuarts was called into question. This resulted in the establishment of a 'new' East India Company whose charter was granted by Parliament in 1698. The rival Companies, each possessing charters for the exclusive trade between England and the East Indies, coexisted awkwardly for a time, until

they were eventually amalgamated through a tripartite indenture signed between the two companies and Queen Anne, which resulted in the creation of the United Company in 1708. It was to this event that the Company's lawyers in the later eighteenth century tended to date the beginnings of its relevant constitutional history.¹⁰ Crucially, then, the constitution that governed the 'United' Company after 1708 was the parliamentary charter granted by William III to the then 'New' Company in 1698.¹¹ Despite the tendency of historians to argue for the continued existence of the East India Company between 1600 and 1874, its constitution and indeed its very existence from 1708 onwards was based on a parliamentary innovation of 1698.¹² While the charter of 1698 evidently drew upon the contents of earlier charters, particularly those granted by Charles II, the 'Old' Company's surrender of its former charters and letters patent to Queen Anne meant that, for the interpretation of the Company's later political and constitutional rights, the charter of 1698 is of paramount importance.¹³ Moreover, the fact that the Company's future structure was based on the parliamentary charter is an early example of the willingness and legality of parliamentary interference in the Company's affairs in the wake of the Revolution Settlement.

One of the crucial aspects retained from the Company's earlier royal charters was the reservation of the Crown's sovereignty over the 'Forts, Places and Plantations, to be at any Time settled' within the geographical limitations of the

¹⁰ Speech of the Company's counsel, [James] Mansfield, 17 June [1773] in *Cobbett*, xvii, col. 908; see also Thomas Day, *The letters of Marius; or Reflections upon the peace, the East-India bill, and the present crisis* (London: J. Stockdale, 1784): 71-72.

¹¹ Auber, *Analysis of the Constitution of the East India Company*, 508; and John Bruce, *Historical View of Plans, for the Government of British India* (London: J. Debrett, 1793): 279; see also 'An Opinion delivered by Mr. Justice Chambers, in the Supreme Court of Judicature at Fort William in Bengal, in the case of Cumall a Deen Ally Khan against Cha[rles] Goring, John Shore, Peter Moore, and Budder a Deen, Jammadar,' (Hilary Term, 1777) in BL, Liverpool Papers, Add. MS. 38400, ff. 71-72.

¹² Auber, *Analysis of the Constitution of the East India Company*, xi.

¹³ 'Queen Anne's Acceptance of the Surrender of the Charters of the Governor and Company of Merchants of London, Trading into the East-Indies,' 7 May 1709 in *Charters Granted to the East-India Company from 1601; Also the Treaties and Grants, Made with, or obtained from, the Princes and Powers in India, From the Year 1756 to 1772* (London, 1773): 365-367.

Company's charter, which were deemed to stretch from 'the Cape of *Bona Esperanza*, to the *Streights of Magellan*.'¹⁴ On this issue the charter of 1698 was clear: despite granting the Company the right to govern all its 'Forts, Factories, and Plantations' it explicitly reserved 'the sovereign Right, Power, and Dominion,' over all of these to the Crown.¹⁵ However, it was commonly cited in contrast to this provision that the same charter also contained a clause granting the Company the right of *possession* over its 'lands, rents, tenements and hereditaments, of what kind, nature, or quality soever, and also to sell, grant, demise, alien, or dispose of the same.'¹⁶ Although it seems clear that this provision was intended to grant the Company the ability, as a corporation (i.e. an artificial person), to make purchases of lands and property in its own name in Britain, the vague language allowed the Company's advocates to argue that these property rights included the settlements acquired by the Company in the East Indies. Even if the ultimate sovereignty was found to rest in the Crown, the Company's advocates argued that it could not simply be divested of its property through an unlawful seizure. Indeed it was argued that, in such a scenario, the Company ought to receive back from the 'Publick' the vast amounts it had paid for the successive renewals of its charter.¹⁷ These seemingly conflicting clauses in the Company's charter—which were retained through the several renewals in 1712, 1730, and 1744—encapsulated the problems of possession and sovereignty under the auspices of British law and imperial constitutionalism. However, the question of sovereignty, as it arose during the debates to reform the Company between 1767 and 1784, was significantly complicated by the ambiguous

¹⁴ This reservation was first implemented in 1683, see 'Letters Patents, Granted to the Governor and Company of Merchants of *London*, Trading into the *East-Indies*, Bearing Date the Ninth of *August*, in the Thirty-fifth Year of the Reign of Charles II,' in *Ibid.*, 120-121; for the Company's geographical extent, which remained unchanged from its inception, see 'Charter, Granted by Queen Elizabeth, to the East-India Company, Dated the 31st *December*, in the 43d Year of Her Reign,' in *Ibid.*, 12.

¹⁵ 'Letters Patents, Granted to the Governor and Company of Merchants of *London* [*sic*], Trading to the *East-Indies*, Bearing Date the Fifth of *September*, in the Tenth Year of the Reign of William III,' in *Ibid.*, 238-239.

¹⁶ *Ibid.*, 208.

¹⁷ Alexander Dalrymple, *Considerations on the East-India Bill*, 29; Alexander Dalrymple, *General View of the East India Company*, 83; *An Essay on the Rights of the East India Company*, 14, 36.

relationship between the Company and the various Indian powers with whom they had engaged in treaties.

The Company's successive charter renewals were often a mutually beneficial affair between the Company and the British state. The Company would often obtain both a confirmation of its existing rights as well as various additional privileges deemed necessary in light of its increased presence on the Indian subcontinent. In turn, the Company would lend a large sum of money to the state, making charter renewal a particularly useful option for fuelling the ever-expanding needs of the fiscal-military state during wartime.¹⁸ As Sutherland pointed out, the squabbling between the 'Old' and 'New' Companies in the reigns of William and Anne drew the Company into a much closer relationship with the public finances as they each sought to contribute more significantly than the other in order to secure their exclusive rights to the East India trade.¹⁹ It was therefore widely insinuated that the Company had obtained its charter privileges through bribery.²⁰ David Hancock, however, has emphasised the extent to which, besides the East India Company, several other 'quasi-public' joint-stock corporations, including the Bank of England and the South Sea Company were at times coerced into making loans to government. In order to finance these loans they had to issue interest-bearing bonds which meant that, when the charter privileges of the major joint-stock companies were believed to be threatened in the early decades of George III's reign, the list of those who would

¹⁸ Robert Travers has made the connection between the loans forced from the Company and the expansion of the British fiscal-military state, see his 'Imperial Revolutions and Global Repercussions: South Asia and the World, c. 1750-1850,' in David Armitage and Sanjay Subrahmanyam eds., *The Age of Revolutions in Global Context, c. 1760-1840* (Basingstoke: Palgrave, 2010): 154-155; see also H.T. Dickinson, *Politics of the People in Eighteenth-Century Britain* (London: St. Martin's Press, 1994): 61-62.

¹⁹ Lucy Sutherland, *East India Company*, 6-7.

²⁰ See Wheatley ed., *Wraxall Memoirs*, i, 325; 'Cicero', 'Tendency of the INDIA BILL, and BREACHES of LAW,' in *Parker's General Advertiser and Morning Intelligencer*, 26 December 1783; letter signed 'A Former Correspondent' in *Morning Chronicle*, 7 December 1773; letter 'To Lord North' signed 'Amicus' in *Morning Chronicle*, 13 November 1778; and 'Hampden,' *The Alarm. Number II*. (New York, 1773). Mitch Fraas has also identified instances of bribery in obtaining the charters of 1727 and 1753, see his "'They Have Travailed Into a Wrong Latitude": The Laws of England, Indian Settlements, and the British Imperial Constitution 1726-1773,' (Unpublished Ph.D. dissertation, Duke University, 2011): 88.

be affected went far beyond the stockholders and employees of the Company but also included large numbers of individuals who had invested in the funds.²¹

In return for its assistance to the state finances, the Company's privileges were repeatedly expanded over the first half of the eighteenth century. However, only a small fraction of the contents of its successive charters explicitly mentioned settlements, territories, or any kind of political or judicial sovereignty. In 1726, for instance, the Company applied for and received Letters Patent from King George I which completely overhauled the legal regime in the Company's expanding presidencies of Bombay, Madras, and Calcutta, providing them with mayor's courts to regulate civil and criminal justice based on the British municipal model.²² These three settlements, according to the language of the royal charter, were named among the 'Towns, Forts, Factories and Places, belonging to the said Company.'²³ The granting of limited political and judicial powers reaffirmed the sense in which the Crown, it seemed, had granted *possession* of settlements to the Company but continued to reserve the rights of sovereignty. When it is understood, too, that the royal letters patent created the municipalities of Madras, Calcutta, and Bombay as corporations distinct from the Company itself it seems even clearer that some element of British sovereignty was seen to have been involved in the Company's acquisition of territory in India, even though its property in Madras and Calcutta was acquired through treaties and agreements with the local Indian powers.

²¹ David Hancock, "'Domestic Bubbling': Eighteenth-Century London Merchants and Individual Investments in the Funds,' *Economic History Review* 47 (1994): 684; see also Philip Lawson, *East India Company*, 73-77; and Pilar Nogues Marco and Camila Vam Malle-Sabouret, 'East India Bonds, 1718-1763: Early Exotic Derivatives and London Market Efficiency,' *European Review of Economic History* 2 (2007): 369.

²² On the mayor's courts in India, see Fraas, "'They Have Travailed Into a Wrong Latitude",' esp. chapter 2; see also Niels Brimmes, 'Beyond Colonial Law: Indigenous Litigation and the Contestation of Property in the Mayor's Court in Late Eighteenth-Century Madras,' *MAS* 37, no. 3 (2003): 513-550; Mattison Mines, 'Courts of Law and Styles of Self in Eighteenth-Century Madras: From Hybrid to Colonial Self,' *MAS* 35, no. 1 (2001): 33-74; Philip Stern, 'Politics and Ideology in the East India Company-State: The Case of St. Helena, 1673-1709,' *JICH* 35, no. 1 (2007): 1-23; and Travers, *Ideology and Empire*, 33.

²³ 'Letters Patents, Granted to the United Company of Merchants of *England*, Trading to the *East-Indies*, Bearing Date the Twenty-fourth of *September*, in the Thirteenth Year of the Reign of George I,' in *Charters Granted to the East-India Company*, 368-369.

The complicated and diverse tenures by which the Company held its property in the East Indies appears to have confounded both contemporaries and historians alike.²⁴ Both have used the term ‘India’ when they mean only ‘Bengal’ and this is not particularly surprising given the disproportionate attention given to the Company’s affairs in Bengal. While many scholars have recognised the ‘ambiguities’ of British sovereignty in India, Philip Stern has done more in recent years to underline the distinct constitutional origins of the Company’s various territories.²⁵ For example, Bombay and St. Helena were granted to the Company by the Crown to be held in the same manner as ‘the Manor of East Greenwich’, recalling and reinforcing, through the feudal ties of socage, the extent to which the monarch held ultimate sovereignty over the islands.²⁶ It is important to note, too, that the ‘East Greenwich’ formula and other aspects of these grants to the Company were made in the same language as other charters ranging from those establishing American colonies to the Society of Saltmakers of Great Yarmouth.²⁷ The sovereignty reserved to the Crown, in these territories at least, could hardly be in

²⁴ See, for instance, H.V. Bowen’s important article which, while understandably focusing on Bengal, makes no mention of the tenure of the Company’s other presidencies while repeatedly referring to British sovereignty in ‘India.’ Bowen, ‘A Question of Sovereignty? The Bengal Land Revenue Issue, 1765-67,’ *JICH* 16, no. 2 (1988): 155-176. Examples of contemporaries referring Bengal as India are ubiquitous.

²⁵ P.J. Marshall, ‘The Eighteenth Century Empire,’ in Jeremy Black ed., *British Politics and Society from Walpole to Pitt, 1742-1789* (Basingstoke: Macmillan, 1989): 192; Robert Travers, ‘Constitutions, Contact Zones, and Imperial Ricochets: Sovereignty and Law in British Asia,’ in Bowen, Mancke, and Reid eds., *Britain’s Oceanic Empire*, 121.

²⁶ Stern, ‘“Bundles of Hyphens”,’ 30-32; Stern, ‘Politics and Ideology in the East India Company-State,’ 7; Stern, *Company-State*, 23; 41; and Stern, ‘Power, Petitions, and the “Povo” in Early English Bombay,’ in Aparna Balachandran, Rashmi Pant and Bhavani Raman eds., *Iterations of Law: Legal Histories from India* (Oxford: Oxford University Press, 2017): 187-209. For the charters granting Bombay and St. Helena to the Company, see ‘Letters Patents, Granted to the Governor and Company of Merchants of London, Trading to the East-Indies, Relating to the Island of Bombay: Bearing Date the Twenty-Seventh of March in the Twentieth Year of the Reign of Charles II,’ in *Charters Granted to the East India Company*, 80-95; and ‘Letters Patents Granted to the Governor and Company of Merchants of London, Trading to the East-Indies, Relating to the Island of St. Helena: Bearing Date the Sixteenth of December, in the Twenty-fifth Year of the Reign of Charles II’ in *Ibid.*, 96-107.

²⁷ On the ‘East Greenwich’ formula, see Edward P. Cheyney, ‘The Manor of East Greenwich in the County of Kent,’ *AHR* 11, no. 1 (1905): 29-35; B.H. McPherson, ‘Revisiting the Manor of East Greenwich,’ *The American Journal of Legal History* 42, no. 1 (January 1998): 35-56; and Cecil T. Carr ed., *Select Charters of Trading Companies, A.D. 1530-1707* (London: Bernard Quaritch, 1913): xvii, 1, 155.

doubt. The ‘East Greenwich’ formula essentially projected the colonies as overseas extensions of the ‘soil of England’, thereby providing a sense of legal and constitutional continuity to Britain’s early modern imperial possessions in the Indian Ocean and Atlantic worlds that has often been overlooked.²⁸

The ‘mixed tenure of conquests and of treaties by which Great Britain holds its [Indian] possessions’ held equally true in describing the Company’s territories in other parts of the subcontinent.²⁹ For example, when Parliament began discussing the respective rights of the nawab of Arcot and the rajah of Tanjore, one writer asked whether the Crown had ‘any right or claim’ to those dominions, and if not, he questioned how they could contemplate encroaching on the sovereign authority of the nawab.³⁰ Ultimately, the Company’s advocates attempted to use the mixed tenure of its Indian possessions to defend its property on the subcontinent by arguing that they had, in many cases, never actually acquired *de jure* sovereignty, even if it was often admitted that they had long exercised it in reality.³¹

II. A REVOLUTION IN THE COMPANY-STATE?

These arguments, however, were significantly complicated by the events in Bengal between 1757 and 1765. It was during this time, between the battle of Plassey and the signing of the treaty of Allahabad, that the Company came to obtain *de facto* if not *de jure* sovereignty over a vast territory, with a population many times the size of Britain. Even Philip Stern, whose work questions ‘the fast distinction between a “commercial” and “imperial” era in the Company’s history,’ has conceded that the

²⁸ A notable exception is Bowen, Mancke, and Reid’s excellent volume on *Britain’s Oceanic Empire*. For the ‘soil of England’ see Cheyney, ‘The Manor of East Greenwich,’ 34.

²⁹ Bruce, *Historical View of Plans*, vi-vii.

³⁰ *Letter from Mahommed Ali Chan, Nabob of Arcot, to the Court of Directors. To which is annexed a State of Facts relative to Tanjore with an Appendix of Original Papers*. (London: T. Cadell, 1777): 17, 38; Letter signed ‘Fabfr’ in *Morning Chronicle*, 1 June 1773; and John Campbell, *A Political Survey of Britain; Being a Series of Reflections on the Situation, Lands, and Inhabitants, Revenues, Colonies, and Commerce of this Island* (London, 1774), ii, 589-611.

³¹ See, for instance, John Scott, *A Letter to the Right Honourable Edmund Burke* (London: J. Stockdale, 1783): 14; and Bruce, *Historical View of Plans*, 14.

granting of the *diwani* ‘represented something of a different order.’³² Indeed, there is a fine line, historiographically speaking, between acknowledging the importance of the political and judicial aspects of the Company’s early history on the subcontinent and downplaying the ‘revolutionary’ consequences of its acquisition of territories in Bengal in the early 1760s. Emily Erikson, for instance, ends her analysis of the Company in 1757, citing it as a ‘natural break’ in its organisation which had an important impact on the ‘conduct of overseas trade, the Company’s internal organizational structure, and its relationship with the British state.’³³ While acknowledging the ‘distinctly sovereign aspects’ of the Company’s early history identified by Stern, Erikson clearly agrees with Chaudhuri and others in emphasising its commercial character.³⁴ Likewise, Huw Bowen, despite admitting that the Company possessed ‘a deeply embedded institutional gene,’ still highlights the relevance of the ‘trader to sovereign metaphor’ in describing the Company’s rapid acquisition of a territorial empire.³⁵ This chapter builds upon the arguments of Bowen and Erikson, arguing that the Company’s transformation from a monopoly trading corporation to a major territorial power in Asia had a crucial influence on the questions of sovereignty and chartered rights in the 1770s and 1780s as they emerged in debates over East India Company reform.

It is clearly an oversimplification to say that the Company’s interests were entirely commercial before the acquisition of the *diwani* and almost entirely political thereafter.³⁶ However, one cannot escape from the fact that many immensely

³² Philip Stern, ‘History and Historiography of the English East India Company: Past, Present, and Future!’ *History Compass* 7, no. 4 (2009): 1151; Stern, *Company-State*, 206.

³³ Emily Erikson, *Between Monopoly and Free Trade: The English East India Company, 1600-1757* (Princeton: Princeton University Press, 2014): 6, 65.

³⁴ *Ibid.*, x; see also K.N. Chaudhuri, *The Trading World of Asia and the English East India Company 1660-1760* (Cambridge: Cambridge University Press, 1978).

³⁵ H.V. Bowen, ‘Britain in the Indian Ocean Region and Beyond: Contours, Connections, and the Creation of a Global Maritime Empire,’ in Bowen, Mancke, and Reid, eds., *Britain’s Oceanic Empire*, 45, 54.

³⁶ See, for instance, P.J. Cain and A.G. Hopkins, *British Imperialism, 1688-2015* 3rd ed. (London: Routledge, 2016): 95; Sudipta Sen, *Distant Sovereignty: National Imperialism and the Origins of British India* (Oxford: Routledge, 2002): xxix; Valerie Forman, ‘Transformations of Value and the

knowledgeable contemporaries, even those with first-hand experience of the Company's affairs in Bengal, both before and after the Company became *diwan*, described it in precisely these terms. For instance, Warren Hastings, who began his career in Bengal as a writer in 1750 and had risen through the ranks to be appointed governor by 1772, repeatedly argued that the Company's circumstances had substantially changed over the course of the 1760s.³⁷ He claimed that '[t]he Company's system has within these few years undergone a total Change. From a merely commercial Body they are grown up into a military & territorial Power, to which their Commerce is but a secondary Concern.'³⁸ Their previous forms of government, he argued, were 'originally framed for the Encouragement of their Commerce, & the Police of their little Factories,' and had become totally inadequate 'to the present Interests & Possessions of the Nation in India'.³⁹ Hastings even declared to the Company's directors that '[o]ur constitution is nowhere to be traced but in ancient charters which were framed for the jurisdiction of your trading settlements, the sale of your exports, and the provision of your annual investment. I need not observe how incompetent these must prove for the government of a great kingdom, and for the preservation of its riches from private violence and embezzlement.'⁴⁰ Hastings, with his extensive experience of Bengal both before and after the 'Plassey Revolution', evidently felt that the Company's affairs had undergone such a dramatic transformation that its constitution had been rendered unfit for its new circumstances as a territorial power. Furthermore, Hastings was far

Production of "Investment" in the Early History of the English East India Company,' *Journal of Medieval and Early Modern Studies* 34, no. 3 (2004): 611-642; Richard Connors, 'Opium and Imperial Expansion: The East India Company in Eighteenth-Century Asia,' in Stephen Taylor, Richard Connors, and Clyve Jones eds., *Hanoverian Britain and Empire: Essays in Memory of Philip Lawson* (Woodbridge: Boydell & Brewer, 1998): 250; and Bowen, 'A Question of Sovereignty,' 159.

³⁷ On Hastings's early career in the Company, see Keith Feiling, *Warren Hastings* (London: Macmillan, 1954): 8-39. A writer was the lowest rank in the Company's civil service.

³⁸ Warren Hastings to the Earl of Shelburne, 16 July 1771 in BL, Bowood Papers, Add. MS. 88906/3/12, f. 133.

³⁹ *Ibid.*, ff. 134-135.

⁴⁰ Warren Hastings to the Court of Directors, 11 November 1773 in Gleig ed., *Memoirs of Hastings*, i, 368.

from alone in this view.⁴¹ By the early 1770s, newspaper writers and pamphleteers in Britain repeated almost *ad nauseam* what had become a truism: that the Company had, through a ‘revolution’, or rather a multitude of revolutions, obtained a degree of power which, in both *extent* and *kind*, differed substantially from what A.B. Keith described as the ‘limited powers of a legislative character, based on those recognized at the time as appropriate for municipal and commercial corporate bodies’ which it had exercised prior to 1757.⁴²

The ‘revolution’ in Bengal had altered the Company’s political circumstances in India to such an extent that during the first parliamentary inquiry into East India affairs in 1767, many of the witnesses interviewed agreed on the insignificance of the Company’s former political powers on the subcontinent. Despite technically possessing pockets of land in India from various *firman*s (or grants) from the Mughal Emperor, various witnesses with first-hand experience of India downplayed their significance and denied that the Company had any considerable revenues prior to 1757. Zephaniah Holwell and Warren Hastings even disputed the Company’s possession of the ‘thirty-seven villages’ around Calcutta, claiming that ‘our possessions don’t extend above a mile each way...we were never in possession of them.’⁴³ There is no evidence that those examined during this parliamentary inquiry were attempting to assist the state in its aim of obtaining the sovereignty of the

⁴¹ See, for example, George III’s [‘Essay proposing reform of the management of the East India Company’ ca. 1767-1773] in Royal Archives, GEO/ADD/32/1698-1699; letter signed ‘Surena’ in *Public Advertiser*, 26 November 1772; letter signed ‘A.B.’ in *Public Advertiser*, 22 August 1772; letter signed ‘Nemo’ in *Gazetteer and New Daily Advertiser*, 2 September 1772; and Alexander Dalrymple, *A General View of the East-India Company, Written in January 1769 to which are added Some Observations on the Present State of their Affairs* (London, 1772): 22-23; speech of John Burgoyne, 10 May [1773] in BL, Egerton MS. 246, f. 111; Sir George Colebrooke, *Retrospection: Or Reminiscences Addressed to My Son Henry Thomas Colebrooke* (London: Bradbury, Agnew, & Co., 1898-99), ii, 14.

⁴² Arthur Berriedale Keith, *A Constitutional History of India 1600-1935* (London: Methuen & Co., 1936): 4; see also the unsigned letter ‘To the Proprietors of East-India Stock’ in *Morning Chronicle*, 12 April 1775; and ‘India Affairs’ signed ‘M.G.’ in *Public Advertiser*, 18 September 1778.

⁴³ Examinations of Henry Vansittart, Zephaniah Holwell, and Warren Hastings, 27, 30, 31 March 1767 in BL, Add. MS. 18469, ff. 2, 12, 29. This was corroborated many years later in a letter ‘To the Public, and the Proprietors of East India Stock’ signed ‘Asiaticus’ in *Public Advertiser*, 5 November 1783.

Company's new territories. In fact, Hastings and Vansittart specifically spoke out in favour of the Company maintaining their possessions unhindered.⁴⁴ They had no vested interest in denying the value of the Company's grants from the Mughal Emperor at a time when its advocates were claiming upon that very basis that they had never possessed direct territorial sovereignty in India. The fact that they made such arguments, notwithstanding the Company's interest, suggests that even the most well-informed and experienced of contemporaries felt that the Company had undergone a dramatic transformation in the years after 1757.

It is possible, therefore, to qualify the work of Stern and others, by viewing the political and judicial development of the Company in the late seventeenth and early eighteenth centuries as important, even necessary, steps towards the acquisition of the *diwani* rights of Bengal. However, in no way did these incremental steps alter the fundamentals of the Company to the same degree as the 'very great Revolution...in Commerce as well as in Dominion' that occurred between 1757 and 1765.⁴⁵ Indeed, what occurred between these years was nothing short of what it was so often called at the time, in both British and Persian sources: a 'revolution' or '*inqilab*'.⁴⁶

The revolutionary events in Bengal coincided with and became entangled in an initially unrelated legal opinion concerning the division of the spoils of war and the Company's ability to dispose of conquered territories in diplomatic negotiations with local Indian powers. The Pratt-Yorke opinion fundamentally shaped the domestic response to the Plassey Revolution. However, as the following sections

⁴⁴ Examinations of Henry Vansittart and Warren Hastings, 27, 31 March 1767 in BL, Add. MS. 18469, ff. 2, 21.

⁴⁵ *Ninth Report of the Select Committee*, 25 June 1783 in Marshall and Todd eds., *Writings and Speeches of Edmund Burke*, v, 223.

⁴⁶ David Armitage and Sanjay Subrahmanyam, 'The Age of Revolutions c. 1760-1840 – Global Causation, Connection, and Comparison,' in Armitage and Subrahmanyam eds., *Age of Revolutions in Global Context*, xii-xvi; and Travers, *Ideology and Empire*, 6, 31; see also Ghulam Husain Khan, *A translation of the Seir mutaqherin; or, View of modern times, being a history of India from the year 1118 to the year 1194, of the Hedjrah, Containing, in general, the Reigns of the Seven Last Emperors of Hindostan...* (Calcutta: R. Cambay & Co., 1907) iii, 369.

will show, it offered precious little in terms of a solution to the problems of imperial sovereignty raised by the East India Company's acquisition of an empire.

III. The Pratt-Yorke Opinion and British Territorial Sovereignty in India

Renewed conflict between Britain and France in 1756 and the near-certainty that it would once again extend to conflict between their respective East India companies was the initial impetus behind the British Company's request for clarification over the division of the spoils of war between itself and the Crown.⁴⁷ The opinion recorded by Charles Pratt and Charles Yorke, respectively Attorney and Solicitor General, was immediately put to the test with the re-conquest of Calcutta. The terms of their opinion would come to frame the legal dimensions of the debates over the Company's sovereignty and right to possess its territories and revenues in Bengal. Despite providing the legal framework for later debates, the decision was not in any way binding upon Parliament and, as P.J. Marshall pointed out, attempts to follow the letter of the ruling ultimately proved 'unworkable.'⁴⁸ Nonetheless, the revolutions in Bengal between 1757 and 1765 turned the Pratt-Yorke opinion into an important piece of eighteenth-century imperial jurisprudence not only affecting the future relationship between the East India Company and the British state but also having important, albeit unintended, ramifications for attempts to appropriate indigenous lands in North America after the Royal Proclamation of 1763.⁴⁹

The advice of the Crown's law officers in the Pratt-Yorke opinion has often been misinterpreted and misunderstood. For example, while relevant extracts

⁴⁷ On the Company's loss of diplomatic autonomy in wartime during the war of Austrian succession, see Mancke, 'Negotiating an Empire,' in Daniels and Kennedy eds., *Negotiated Empires*, 245.

⁴⁸ P.J. Marshall, *Making and Unmaking*, 208.

⁴⁹ Edward Cavanagh, 'The Imperial Constitution of the Law Officers of the Crown: Legal Thought on War and Colonial Government, 1719-1774,' *JICH*, 619-651; see also J.M. Sosin, *Whitehall and the Wilderness: The Middle West in British Colonial Policy 1760-1775* (Lincoln, NE: University of Nebraska Press, 1961); H.V. Bowen, 'British Conceptions of Global Empire, 1756-1782,' *JICH* 26, no. 3 (1998): 11; Eacott, *Selling Empire*, 203n; and Macmillan, 'Imperial Constitutions,' in Bowen, Mancke, and Reid eds., *Britain's Oceanic Empire*, 96.

appeared in the British press for general consumption, incorrect copies, making no reference to conquest or the Asian context for which it was written, were circulated in America.⁵⁰ The Pratt-Yorke opinion, in its first iteration, which was presented on 16 August 1757, provided that ‘all such places as are retaken return to the Old Dominion, and Consequently, that the Town and Settlement of Calcutta within the former Territorial Limits must be restored to the East India Company.’ It also proposed that ‘all such places as may be newly conquered in this Expedition accrue to the Sovereign, and are Vested in his Majesty, by right of conquest.’⁵¹ By returning Calcutta to the ‘Old Dominion,’ it could be argued that the opinion advocated giving it back to the Company under its former tenure, i.e. the *zamindari* rights acquired in 1698 and the Mughal *firman* of 1717.⁵² Under this system, then, despite owing *liege homage* (that due to one’s sovereign by so-called ‘Native Allegiance’) to the British Crown, the Company held these territories through their *feudal homage* to the Mughal Emperor, the ‘superiour Lord of whom Lands were holden.’⁵³ However, Justice Sir Robert Chambers of the Calcutta Supreme Court later surmised, that the ‘Town of Calcutta is under the Dominion of the Crown of Great Britain.’⁵⁴ He claimed that because the town of Calcutta was re-conquered by the combined forces of the Crown and Company, the sovereignty can no longer be said to be held by the nawab, whose ‘Seigniorage therefore must be considered as extinct.’⁵⁵ Calcutta, then, for Chambers, was unequivocally ‘subject to the sovereign Right Power, and

⁵⁰ Cavanagh, ‘Imperial Constitution of the Law Officers of the Crown,’ 633, 645-646; for copies of the decision available in the British press for contemporaries, see William Bolts, *Considerations on India Affairs*, 174-184; letter signed ‘Veritas’ in *London Evening Post*, 15 August 1772.

⁵¹ ‘His Majesty’s Advocate, Attorney, and Solicitor Generals Report,’ 16 August 1757 in National Archives (NA), Chatham Papers, PRO 30/8/99, pt. ii, f. 1; see also Sheila Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 26, 1-2.

⁵² On the particularities of the rights acquired by the Company in 1698, see Walter K. Firminger, *Historical Introduction to the Bengal Portion of ‘The Fifth Report’* (Calcutta: R. Cambray & Co., 1917): lxxv-lxxix.

⁵³ ‘An Opinion delivered by Mr. Justice Chambers...in the case of Cumall a Deen Ally Khan...’ (Hilary Term, 1777) in BL, Liverpool Papers, Add. MS. 38400, f. 72.

⁵⁴ *Ibid.*, f. 71.

⁵⁵ *Ibid.*, f. 74.

Dominion, of his Majesty'.⁵⁶ However, despite the fact that the justices of the Supreme Court of Judicature treated Calcutta as one of the Crown's dominions, it was not distinguished as such from the rest of Bengal in the parliamentary debates concerning the Company's territorial sovereignty on the subcontinent.

If the status of Calcutta was fairly ambiguous, the question of sovereignty as it applied to the other parts of Bengal was even more open to doubt. Having received word of the re-capture of Calcutta by Clive, the Company petitioned the Crown for further clarification on the subject of the division of both plunder and conquered or ceded territories. Their primary motivation for doing so was to obtain compensation for the vast expenses incurred in fighting a 'national War with *France*' which they felt was not of their own making.⁵⁷ They therefore requested permission to 'hold and enjoy...all such Fortresses, Districts, and Territories...as they have acquired, or may hereafter acquire, from any Nation, State, or People, by Treaty, Grant, or Conquest, with Power to restore, give up, and dispose of the same, as they shall from Time to Time see Occasion.' The only qualification they proposed to the powers they were requesting was that the disposal of lands conquered from other European powers be subject to the Crown's approval.⁵⁸ It is important to note, however, that this was very clearly a petition concerning *possession* rather than *sovereignty*, it being maintained even in the Company's petition that the Crown retained the 'Right of Sovereignty in and over' the territories under discussion.

In response to the Company's petition, Pratt and Yorke issued an updated opinion in which they questioned whether the Company could retain, hold, restore, or dispose of any territories without the explicit permission of the Crown.⁵⁹ They gave it as their opinion that territory acquired by treaty or grant 'from the Mogul or

⁵⁶ *Ibid.*, ff. 73-74.

⁵⁷ Petition of the East India Company to the Crown, [December 1757] in Lambert ed., *House of Commons Sessional Papers*, vol. 26, 4-5.

⁵⁸ *Ibid.*, 5.

⁵⁹ 'His Majesty's Attorney and Solicitor Generals Report, on the Petition of the *East India Company*,' 24 December 1757 in TNA, Chatham Papers, PRO 30/8/99, pt. ii, f. 4; see also Lambert ed., *House of Commons Sessional Papers*, vol. 26, 6-7.

any of his Indian Princes or Governments' belonged to the Company, 'subject only to your Majesty's Right of Sovereignty over the settlements as English Settlements, and over the Inhabitants, as English Subjects, who carry with them [his] Majesty's laws wherever they form colonies.' In short, when acquired by grant or treaty, the Company was allowed possession, but the Crown retained sovereignty, just as if the Company owned lands in Britain itself. On the other hand, territory acquired by conquest gave both sovereignty and possession to the Crown.⁶⁰ The Company could 'only derive a right to [conquered territories] thro' [a Crown] Grant.'⁶¹ Such a distinction between possession and sovereignty was consistent with the substance of the Company's charters and letters patent. However, in a part of their judgement that appears to have escaped the notice of most historians and contemporaries alike, Pratt and Yorke also cautioned the King 'that it is not warranted by Precedent, nor agreeable to sound Policy, nor to the Tenor of the Charters which have been laid before us to make such a General Grant, not only of past, but of future contingent conquests made upon any power, European or Indian, to a Trading Company.'⁶²

Whether or not the revolutions in Bengal between 1757 and 1765 and the acquisition of the *diwani* constituted a 'conquest' was a notoriously difficult question and one that would plague contemporaries for decades to come. Nonetheless, there can be little doubt that the acquisition and governance of such large territories by a trading Company was something that appeared novel and even potentially dangerous, not only to the law officers of the Crown but also to numerous politicians and political commentators in the press. Pratt later pointed out that the charters granted to the Company contained '[n]o idea of territorial revenue or dominion' and

⁶⁰ For global and comparative accounts of similar processes, see Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2010): chapter 1; Anthony Pagden, 'Fellow Citizens and Imperial Subjects: Conquest and Sovereignty in Europe's Overseas Empires,' *History and Theory* 44, no. 4 (2005): 28-46; and Koen Stapelbroek, 'Trade, Chartered Companies, and Mercantile Associations,' in Bardo Fassbender and Anne Peters eds., *The Oxford Handbook of the History of International Law* (Oxford: Oxford University Press, 2012): 338-358.

⁶¹ *Ibid.*, f. 4; see also Lambert ed., *House of Commons Sessional Papers*, vol. 26, 7.

⁶² *Ibid.*, f. 5; see also Lambert ed., *House of Commons Sessional Papers*, vol. 26, 7.

their regulations ‘prove[d] that nothing was meant but to incorporate a certain number of merchants for purposes of trade, and for no purposes of extending our Dominions. All other powers are wanting.’⁶³ In spite of its previous grants of limited political powers, the Company continued to be seen as a ‘Trading Company’ rather than as ‘delegated sovereigns’, at least until 1765.⁶⁴ From this time, British governments were forced to take it upon themselves to clarify the relationship between the British state and the Company and thereby to resolve the concomitant questions over the nature of sovereignty in the Company’s Indian territories as well as the broader issue of chartered rights and their status vis-à-vis parliamentary supremacy in the post-1688 Constitution. The fact that the sanctity of chartered rights was among the most contentious issues in British politics in the early decades of George III’s reign is, on the one hand, a testament to the validity of Stern’s argument that early modern political authority ‘was constituted by a variety of competing and overlapping political and constitutional forms in both alliance and tension with the national state and its claims to coherent and central power’.⁶⁵ On the other hand, the fact that Parliament was confident enough to assert its supremacy over chartered corporations in the face of stiff opposition attests to the increased assertiveness of national metropolitan institutions in the imperial power-struggles of the latter half of the eighteenth century.⁶⁶

Following the Company’s acquisition of the *diwani* rights in 1765, one might expect that the Pratt-Yorke opinion would have served as the definitive settlement of the relationship between the Company and the Crown. However, when news of the Company’s extensive acquisitions reached Britain in 1766, Pratt and Yorke took

⁶³ TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 270.

⁶⁴ Bruce, *Historical View of Plans*, 282.

⁶⁵ Stern, *Company State*, 6; for an interpretation stressing the ‘symbiotic’ relationship between the Crown and corporations, see Paul Halliday, *Dismembering the Body Politic: Partisan Politics in England’s Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998): 54.

⁶⁶ On the increased assertiveness of British imperial policy in this period, see Travers, *Ideology and Empire*, 45; Eliga Gould, ‘Revolution and Counter-Revolution,’ in David Armitage and Michael J. Braddick eds., *The British Atlantic World* 2nd ed. (Basingstoke: Palgrave, 2009): 226; and Cain & Hopkins, *British Imperialism*, 97.

opposing views on whether the Company had a right to possess them. Pratt, now ennobled as Lord Camden, sat as Lord Chancellor in Chatham's government. Yorke, on the other hand, had recently resigned as Attorney-General when Rockingham's government fell from power in July 1766. When Chatham announced an immediate parliamentary inquiry into the Company's acquisitions, Rockingham and his parliamentary following, including Charles Yorke, rallied to defend the Company and its right to possess territories and revenues in Bengal. Crucially, however, neither Camden nor Yorke disowned their former opinion. The fundamental object of their disagreement was whether the specific acquisitions in Bengal were made by a conquest or a grant from the Mughal Emperor. The question during Chatham's East India inquiry in 1766-7 was therefore framed by the terms of the Pratt-Yorke opinion's awkward distinction between conquered territories and those granted by treaty.

Camden, supporting the Chatham administration's claims, sought to prove that the Company's territories in Bengal had been acquired through conquest. By doing so, according to the terms of the Pratt-Yorke opinion, both the possession and the sovereignty would be vested in the Crown.⁶⁷ This would have allowed the administration to rent the territories to the Company in return for a large sum which, it was hoped, would help to offset the burgeoning national debt in lieu of the failure to obtain tax revenues from America. The difficulty with attempting to distinguish between territories acquired by conquest or granted by treaty is that it was almost impossible to have conquered territories which were not subsequently confirmed by the terms of a peace treaty. In substance, the argument that the Company's new territories in Bengal were acquired by conquest certainly had some merit. However, the Company and its supporters argued strenuously that they had been forced to contribute large sums to the war effort and that the territorial revenues were a form

⁶⁷ The Earl of Hardwicke remarked on Camden's position on this issue in a letter to Rockingham, 25 June 1767 in Earl of Albemarle ed., *Memoirs of the Marquis of Rockingham and his Contemporaries* (London: Richard Bentley, 1852), ii, 45-46.

of compensation for that.⁶⁸ Therefore, it was also necessary for those who believed the territories were conquered to establish that royal troops had greatly assisted those of the Company and that the state had also contributed significantly to the defence of British interests in the East Indies.⁶⁹ While the majority of the troops who participated in the decisive battle of Buxar in 1764 were raised and in the pay of the East India Company, the commander, Colonel Hector Munro, was a royal officer and he was commanding detachments of royal regiments.⁷⁰ More importantly, it was almost universally admitted that the Company would never have been able to retake Calcutta in 1757 were it not for the assistance of Admiral Charles Watson and the royal navy's detachment in the East Indies.⁷¹ Therefore, they argued, 'the state is intitled to all Districts and Fortresses acquired by Conquest, according to the King's known Prerogative.'⁷²

On the other hand, Charles Yorke, while continuing to adhere to his opinion from 1757, argued that the circumstances of the Company's acquisitions in Bengal up to 1765 were such that they retained a right to maintain possession of them. They were, he argued, acquired in the form of a grant rather than as the 'fruit of a successful war.'⁷³

Yorke's position, that the question of the Company's territorial rights was one of possession and not of sovereignty was taken further by more zealous advocates of the Company who argued that no sovereignty was involved in the

⁶⁸ Examination of Robert James, 13 April [1767] in BL, Add. MS. 18469, f. 84; *An Essay on the rights of the East India Company to the perpetuity of their trade, possessions and revenues in India* (London: T. Payne, 1776): 14.

⁶⁹ The contribution of the British state to the Company's defence in the Seven Years' War was estimated to be over £7 million. See TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 271.

⁷⁰ ['Summary of the "State of Affairs" of the Company and a Summary of Legal Arguments Appended Thereto'] TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 248.

⁷¹ J.K. Laughton (revised by A.W.H. Pearsall), 'Watson, Charles (1714-1757),' *Oxford Dictionary of National Biography*, <https://doi.org/10.1093/ref:odnb/28831> (Accessed 24 June 2019).

Examination of Henry Vansittart, 27 March 1767 in BL, Add. MS. 18469, f. 6; examination of Warren Hastings, 31 March 1767 in *Ibid.*, f. 29.

⁷² TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 270.

⁷³ Speech of Charles Yorke, 14 April 1767 in Thomas ed., *Ryder Diary*, 339.

question at all. They asserted that the Company held its territories ‘in right of a Civil Office which they exercise under the Mogul and with condition of paying him a share of the Revenue.’⁷⁴ The sovereignty of the provinces, they argued, was still held by the nawab of Bengal or the Mughal emperor and, by their charter of 1698, the Company claimed that they had an ‘unlimited right to hold possessions of any sort or nature that might be granted or ceded to them by the Country Powers.’⁷⁵ While the Company clearly had a right to hold property of any kind within the boundaries of their exclusive trade, this became far more complicated when they appeared to have become *de facto*, if not strictly-speaking *de jure* sovereigns of extensive and densely populated provinces in India.⁷⁶ The legal fiction of a so-called ‘dual government,’ whereby the Company held the office of *diwan* and the nawab or Mughal Emperor retained sovereignty, seems to have convinced very few neutral contemporaries. Indeed, the Company’s attempts to veil their acquisition of sovereignty on the Indian subcontinent, whether that be from other European East India companies or from the British state, were treated with equal ridicule in the press and in Parliament.⁷⁷ By the mid-1770s, even their own employees in Bengal found the disguise increasingly untenable, particularly in the face of judicial activism from the Calcutta bench.⁷⁸

⁷⁴ [‘Summary of the “State of Affairs” of the Company’] TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 247; David Macpherson, *The History of the European Commerce with India...* (London: Longman, Hurst, Rees, Orme, and Brown, 1812): 193; according to a later letter signed ‘Veritas’ in *London Evening Post*, 25 August 1772, Charles Yorke also ‘represented the Company as holding an office only under the Nabob.’

⁷⁵ [‘Summary of the “State of Affairs” of the Company’] TNA, Chatham Papers, PRO 30/8/99, pt. iii, f. 247; see also Colebrooke, *Retrospection*, i, 113-114; and *Annual Register* (1773): 97.

⁷⁶ *An Essay on the rights of the East India Company to the perpetuity of their trade, possessions and revenues in India...* (London: T. Payne, 1776): 13-14; see also [Nathaniel Brassey Halhed], *The Letters of Detector, on the Seventh and Eighth Reports of the Select Committee and on the India Regulating Bill...* (London, 1783): 30.

⁷⁷ Speech of George Johnstone, 30 March [1772] in *Cobbett*, xvii, cols. 377-378; Governor and Council of Bengal to the Directors, 15 March 1774 in *FWIHC*, xiv, 291; letter ‘To Lord North’ signed ‘Surena’ in *Public Advertiser*, 11 December 1772; ‘Temporary Considerations’ in *Public Advertiser*, 4 July 1781; *A Letter to the Proprietors of East-India Stock, on the Subject of sending Supervisors with extraordinary Powers to India* (London: S. Bladon, 1772): 19-21.

⁷⁸ Warren Hastings to Francis Sykes, 2 March 1773 in Gleig ed., *Memoirs of Hastings*, i, 285; Speech of Lord Clive, 27 February [1769] in Wright ed., *Cavendish’s Debates*, i, 261; *A Plan for the Government of the provinces of Bengal. Addressed to the directors of the East India Company* (London: J. Wilkie, 1772): 9-10. On the interference of the Supreme Court, see Thomas Curley, *Sir*

While the Pratt-Yorke opinion held forth the prospect of a solution to the question of sovereignty afflicting the Company's newly acquired territories, it received radically different interpretations in light of the revolutionary events in Bengal. This undermined the extent to which it could effectively serve as a guide or framework to the parliamentary efforts to reform the Company. The following section traces the equivocation of the prominent legal minds of the time and how this influenced the trajectories of East India Company reform.

IV. 'OUT-FLANKED BY THE LAW': LEGAL EQUIVOCATION AND THE QUESTION OF SOVEREIGNTY

As we have seen, the Pratt-Yorke opinion exerted a considerable influence on the attempts to redefine the relationship between the East India Company and the British state after 1765. However, despite establishing the legal framework within which the Company's sovereignty was debated in these years, it offered precious little in the way of a solution. Indeed, the equivocation of prominent lawyers on this question in spite of the Pratt-Yorke opinion, was almost certainly a contributing factor behind Parliament's failure to directly tackle the issue of sovereignty. Some within the Company, no doubt acknowledging the weakness of the argument that they were merely Mughal officeholders, were also anxious to avoid a 'trial of right.'⁷⁹ Horace Walpole, noted that 'every single evidence has brought forth in stronger and stronger colours the right of the Crown to the conquests made by the Company.'⁸⁰ However, in spite of the preponderance of evidence brought to bear from officials in India, the lawyers in Parliament continued to be divided on the issue of the Company's sovereignty in a manner that perpetuated the controversy over the nature of the Company's chartered rights.

Robert Chambers: Law, Literature, and Empire in the Age of Johnson (Madison: University of Wisconsin Press, 1999): 198; and Travers, *Empire and Ideology*, 201.

⁷⁹ George Dudley to Lord Clive, 4 March 1767 in BL, Clive Papers, MSS Eur G37/44/3 ff. 3-10.

⁸⁰ Horace Walpole to Horace Mann, 5 April 1767 in Lewis et al. eds., *Walpole Correspondence*, xxii, 504.

As one prominent Company stockholder Sir Matthew Fetherstonehaugh pointed out, ‘in a question like this about the right of property and the forfeiture of a charter, one would have thought that the opinion of almost all the lawyers in the house [of commons] might have been attended to; but they were called by Colonel Barré “a sort of *heavy artillery*, which did very little execution;”’.⁸¹ Drawing on his military experience during the Seven Years’ War, Isaac Barré was comparing the indecisive bombast of the great lawyers on the question of the Company’s sovereignty to the confusion caused by an artillery barrage and its relative inability to deliver a decisive blow on the battlefield.⁸² The significance of the Pratt-Yorke opinion, therefore, in offering any kind of a solution to the problem of the Company’s acquisition of territory in Bengal ought not to be overstated. However, it did range various lawyers in opposition to one another. Sir Fletcher Norton, who had served as solicitor general in the Earl of Bute’s short-lived ministry and attorney general under George Grenville as well as his successor to both offices, William de Grey, each aligned themselves with Lord Chancellor Camden’s position. They argued that the Company ‘cannot legally acquire, by conquest, territorial possessions, not subservient to their commerce’ and that the right to them belonged to the Crown.⁸³ The result of these legal divisions in 1767 was that the administration and the Company came to a negotiated settlement, whereby the Company paid £400,000 annually to the state in recognition of their right to maintain possession of their territories and revenues during the two years of the agreement.⁸⁴ The issue of sovereignty, however, was conspicuously absent.

⁸¹ Sir Matthew Fetherstonehaugh to Lord Clive, 30 December 1766 in Malcolm, *Life of Clive*, iii, 198-199; for more on Fetherstonehaugh, see Namier and Brooke eds., *House of Commons 1754-1790*, ii, 422-423.

⁸² Isaac Barré was a prominent parliamentarian and close associate of the Earl of Shelburne who took a strong interest in the East India Company’s affairs. For more on Barré, see Peter Brown, *The Chathamites: A Study in the Relationship between Personalities and Ideas in the Second Half of the Eighteenth Century* (London: Macmillan, 1967): 189-230.

⁸³ Speech of Sir Fletcher Norton, 14 April 1767 in Thomas ed., *Ryder Diaries*, 339; and speech of William de Grey, 27 February 1769 in Wright ed., *Cavendish’s Debates*, i, 266.

⁸⁴ See 7 Geo. III., c. 57 in *A Collection of Charters and Statutes relating to the East India Company...* (London: George Eyre and Andrew Strahan, 1817): 129-130.

When the issue of the Company's territorial possessions in Bengal returned to the forefront of British politics in 1773, Lord North introduced his propositions to bail out the Company from their financial woes with a general declaration that the state had an absolute right 'to all territorial acquisitions made by a body of its subjects.' He attempted to rest these strong convictions upon the authority of 'many men, far superiors in abilities, in learning, and knowledge of the laws, [who] have declared themselves of this opinion'.⁸⁵ In speaking of the Company on this occasion, North treated them in their corporate capacity as an artificial person, as an individual that happened to have acquired possession of vast territories, rather than as an authorised subsidiary imperial agency possessing the rights and attributes of sovereignty by charter. The former Massachusetts Bay governor and imperial theorist, Thomas Pownall, argued from a similar basis against the sovereignty but in favour of the Company's right to possess their territories in Bengal. Pownall stated that all property acquired by 'any individual, or any political person or body corporate...*in partibus exteris*⁸⁶...which does not already belong to some other government...does *ipso facto* become annexed to, as the property of, that community to which the individual himself belongs.'⁸⁷ Pownall therefore argued that 'no subject, either individual, or body corporate' can erect any sovereignty but that of, or derived from the British imperial crown. The Company, in his view, could only exercise the sovereignty that may have fallen into their hands in Bengal through the explicit 'legal and constitutional interposition of the crown.'⁸⁸ Thus, the Company as a body corporate, in legal terms as just another British subject, was argued to have been bound by the same kinds of restrictions preventing individuals from obtaining sovereignty.⁸⁹ If the Company's charters did not contain a specific provision granting

⁸⁵ Speech of Lord North, 9 March [1773] in *Cobbett*, xvii, col. 803.

⁸⁶ On the 'edges' of empire.

⁸⁷ Thomas Pownall, *The Right, Interest and Duty of Government, as Concerned in the Affairs of the East Indies*, Revised Edition (London, 1781): 17.

⁸⁸ *Ibid.*, 23, 27.

⁸⁹ Letter signed 'Fabricius' in *Gazetteer and New Daily Advertiser*, 17 April 1781.

them sovereignty, which as we have seen they did not, it would, by Pownall's reasoning, grant the sovereignty undoubtedly to the Crown.

North's comments, as one might expect, sparked considerable controversy. George Dempster, who had recently disqualified himself from the Company's directorate in order to pursue an independent line on India questions, immediately jumped upon North's remarks.⁹⁰ He noted that '[s]everal gentlemen, well skilled in the laws of their country, have advanced it as their opinion, that the Company have an undoubted, a clear, and an exclusive right to the territories possessed in India, whether acquired by conquest or otherwise.' At the same time, however, he raised concerns that lawyers subsequently appointed to offices under the Crown might be inclined to alter their opinions to suit their patrons.⁹¹ He was far from alone in expressing scepticism that Crown lawyers would ever give a decision on the Company's sovereignty unfavourable to the sitting administration.⁹² While North attempted to rest his case for the Crown's sovereignty over the Company's territories upon the Pratt-Yorke opinion, George Johnstone reminded him that Charles Yorke, who was offered the post of Lord Chancellor just before his death in 1769, had 'declared himself in favour of the Company's exclusive right of territory.'⁹³ It would have been difficult for North to repudiate Yorke's opinion, given his strong legal

⁹⁰ On George Dempster, see James Fergusson ed., *Letters of George Dempster to Sir Adam Fergusson, 1756-1813* (London: Macmillan, 1934); John Evans, *The Gentleman Usher: The Life & Times of George Dempster 1732-1818* (Barnsley: Pen & Sword, 2005); and Andree Munro Lang, *A Life of George Dempster, Scottish M.P. of Dunnichen (1732-1818)* (Lewiston, NY: Edwin Mellen Press, 1998).

⁹¹ Speech of George Dempster, 9 March [1773] in *Cobbett*, xvii, col. 807. Dempster must have been referring to either the attorney general or solicitor general of the time, which were Edward Thurlow and Alexander Wedderburn respectively. Wedderburn, given his connections with Grenville and Lord Clive as well as his arguments against government interference in the Company's affairs in 1767, is the far more likely candidate, but neither of them have been recorded to have spoken on this occasion in either Cobbett's or Cavendish's debates.

⁹² Letter signed 'Hollis' in *London Evening Post*, 6 May 1773; and Speech of Edmund Burke, 23 May 1781 in *Cobbett*, xxii, col. 322.

⁹³ Speech of George Johnstone, 9 March [1773] in *Cobbett*, xvii, col. 811.

reputation and the notorious circumstances surrounding his death.⁹⁴ In the event, he opted for silence.

Arguments based on the conflicting views of the great legal minds could also be taken too far and used against the opponents of the government's East India reforms. Indeed, Edmund Burke, no doubt sensing the weakness of the government's position on their legal claim to sovereignty over the Company's territories, pointed out that 'not one lawyer, with a rag of gown upon his back, or a wig with one tie, had given it as his opinion, that the right to these possessions was vested in the Crown, and not in the Company.'⁹⁵ This brought a riposte from Sir Fletcher Norton, the Speaker of the House, stating as a matter of fact that 'so far from no lawyer having openly declared in favour of the right of the crown...no less than three respectable characters had given their opinions expressly on that side of the question. One of the gentlemen to whom I allude...is now no more [Charles Yorke]; the other has attained those professional honours to which he was eminently entitled [Camden]; and the third (Mr. Thurlow) is in a fair way of attaining every honour to which by his shining abilities he has a right to lay claim.'⁹⁶ Norton was able to argue in this way that Yorke had supported the right of the Crown, when he evidently did not, by projecting his own interpretation of the Pratt-Yorke opinion by which he argued that they belonged to the Crown on the basis that they were conquered territories. As if in anticipation of criticism about the biased opinions of the law officers of the Crown, Norton stated that when he had given his opinion upon the issue in 1767 he was out

⁹⁴ For more on the episode surrounding Charles Yorke's suicide or death, see Ross Hoffman, *The Marquis: A Study of Lord Rockingham, 1730-1782* (New York, NY: Fordham University Press, 1973): 240-246; Paddy Bullard, 'The Latitude of Whiggism: Burnet, Tillotson and Lord William Russell in Whig Historiography, 1675-1775,' in David Womersley, Paddy Bullard, and Abigail Williams eds., *Cultures of Whiggism: New Essays on English Literature and Culture in the Long Eighteenth Century* (Newark, DE: University of Delaware Press, 2005): 318-319; Basil Williams, 'The Eclipse of the Yorkes,' *Transactions of the Royal Historical Society* 2 (1908): 145-150; and the discussions of Philip Yorke and Agnette Yorke in BL, Hardwicke Papers, Add. MS. 35428, ff. 116-121 and ff. 132-140. For a discussion of these sources see Richard Connors ed., *The Commons Journal of Philip Yorke, 1743-1750, and the Yorke Family Papers, 1760-1770* (Oxford: Blackwell's, forthcoming).

⁹⁵ Speech of Edmund Burke, 23 March [1773] in *Cobbett*, xvii, col. 821.

⁹⁶ Speech of Sir Fletcher Norton, 23 March [1773] in *Ibid.*, cols. 823-824.

of office and thus ‘it may be supposed a transcript of my real sentiments.’⁹⁷ Barré, as before, probably spoke for a majority of the House when he admitted to having been confounded by the ‘various and contradictory opinions given by various lawyers upon the subject.’ So far from convincing him, he declared, the legal opinions had rather ‘puzzled and misled me, which has occasioned me frequently to declare, that we were out-flanked by the law.’⁹⁸ An anonymous writer in the *Public Advertiser* agreed, claiming that ‘scarce a Day passes but the Opinions of the greatest Lawyers are had pro and con; but the Opinion of the greatest Lawyers is no Sanction to a Man either in Law, Honour, or public Duty, but, like Councils of War, are often had to serve as a Screen.’⁹⁹ The opinions of the law officers of the Crown, while they served to structure the debates over the Company’s acquisition of territory in Bengal, were not seen as binding upon the actions of Parliament.

In spite of the differing opinions of lawyers over the Pratt-Yorke opinion, what is perhaps more surprising is its longevity. North was forced to back down on the issue of sovereignty over Bengal and its revenues in 1773 and his Regulating Act contained only the provision that the Public would ‘forego, for the Present, all Participation in the Profits arising from the territorial Acquisitions and Revenues lately obtained in the *East Indies*’ while the Company paid off its loan.¹⁰⁰ However, when the time came for a comprehensive review of the relationship between the Company and the state in 1781, North once again rested his argument on the basis that people ‘more conversant with law than himself, were clearly of opinion, that the public had a right to all territorial acquisitions made by private subjects.’¹⁰¹ Henry Dundas, the Lord Advocate of Scotland, supporting North on this occasion, added his own legal weight to the scale of those ‘very great authorities who had, in the

⁹⁷ *Ibid.*, col. 824.

⁹⁸ Speech of Colonel Barré, 23 March [1773] in *Ibid.*, col. 825.

⁹⁹ Letter signed ‘An Independent Proprietor’, in *Public Advertiser*, 5 September 1772.

¹⁰⁰ 13 Geo. III. c. 64 in *A Collection of Charters and Statutes*, 160-161.

¹⁰¹ Speech of Lord North, 23 May 1781 in *Cobbett*, xxii, col. 307.

most express terms, delivered decided opinions in favour of the public.’¹⁰² Charles Jenkinson claimed that the decision of the law officers of the Crown was clear: since they had determined that sovereignty belonged to the Crown, which he asserted ‘was only another word for the public,’ the revenues also belonged to the public ‘for they were synonymous and connected rights.’¹⁰³ Despite the longevity of recourse to the Pratt-Yorke opinion, and the fact that fewer parliamentarians seemed to have been willing to argue against the Crown’s sovereign right to the Company’s territories in Bengal, the question was left unresolved until 1813. Acts in 1779, 1780, 1781 and 1784 each contained a form of the crucial proviso that ‘nothing [t]herein contained shall extend, or be construed to extend, to prejudice or affect the Rights or Claims of the Public, or the said United Company, respecting the said territorial Acquisitions and Revenues.’¹⁰⁴ In part, of course, this qualification was included to maintain the acquiescence of the Company to the respective schemes of reform but it was also an implicit admission of the sensitivity surrounding the issue of the Company’s sovereign rights. The fact that prominent legal minds were strongly divided over the issue also suggests that the Company’s repeated defence of its chartered rights ought not to be dismissed as shibboleths or bugbears as they occasionally were by contemporaries and even by some historians.¹⁰⁵

While the Pratt-Yorke opinion clearly helped to frame the domestic debates concerning the sovereign status of the Company’s territorial possessions in India, the differing interpretations offered by so many eminent lawyers prevented it from providing any kind of solution. Nonetheless, the Company’s chartered rights remained a crucial bulwark against attempts by successive British governments to

¹⁰² Speech of Henry Dundas, 23 May 1781 in *Ibid.*, col. 320.

¹⁰³ Speech of Charles Jenkinson, 8 June 1781 in *Ibid.*, col. 535.

¹⁰⁴ 19 Geo. III, c. 61; 20 Geo. III, c. 56; 21 Geo. III, c. 65; and 24 Geo. III, c. 25 in *A Collection of Charters and Statutes*, 175, 189, 203, 237.

¹⁰⁵ See, for example, *Gazetteer and New Daily Advertiser*, 30 June 1779; speech of Richard Rigby, 8 December 1783 in *Cobbett*, xxiii, cols. 50-51; and Earl of Chatham to the Earl of Shelburne, 17 June 1773 in BL, Add. MS. 88906/1/7, f. 28. See also, William Edward Hartpole Lecky, *A History of England in the Eighteenth Century*, v, 235

interfere in its affairs. The final two sections of this chapter analyse the domestic dimensions of the Company's charters and how arguments for and against East India reform were influenced by the significance contemporaries attached to chartered rights.

V. PARCHMENTS WITH DANGLING SEALS: CHARTERED RIGHTS IN POLITICAL RHETORIC

Having examined some of the major legal and political arguments surrounding the East India Company's right to possess its vast territories and revenues in Bengal, it is difficult to overemphasise the importance of the Company's charters. They served not only as constitutional documents, establishing the governmental framework of a body politic responsible for acts of delegated sovereignty, but were also participants in a wider body of imperial constitutional jurisprudence. If Philip Stern is right to have emphasised the importance of corporate sovereignty as an alternate and overlapping form of political authority in the early modern period, then it becomes imperative for historians of eighteenth-century Britain to take seriously the contemporary arguments surrounding chartered rights which were generated by the government's efforts to reform the East India Company. As we have seen, charters were not simply grants of territory or rights to overseas trading bodies or colonial ventures. They also provided the foundation for a diverse array of political and economic rights and privileges for individuals associated with them.¹⁰⁶ Charters can be said to have underpinned the entire British political system. Magna Carta was widely believed to have been the wellspring of the freedoms and liberties enjoyed by British subjects and upon which they so frequently prided themselves relative to their continental rivals.¹⁰⁷ Those well-versed in the intricacies of the Constitution

¹⁰⁶ For an excellent examination of the charters of borough corporations, see Halliday, *Dismembering the Body Politic*, chapter 2.

¹⁰⁷ *Impartial considerations on a bill now depending in Parliament, for establishing certain Regulations for the better Management of the Territories, Revenues and Commerce of this Kingdom in the East-Indies* (London, 1783): 9; *Chartered Rights* (London: A. McPherson, [1784?]): 3-4; letter

also recognised that the Crown itself was a form of *corporation sole*, possessing ‘a kind of legal immortality’ in that its rights and prerogatives were unaffected by the death of a monarch.¹⁰⁸ Whether based on the quasi-mythical status of Magna Carta or the more mundane electoral rights of a borough franchise, charters and their concomitant privileges were still a vital aspect of life for many eighteenth-century Britons even in an age of increasing parliamentary intervention.

The East India Company, while possessing the exclusive right to British trade between the Cape of Good Hope and Cape Horn as well as the ability to set up municipal political institutions for the governance of their settlements overseas, also possessed various political rights in Britain. For example, its charter provided it with representative institutions for the management of its affairs. It possessed a form of legislature, known as the General Court of Proprietors, and an executive body composed of twenty-four directors elected from among the stockholders. By the 1770s, this ‘little parliament’ was responsible for overseeing the governance of the Company’s territories in India.¹⁰⁹ In many ways, it functioned in a similar manner to the colonial assemblies of the British North American colonies, and in its constitutional status it had become relatively comparable to those in the chartered colonies after the Company took on more extensive governmental attributes in the wake of the Plassey Revolution. For much of its history, anyone possessing at least £500 of India stock was permitted to attend and cast a vote in the General Court,

‘To all Bulls and Bears, as well as the honest Proprietors of East India Stock’ signed ‘Analysis, A.P.’ in *Gazetteer and New Daily Advertiser*, 30 June 1779; letter signed ‘Cato’ in *Middlesex Journal*, 31 March 1772; and speech of the Earl of Coventry, 17 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 115.

¹⁰⁸ F.W. Maitland, *State, Trust and Corporation* (Cambridge: Cambridge University Press, 2003): 40-41; Blackstone, *Commentaries on the Laws of England*, i, 467; speech of William Pitt, 20 November 1783 in *Cobbett*, xxiii, col. 1244; letter ‘To Sir Thomas Rumbold, Bart.’ signed ‘Junius’ in *Morning Post*, 24 January 1783; ‘East-India Affairs. To Lord North, *Secretary of State for the East-Indies*’ signed ‘Junius’ in *Morning Post*, 21 April 1783; Bishop of Ely to Philip Yorke, 2 December 1783 in BL, Hardwicke Papers, Add. MS. 35391, f. 58; George Tierney, *Substance of a Speech Delivered at a General Court of Proprietors in Leadenhall-Street, on Wednesday, December 3, 1783* (London: J. Debrett, 1783): 26-27.

¹⁰⁹ Nathaniel Brassey Halhed, *A Letter to Governor Johnstone, &c., &c., On India Affairs* (London, 1783): 11. On Chatham calling the Company’s General Court a ‘little parliament’, see the Duke of Grafton’s Minute of 7 July 1769 in Anson ed., *Grafton Autobiography*, 237.

except for those below the age of majority.¹¹⁰ As a result, the Company's General Court was one of the most democratic political bodies in Britain. There was no restriction, implied or otherwise, on the rights of women or foreigners to vote, a fact which drew the ire of some politicians who feared that it might be used by Britain's enemies to damage its interests in the East Indies.¹¹¹

The successive attempts to reform the Company each involved to a greater or lesser extent breaches of the Company's charter. When the cry of a violation of chartered rights was raised it was not only in connection with the Company's right to the territories and revenues of Bengal but also often due to concerns that Parliament was attempting to alter the governing institutions of the Company. For example, Lord North's Regulating Act in 1773 increased the threshold of the franchise for members of the General Court from £500 of stock to £1,000, thereby disenfranchising over 1,200 stockholders.¹¹² This measure was ostensibly designed to discourage the creation of votes by splitting stock but North's opponents accused him of attempting to render the General Court more manageable for the Treasury.¹¹³ John Wilkes even later claimed that the disenfranchisement of the Company's stockholders was comparable to the administration's treatment of the freeholders of Middlesex in 1769. Although they would continue to possess their property, both the

¹¹⁰ For more on the Company's General Court, see Bowen, 'The "Little Parliament": The General Court of the East India Company, 1750-1784,' *HJ* 34 (1991): 857-872.

¹¹¹ See, for instance, *Public Advertiser*, 2 December 1783; Auber, *Analysis of the Constitution of the East India Company*, 349; speech of George Johnstone, June 1773 in BL, Egerton MS, 250, ff. 4-5; speech of the Earl of Sandwich, 17 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 121-122; speech of Thomas Erskine, 27 November 1783 in *Cobbett*, xxiii, col. 1296.

¹¹² [The East India Company's Appeal to the City of London on Chartered Rights.] Minutes of the Committee of Correspondence, 27 May 1773 in BL, IOR/D/28, f. 10; see also letter signed 'An Injured Proprietor' in *Morning Chronicle*, 14 June 1773; Alexander Dalrymple, *Considerations on the present state of affairs between England and America* (London, 1778): 12-13; and John Scott, *A Letter to the Right Honourable Edmund Burke* (London: J. Stockdale, 1783): 23; *A Summary View of the East-India Company of Great Britain. Exhibiting a Sketch of its Origin, Progress, and Constitution, in Abstracts from its Charters, from Proceedings in Parliament, and from other Documents, briefly stated* (Dublin: W. Porter, 1784): 38.

¹¹³ BL, IOR/D/28, f. 11.

freeholders of Middlesex and the Company's stockholders were deprived of the right to elect representatives to manage that property.¹¹⁴

During debates over East India reform it was repeated, almost *ad nauseam*, that any Parliamentary attempt to reform the Company without its express consent was an unwarranted and unconstitutional violation of its chartered rights. If the Company's chartered rights could be so easily undermined, many began to question whether other chartered bodies could feel secure in the rights and privileges they possessed on the same legal basis. Many contemporaries held chartered rights to be quite literally 'sacred' and argued that only the most urgent state-necessity could justify their violation.¹¹⁵ However, the frequency with which opposition politicians attempted to utilise their infringement as a rallying cry led one prominent politician to claim that 'men in their sober senses must regard [chartered rights] as a mere bugbear to frighten children.'¹¹⁶ The historian William Lecky agreed, claiming that there were 'few things in the history of political exaggeration more extravagant than these assertions, and it may very reasonably be doubted whether such men as Pitt and Thurlow can for a moment have believed them.'¹¹⁷ Even Frank O'Gorman referred to the Rockinghamite defence of the Company's chartered independence as 'palpable and factious nonsense' in the face of North's 'eminently reasonable and flexible' Regulating Act.¹¹⁸ There is little doubt that arguments surrounding chartered rights were exaggerated for rhetorical effect. But to surmise from this that

¹¹⁴ Speech of John Wilkes, 8 December 1783 in *Cobbett*, xxiv, cols. 18-19.

¹¹⁵ See John Scott, *A Letter to the Right Honourable Charles James Fox* (London: J. Stockdale, 1783): 10; James Boswell, *A Letter to the People of Scotland, On the Present State of the Nation* (Edinburgh: Charles Dilly, 1784): 11-12; letter 'To the Proprietors of East-India Stock' signed 'Malabar' in *Morning Chronicle*, 12 December 1783; *Public Advertiser*, 12 December 1783.

¹¹⁶ Speech of Richard Rigby, 8 December 1783 in *Cobbett*, xxiv, cols. 50-51; for similar sentiments dismissing the 'high-sounding texts' of 'Broken charters and violated rights' as 'a fine theme for the boys of the Senate,' see *Parker's General Advertiser and Morning Intelligencer*, 11 December 1783.

¹¹⁷ Lecky, *History of England*, v, 235; for a similar argument, see C.H. Philips, 'The East India Company "Interest" and the English Government, 1783-4,' 88.

¹¹⁸ Frank O'Gorman, *Rise of Party in England*, 298. M.D. George also downplays the significance of debates on chartered rights in 'Fox's Martyrs: the General Election of 1784,' *Transactions of the Royal Historical Society* (1939): 141; so too does Laprade in 'Public Opinion and the General Election of 1784,' 226.

chartered rights were not taken seriously in eighteenth-century Britain or that their repetition was not in any way indicative of their perceived importance, is to turn a blind eye to a vast body of evidence suggesting that the status of charters was one of the most controversial political and constitutional issues of the age. As John Cannon astutely pointed out, those who opposed violations of the Company's charter were often 'as vehement in their private correspondence as in their public utterances.'¹¹⁹ When one adds to this the considerable evidence from the pamphlet and newspaper press, it becomes clear that chartered and property rights were among the most revered subjects of governance in eighteenth-century Britain. Upon no other issue were chartered rights so intimately intertwined as in the debates on East India Company reform.

There was a clear trajectory between 1767 and 1784 of an escalation of the importance of chartered rights, as ministries became increasingly emboldened in their efforts to reform the East India Company. By 1784, charters had become one of the primary rallying cries of the opposition to the Fox-North Coalition, as depicted quite literally in William Dent's 'The Fox Hunt' (see figure 3.1). In 1767, it was George Grenville and Edmund Burke who led the complaints that the Company's charter was being put at risk by the Chatham administration's East India policy.¹²⁰ The resulting negotiated agreement with the Company and the indecision on the issue of sovereignty, however, meant that the fears over the threat to the Company's chartered rights failed to materialise. North's Regulating Act of 1773 was a crucial step in that it was the first attempt by a British government to impose a series of substantial alterations to the forms of government established in the Company's charters. On this occasion, Burke argued that North's reforms were 'such

¹¹⁹ Cannon, *Fox-North Coalition*, 115 n.

¹²⁰ See, for instance, George Grenville to Earl Temple, 21 September 1766 in Smith ed., *Grenville Papers*, iii, 323; Edmund Burke to Charles O'Hara, 14 March [1767] in Copeland ed., *Burke Correspondence*, i, 299-300

an infringement upon charter-rights as the spirit of Englishmen ought not to brook' adding that it would 'destroy the charter rights of the Company.'¹²¹ This corresponded with the testimony of the Company's counsel and close associate of the Rockinghams, James Adair, when he argued that North's bill 'effectually repeal[s] the Charter of the E.I.C. in all their most essential powers.'¹²² Even Lord Chatham, while agreeing that by their 'Supreme, Controuling Power' Parliament had the right to interfere in the Company's charter and that something ought to be done 'towards reformation in a case so urgent', felt that North had gone too far by 'innovat[ing], in the *annual election of Directors*, or the *qualifications* of votes according to present charters.' 'Too much tenderness,' he argued, 'can not be used, in touching Charters without absolute necessity.'¹²³ In both his assertion of parliamentary supremacy and in his delicacy for chartered rights, Chatham was in agreement with the Rockinghamites.

The major difference between them in the case of the East India Company was whether the circumstances warranted such a parliamentary intervention. This fact has major implications for the ongoing historiographical debate over the consistency of Edmund Burke's position vis-à-vis the Company.¹²⁴ Despite his arguments against North's violation of the Company's charter, Burke argued that he

¹²¹ Speech of Edmund Burke, 23 March 1773 in *Cobbett*, xvii, col. 819; see also BL, Egerton MS 245, ff. 91-92.

¹²² Speech of James Adair, June 1773, BL, Egerton MS 249, ff. 67-68.

¹²³ Earl of Chatham to the Earl of Shelburne, 17 June 1773 in BL, Bowood Papers, Add. MS. 88906/1/7, ff. 27-29.

¹²⁴ Richard Bourke, *Empire & Revolution: The Political Life of Edmund Burke* (Princeton, NJ: Princeton University Press, 2015): 16-18; 361, 367; Holden Furber, 'Edmund Burke and India,' *Bengal Past and Present* 76 (1957): 11-21; Onur Ulas Ince, 'Not a Partnership in Pepper, Coffee, Calico, or Tobacco: Edmund Burke and the Vicissitudes of Colonial Capitalism,' *Polity* 44, no. 3 (2012): 357-359; P.J. Marshall, *The Impeachment of Warren Hastings* (Oxford: Oxford University Press, 1965): 1-5, 14-15; G.C. Mcelory, 'Edmund, William, and Richard Burke's First Attack on Indian Misrule, 1778,' *Bodleian Library Record* 13 (1988): 52-65; Julie Murray, 'Company Rules: Burke, Hastings, and the Specter of the Modern Liberal State,' *Eighteenth-Century Studies* 41, no. 1 (2007): 60-64; Daniel O'Neill, 'Rethinking Burke and India,' *History of Political Thought* 30 (2009): 497; Frank O'Gorman, *Edmund Burke: His Political Philosophy* (Bloomington, IN: Indiana University Press, 1973): 97-98, 106; Frederick G. Whelan, *Edmund Burke and India: Political Morality and Empire* (Pittsburgh, PA: University of Pittsburgh Press, 1996): 44.

had always held the view that Parliament had a duty to ‘superintend the affairs of the Company’ and to ensure that the Company ‘did not abuse its Charter privileges, or misgovern its asiatick possessions.’¹²⁵ Rockingham himself agreed, emphasising the ‘impropriety of the House of Commons *unnecessarily* invading the Charter *Rights* of the E[ast] India Company.’¹²⁶ In this sense, then, Burke and others agreed, at least in principle, with William Beckford that if the Company was found to have engaged in activities that constituted a misuser (or abuse) of its chartered privileges, then Parliament had not only a right but a duty to intervene.¹²⁷ Burke was, therefore, not unequivocally opposed to parliamentary interposition into the Company’s affairs, and thus his apparent change of heart after participating in the select committee from 1781-1783 would seem to be less stark than it has often been presented. While in 1773 he was loath to admit—perhaps for political convenience—the reports of oppression and maladministration among the Company’s servants in India, through his research in the early 1780s he became so convinced of it that he essentially dragged his colleagues into adopting the policy that the Company required urgent reform.¹²⁸

On the other side of the debate, Burgoyne, who led the select committee in 1772-3, claimed that, although he agreed charters were ‘sacred things,’ they were also ‘in themselves only pieces of dead parchment, without eyes to see transgression,

¹²⁵ Edmund Burke to the Marquess of Rockingham, 23 November 1772 in Sutherland ed., *Burke Correspondence*, ii, 385.

¹²⁶ Marquess of Rockingham to Edmund Burke, 5 January 1773 in *Ibid.*, 402. Emphasis in original. See also Speech of William Dowdeswell, BL, Egerton MS 249, ff. 73-74.

¹²⁷ William Beckford to the Earl of Chatham, 12 February 1767 in Taylor and Pringle eds., *Chatham Correspondence*, iii, 202. George Dempster, a strong ally of the Rockinghams and one-time director of the East India Company argued similarly that the Company’s charter ‘can not be infringed without an absolute proof of a misuser of that Charter.’ See speech of George Dempster, 7 May [1772] in BL, Egerton MS 243, f. 55.

¹²⁸ He later wrote that he knew of ‘no party which goes in a body upon this subject’ (i.e. India affairs). See Edmund Burke to Mary Palmer, 19 January 1786 in Furber ed., *Burke Correspondence*, v, 255.

or hands to punish them.¹²⁹ He felt that without some kind of supervision the Company's charter was unable to prevent abuses in their governance on the subcontinent. As a result, he invoked 'the doctrine of the Reformation, and the Revolution', by which he meant the plea of urgent necessity, in support of the reforms he felt were necessary for the 'common salvation of India and Great Britain.'¹³⁰ Burgoyne's leadership of the select committee convinced him that crimes had been committed by the Company's servants in India that warranted punishment and put British interests in India in jeopardy. Burke reached the same conclusions in the early 1780s and it is hardly a coincidence to find Burke and Burgoyne on the same side of the debate when Fox introduced his India Bill in November 1783.

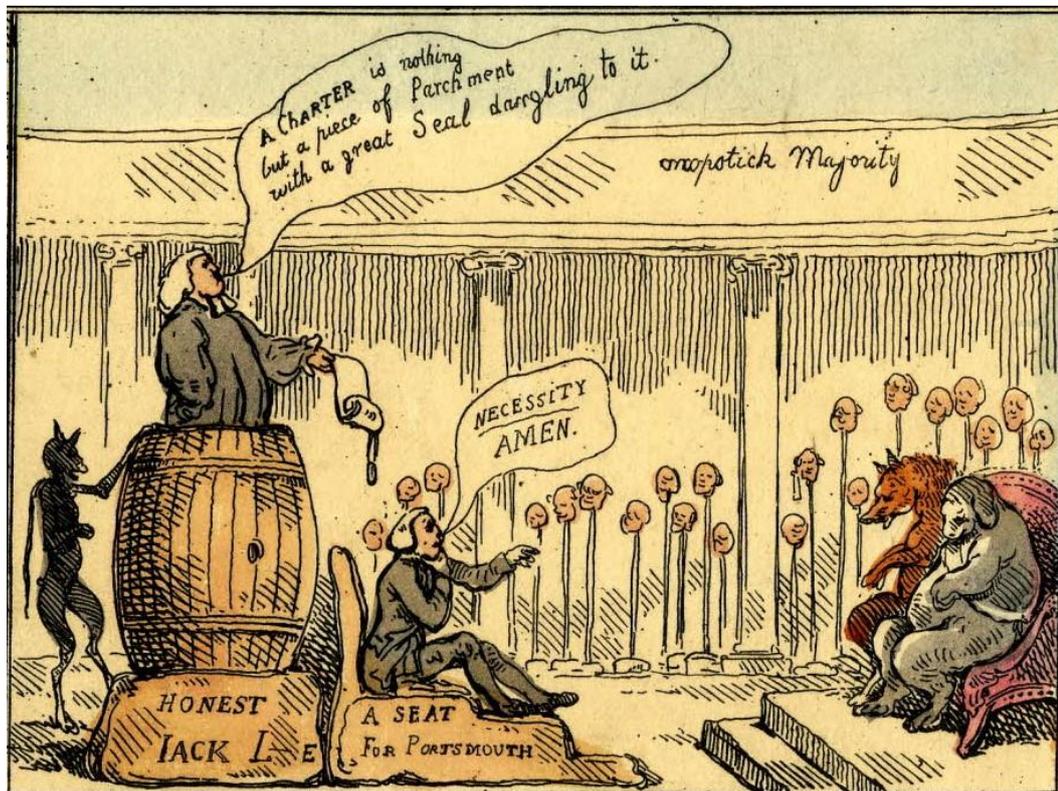


Figure 3.2. Thomas Rowlandson, 'The loves of the fox and the badger, - or the coalition wedding,' (Detail) BM Satires 6369 © Trustees of the British Museum.

¹²⁹ E.B. Fonblanque, *Political and Military Episodes in the Latter Half of the Eighteenth Century Derived from the Life and Correspondence of the Right Hon. John Burgoyne, General, Statesman, Dramatist* (London: Macmillan, 1876): 97.

¹³⁰ Speech of John Burgoyne, 13 April [1772] in *Cobbett*, xvii, cols. 458-459.

Despite Burke's exaggerated rhetoric that North's Regulating Act would result in the destruction of the Company's charter, it was in fact upon Fox's India Bill, the legislation that he was primarily responsible for drafting, that the charge of charter infringement, or rather 'annihilation,' was most vehemently and successfully agitated both inside and outside of Parliament. Burke and his colleagues were charged with hypocrisy for their strong defence of the Company's charter in both 1767 and 1773. William Grenville urged the House of Commons to recall the sense of 'alarm' and the heated language of the Rockingham party when bills affecting the Company's charter 'in a slight degree only' were introduced in 1773 and 1779.¹³¹ In response, Burke and his colleagues were forced to clarify their position so as to avoid the charge of inconsistency. Perhaps the most controversial of these attempts was the comment made by the Attorney General, John Lee, that a charter was merely 'a skin of parchment with a waxed seal at the corner.'¹³² However, despite the fact that Lee's statement has been so often repeated by both contemporaries and historians, it is almost never quoted in full to reveal that it was a comparison. Lee was, in fact, asking how important a charter was 'compared to the happiness of thirty millions of subjects, and the preservation of a mighty empire.' Thus, a seemingly rash remark about charters, widely pilloried in the press and in satirical prints (see figures 3.2 and 3.3), appears in a more reasonable and even humanitarian light (albeit one tinged with jingoistic imperialism).¹³³ Even according to his close friends, Lee's expression, coming from one of the law officers of the Crown, 'formed the subject of comment and reproach in all the subsequent debates, in all publications of the times, and in everybody's conversation.'¹³⁴ Lee himself recognised that he had inadvertently 'contributed to the greatest part of the ridicule, as well as of the wit and

¹³¹ Speech of William Grenville, 20 November 1783 in *Ibid.*, xxiii, 1228.

¹³² Speech of John Lee, 8 December 1783 in *Ibid.*, xxiv, 49. Lee was attacked for this comment by Boswell in his *Letter to the People of Scotland*, 10; see also 'Annotations on Phocion' signed 'Quidam' in *Public Advertiser*, 22 January 1784.

¹³³ For Cannon, *Fox-North Coalition*, 122-123; George, 'Fox's Martyrs,' 142; Sutherland, *East India Company*, 403; Stanhope, *Life of the Right Honourable William Pitt*, i, 145-146.

¹³⁴ Horace Twiss ed., *The Public and Private Life of Lord Chancellor Eldon, with Selections from his Correspondence* (London: John Murray, 1844), iii, 97.

argument, that had been used against' Fox's India Bill.¹³⁵ However, he continued to defend his remarks, stating that he did not speak 'lightly of charters,' and that he was referring only to 'the East India Company's charter, as peculiar and distinct from all others; as a charter which had proved a curse to mankind, [and] had been productive of infinite mischief'.¹³⁶ By distinguishing between different charters, or different kinds of charters, the former Rockinghamites hoped to avoid the charge of inconsistency.

On this, as on so many other issues, Burke led the way. He made a crucial distinction between charters whose denomination 'great,' and whose provisions may 'without any deceitful ambiguity, be very fitly called 'the chartered rights of men' and those such as the East India Company's charter, which are 'not only different in nature, but formed on principles the very reverse of those of the greater charter.'¹³⁷ Magna Carta, he argued, 'is a charter to restrain power, and to destroy monopoly.' The Company's charter, on the other hand, 'is a charter to establish monopoly, and to create power.'¹³⁸ While the 'great' charters secured fundamental political rights and liberties, those such as the Company's, which established a commercial monopoly, actually 'suspend the natural rights of mankind at large.' Therefore, according to Burke, it is 'fallacious and sophistical' to refer to the rights derived from the latter as 'the chartered rights of men.'¹³⁹ However, as we have seen, the Rockinghamites had previously generalised about the sanctity of the Company's chartered rights in precisely the manner which Burke denounced so strongly in 1783.

¹³⁵ Speech of John Lee, 20 February [1784] in *Cobbett*, xxiv, col. 670.

¹³⁶ Speech of John Lee, 12 January 1784 in *Ibid.*, col. 297.

¹³⁷ Speech of Edmund Burke, 1 December 1783 in *Ibid.*, col. 1315.

¹³⁸ *Ibid.*, col. 1315.

¹³⁹ *Ibid.*, cols. 1315-1316; see also *Annual Register* (1784-1785): 61-62. For a contemporary pamphlet praising Burke's 'distinction between the different sorts of Charters', see *Chartered Rights* (London: A. McPherson, [1784?]): 4.



Figure 3.3. Thomas Rowlandson, 'The times – or a view of the old house in little Britain – with nobody going to Hannover,' (detail) 23 January 1784. Royal Collection Trust. RCIN 810028 © Her Majesty Queen Elizabeth II. This print depicts the Fox-North Coalition's solicitor general James Mansfield attempting to sever a beam labelled 'Prerogative of the Crown' which is propping up the Magna Charta public house, representing the British Constitution. The attorney general John Lee, to his right, holding a charter with a large dangling seal urges him on.

Burke was far from the only, nor even the first to make such a distinction between rights derived from charters of vastly different constitutional status. John St. John's maiden parliamentary speech, defended North's Regulating Act by making use of a similar contrast. He argued that there was a:

*distinction between chartered rights granted by parliament, and those rights originally and constitutionally derived; the one may be altered and changed by the same power that granted it, having in view the object of public reformation: the latter is more sacred, and from its constitutional and natural existence, is grounded on a right totally different.*¹⁴⁰

Since the Company's charter of 1698 was granted by Parliament, it ought to 'continue alterable and changeable under the controuling eye and wisdom of parliament.'¹⁴¹

VI. CORPORATE SOLIDARITY AND THE OPPOSITION TO EAST INDIA COMPANY REFORM

Even some of those who opposed Fox's India Bill agreed that 'their territorial property, and their imperial power' distinguished the East India Company from other chartered bodies. They argued, therefore, that there was no reason to fear that the abrogation of the Company's charter would endanger chartered rights more generally.¹⁴² However, this view was very much in the minority in the winter of 1783-4. At the same time as Burke and others were distinguishing between different kinds of charters in order to justify their East India reforms, their opponents were attempting to 'confound together the chartered monopolies of the East India Company, with the sacred rights of Magna Charta, and bruit about that the Chartered Rights of men are invaded and infringed.'¹⁴³ Burke's distinctions between the Company's charter and Magna Carta proved difficult to refute. The opposition were

¹⁴⁰ Speech of John St. John, 10 June [1773] in *Ibid.*, xvii, col. 898.

¹⁴¹ *Ibid.*, col. 898.

¹⁴² Speech of John Scott, 8 December 1783 in *Cobbett*, xxiv, col. 34.

¹⁴³ *Chartered Rights*, 3-4.

far more successful, however, in canvassing a more direct threat to the other ‘lesser’ chartered bodies such as towns, cities, boroughs, and other key national institutions such as the Bank of England. They attempted to generate what I have termed ‘corporate solidarity’ in order to garner support against Fox’s India Bill. Their eventual success, measured by the numerous loyal addresses and the results of the 1784 election, is a testament to the importance placed upon the distinctive political rights derived from corporate bodies in eighteenth-century Britain. It is also revealing of the episodic centrality of the East India Company in British politics in the period between 1773 and 1784, as it became intertwined with the more general issue of the status of chartered rights.

The success of the ‘corporate solidarity’ approach of opposition politicians correlated closely with the perceived seriousness of the threat posed to the Company’s chartered rights by successive pieces of reform legislation. While it could hardly be denied that North’s Regulating Act infringed upon the Company’s charter, it was widely argued that if Fox’s Bill passed it would have led to the ‘annihilation’ of their chartered rights.¹⁴⁴ The Company’s legal counsel, were the first to broach the idea that North’s reform proposals constituted an invasion of the Company’s chartered rights, which, they took care to remind parliamentarians, stood upon the same foundation as ‘the Bank, the South Sea, and other companies.’¹⁴⁵ Their argument was not simply that the government’s interference in the charter of one corporation would establish a precedent to infringe upon others, but rather that a

¹⁴⁴ Letter signed ‘An Old Proprietor’ in *St. James’s Chronicle or the British Evening Post*, 18 May 1776; [Halhed], *Letters of Detector*, 35; Bishop of Ely to Philip Yorke, 2 December 1783 in BL, Hardwicke Papers, Add. MS. 35391, f. 58; speech of John Wilkes, 8 December 1783 in *Cobbett*, xxiv, col. 20; speech of Lord Thurlow, 2 August [1784] in *Ibid.*, col. 1306; speech of the Duke of Richmond, 17 December [1784] in *An Authentic Account of the Debates in the House of Lords*, 128. It must be acknowledged that several newspaper writers claimed that North’s Regulating Act was ‘annihilating’ the Company’s charter, but this was a much rarer description, see letter ‘To the Commons of England’ signed ‘A Friend to the Constitution,’ in *Public Advertiser*, 1 June 1773; and letter signed ‘Clivden’ in *Public Advertiser*, 31 May 1773.

¹⁴⁵ Speeches of Elijah Impey and James Adair, 18 December [1772] in *Cobbett*, xvii, cols. 651-652; see also speech of James Adair, June 1773, BL, Egerton MS 249, f. 68; and speech of James Mansfield, 17 June [1773] in *Cobbett*, xvii, cols. 910-911.

wanton interference in the constitution of chartered bodies without proof of delinquency could undermine the ‘faith of Parliament’ upon which the public’s confidence to invest in stocks, bonds, and the funds was widely believed to have been based.¹⁴⁶ Rather than grounding the Company’s defence upon a comparison with Magna Carta, they attempted to call upon the familiarity of politicians with the relatively more mundane chartered bodies which remained crucial bulwarks of the eighteenth-century British state and its finances.

When North introduced his reform legislation in the spring of 1773, the Duke of Richmond, who was leading the hard-line opposition within the Company, sensed an opportunity and took the opposition against North’s reform legislation to the next level. Building upon the arguments of the Company’s counsel that the chartered foundations of the great corporations rested upon the same security, he attempted to reach out and persuade them that their charters could also be at risk if North’s reforms were allowed to pass. He coordinated the idea with Edmund Burke who penned a memorandum describing how the City of London’s Common Council—its primary legislative body—could be brought to assist the Company ‘in a joint support of charter-rights.’¹⁴⁷ To this end, Richmond managed to convince the Alderman and Company stockholder John Kirkman to summon a Common Council to discuss what actions the City of London might take in solidarity with the East India Company.¹⁴⁸ Initially, Kirkman felt that the City would stop short of sending a petition, and would prefer instead to simply instruct their Members of Parliament to

¹⁴⁶ For a strong and clear statement to this effect, see the letter signed ‘Brutus’ in *London Evening Post*, 3 June 1773.

¹⁴⁷ ‘Memoranda by Edmund Burke, Esq., Addressed to Gentlemen Forming the Opposition in Parliament,’ [May 1773?] in Richard Bourke ed., *Correspondence of the Right Honourable Edmund Burke; between the year 1744, and the Period of his Decease, in 1797* (London: Francis & John Rivington, 1844), i, 428-429. Burke also suggested that the City might call a Common Hall, whereby the liveried companies of London, many of whom possessed their own royal charters, were called together. However, this idea, despite its potential advantages, did not come to fruition at this time.

¹⁴⁸ Minutes of the General Court, 27 May 1773 in BL, IOR/B/99, 193; *Daily Advertiser*, 28 May 1773.

vote against it. Richmond, however, pushed hard for both.¹⁴⁹ In their message to the City, the Company's Committee of Proprietors, claimed that the same 'Principles and... Powers which are used to justify and to effect the Ruin of the Company's independence, may be applied to destroy the independence of the City of London itself, and of every other corporate Body in the Kingdom.'¹⁵⁰ The Company also prostrated itself, pointing out the City's 'peculiar interest in the Prosperity of the Company, which having the Seat of its operations fixed in this great Metropolis, has contributed in no mean degree to its Opulence and Power.'¹⁵¹ By portraying itself as one among many companies contributing to the wealth and success of the City, the Company evidently hoped to rally the liverymen to their cause.

In his speech to the Court of Common Council, Kirkman argued that North's Regulating Act 'was no less injurious to the rights of every corporate body in the kingdom from its principle, than a direct and immediate attack on the privileges of the East India Company, and the rights of proprietors, secured to them by charter and by parliament.' In spite of his doubts, Kirkman moved for the City to both petition Parliament and to instruct their members to oppose the Bill in the House of Commons. John Wilkes, the famous radical, seconded the motion, observing that the Bill was 'a barefaced violation of the public faith, and therefore ought to be opposed by every corporation in the kingdom.'¹⁵² The motions were carried unanimously through the Common Council and a petition was accordingly prepared. In their petition, the City argued that North's Regulating Act 'is a direct and dangerous attack on the liberties of the people, and will, if passed into a law,

¹⁴⁹ Duke of Richmond to Edmund Burke, [27 May 1773] in Sutherland ed., *Burke Correspondence*, ii, 437.

¹⁵⁰ Minutes of the Committee of Proprietors appointed to consider of the most effectual means of opposing the Bill now depending in Parliament... as appear subversive of the Charter Rights of the said Company, 27 May 1773 in BL, IOR/D/28, 12. For similar rhetoric in the newspapers, see the letter 'To the Public' signed 'Plassey' in *Public Advertiser*, 28 May 1773; and letter signed 'Clivden' in *Public Advertiser*, 31 May 1773.

¹⁵¹ Minutes of the Committee of Proprietors appointed to consider of the most effectual means of opposing the Bill now depending in Parliament... as appear subversive of the Charter Rights of the said Company, 27 May 1773 in BL, IOR/D/28, 13.

¹⁵² *Annual Register* (1773): 104.

prove of the most fatal consequences to the security of property in general, and particularly the franchises of every corporate body in this kingdom.’¹⁵³ The petitions of the East India Company and the City of London proved utterly ineffectual in discouraging Parliament from passing North’s reform legislation. Part of the reason for this, it was argued, was a lack of corporate solidarity in 1773. In spite of the Company’s arguments that North’s Bill ‘put the axe to the root of their rights and liberties,’ Horace Walpole and others lamented that ‘the flame spread no farther’ than the city of London, which they claimed was proof that ‘luxury and dissipation’ had dangerously eroded ‘public virtue.’¹⁵⁴

Although the opposition continued to argue that the Company’s chartered rights were being violated as North’s Regulating Act was successively extended in duration, it was upon Fox’s India Bill that the issue reached its climax. If North’s Act was seen to have eroded away the Company’s charter rights ‘covertly and piecemeal’, Fox’s India Bill, it was argued, was a bold and violent measure that would result in their ‘entire abrogation’.¹⁵⁵ Almost as soon as the Bill was presented in Parliament, it was argued that ‘if a minister took hold of the direction of the India House, he might, with the same justice, take hold of the direction of the Bank’, for their charters were ‘as constitutionally, as legally, and as honourably pledged to be inviolate.’¹⁵⁶ The opposition also questioned the consistency of those from the Rockingham party who had previously been so vocal in defence of the Company’s

¹⁵³ ‘The humble petition of the Lord-Mayor, Aldermen, and Commons of the City of London in Common-Council Assembled,’ in *Cobbett*, xvii, col. 889.

¹⁵⁴ Walpole, *Last Journals*, i, 235; *Craftsman or Say’s Weekly Journal*, 12 June 1773; letter signed ‘An Injured Proprietor,’ in *Morning Chronicle*, 14 June 1773.

¹⁵⁵ Edmund Burke to the Marquess of Rockingham, 7, 10 [January] 1773 in Sutherland ed., *Burke Correspondence*, ii, 411; James Macpherson to John Macpherson, 1 December 1783 in BL, Macpherson Papers, MSS Eur F291/125; speech of William Pitt, 18 November 1783 in *Cobbett*, xxiii, col. 1209; speech of William Grenville, 20 November 1783 in *Ibid.*, col. 1225.

¹⁵⁶ Speech of William Grenville, 20 November 1783 in *Ibid.*, cols. 1225-1226; *Public Advertiser*, 25 November 1783; and ‘A Citizen,’ *A short address to the chartered companies of England; calculated to point out the tendency of the Bill brought into Parliament by Mr. Fox* (London, [1783]): 10-11; ‘A Liveryman,’ *Friends, Countrymen, and Fellow Citizens...* [London, 1783] in BL, 1850.c.10(149); and *A warning voice; or an answer to the speech of the Right Honourable Mr. Secretary Fox, upon East-India affairs, on Tuesday the 18th of November, 1783* (London, 1783): 10-11; and Nathaniel Brassey Halhed, *A Letter to Governor Johnstone*, 8-9.

chartered rights and who were now in coalition with Lord North and were proposing to encroach upon them to a much greater degree (see figure 3.4). Lord North, it was



Figure 3.4. Thomas Rowlandson, 'In Office. Out of Office.' [c. March-April 1784] BM Satires 6483. © British Museum.

claimed, 'was a meer novice in despotism, a Tyro in politics, compared with this illustrious Man of the People [Fox]. His Lordship only ventured to alter the qualifications of Proprietors, and his measure was treated by the Whig Lords, in their

Protest, as a daring violation of the chartered rights of the Company. What will these Peers say to the Reform Bill of Mr. Fox, which proposes, not a partial violation of rights, but a total alienation of property?’¹⁵⁷

The issues of corporate solidarity and the consistency of former Rockinghamites converged in one of the most scathing attacks on Fox’s India Bill. Just as in 1773, a committee of proprietors was appointed to devise methods of opposing Fox’s India Bill. Building on their experience of opposition against North’s Regulating Act, the committee reportedly sent circular letters ‘addressed to almost every town or corporate body throughout Great Britain’ in which they warned that ‘[o]ur property and charter are forcibly invaded: look to your own!’¹⁵⁸ Their efforts soon bore fruit, when Barnard Turner, one of the sheriffs of the City of London, proposed at a meeting of the Common Council that the City should petition the House of Commons against Fox’s India Bill, which was ‘carried in the affirmative by a very great majority.’¹⁵⁹ On the same day, the Lord Mayor agreed to appoint a Common Hall for the purpose of instructing the City’s members of Parliament to oppose the passage of the Bill, which they subsequently agreed to do, though not without some opposition.¹⁶⁰ These instructions hardly turned the tide. At least two of the four City members had already been voting against Fox’s India Bill on principle. One of those voting in favour of Fox’s Bill, John Sawbridge, informed the House that although he supported the Bill ‘in his conscience...he had been instructed, by his constituents, to oppose it.’¹⁶¹ He therefore gave only a silent vote in opposition.

In their petition against the Bill, the City politicians claimed that it constituted ‘a seizure and confiscation of powers, privileges, and property, granted by charter...[which] hath exceedingly alarmed the petitioners, and raised their fears

¹⁵⁷ *Whitehall Evening Post*, 25 November 1783.

¹⁵⁸ Wheatley ed., *Wraxall Memoirs*, iii, 254.

¹⁵⁹ ‘*Livery’s Proceedings against the East-India Bill*,’ in *Morning Herald and Daily Advertiser*, 28 November 1783.

¹⁶⁰ *General Evening Post*, 4 December 1783

¹⁶¹ Speech of John Sawbridge, 8 December 1783 in *Cobbett*, xxiv, col. 55.

and apprehensions at so unconstitutional a measure.’¹⁶² Robert Dallas, the Company’s legal counsel, building upon the City’s petition on the same day in Parliament, argued that ‘if the Bill should pass into law, it would be a death warrant to all the charters and immunities of corporations, and of individuals in Britain.’¹⁶³ However, it was upon the City’s second petition, submitted to the House of Lords later that month, that the Duke of Richmond laid his most destructive trap for the Fox-North coalition. The second petition struck a familiar chord, condemning Fox’s India Bill as ‘not only a high and dangerous violation of the charters of the Company, but a total subversion of all the principles of the law and constitution of this country.’¹⁶⁴ However, when the clerk finished reading the petition, the Duke of Manchester, who had recently returned from negotiating the peace treaty in Paris and who was a prominent Rockinghamite, walked straight into the snare by denouncing the unparliamentary language of the petitioners.¹⁶⁵ Richmond then proceeded to inform peers that the City’s petition had been ‘drawn up in the very language of a famous protest, signed by the late marquis of Rockingham, and many other noble lords.’¹⁶⁶ He thereby laid bare the inconsistency of his former colleagues. To further press his point home, Richmond flaunted his own consistency, observing that ‘he gloried in having signed that protest [of 19 June 1773].’¹⁶⁷ Unlike his former colleagues, he claimed to have stood by the principle that ‘it was entirely owing to the interference of Government that the East India Company had been ruined.’¹⁶⁸ The City of London’s support of the Company on the ground of their mutual reliance

¹⁶² ‘Petition from the Lord Mayor, Aldermen, and Commons, of the City of London, in Common Council assembled to the House of Commons’ 27 November 1783 in *Ibid.*, xxiii, col. 1255.

¹⁶³ Speech of Robert Dallas, 27 November 1783 in *Ibid.*, col. 1257.

¹⁶⁴ ‘Petition of the City of London to the House of Lords,’ 15 December 1783 in *Ibid.*, xxiv, cols. 144-145.

¹⁶⁵ Speech of the Duke of Manchester, 15 December 1783 in *Ibid.*, col. 145.

¹⁶⁶ Speech of the Duke of Richmond, *Ibid.*, col. 145; see an alternate version of Richmond’s speech in *Full and Accurate Account of the Debates on the East-India Bill in the House of Lords*, 56.

¹⁶⁷ *Authentic Account of the Debates on the East-India Bill in the House of Lords*, 29; for the protest, see *Lords Journals*, xxxiii, 681-682.

¹⁶⁸ *Full and Accurate Account of the Debates on the East-India Bill in the House of Lords*, 17.

on the sanctity of chartered rights, rendered possible one of the most damaging critiques of Fox's Bill.

The corporate solidarity garnered during the opposition to Fox's India Bill proved far from decisive in defeating the measure. Lord Mahon was simply peddling optimism when he stated that corporations were taking alarm at the India Bill's 'attack upon chartered rights in general' while presenting his petition from the borough of Chipping Wycombe.¹⁶⁹ This petition, he asserted, 'was a proof that the alarm had really gone forth.'¹⁷⁰ James Hamilton, however, offered an excuse for the lack of other petitions, claiming that Fox's Bill 'had been hurried through the House with the most indecent precipitation, or he was convinced that the table would overflow with petitions from all the corporations in the kingdom.'¹⁷¹ Fox even took advantage of the lack of corporate solidarity displayed during the passage of his bill through Parliament. He argued that the fact that only two petitions had been presented against it was 'the strongest presumptive evidence, that the voice of that House was the voice of the people.'¹⁷² There was, however, at least one other unacknowledged example of corporate solidarity. The borough of Maidstone, while it stopped short of sending a petition, voted unanimously to instruct its two members of Parliament to vote against the Bill, arguing that its passage would have 'the most Dangerous and alarming Tendency...[to] encourage the promoters of this Bill to future Attempts of the like nature.'¹⁷³

It was, however, in the early months of 1784, when loyal addresses flooded to the foot of the throne, that the extent of 'corporate solidarity' became manifest. The loyal addresses not only thanked the King for dismissing the Coalition but

¹⁶⁹ Speech of Lord Mahon, 8 December 1783 in *Cobbett*, xxiv, cols. 10-11. Mahon represented the constituency of Chipping Wycombe from 1780 to 1786.

¹⁷⁰ *Ibid.*, col. 11.

¹⁷¹ Speech of James Hamilton, 8 December 1783 in *Ibid.*, col. 12.

¹⁷² Speech of Charles James Fox, 19 December 1783 in *Ibid.*, col. 236.

¹⁷³ Resolutions of the Mayor and Corporation of Maidstone, 2 December 1783 in BL, IOR/B/99, 755.

many also expressed their gratitude that the King had, by causing the defeat of the India Bill in the House of Lords, acted in such a way as to support the foundations of their chartered rights and privileges.¹⁷⁴ These addresses have traditionally been analysed primarily as a means of assessing the extent to which the unpopularity of the Fox-North Coalition extended into the wider population.¹⁷⁵ However, the addresses were also deliberately solicited and organised in order to highlight the deep concerns of corporate bodies throughout the kingdom that Fox's India Bill placed their rights and even their very existence in jeopardy. Most prominently, James Boswell, the biographer of Samuel Johnson, wrote that the purpose of his *Letter to the People of Scotland* was to urge the Scottish people 'in their several counties, boroughs, corporations, and public bodies of every kind, to address his Majesty upon this momentous crisis, to express their sincere satisfaction, that a bill for vesting the affairs of the East-India Company in certain Commissioners...has been rejected by...the House of Lords.'¹⁷⁶ His call for corporate solidarity in the face of Fox's strong majority in the House of Commons made specific reference to Fox's ridicule that only London and Chipping Wycombe had petitioned against his India Bill. Building on the arguments of those who accused Fox of unjustly rushing his bill through the Parliament, Boswell encouraged his fellow countrymen to '[I]et numerous Addresses prove, that time, and not will, was wanting.'¹⁷⁷ Boswell's call was more than amply answered by one of the most numerous expressions of political opinion in Hanoverian Britain (see figure 3.5). When addresses began to pour in from across the nation, the East India Company clearly felt that there were drafted in the spirit of corporate solidarity. In March 1784 they voted to publicly thank 'each of

¹⁷⁴ See, for example, the addresses from the city of London in *London Gazette*, 17 January 1784; from the city of Canterbury, the town of Leicester, and the town and borough of Ipswich in *London Gazette*, 27 January 1784; from the city of Edinburgh and the town and county of Southampton, in *London Gazette*, 31 January 1784; among hundreds of others over the ensuing months.

¹⁷⁵ Cannon, *Fox-North Coalition*, 185-190; McAdams, 'Addresses to the King and the Fox-North Coalition,' 381-385; M.D. George, *English Political Caricature to 1792*, 181; Joanna Innes, 'Legislation and Public Participation 1760-1830,' in David Lemmings ed., *The British and their Laws in the Eighteenth Century* (Woodbridge: Boydell Press, 2005): 120.

¹⁷⁶ Boswell, *Letter to the People of Scotland*, 37.

¹⁷⁷ *Ibid.*, 38.

such Corporations, or other Bodies of Men, as by Address to the Throne or instructing their Members or otherwise, have shewn themselves Adverse to the late violent proceedings in Parliament for destroying the Rights and Privileges of this Company.’¹⁷⁸

CONCLUSION

Following the general election of 1784 and the establishment of Pitt the Younger’s parliamentary majority, he presented what would become the India Act of 1784. This legislation, as discussed in the previous chapter, was developed largely in cooperation with several prominent stockholders and directors of the Company. Indeed, Pitt was particularly clear in claiming that his aim was to reform the Company while also paying adequate ‘respect to the chartered rights of men.’¹⁷⁹ His mantra was similar to his father’s, ‘that though no charter could or ought to supersede state necessity, still nothing but absolute necessity could justify a departure from charters.’ In the case of the East India Company in 1784, he argued, no such necessity existed: ‘its affairs were not in a state that called for a revocation of the charter.’¹⁸⁰ Although it was widely pointed out that any effectual reform of the Company would have to infringe upon their charter, Pitt’s Act consciously sought to do so as little as possible.¹⁸¹

¹⁷⁸ Minutes of the General Court, 24 March 1784 in BL, IOR/B/99, 926.

¹⁷⁹ Speech of William Pitt, 14 January 1784 in *Cobbett*, xxiv, cols. 318-319.

¹⁸⁰ Speech of William Pitt, 6 July [1784] in *Cobbett*, xxiv, cols. 1087-1088.

¹⁸¹ William Grenville, *Thoughts on the present East India Bill: passed into a law, August 1784* (London: J. Stockdale, 1784): 19-20; *Observations on the principles and tendency of the East India bills proposed by the Right Honourable Charles James Fox, and the Right Honourable William Pitt, with short Sketches of their Political Character* (London: J. Stockdale, 1784): 27, 36, 43-44; *Popular topics; or, the grand question discussed: In which the following subjects are considered; viz. the King’s prerogative, the privileges of Parliament, secret influence, and a system of reform for the East-India Company* (London, 1784): 10; *General Evening Post*, 3 January 1784; and Earl Cornwallis to Lieut.-Colonel Ross, 25 May 1784 in Charles Ross ed., *Correspondence of Charles, First Marquis Cornwallis* (London: John Murray, 1859), i, 168.

Nonetheless, the opposition to Pitt's government argued that his bill 'trenched as deeply on the Charter' as Fox's had done.¹⁸² Fox himself accused Pitt of hypocrisy. He claimed that Pitt's Bill 'completely and totally annulled' the Company's charter despite his criticism of Fox's measure on precisely this ground. However, Fox asserted that he 'by no means brought this as a charge against [Pitt]...it was his opinion that the charter of the Company ought to be annulled. It had always been his opinion that no charter ought to exist pernicious to the community whom it affected, and that the rights of a few ought not to stand in competition with the well-being and happiness of the whole.'¹⁸³ The problem with Pitt's Bill, he argued, was not that it infringed upon the Company's chartered rights, but rather that it 'violated the charters of the Company without promising to amend the general interests of the empire.'¹⁸⁴ The extent to which Fox's Bill would have abrogated the Company's charter provided Pitt with the opportunity to pass a piece of legislation which no doubt would otherwise have been vehemently opposed by the Company. The fact that, *prima facie*, Pitt's India Act infringed far less upon the Company's chartered rights than Fox's would have, effectively prevented the opposition from utilising what had been one of the most successful arguments against state intervention into the Company's affairs.

Chartered rights had a significant influence not only upon the debates over whether the Company's territories and revenues in Bengal constituted part of the British Empire, they also played a crucial role in debates over the nature and extent of the state's interference in the Company's affairs. The Company's charter could serve as both a blessing and a curse. Granted by the Crown and repeatedly confirmed by acts of Parliament, it underlined the Company's subordinate status as a corporate body in an age of parliamentary supremacy. Such were the limitations of the charter that the Company was forced to ground its right to the territories and revenues of

¹⁸² *Letter from a Member of the House of Commons to his Constituents, on the Great Constitutional Questions Lately Agitated in Parliament* (London, 1784): 15.

¹⁸³ Speech of Charles James Fox, 16 July [1784] in *Cobbett*, xxiv, col. 1124.

¹⁸⁴ *Ibid.*, col. 1124.

Bengal on its position as an officeholder under the Mughal Emperor, albeit without success. On the other hand, as we have seen, the Company's status as a chartered corporation could also be one of its strongest assets. Any attempt to infringe upon its chartered rights could and did raise significant fears about the security of property and various political and other rights grounded upon the supposed sanctity of charters. A well-timed surge of corporate solidarity could have a seismic impact on the British political landscape when combined with the extraordinary interference of the Crown in the legislative process and what A.S. Foord described as 'a spectacular breach of the Septennial Convention' in calling for what we would now regard as a 'snap' general election in 1784.¹⁸⁵

The Company's charters complicated the issue of British territorial sovereignty in the East Indies. Ultimately, the sensitivity of the issue as a legal matter caused successive ministries to bypass the explicit declaration of the sovereign right to the territories and revenues of Bengal. However, the fact that this issue remained unresolved fundamentally shaped the development of the relationship between the East India Company and the British state. If sovereignty had been acknowledged to reside in the Crown, the concomitant responsibility would almost certainly have forced governments to take more direct action to reform the Company's administration and curb abuses. Instead, when the Company's affairs came to a crisis, successive governments attempted to resolve the structural and financial woes of the Company without assuming direct responsibility for Indian governance. By refusing to define the relationship between the state and the Company vis-à-vis their territories in India, by the equivocation of lawyers and parliamentarians on the question of the Company's right to its territorial possessions, the Company was allowed to develop, rather anomalously, as a kind of arms-length imperial agency. This situation allowed successive governments in Britain to supervise and manage the political, diplomatic, and military affairs of the Company

¹⁸⁵ Foord, *His Majesty's Opposition*, 402; N.C. Phillips, *Yorkshire and English National Politics*, 7.

without assuming to themselves the responsibility of governing a unique kind of ‘empire in the East,’ one Edmund Burke aptly described as being ‘of a new and peculiar description, unknown to the ancient executive constitution of this country.’¹⁸⁶

¹⁸⁶ Burke, *Representation to His Majesty*, 30-32.

CHAPTER IV

‘PUZZLED IN MAZES, AND PERPLEX’D WITH ERRORS’: CONTESTED IDEOLOGIES, IMPERIAL KNOWLEDGE, AND EAST INDIA COMPANY REFORM

*We shall lose the East before we know half its history. It was easier to conquer it, than to know what to do with it.*¹

INTRODUCTION

The East India Company’s acquisition of territories in Bengal posed a unique set of problems for imperial policy-makers. It also drew the attention of the British public for the first time to the non-commercial aspects of the Company-state in India. While discussions of the East India Company had certainly not been absent in public and parliamentary debates prior to the 1760s, the prevailing bone of contention was over the Company’s commercial monopoly.² This reflected the primary concerns of the Company, which, despite the possession of certain municipal institutions of a political and judicial nature, was still principally a commercial entity prior to 1757. As a result, the Company’s possessions in South Asia were often not included in more general discussions or descriptions of the British Empire before the Plassey Revolution. The relative absence of the East India Company in British discussions of empire before mid-century also perhaps accounts for the disproportionate scholarly attention devoted to the ideologies of empire circulating in the North Atlantic.³

¹ Horace Walpole to Horace Mann, 27 March 1772 in W.S. Lewis, Warren Hunting Smith, and George L. Lam eds., *Walpole Correspondence*, xxiii, 392.

² Emily Erikson, *Between Monopoly and Free Trade: The English East India Company, 1600-1757* (Princeton: Princeton University Press, 2014); Henry Horwitz, ‘The East India Trade, the Politicians, and the Constitution: 1689-1702,’ *JBS* 17 (1978): 1-18; Philip Lawson, *East India Company*, 34-35; Philip Stern, *The Company-State*, 47-49; K.G. Davies, *The Royal African Company* (London: Longman’s, Green, and Co., 1957): 101-112.

³ Kathleen Wilson, *The Sense of the People: Politics, Culture and Imperialism in England, 1715-1785* (Cambridge: Cambridge University Press, 1998); David Armitage, *Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000); Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967); T.H. Breen, ‘Narratives of Commercial Life: Consumption, Ideology and Community on the Eve of the American Revolution,’ *WMQ* 50 (1993): 471-501; Laura Brown, *Ends of Empires: Women and Ideology in*

This chapter begins by analysing the extent to which Britons showed any interest in the Company's territorial acquisitions and examines how contemporaries assessed the quality of the information upon which they engaged in debates and projects of reform. After this, it proceeds to analyse, in turn, how the increasing association of the Company's territories with the Empire as a whole challenged the prevailing ideological conception that it was 'Protestant, commercial, maritime, and free.'⁴

I. IDEOLOGY, IDENTITY, AND THE CONCEPT OF EMPIRE

As David Armitage, Richard Koebner and others have shown, the concept of an 'English' and, after 1707, a 'British Empire' as a single, unified body composed of the mainland North American colonies, the West Indies, and sometimes even Ireland, was developed only in the late-seventeenth and early-eighteenth centuries in works such as Nathaniel Crouch's *English Empire in America* (1685) and John Oldmixon's *British Empire in America* (1708).⁵ These, however, as their titles suggest, only envisaged an Atlantic Empire. Among the first articulations of the Empire that incorporated the British forts and possessions on the west coast of Africa

Early Eighteenth-Century English Literature (Ithaca, NY: Cornell University Press, 1993); J.C.D. Clark, *The Language of Liberty, 1660-1832: Political Discourse and Social Dynamics in the Anglo-American World* (Cambridge: Cambridge University Press, 1994). Philip Stern and Robert Travers have begun to turn the tide towards an analysis of ideologies of British India. See Stern, "'A Politie of Civil and Military Power": Political Thought and the Late-Seventeenth-Century Foundations of the East India Company-State,' *JBS* 47, no. 2 (2008): 253-283; and Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007); see also Joshua Ehrlich, 'The East India Company and the Politics of Knowledge,' (Unpublished Harvard University Ph.D. dissertation, 2018).

⁴ Armitage, *Ideological Origins of the British Empire*, 8.

⁵ Nathaniel Crouch, *The English Empire in America: or a prospect of His Majesties dominions in the West-Indies. Namely, Newfoundland, New-England, New-York, Pensylvania, New-Jersey, Maryland, Virginia, Carolina, Bermuda's, Barbuda, Anguilla, Montserrat, Dominica, St. Vincent, Antego, Mevis, or Nevis, S. Christophers, Barbadoes, Jamaica...* (London: Nathaniel Crouch, 1685); and John Oldmixon, *The British Empire in America, containing the history of the discovery, settlement, progress and present state of all the British colonies, on the continent and islands of America* (London: John Nicholson, 1708). Crouch's work went through at least eleven editions between 1685 and 1739, a strong testament to its popularity.

and the East Indies was John Ashley's *Memoirs and Considerations Concerning the Trade and Revenues of the British Colonies in America* (1740-43).⁶ This work considered the Empire as 'One Body, viz. Great Britain, Ireland, and the Plantations and Fishery in America, besides its Possessions in the East-Indies and Africa.'⁷ While Ashley projected this expansive view of the British Empire, envisioning Britain as the trunk linking these diverse 'branches', he did little in practice to expand upon the concept beyond its Atlantic dimensions.⁸ As P.J. Marshall pointed out, prior to the Seven Years' War, references to the Empire as a singular entity were relatively rare.⁹

If contemporaries were in more agreement than ever after the Seven Years' War that Britain's overseas territories constituted an 'Empire' they were certainly no less divided when they considered the nature of that Empire, both in terms of its normative characteristics as well as its physical constituent parts. As David Armitage famously outlined, prior to the 1760s, British opinion had coalesced around a prevailing conception that the British Empire was 'Protestant, commercial, maritime, and free.'¹⁰ This view, however, was greatly challenged by the vast territorial conquests of the Seven Years' War which brought extensive populations of non-British, non-Protestant peoples under British rule.¹¹ This was true whether or not one considered the East India Company's newly acquired territories to be a part of the British Empire. Responses to the new realities of empire resulted in what has been

⁶ John Ashley, *Memoirs and Considerations Concerning the Trade and Revenues of the British Colonies in America. In two parts. The first publish'd in the year 1740; and the second part publish'd in the year 1743* (London: H. Kent, 1743).

⁷ John Ashley, *The Second Part of Memoirs and Considerations Concerning the Trade and Revenues of the British Colonies in America; Tending to Shew How the Trade and Interest of those Colonies are interwoven with the Interest of Great Britain, and that the Traffick, Wealth, and Strength of the whole British Empire may thereby be greatly increased* (London: H. Kent, 1743): 94.

⁸ *Ibid.*, 96.

⁹ P.J. Marshall, 'Introduction,' in P.J. Marshall ed., *Oxford History of the British Empire, Vol. II: The Eighteenth Century* (Oxford: Oxford University Press, 1998): 7.

¹⁰ Armitage, *Ideological Origins*, 8.

¹¹ P.J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America c. 1750-1783* (Oxford: Oxford University Press, 2005): 7; Jon Wilson, *Domination of Strangers: Modern Governance in Eastern India, 1780-1835* (Basingstoke: Palgrave Macmillan, 2010): 274.

described as a radically different ‘ideological climate’ in Britain in the 1760s and 1770s.¹² Considerable populations of French Catholics in Québec, Grenada, and Dominica placed strain on the ideals of representative political institutions and religious tolerance that Britons often associated with their overseas possessions.¹³ However, when one also considers the millions of Bengalis brought under the rule of the East India Company, the challenge to this prevailing normative characterisation of the Empire becomes even clearer.¹⁴ There developed in this period, as Lauren Benton has identified, a crucial contradiction between the rhetorical commitment to liberty, anti-militarism, and maritime commercial enterprise and the creation of ‘anomalous legal zones’ within an increasingly terrestrial, militaristic, and authoritarian Empire.¹⁵ In other words, normative conceptions of empire clashed with the pragmatism, flexibility, and pluralism necessarily involved in governing an increasingly diverse global polity.

The contested nature of the concept of empire, as it intersected with debates over the reform of the East India Company from the late 1760s lends itself to the analysis of a series of contested ideologies rather than the pursuit of a distinct imperial identity or identities as have been sought most prominently by Kathleen

¹² P.J. Marshall, ‘Empire and Authority in the Later Eighteenth Century,’ *JICH* 15, no. 2 (1987): 106.

¹³ P.J. Marshall, *Making and Unmaking*, 160-161; Aaron Willis, ‘The Standing of New Subjects: Grenada and the Protestant Constitution after the Treaty of Paris (1763),’ *JICH* 42, no. 1 (2014): 1-21; Edward Cavanagh, ‘The Imperial Constitution of the Law Officers of the Crown: Legal Thought on War and Colonial Government, 1719-1774,’ *JICH* 47, no. 4 (2019): 636-639; Travers, *Ideology and Empire*, 49-50.

¹⁴ P.J. Marshall, ‘Empire and British Identity: The Maritime Dimension,’ in David Cannadine ed., *Empire, the Sea, and Global History: Britain’s Maritime World, c. 1760-c.1840* (Basingstoke: Palgrave, 2007): 53; see also James Vaughn, *The Politics of Empire at the Accession of George III: The East India Company and the Crisis and Transformation of Britain’s Imperial State* (New Haven, CT: Yale University Press, 2019): 3.

¹⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010): 165; Linda Colley, ‘The Difficulties of Empire: Present, Past and Future,’ *Historical Research* 79, no. 205 (2006): 377; on legal zones and empire, see Eliga Gould, ‘Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, circa 1772,’ *WMQ* 60, no. 3 (2003): 471-510.

Wilson and Jack Greene.¹⁶ Imperial identity is certainly a particularly slippery concept in this period of flux in British understandings of their Empire. It is difficult to see, for example, how Britons could have fully incorporated the acquisition of an ‘empire in the East’ into their sense of self-identity while simultaneously engaging in debates as to whether the Company’s territories even constituted a part of the Empire. The present chapter is concerned primarily with the contested imperial ideologies, defined as sets of ‘ideas and values which structure political thinking,’ which clashed in the debates over how to reform the East India Company and incorporate it more acceptably within the existing ideological and constitutional structures of the British Empire.¹⁷

Armitage goes too far, however, in eschewing identity altogether in favour of ideology. The different ways in which Britons conceived of their Empire played an important role in their self-identity as Linda Colley, and others have argued.¹⁸ For example, so-called ‘nabobs’ returning from the East having unlawfully plundered provinces in India were seen to have sullied what contemporaries called the ‘British name’ or ‘the national character’.¹⁹ Their punishment was often proposed in the language of ‘national honour’ and ‘national justice’.²⁰ Conversely, those ‘nabobs’

¹⁶ Wilson, *The Sense of the People*; Jack Greene, ‘Empire and Identity from the Glorious Revolution to the American Revolution,’ in P.J. Marshall ed., *Oxford History of the British Empire*, ii, 208-230.

¹⁷ The definition of ideology utilised here is an amalgam of those used by David Armitage and Kathleen Wilson. See Armitage, *Ideological Origins*, 4-5, 172-3; Wilson, *Sense of the People*, 15.

¹⁸ Colley, *Britons: Forging the Nation 1707-1837*, 2nd ed. (London: Pimlico, 2003): xii, xvi; Kathleen Wilson, *The Island Race: Englishness, Empire, and Gender in the Eighteenth Century* (London: Routledge, 2003): 15-16.

¹⁹ Letter signed ‘Senex’ in *Public Advertiser*, 9 December 1782; ‘The Independent Reflector. No. I.’ signed ‘Asiaticus’ in *Public Advertiser*, 25 May 1784; ‘To the Electors of Great Britain’ signed ‘Junius’ in *The Wit of the Day, or the Humours of Westminster* (London, 1784): 2; William Eden to Edmund Burke, 13 May 1784 in Holden Furber ed., *Burke Correspondence*, v, 146; speech of Charles James Fox, 28 July 1784 in *Cobbett*, xxiv, col. 1276.

²⁰ King George III to Lord North, 11 May 1773 in Fortescue ed., *Correspondence of George III*, ii, 483; letter signed ‘Sujah Dowla’ in *London Evening Post*, 13 May 1773; letter ‘To both Houses of Parliament’ signed ‘Nassau’ in *Public Advertiser*, 25 May 1773; speech of Edmund Burke, 16 December 1782 in *Morning Chronicle*, 17 December 1782; the idea that the East India Company had sullied the ‘national honour’ even extended across the Atlantic, further corroborating a sense of

not only had an imperial identity imposed upon them, but many of them attracted further public criticism by the ostentatious display of their affluence through their dress, construction projects, or habits of collecting.²¹ Empire had become intimately intertwined with perceptions of ‘Britishness.’ However, ‘Britishness’, as many historians have pointed out, was itself a heavily contested and unstable identity, the metropolitan dimensions of which were placed under further strain by imperial expansion. As such, this chapter, while influenced by Armitage’s contention that ideologies must be seen as ‘contestable by those who do not share it’, expands this sense of ideology to include the ‘normative self-conceptions’ he associates with identity. The ‘protestant, commercial, maritime, and free’ paradigm was always a normative conception even if it was simultaneously a contestable contribution to political debate. The two are not mutually exclusive, and it is upon this basis that this chapter analyses the ambivalent attitudes of Britons towards the acquisition of an ‘empire in the East.’

II. WHO CARED ABOUT THE ‘EMPIRE IN THE EAST’?

‘Who cared about the colonies?’ This was a question famously posed by Jacob M. Price in an influential paper analysing the ‘impact’ of the thirteen colonies upon British politics and society in the build-up to the American Revolution.²² He concluded that ‘[a] lot of people did, though they were very unevenly distributed geographically and socially and quite diverse in their approach to American

imperial identity in the British Atlantic World, see ‘Hampden’, *The Alarm. Number II* (New York, 1773).

²¹ Margot Finn and Kate Smith ‘Introduction’ in Finn and Smith eds., *The East India Company at Home, 1757-1857* (London: UCL Press, 2018): 8; Maya Jasanoff, *Edge of Empire: Lives, Culture, and Conquest in the East 1750-1850* (New York: Vintage, 2005); Tillman Nechtman, *Nabobs: Empire and Identity in Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 2013): 146-184.

²² Jacob M. Price, ‘Who Cared About the Colonies? The Impact of the Thirteen Colonies on British Society and Politics, circa 1714-1775,’ in Bernard Bailyn and Philip D. Morgan eds., *Strangers within the Realm: Cultural Margins of the First British Empire* (Chapel Hill, NC: University of North Carolina Press, 1991).

questions.’²³ Before analysing the extent to which the East India Company’s territorial acquisitions challenged the prevailing conceptions of the British Empire it seems necessary to establish a greater degree of clarity about those who participated in the debates on the nature of the Empire and East India reform as well as their intended audiences. In doing so, this section assesses the interest (or lack thereof) of the British public on these issues.

Historians have long debated the extent to which the Empire impacted the lives of Britons in the eighteenth century. The emergence of ‘new’ imperial histories and the publication of Bernard Porter’s *Absent-Minded Imperialists* established the battle lines in a debate that continues to this day.²⁴ Porter and others argue that the prevalence of empire has been vastly overstated in recent decades, and that empire in-itself was never a focus of the metropolitan public. It was mostly in the context of other factors such as trade, rebellion, or war that these authors claim the Empire gained any measure of publicity in Britain.²⁵ There are two main problems with this analysis.

Firstly, the fact that empire was often intermixed with other issues such as war and trade when brought to the public’s attention does not detract from its importance. The fact that ‘empire’ as a theoretical topic was not a central theme of public discourse in eighteenth-century Britain ought not to be particularly surprising. The experience of the Empire for metropolitan Britons and its relevance to their lives, was bound to have been intermixed with the various aspects that constituted its very existence. The Navigation Acts, for example, were a crucial feature binding the

²³ *Ibid.*, 436.

²⁴ See Kathleen Wilson ed., *A New Imperial History: Culture, Identity and Modernity in Britain and Empire, 1660-1840* (Cambridge: Cambridge University Press, 2004); Stephen Howe ed., *The New Imperial Histories Reader* (London: Routledge, 2010); Bernard Porter, *The Absent-Minded Imperialists: Empire, Society, and Culture in Britain* (Oxford: Oxford University Press, 2004); Andrew Thompson, *The Empire Strikes Back? The Impact of Imperialism on Britain from the Mid-Nineteenth Century* (Harlow: Pearson, 2005).

²⁵ Bob Harris, ‘“American Idols”: Empire, War, and the Middling Ranks in Mid-Eighteenth-Century Britain,’ *Past and Present* 150 (1996): 123-125; Marie Peters, ‘State, Parliament and Empire in the Mid-18th Century: Hudson’s Bay and the Parliamentary Enquiry of 1749,’ *Parliamentary History* 29, no. 2 (2010): 189.

Empire together, providing a common market for Britain and its overseas territories.²⁶ Another primary *raison d'être* for the establishment of colonies was the projection of British power relative to their continental rivals and it was often in times of war that Britons were exposed to imperial news.²⁷ As many historians have argued, the influence of the Empire was felt at all levels of society in the day-to-day lives of Britons, particularly through their clothing and their diets.²⁸ In the case of the Company, its calicos, teas, and spices in some way touched the lives of a large portion of the metropolitan population in an increasingly consumer society.²⁹

Secondly, simply recognising the permeation of the Empire and its concomitant goods into the daily lives of Britons does not necessarily imply that it did so 'to the exclusion of almost every other ideology or "discourse."' ³⁰ Linda Colley argues that 'espousing either a consistently maximalist or a consistently minimalist interpretation' of the Empire's impact on Britain itself 'is actually to miss out on a vital point: namely, that it is the unevenness of empire's impact on Britain

²⁶ T.H. Breen, *The Marketplace of Revolution: How Consumer Politics Shaped American Independence* (Oxford: Oxford University Press, 2004): 88

²⁷ Kathleen Wilson, 'Empire, Trade, and Popular Politics in Mid-Hanoverian Britain: The Case of Admiral Vernon,' *Past and Present* 121 (1988): 74-109; for a critique, see Bob Harris, "'American Idols": Empire, War, and the Middling Ranks in Mid-Eighteenth-Century Britain,' *Past and Present* 150 (1996): 112-141.

²⁸ Philip Lawson, *The East India Company*, 60, 78; Catherine Hall and Sonya O. Rose eds., *At Home with the Empire: Metropolitan Culture and the Imperial World* (Cambridge: Cambridge University Press, 2006); Sujit Sivasundaram, 'Trading Knowledge: The East India Company's Elephants in India and Britain,' *HJ* 48, no. 1 (2005): 30; Richard Connors, 'A Storm in a Tea-Cup: Tea and the British Atlantic in the Age of the American Revolution,' in T. Stephen Henderson and Wendy G. Robicheau eds., *The Nova Scotia Planters in the Atlantic World 1759-1830* (Fredericton, NB: Acadiensis, 2010): 180-202. See also John Coakley Lettsom, *The Natural History of the Tea-Tree, with Observations on the Medical Qualities of Tea, and Effects of Tea-drinking* (London, 1772).

²⁹ Neil McKendrick, John Brewer, and J.H. Plumb, *The Birth of a Consumer Society. The Commercialisation of Eighteenth Century England* (Bloomington, IN: Indiana University Press, 1982); Maxine Berg, 'In Pursuit of Luxury: Global History and British Consumer Goods in the Eighteenth Century,' *Past and Present* 182 (2004): 85-142; Jan de Vries, *The Industrious Revolution: Consumer Behaviour and the Household Economy, 1650 to the Present* (Cambridge: Cambridge University Press, 2008).

³⁰ Porter, *Absent-Minded Imperialists*, viii.

that demands precise and enquiring analysis over time.’³¹ Colley’s point is even more pertinent in the case of the East India Company, which, as a political issue in eighteenth-century Britain, tended to flare up in moments of crisis to become the dominant issue in British politics, as it did in 1773 and 1783. Indeed, for portions of the period covered by this study, the Company was a relatively low priority and proposed reforms were repeatedly postponed by the administration in favour of what was seen to be the more pressing issue of American Independence.³² Nonetheless, in the wake of the American Revolutionary war and the loss of the thirteen colonies, it is possible to discern a notable increase in the relative importance placed on the colonies remaining within the British Empire, in which those of the East India Company composed an increasingly large part. This roughly correlates with what Vincent Harlow identified as a ‘swing to the East.’³³ However, given the importance already placed on the Company’s affairs at an earlier period, the ‘swing’ was neither as strong nor as sudden as it is often portrayed.³⁴

Contemporary declarations of the immense importance of the British interests in the East Indies were common. Ever since the Company’s acquisition of extensive territories in Bengal it was increasingly seen as a vital national asset, capable of

³¹ Colley, ‘The Difficulties of Empire,’ 375; Ann Laura Stoler and Frederick Cooper make a similar argument when discussing European imperialism in general, see *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997): 6.

³² Edmund Burke to Philip Francis, 9 June 1777 in Guttridge ed., *Burke Correspondence*, iii, 349; Edmund Burke to John Bourke, [November 1777] in *Ibid.*, 404; Sir Elijah Impey to Lord [Thurlow?] [March 1779?] in BL, Impey Papers, Add. MS. 16259, f. 188; *Morning Chronicle*, 29 July 1776; *Thoughts on Improving the Government of the British Territorial Possessions in the East Indies* (London: T. Cadell, 1780).

³³ Vincent T. Harlow, *The Founding of the Second British Empire, 1763-1793* 2 vols. (London: Longmans, Green, and Co., 1952-1964), i, 62; P.J. Marshall, ‘Britain without America,’ in P.J. Marshall ed., *Oxford History of the British Empire*, ii, 581; Michael Duffy, ‘World-Wide War and British Expansion, 1793-1815,’ in *Ibid.*, 184, 201; H.V. Bowen, ‘India: The Metropolitan Context,’ in *Ibid.*, 549-550.

³⁴ See, for instance, Armitage, *Ideological Origins*, 2; Emrys Chew, *Arming the Periphery: The Arms Trade in the Indian Ocean During the Age of Global Empire* (Basingstoke: Palgrave Macmillan, 2012): 2; Diane Long Hoeveler and Jeffrey Cass, ‘Mapping Orientalism: Representations and Pedagogies,’ in Diane Long Hoeveler and Jeffrey Cass eds., *Interrogating Orientalism: Contextual Approaches and Pedagogical Practices* (Columbus, OH: Ohio State University Press, 2006): 1. P.J. Marshall has argued convincingly for a transitional period between roughly 1763 and 1784 rather than a distinct ‘swing’, see *Making and Unmaking of Empires*, 1-9.

redeeming the nation's finances in the wake of a deeply expensive global conflict. The resulting financial settlements between the Company and the Government in 1767 and 1769 reinforced the extent to which the Company's commercial prosperity had become intimately linked with the fiscal health of the nation. When Parliament met in late 1772, the responses to the King's speech emphasised the crucial place of the East India Company within 'the commerce and revenue of the kingdom.'³⁵ As the relationship between the Company and the state became progressively more intertwined, it was also increasingly felt that the Company's political affairs were 'of the greatest national and constitutional importance.'³⁶

It was extremely common, when crises loomed in the Company's financial or political affairs, for writers to underline the importance and popularity of the British interests in India as a kind of prefatory apology to their paragraphs, essays, or pamphlets on the topic. For example, when North's government was contemplating blocking the Company from sending supervisors to India, one pseudonymous writer argued that 'the oldest records do not furnish [an issue] of more consequence than the regulations now proposed to be made by the East-India Company.' In consequence, they felt that it was 'incumbent on every subject to impart to the public his sentiments thereon.'³⁷ This writer was joined by hundreds of others who felt equally compelled and entitled to 'obtrude his [or her] Sentiments of them upon the Public; no matter how absurd [their] Ideas.'³⁸ The sheer diversity of ideas and the varying level of expertise displayed in the debates surrounding East India reform was evidently a source of frustration for some. One writer noted with derision that 'every

³⁵ King's Speech on Opening the Session, 26 November 1772 in *Cobbett*, xvii, cols. 517-518; see also Lords' Address of Thanks, 26 November 1772 in *Ibid.*, col. 519; and Speech of William Burrell, 26 November 1772 in *Ibid.*, col. 523.

³⁶ *Annual Register* (1773): 108.

³⁷ Letter signed 'Nemo' in *Gazetteer and New Daily Advertiser*, 1 September 1772.

³⁸ Letter signed 'Rationalis' in *Public Advertiser*, 26 August 1772; see also, Archibald Keir, *Thoughts on the Affairs of Bengal* (London, 1772): 1; Henry Pattullo, *An essay upon the cultivation of the lands, and improvements of the revenues, of Bengal* (London, 1772): 1.

mechanic fancies himself to hold the reins of Government.’³⁹ However, it is also an indication that the controversy caused by the Company’s acquisition of vast territories in India generated a robust and popular political debate whose participation extended far beyond those with either direct experience of India, or those with vested interests in the Company’s affairs. Others saw the proliferation of publications and plans for reform in a more positive light. Archibald Mitchell even suggested that a competition could be held for the submission of ‘the best and shortest draughts of a charter, or articles of partnership, betwixt Government and the Company.’⁴⁰ Although the Company’s directors did, from time to time, give attention to letters sent by anonymous writers, it is often difficult to ascertain the extent to which individual contributions had any influence on policy.⁴¹ Nonetheless, that the Company’s affairs garnered a substantial portion of public attention at various points in the 1770s and 1780s is undeniable.

The ‘Object of India,’ wrote one newspaper writer, ‘is become so interesting to the People of this Kingdom, that the Attention of all Men is now awakened to the Measures in Agitation concerning it.’⁴² The author in question had so much to contribute to the debates on East India reform that the space allotted to them in newspapers was simply not enough. They were forced to print their letters addressed

³⁹ Letter signed ‘No Party Man’ in *Morning Chronicle*, 2 August 1773; Keir, *Thoughts on the Affairs of Bengal*, 2; ‘Statement of the Political and Commercial Relation of Great Britain with the East Indies, [c. 1791] in BL, Auckland Papers, Add. MS. 34466, f. 22; Bruce, *Historical View of Plans*, 4.

⁴⁰ On Archibald Mitchell’s military participation in the East India Company, see *The Critical Review; Or, Annals of Literature*, vol. 49 (London, 1780): 145; see also George K. McGilvary, *East India Patronage and the British State: The Scottish Elite and Politics*, 223; Archibald Mitchell, *Thoughts on the Treaty now Agitating between Government and the East India Company* (London, 1780): 22. The fact that the author’s proposal included a £1,000 reward and was inserted at the close of a relatively comprehensive plan for the settlement of the relationship between the Company and the government suggests that there may have also been other, less altruistic, motives involved in this suggestion.

⁴¹ See, for example, the minutes of the Court of Directors, 16 December 1772 in BL, IOR/B/88, 350; minutes of the Court of Directors, 15 January 1773 in *Ibid.*, 398; minutes of the Court of Directors, 31 July 1776 in BL, IOR/B/92, 199; minutes of the Court of Directors, 26 March 1777 in *Ibid.*, 666-667; and ‘Three Anonymous Letters signed Y.Z.’ in BL, IOR/A/2/7.

⁴² ‘Continuation of the Letter to Lord North in our Paper of Wednesday last,’ in *Public Advertiser*, 24 April 1772.

to Lord North in the form of a pamphlet, claiming that the *Public Advertiser*'s editor, Henry Sampson Woodfall, would allocate only one column of his paper for their letters.⁴³ One could easily assume that Woodfall's refusal to allocate sufficient space to well-informed and interesting letters on the legal and political problems associated with East India reform is indicative of a distinct lack of interest on the part of the editor (or his perceived audience) in the subject.⁴⁴ However, nothing could be further from the truth. Woodfall's paper was flooded with content on India and the East India Company, particularly in times of crisis.⁴⁵ Indeed, one contributor to Woodfall's paper inferred '[f]rom the continued Treat which you have given to the Public on India Affairs...[that] you have a particular Fondness for any Production of that Country.'⁴⁶ So numerous and substantial were the contributions to Woodfall's paper that he repeatedly felt obliged to apologise to his contributors writing on other topics for having to postpone the publication of their works '[o]n account of the great Number of Letters on *East India Affairs*.'⁴⁷ As the crisis in the Company's finances wore on in 1773, and North's government chose to impose reforms, Woodfall was forced to clarify his explanation. No longer were letters postponed simply on account of the sheer number of submissions. East India affairs, he argued, had 'now become the immediate Topic of all public Attention.'⁴⁸ It was not, therefore, merely the interest of Woodfall in Indian issues that led him to postpone writings on other

⁴³ *A Letter to the Right Honourable Lord North; on the East-India Bill now depending in Parliament* (London: John Almon, 1772): ii.

⁴⁴ For arguments that the content of newspapers was shaped by the editors' perceptions of his/her reader's interests, see Hannah Barker, 'Catering for Provincial Tastes? Newspapers, Readership and Profit in Late Eighteenth-Century England,' *Historical Research* 64 (1996): 42-60; Barker, *Newspapers, Politics, and English Society* (London: Longman, 2000): 112-121; Barker, *Newspapers, Politics, and Public Opinion in Late-Eighteenth Century England* (Oxford: Oxford University Press, 1998): 73; Jeremy Black, *The English Press in the Eighteenth Century* (Philadelphia, PA: University of Pennsylvania Press, 1987): 37-38.

⁴⁵ The analysis of the newspaper and pamphlet press in this dissertation is focused on the content of publications on India, and is thereby qualitative rather than quantitative. Therefore, while exact numbers cannot be provided, it was not uncommon in periods of crisis such as in 1772-3 and 1783-4 for the vast majority, if not the entirety, of editorial content of issues of the *Public Advertiser*, and many other newspapers, to be taken up by discussions of the East India Company's affairs.

⁴⁶ Letter signed 'Cornubiensis' in *Public Advertiser*, 5 September 1772.

⁴⁷ *Public Advertiser*, 18 August 1772.

⁴⁸ *Public Advertiser*, 24 May 1773.

topics, but it was also, more importantly, the fact that he felt his subscribers would want to read more contributions on what had become the prevailing political topic of the day. The press, in the words of several commentators, ‘groaned with the weight of arguments’ on East India reform in ‘publications of all shapes and sizes.’⁴⁹ So much so that Woodfall was forced to apologise even to his contributors on the East Indian topics because he had more material than he could feasibly print.⁵⁰

Woodfall and his paper were hardly alone. Dozens of metropolitan and provincial newspapers regularly carried news on India and hundreds of pamphlets and books were published on the topic between 1773 and 1784.⁵¹ India was also increasingly the subject and setting of various forms of art and popular entertainment such as plays, poems, novels, and print satires and also of non-fiction treatises on geography, cartography, grammar, comparative philology, medicine, and history.⁵² As James Raven has pointed out, many of these works sought to add ‘up-to-the-minute appeal’ by drawing upon the rapid interest generated by the newly acquired territories in the East.⁵³ Jeremy Osborn has shown, in his examination of the ‘two key years of 1772 and 1786’, that there was a ‘substantial increase in the volume and regularity of news from India and the East Indies.’⁵⁴ This no doubt reflects the increasing conflation of the East India Company’s territories with ‘British,’ or

⁴⁹ Letter signed ‘Cato’ in *Middlesex Journal*, 31 March 1772; see also, letter signed ‘Sujah’, in *Public Advertiser*, 20 January 1774.

⁵⁰ *Public Advertiser*, 11 April 1774.

⁵¹ However, Woodfall’s paper does seem to have carried more content on India and the East India Company than its rivals.

⁵² Julia Schleck and Amrita Sen, ‘Introduction: Alternative Histories of the East India Company,’ *Journal for Early Modern Cultural Studies* 17, no. 3 (2017): 1; Sudipta Sen, *Distant Sovereignty: National Imperialism and the Origins of British India* (Oxford: Routledge, 2002): 31; Richard Connors, ‘Opium and Imperial Expansion: The East India Company in Eighteenth-Century Asia,’ in Stephen Taylor, Richard Connors, and Clyve Jones, eds., *Hanoverian Britain and Empire: Essays in Memory of Philip Lawson* (Woodbridge: Boydell, 1998): 248.

⁵³ James Raven, *Judging New Wealth: Popular Publishing and Responses to Commerce in England, 1750-1800* (Oxford: Oxford University Press, 1992): 232.

⁵⁴ Jeremy Osborn, ‘India, Parliament and the Press under George III: A Study of English Attitudes towards the East India Company and Empire in the Late Eighteenth and Early Nineteenth Centuries,’ (Unpublished DPhil thesis, University of Oxford, 1999): 2.

‘public’ interests in India.⁵⁵ However, the more significant fact, rather obscured by the choice of two years in which India was at the centre of public attention, is the relative unevenness of public interest in the topic. The years immediately following Lord North’s Regulating Act, for example, when the new reforms were given a chance to take effect and America was absorbing so much political attention in Britain, were extremely quiet on Indian subjects.⁵⁶ So, too, might have been the years 1779-1781 if the North administration had acted decisively instead of repeatedly postponing the extension of the Company’s charter and the next round of reforms designed to improve upon the Regulating Act.⁵⁷ Crisis years such as 1772-3 and 1783-4, by themselves, can hardly be taken to be representative of the general levels of interest displayed by the British public on Indian issues any more than the years of debate since the 2016 UK referendum on leaving the European Union can be seen as indicative of the British public’s interest in the European Union more generally. As Woodfall attempted to assure his readers and contributors, ‘the Disputes in the India Company...being temporary, would not admit of being

⁵⁵ See, for example, Alexander Dalrymple, *A retrospective view of the antient system of the East-India Company, with a plan of regulation* (London, 1784): 84; letter from the Governor General and Council of Bengal to the Court of Directors, 23 March 1785 in *FWIHC*, ix, 563; John Robinson to Charles Jenkinson, 7 February 1781 in BL, Liverpool Papers, Add. MS. 38215, f. 188; speech of George Johnstone in *Proceedings at a General Court of Proprietors of East-India Stock, held at the India-House on Friday, November 7, 1783, relative to the Hon. Warren Hastings, Governor General of Bengal* (London: J. Debrett, 1783): 9.

⁵⁶ After the all-important election of the East India Company’s directors in 1774, the newspapers lost much of their interest in Indian topics. The pamphlet literature on India and the East India Company was dominated by the new bye-laws on the Company’s shipping. As the *Critical Review* pointed out, however, the subject of the Company’s shipping was ‘a subject of too special a nature for the generality of readers.’ See *Critical Review*, vol. 37 (London, 1774): 73-74; see also Richard Hotham, *A Candid State of Affairs Relative to East India Shipping* (London, 1774); ‘One of the Committee,’ *An account of the proceedings at the India-House, with respect to the regulations proposed to be made bye-laws...* (London, [1774]); and Nathaniel Smith, *Observations on East India shipping; being a comparative view between the freights of 1773, and those of the seven preceding years* (London: J. Nourse, 1774); *An Account of the further Proceedings at the India House, with respect to the By-Laws proposed by the Committee of Proprietors elected by Ballot, for the Regulation of the Company’s Shipping* (London, 1775).

⁵⁷ Lucy Sutherland, *East India Company in Eighteenth-Century Politics*, 330-337; John Cannon, *The Fox-North Coalition*, 106; John Ehrman, *The Younger Pitt, Vol. I, The Years of Acclaim* (London: Constable, 1969): 119; P.D.G. Thomas, *Lord North*, 127-128.

postponed.⁵⁸ But, as it happened, North's administration failed to act decisively in 1773, its reforms failed to achieve their intended effects, and the East India Company stumbled from one crisis to another from almost the moment it acquired the *diwani* rights in Bengal until at least the passage of Pitt's India Act in 1784. As a result, India became one of the prevailing political topics in this period, a fact which no doubt contributed to the increased awareness of, and interest in, Britain's new eastern dominions.

Even some of the strongest evidence for the lack of interest in India or the East India Company is, in fact, a testament to its importance and the extent to which it could, at times, dominate political discourse. For example, several letters appeared lamenting 'the late dullness of the daily papers, owing to the perpetual publication of letters on the East India affairs.'⁵⁹ Another hoped that the passage of North's Regulating Act would lead to news coverage more diverse than an 'eternal jargon on East India affairs.'⁶⁰ Despite being evidence that a certain portion of the reading public were either not interested in India affairs or that they had become tired of them, these examples also serve to reinforce the extent to which the Company's affairs, at times of crisis, periodically became the prevailing topic in British political discourse. Several moralists even argued that the public, especially those of the metropolis, were neglecting their private affairs, and even neglecting their families, due to the excessive attention they were paying to 'the Debates in St. Stephen's Chapel, and the Wranglings at the India House.'⁶¹ While these comments were certainly hyperbolic, the strong connection between the East India Company and the vices of luxury and corruption must certainly have encouraged these sermonic diatribes.⁶² Despite reports that parliamentarians, and particularly the so-called

⁵⁸ *Public Advertiser*, 5 September 1772.

⁵⁹ Letter signed 'One of the People,' in *Middlesex Journal*, 10 September 1772.

⁶⁰ Letter signed 'Square Toes' in *Morning Chronicle*, 20 July 1773.

⁶¹ Letter signed 'A Father' in *Public Advertiser*, 12 June 1777; see also, the letter signed 'Sujah' in *Public Advertiser*, 19 January 1774.

⁶² Natasha Eaton, 'Nostalgia for the Exotic: Creating an Imperial Art in London, 1750-1793,' *Eighteenth-Century Studies* 39, no. 2 (2006): 231; Jack Greene, *Evaluating Empire and Confronting*

country gentlemen, were ‘sick to loathing at the eternal jingle of India affairs’, many still admitted, albeit with an air of resignation, that due to their importance they would be ‘under some Necessity...in common with all the Nation, of giving my Attention to India Affairs.’⁶³

In contrast, there is also no shortage of evidence of individuals deeply lamenting the lack of attention paid by the public to the Company’s affairs. Sir Philip Francis, in a speech to Parliament in 1806, noted from his ‘long experience, that India and every question connected with it, has no attraction for parliament or for the public; and that now, as well as on all former occasions, I shall still have to contend with the impatience and disgust of a careless and unwilling audience.’⁶⁴ Francis probably spoke from frustrated ambition, having failed in his bid to recall and impeach Warren Hastings.⁶⁵ Unsurprisingly, those with interests in the Company’s affairs were those who most frequently lamented the general indifference of the public toward them. Lord Shelburne claimed that because the subject had been so frequently debated after 1765, the revelations of corruption and oppression failed to capture the attention of the public and they were thus unaware of the Company’s financial and political woes ‘which must shake to its foundation the revenue, commerce, manufactures, and property of this [country].’⁶⁶ The concerns of Francis

Colonialism in Eighteenth-Century Britain (Cambridge: Cambridge University Press, 2013): 155; Renu Juneja, ‘The Native and the Nabob: Representations of the Indian Experience in Eighteenth-Century Literature,’ *Journal of Commonwealth Literature* 27 (1992): 183-188; Tillman Nechtman, ‘A Jewel in the Crown? Indian Wealth in Domestic Britain in the Late Eighteenth Century,’ *Eighteenth-Century Studies* 41, no. 1 (2007): 71-86.

⁶³ Joseph Price, *The Saddle Put on the Right Horse; Or, An Enquiry into the Reasons why certain Persons have been denominated Nabobs* (London, 1783): 103; see also the unsigned letter ‘On India Affairs’ in *St. James’s Chronicle or the British Evening Post*, 6 November 1781.

⁶⁴ Speech of Sir Philip Francis, 25 February 1806 in *Cobbett’s Parliamentary Debates from the Year 1803 to the Present Time*, vol. vi (London: T.C. Hansard, 1812): 187.

⁶⁵ Travers, *Ideology and Empire*, chapter 6; Sophia Weitzman, *Warren Hastings and Philip Francis* (Manchester: Manchester University Press, 1929): chapter 6; P.J. Marshall, *The Impeachment of Warren Hastings* (Oxford: Oxford University Press, 1962).

⁶⁶ Earl of Shelburne to the Earl of Chatham, 13 April 1772 in Taylor and Pringle eds., *Chatham Correspondence*, iv, 209-210; and the Earl of Shelburne to the Earl of Chatham, 26 November 1772 in *Ibid.*, 229. For Shelburne’s interests in East India affairs, see George K. McGilvary, *Guardian of the East India Company: The Life of Laurence Sullivan* (London: Tauris, 2006): 147, 170; James Maclean, *Reward is Secondary: The Life of a Political Adventurer and an Inquiry into the Mystery of*

and Shelburne about a general indifference toward the Company's affairs, certainly had some basis in reality.⁶⁷ By 1764 Horace Walpole claimed that he had already grown 'tired of what is still more in vogue, our East India affairs.'⁶⁸ He quickly developed a distaste for the idea of British imperial activity in India and was among the first to criticise the unlawfully enriched returned Company servants as 'nabobs.'⁶⁹ By the 1780s, he treated India affairs with contempt and exclaimed rather dramatically that they 'make me sick!'⁷⁰ Even William Pitt the Younger, whose India Act defined the relationship between the Company and the British state for a generation, informed his mother that he was 'going to the House of Commons on East India business, which is not the most entertaining.'⁷¹ Reforming the East India Company, he would admit six months later, was the very *raison d'être* of his newly-formed government, and its first few years were dominated by the Company's affairs.⁷²

Clearly contemporaries had varying degrees of interest in the Company's affairs and differed markedly in assessing their importance relative to other issues. Recalling Price's response to the question of 'who cared about the colonies', and asking the same question about Britain's 'empire in the East' it is possible to conclude that a lot of people did, whether or not they had any direct connection or

'Junius' (London: Hodder and Stoughton, 1963): 170, 178-183, 219-235; Sutherland, 'Lord Shelburne and East India Company Politics' in *Politics and Finance in the Eighteenth Century* (London: The Hambledon Press, 1984): 177-214.

⁶⁷ Joseph Price, *The Saddle Put on the Right Horse*, 89; John Scott, *A Reply to Mr. Burke's Speech of the First of December, 1783, On Mr. Fox's East-India Bill* (London: J. Debrett, 1784): 2; 'Letter X. To Lord North' signed 'No Nabob' in *Morning Chronicle*, 9 March 1773; see also letter 'To the Commons of England' signed 'A Friend to the Constitution' in *Public Advertiser*, 1 June 1773.

⁶⁸ Horace Walpole to the Earl of Hertford, 12 April 1764 in W.S. Lewis, Lars E. Troide, Edwine M. Martz and Robert A. Smith eds., *Walpole Correspondence*, xxxviii, 368.

⁶⁹ James Holzman, *The Nabobs in England: A Study of the Returned Anglo-Indian, 1760-1785* (New York, NY: Columbia University Press, 1926): 7; Marshall, *Making and Unmaking*, 198.

⁷⁰ Horace Walpole to Horace Mann, 8 June 1781 in W.S. Lewis, Warren Hunting Smith, and George L. Lam eds., *Walpole Correspondence*, xxv, 159; and Horace Walpole to Lady Ossory, 19 December 1781 in *Ibid.*, xxxiii, 315-316.

⁷¹ William Pitt to Lady Chatham, 28 May 1783 in Earl Stanhope, *Life of the Right Honourable William Pitt* (London: John Murray, 1861), i, 122.

⁷² Speech of William Pitt, 12 January 1784 in *Cobbett*, xxiv, col. 271.

interest in the Company's affairs. However, the Company and India only periodically emerged as the predominant issues in British politics and mostly at times of financial or political crisis. There was always a solid core of interest in India affairs among the Company's stockholders, its returned employees, investors in the funds, as well as their numerous friends, relatives, and political connections. The weight of evidence suggests, however, that the interest displayed by the wider public towards the East India Company was extremely uneven, and was often piqued by unexpected crises and 'revolutionary' events.

III. 'AN ENDLESS LABYRINTH': IMPERIAL KNOWLEDGE AND DEBATES ON THE 'EMPIRE IN THE EAST'

The East India Company periodically attracted a great deal of attention and debate among a far wider public than those with financial interests or policymakers in Parliament. However, it is worth examining how the increased interest in the Company was affected by the extent and quality of the information available to contemporaries concerning Britain's newly acquired territories in the East Indies. There appears to be a historical consensus that the knowledge possessed by metropolitan Britons of India and the Company's affairs was, in general, very limited until at least the mid-1780s. This, however, depends considerably upon how one defines knowledge in relation to information. Issues relating to the authenticity and depth of knowledge, even from those who had first-hand experience of India, were debated by contemporaries. Considerable doubts were also frequently raised about the bias and vested interests of those who possessed local knowledge of India. However, even if metropolitan Britons, possessed only a superficial knowledge of South Asia, of doubtful quality and veracity, it did not prevent them from debating the nature of the Company's newly acquired 'empire in the East' and from proposing and drafting what they thought to be necessary reform legislation. In short, what they *thought* they knew about Indian society, its customs, religions, and the normative modes of government and justice requisite for a distant European power to maintain

sovereignty over parts of the subcontinent, was brought to bear in the debates on East India reform in the late eighteenth century.

Most historians when discussing the extent of British knowledge of India and the East India Company's affairs have concluded that before the mid-1780s, it was 'severely circumscribed.'⁷³ Philip Lawson and Jim Phillips even described the period immediately after 1765 as 'an age of ignorance of the nature of the British presence in India.'⁷⁴ Horace Walpole's feigned 'false geography', whereby he confused Pondicherry with Westphalia and the nawab of Arcot with Prince Ferdinand, was indicative of the confusion wrought not only by the mass of information and news thrust upon Britons by the middle of the eighteenth century, but also its geographical breadth and diversity.⁷⁵ Even King George III had trouble grasping the breadth of his dominions, famously mistaking the Mississippi for the Ganges during a discussion with the Duke of Newcastle. Newcastle admitted that he, too, was so ill-informed about the 'state and limits of those countries' that he did not wish to hazard correcting the King's error and instead 'said nothing further upon that head.'⁷⁶ It was this kind of evidence that no doubt led Tony Ballantyne to proclaim that '[i]n the 1760s British knowledge of South Asia was geographically limited, uneven in depth and quality and quickly outdated due to the oscillating politics of the Mughal state and its regional rivals and successors.'⁷⁷

⁷³ C.A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge: Cambridge University Press, 1996): 51; Kumkum Chatterjee, 'History as Self-Representation: The Recasting of a Political Tradition in Bengal and Bihar,' *MAS* 32, no. 4 (1998): 913; Bernard S. Cohn, 'From Indian Status to British Contract,' *Journal of Economic History* 21 (1961): 613.

⁷⁴ Philip Lawson and Jim Phillips, "'Our Execrable Banditti': Perceptions of Nabobs in Mid-Eighteenth-Century Britain,' *Albion* 16 (1984): 225.

⁷⁵ Horace Walpole to George Montagu, 22 July 1761 in W.S. Lewis and Ralph S. Brown Jr. eds., *Walpole Correspondence*, ix, 378-379; Horace Walpole to Lady Ossory, 23 July 1783 in *Ibid.*, xxxiii, 408.

⁷⁶ [Account of the Duke of Newcastle in Audience with the King], 4 September 1762 in Yorke ed., *Life of Hardwicke*, iii, 413-414.

⁷⁷ Tony Ballantyne, *Orientalism and Race: Aryanism in the British Empire* (Basingstoke: Palgrave, 2002): 20.

Ballantyne's description of British knowledge in India in the 1760s is useful in a number of ways. Firstly, its use of the term 'knowledge' forces us to confront the relationship between knowledge and information. In this chapter, knowledge will be understood, as Christopher Bayly argued, as a 'social formation' in which 'knowledgeable people form distinct and active social segments with their own interests.'⁷⁸ By such a definition, knowledge can be taken to include what people thought they knew, either based on their own experiences of India or what they heard or read from sources they deemed to be reliable. The difficulty of verifying claims and information about India was recognised by contemporaries and yet they were still evaluated and digested in different ways by different people into bodies of 'colonial knowledge' regarding India that were deployed in both general discussions of empire and debates on reforming the East India Company.⁷⁹ In this way, it is possible to circumvent the criticisms of Saidian social theorists who cast doubt on the possibility that Europeans could obtain knowledge of 'oriental' societies because of their inherent conceptual bias.⁸⁰ Information relayed through different kinds of media with varying degrees of depth, quality, and veracity contributed to form a body of knowledge that was selectively digested and drawn upon by metropolitan Britons in discussions on East India reform.

There was certainly a considerable disparity in the knowledge possessed by individual Britons concerning the East India Company's affairs. The most knowledgeable were those who had previously served the Company in India. They laid claim to a privileged and almost incontrovertible level of knowledge based on their first-hand experiences of the East Indies. Nathaniel Wraxall, himself a former Company servant, reported that 'very few persons except such as were locally

⁷⁸ Bayly, *Empire and Information*, 4.

⁷⁹ For example, see *Critical Review*, vol. 53 (London, 1782): 425; and *Ibid.*, vol. 56 (London, 1783): 316. On the term 'colonial knowledge', see Bayly, *Empire and Information*, 44.

⁸⁰ Bayly, *Empire and Information*, 7. See also Edward Said, *Orientalism* (New York, NY: Vintage, 1979); Edward Said, *Culture and Imperialism* (New York, NY: Random House, 1993); Edward Said, 'Orientalism Reconsidered,' *Cultural Critique*, no. 1 (1985): 89-107; John MacKenzie, *Orientalism: History, Theory and the Arts* (Manchester: Manchester University Press, 1995).

connected with India, had then attained any accurate information respecting the Company's territories, revenues and affairs.⁸¹ More importantly, their accounts could only realistically be challenged by other first-hand information from returned Company servants or those who had otherwise travelled to India. There were, however, serious potential drawbacks to knowledge derived from first-hand experience of the East Indies. Firstly, the affairs of the Company, particularly in Bengal, had transformed significantly after 1757 and therefore experience prior to that date was often outdated and could even be misleading.⁸² Secondly, and more importantly, Company employees typically served in only one of the Company's three major presidencies in India. The Company's affairs, not to mention the societies, cultures, languages, and customs of the peoples with whom Company officials interacted, differed markedly between the presidencies to such an extent that experience and expertise in one locale did not necessarily provide any assistance in understanding the affairs of another.

Next to returned Company servants in terms of their knowledge of the Company's affairs were the twenty-four directors who supervised and managed its affairs both at home and abroad. Most directors had no direct experience of having served in the East Indies and they were often criticised by their current and former employees for their lack of awareness of the true state of the Company's affairs as well as the ease with which they were misled by their employees on the subcontinent.⁸³ Lord Clive was a particularly vocal critic of the 'superlative

⁸¹ Wheatley ed., *Wraxall Memoirs*, i, 382.

⁸² Warren Hastings to Josias Du Pré, 22 February 1772 in Gleig ed., *Memoirs of Hastings*, i, 231.

⁸³ Huw Bowen has shown that only three former governors were elected in the direction between the 1750s and 1770s (William Barwell, Stephen Law, and Thomas Saunders) and all of these served as governor before the Company's acquisition of the *diwani* and the transition from trade to empire. H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006): 127-129; see also J. Gordon-Parker, 'The Directors of the East India Company, 1754-1790,' (Unpublished Ph.D. thesis, University of Edinburgh, 1977). For criticism of the directors, see Henry Pattullo, *An essay upon the cultivation of the lands, and improvements of the revenues of Bengal* (London, 1772): 29-30.

ignorance' of the directors.⁸⁴ Despite the fact that directors were exposed to a substantial amount of information on the Company's affairs at their regular meetings, considerable doubts were raised about whether many of them even read the material that crossed their desk. Richard Barwell, a member of the Bengal council, accused them of ignoring information that conflicted with their own partisan views.⁸⁵ Others warned that the Company's servants in India 'will either convert [the Directors] to their own Way of Thinking, or throw so much Dust in their Eyes that they will be afraid to proceed in any Business of Importance from their Ignorance of the real Politics of the East.'⁸⁶ In an official letter to the Court of Directors, the Governor and Council of Bengal even had the audacity to question whether it was possible that the directors could 'find leisure to read the whole of such voluminous records' as were produced from the different departments of their governments in India.⁸⁷ Sir George Colebrooke, one of the leading directors of the period and who had not served in India, attempted to defend himself and his colleagues by emphasising the difficulty of coming to terms with the 'new and extraordinary' nature of the Company's circumstances after 1765. Drawing particular attention to the disagreements among the Crown's law officers, he added that 'you must not wonder it should puzzle the ablest people, much more twenty-four Directors.'⁸⁸ There was a disparity of access to information, however, even among the directors themselves. The chairman and deputy chairman, annually elected by the directors from their own number, were often sent private communications containing sensitive

⁸⁴ Lord Clive to Richard Becher, 3 March 1768 in Malcolm, *Life of Lord Clive*, iii, 222-223.

⁸⁵ Richard Barwell to Ralph Leycester, 2 September 1770 in Lucy Sutherland ed., 'Two Letter-Books of Richard Barwell, 1769-73,' *Indian Archives* 7 (1953): 124; see also Richard Barwell to John Hawkesworth, 3 November 1773 in 'Letters of Mr. Richard Barwell—VI,' *BP&P* xi (1915): 72.

⁸⁶ Letter signed 'Abdalla' in *Public Advertiser*, 25 August 1772.

⁸⁷ Governor and Council of Bengal to the Court of Directors, 1 March 1773 in R.P. Patwardhan ed., *FWIHC*, vii, 206. This evidence also corroborates some of the concerns raised by Jones and Ville about the ability of the home authorities to process the vast quantity of information being transmitted from India. S.R.H. Jones and S.P. Ville, 'Efficient Transactors or Rent-Seeking Monopolists? The Rationale for Early Chartered Trading Companies,' *Journal of Economic History* 56, no. 4 (1996): 906.

⁸⁸ Sir George Colebrooke to William Mure, [1772?] in *Selections from the Family Papers preserved at Caldwell* (Glasgow: Maitland Club, 1854), ii, pt. ii, 208.

information from their servants in India or from government by virtue of their authority.⁸⁹ Furthermore, the directors were assigned roles in sub-committees by seniority, and the all-important committees of Correspondence and Treasury provided the longest-serving directors with a privileged access to accounts and information.⁹⁰ In short, directors certainly possessed the means to be relatively well-informed about their affairs in the East Indies, especially if they proved willing to read the often contradictory reports from their several presidencies. However, with several notable exceptions, such as Laurence Sullivan, most directors seem to have been scarcely better informed than members of Parliament who participated in the various committees of inquiry into the Company's affairs.⁹¹

Members of Parliament in general were relatively uninformed of the East India Company's affairs.⁹² The Company had hardly been a prevalent issue in Parliament before 1766. After that date, and consistently acknowledging their lack of information and expertise, parliamentarians attempted to remedy the situation by calling for various secret and select committees to examine a variety of witnesses and evidence and distil it in the form of reports for the information of Parliament.⁹³ Despite this, Lord North admitted, after reading several committee reports in 1772-3,

⁸⁹ See, for example, Warren Hastings to Sir George Colebrooke, 7 March 1773 in Gleig ed., *Memoirs of Hastings*, i, 288-289; Warren Hastings to Laurence Sullivan, 10 March 1774 in *Ibid.*, 382; Richard Barwell's letters to various specific directors, 30 November 1774 in 'Letters of Mr. Richard Barwell—VIII,' and 'Letters of Mr. Richard Barwell—IX,' in *BP&P*, xii (1916): 71-91, 178-182.

⁹⁰ *An Essay on the rights of the East India Company to the perpetuity of their trade, possessions and revenues in India* (London: T. Payne, 1776): 26-27. For a breakdown and description of the committees of the court of directors, see Martin Moir, *A General Guide to the India Office Records* (London: British Library, 1996): 26-38.

⁹¹ Sullivan had previously served the Company in Bombay but stood out among directors for his indefatigable efforts to understand and supervise the Company's affairs in all of its presidencies. On his career, see McGilvary, *Guardian of the East India Company*.

⁹² Several works have attempted to calculate the links between MPs and East India House through the possession of East India stock. See H.V. Bowen, "'Dipped in the Traffic": East India Stockholders in the House of Commons 1768-1774,' *Parliamentary History* 5 (1986): 39-53; C.H. Philips, *The East India Company 1784-1834* (Manchester: Manchester University Press, 1961); and James Holzman, *The Nabobs in England*, Appendices I-II.

⁹³ Charles Townshend to the Earl of Chatham, 4 January 1767 in Taylor and Pringle eds., *Chatham Correspondence*, iii, 155; speech of John Burgoyne, [13 April 1772] in *Cobbett*, xvii, cols. 453-456; speech of Lord North, 23 March [1773] in BL, Egerton MS 245, ff. 52-54; and speech of Charles James Fox, 18 November 1783 in *Cobbett*, xxiii, col. 1189.

which were supposed to be the foundation upon which his Regulating Act was based, that ‘even now...we shall not be able to probe the disease to the bottom, we are not sufficiently acquainted with its nature to prescribe, as skilful physicians, any thing which may effectuate a radical cure...we still want the necessary information.’⁹⁴ After a decade and numerous further committees, Charles James Fox boasted that ‘such infinite pains had been taken to investigate and enquire into the real state of our Indian territories, and such able and accurate reports had been made upon the subject, that no popular assembly could possibly be better informed than that House was, relative to Eastern events, and the situation of our affairs there.’⁹⁵ The fact that so much material appeared in the press in contradiction of the revelations of the select and secret committees of the early 1780s, suggests that Fox was almost certainly exaggerating the extent to which the House of Commons was well-informed on the East India Company’s affairs.⁹⁶ Lord Chancellor Thurlow even insinuated that the committee reports were fictional when he announced that ‘he would pay as much attention’ to the reports of the select committee of 1781-3 ‘as he would to the adventures of Robinson Crusoe.’⁹⁷ The average East India stockholder, many of whom were also members of Parliament, was probably slightly more knowledgeable, having exclusive access to the Company’s account books and of course a vested interest in the well-being of the Company.⁹⁸ They were, however, commonly believed to have been ‘kept in total ignorance of [the Company’s] real

⁹⁴ Speech of Lord North, 9 March [1773] in *Cobbett*, xvii, col. 803.

⁹⁵ Speech of Charles James Fox, [11 November 1783] in *Ibid.*, xxiii, col. 1149-1150.

⁹⁶ See, for example, John Scott, *The Conduct of His Majesty’s Late Ministers Considered as it affected the East-India Company and Mr. Hastings* (London: J. Debrett, 1784); Thomas Day, *The Letters of Marius; or Reflections upon the Peace, the East-India Bill, and the Present Crisis* (London: J. Stockdale, 1784): 67, 85-86; Joseph Price, *A Vindication of General Richard Smith* (London, 1783): 117-122; *The Letters of a Citizen on India Affairs* (London: Gilbert and Plummer, 1783); and Nathaniel Brassey Halhed, *The Letters of Detector, on the Seventh and Eighth Reports of the Select Committee and on the India Regulating Bill* (London, 1783).

⁹⁷ Speech of Lord Thurlow, 9 December 1783 in *An Authentic Account of the Debates in the House of Lords*, 4.

⁹⁸ Huw Bowen has shown that nearly one quarter of the members of the 1768 Parliament owned East India Company stock between 1764 and 1774; so, too, did 34 peers. See Bowen, *Revenue and Reform*, 31; and Bowen, “‘Dipped in the Traffic’,” 40.

situation; and often deluded by fictitious intelligence and false statements of their accounts, to serve the purposes of Stock-jobbing.’⁹⁹ The factious infighting at the Company’s headquarters in Leadenhall Street, so amply uncovered by Lucy Sutherland, no doubt also clouded their understanding of the Company’s affairs.¹⁰⁰ Nonetheless, they would have been exposed to important debates on the state of the Company’s political and commercial interests on the subcontinent if they attended the regular meetings of the General Court.¹⁰¹ Stockholders, would also, in common with the wider British reading public, have had at their fingertips a vast amount of material on India and the East India Company whose sheer quantity, in the words of one commentator, served rather to ‘confound than enlighten’ the general public.¹⁰²

This leads us to another important factor in Ballantyne’s description of British ‘knowledge’ of India, which was stated more forcefully by P.J. Marshall when he claimed that ‘the quality of the information on India available to the educated eighteenth-century public hardly matched its profusion.’¹⁰³ As we have seen, the British press, at times of crisis in the Company’s affairs, could be inundated with material about India and the Company’s activities there. Horace Walpole aptly described the scene in the early 1770s, claiming that the British interests in India ‘are become so extensive and so various that they must baffle the knowledge and attention of any single man. What book can contain them? Into what *one* narrative

⁹⁹ *An Essay on the rights of the East India Company*, 27; see also Huw Bowen, “‘The Pests of Human Society’: Stockholders, Jobbers, and Speculators in Mid-Eighteenth Century Britain,” *History* 78, no. 252 (1993): 38-53.

¹⁰⁰ Sutherland, *East India Company in Eighteenth Century Politics*.

¹⁰¹ Abstracts of the proceedings and debates of the General Courts were often printed in the newspapers and some more detailed accounts even appeared as pamphlets, but it would have been far more difficult for the wider public to gain any understanding of the Company’s affairs from these accounts than from the more detailed and numerous reports of parliamentary debates. See, for example, *Proceedings at a General Court of Proprietors of East-India Stock, held at the India-House on Friday, November 7, 1783, relative to the Hon. Warren Hastings, Governor General of Bengal* (London: J. Debrett, 1783); and *Proceedings at the India House, relative to Warren Hastings...from the 29th of May to the 1st of November, 1782* [London, 1782].

¹⁰² Letter signed ‘Asiaticus’ in *Public Advertiser*, 26 February 1772; see also *Reflections on the Present State of our East India Affairs. With many Interesting Anecdotes, Never before made public* (London: T. Lowndes, 1764): 11.

¹⁰³ Marshall, *Problems of Empire*, 53.

will they not throw confusion?... The books, controversial papers, and reports of committees written on that matter would compose a library.’¹⁰⁴ Although there was no shortage of first-hand accounts describing the state of the Company’s affairs in India and as well as the geography and populace of Bengal in particular, they clashed dramatically not only in recounting past events but also in their proposed solutions to the Company’s woes, which ranged from total non-intervention to the outright dissolution of the Company as a political and even as a commercial body. For example, William Bolts was widely credited with ‘opening the Eyes of the Nation’ to the true extent of the Company’s maladministration and oppression in the governance of its newly acquired territories in Bengal.¹⁰⁵ However, Harry Verelst, who was governor of Bengal when Bolts was arrested and forcibly deported in 1768, penned a direct riposte to Bolts’s narrative which also constituted a stout defence of the existing form of the Company’s government in Bengal.¹⁰⁶ Verelst’s book, supported by its copious appendix, displayed not only the advantages of first-hand accounts from people in positions of authority but also of access to the Company’s archives. Bolts, on the other hand, lacked such institutional support. Nonetheless, although some commentators seemed to be convinced by Verelst’s copious documentary evidence, it was critiques like that of Bolts rather than works defending the Company’s administration in India that attracted the attention and captured the imagination of the British public and parliamentarians alike.¹⁰⁷

It was well-known that many of those who published works concerning the Company’s affairs in India were motivated either by disappointed ambition or were

¹⁰⁴ Walpole, *Last Journals*, i, 73, 160.

¹⁰⁵ Ralph Leycester to Warren Hastings, 12 March 1772 in BL, Hastings Papers, Add. MS. 29133, f. 72; John Caillaud to Warren Hastings, 27 March 1772 in BL, Hastings Papers, Add. MS. 29133, ff. 90-91; and Marquess of Rockingham to Charles Turner, [c. 7 April 1772] in Sheffield Archives, Rockingham Papers, WWM/R/1/1402; see also, the letter signed ‘William Bolts’ in *Public Advertiser*, 3 March 1773; Bolts, *Considerations on India Affairs* (London, 1772).

¹⁰⁶ Harry Verelst, *A View of the Rise, and Progress, and Present State of the English Government in Bengal, including a Reply to the Misrepresentations of Mr. Bolts and other writers* (London, 1772); see also Willem G.J. Kuiters, *The British in Bengal 1756-1773: A Society in Transition seen through the Biography of a Rebel: William Bolts (1739-1808)* (Paris: Les Indes Savantes, 2002): 196-198.

¹⁰⁷ *Critical Review*, vol. 35 (1773): 16.

writing in defence of their own conduct in order to avoid criminal prosecution or civil suits upon their return to the metropole. This was one of the major drawbacks of first-hand accounts of the Company's affairs in India. When discussing the plethora of published material on the Company's affairs, one author advised that 'the greatest Caution...seems to be necessary how one forms an Opinion, or draws Conclusions from these literary Productions. Every Author has his favourite System, and some of them have Prejudices arising from the Resentment of real or supposed Injuries, which evidently warp the Judgment, and leave the Author only the Merit of furnishing a few authentic Documents and Facts.'¹⁰⁸ Statements such as these reveal that there was a degree of healthy scepticism concerning the numerous and often contradictory accounts published by former Company servants. Lord North alluded to similar sentiments when he noted that the Company's affairs were a 'business, upon wh[ich] so many h[ave] talked, so few h[ave] understood, and those who h[ave] thoroughly understood it, I am afraid in some part of what they h[ave] said h[ave] b[een] biased by prejudice, by partiality, by private considerations.'¹⁰⁹ Crucial questions were therefore raised about the value of local knowledge and first-hand experience in providing accurate information about the Company's circumstances and its ability to assist in devising suitable reforms for their administration in the East Indies.

George Johnstone and others argued forcefully on the impossibility of formulating 'the fittest mode of governing India by intuition' alone, and urged that 'men of experience in the affairs of that country must be advised with.'¹¹⁰ The most

¹⁰⁸ Letter signed 'An Old Proprietor' in *Public Advertiser*, 26 February 1772; Edmund Burke expressed similar reservations on the possibility of understanding the Company's affairs due to their being 'blended' with the 'passions and interests of too many different men.' See speech of Edmund Burke, 27 April 1781 in *Cobbett*, xxii, col. 118.

¹⁰⁹ Speech of Lord North, 23 March [1773] in BL, Egerton MS 245, f. 51.

¹¹⁰ Speech of George Johnstone, [11 November 1783] in *Cobbett*, xxiii, col. 1155; Alexander Dalrymple, *A General View of the East-India Company* (London, 1772): 72; Joseph Price, *A Letter to the proprietors and directors of East India stock. Together with an epistle dedicatory to Robert Gregory, Esq. chairman of the Court of Directors for the Management of the Affairs of the East India Company* (London, 1782): 17; see also 'Letter III. To the Proprietors of East-India Stock' signed 'An

potent arguments, however, emerged from the opposite side of the question. One pamphleteer warned Lord North against taking the advice of returned Company servants when drafting his reform propositions, arguing that '[t]hose among them who know most, are the least fit to be advised with: they are the authors of those very mischiefs you would redress.'¹¹¹ North seemingly agreed with this advice, appointing two members of the five-strong Supreme Council of Bengal who had no previous experience of India.¹¹² He was also influential in the appointment of Lord Macartney as Governor of Madras in 1781. Macartney was the first governor of any of the Company's presidencies who was appointed without having previously served in the lower ranks of the Company's civil or military administration.¹¹³ Acutely aware of the novelty of his appointment, Macartney advised the home government that '[i]f it is intended in any new arrangement to send out Governors, Counsellors, or Commissioners, for God's sake let them be men capable of instruction but not already instructed by former residence, in the affairs of this Country. Local Knowledge consists mostly of the narrow Politicks of the Durbar and the low tricks of Dubashes and Interpreters.'¹¹⁴ When referring more informally to the corruption of his more experienced colleagues in India, Macartney quipped that '[a] man who

Independent Proprietor' in *Morning Chronicle*, 24 April 1782; and letter signed 'A.Z.' in *Morning Chronicle*, 25 February 1784.

¹¹¹ A.B., *A Letter to the Right Honourable Lord North, on the Present Proceedings Concerning the East-India Company* (London, 1773): 23.

¹¹² Sir John Clavering and Philip Francis. The other member appointed from Britain by North's Regulating Act, Colonel Monson, had previously served in India, commanding a royal regiment during the Seven Years' War. T.H. Bowyer, 'Monson, George (1730-1776),' *Oxford Dictionary of National Biography* <https://doi.org/10.1093/ref:odnb/18985> (Accessed 2 October 2019).

¹¹³ C.C. Davies ed., *The Private Correspondence of George Macartney, Governor of Madras (1781-1785)* (London: Camden Society, 1950): xvi; letter 'To the Committee of Correspondence in particular, and the Directors of the East India Company in general' signed 'Ever Proprietor' in *London Courant*, 12 December 1780; and letter signed 'A Proprietor' in *London Courant*, 18 August 1780.

¹¹⁴ Lord Macartney to Charles Jenkinson, 28 January 1782 in Bodleian Library, Macartney Papers, MS. Eng. hist. c. 99, f. 16; for the opposite view, see Richard Barwell to Mary Barwell, December 1776 in 'Letters of Mr. Richard Barwell—XIV,' *BP&P*, xvi (1918): 79-80; the Earl of Bellomont, *A Letter to the Earl of Shelburne, on the subject of Mr. Secretary Townshend's Letter to the Chairman and Deputy Chairman of the East-India Company* (London: J. Debrett, 1783): 4; letter signed 'Veritas' in *London Evening Post*, 8 August 1772; letter 'To the Proprietors of the East India Company' signed 'A Friend to No Party' in *Public Advertiser*, 28 October 1772; and letter signed 'A Proprietor' in *London Courant*, 21 August 1780.

has not been in India knows Man kind but by halves; and he who has been in India knows Mankind alas! But too well.’¹¹⁵ Macartney here highlighted a crucial contradiction at the heart of debates on East India reform. Metropolitan Britons relied on the testimony of those with first-hand experience of the East Indies in order to attempt to understand what they sought to regulate and reform; however, those who possessed the requisite knowledge were among the same individuals accused of speculation, corruption, and oppression. Indeed, as Sir Elijah Impey, the chief justice of Calcutta’s Supreme Court of Judicature, pointed out to Lord Thurlow, ‘[i]t is impossible without having been on the spot to know the nature and different sources of corruption: [but] those who have been deep in it are too much interested to reveal them & those who are not, make a point of honour, of doing nothing which may be what they call “*an injury to the service*”.’¹¹⁶ J.Z. Holwell even accused many of those who engaged in debates on East India affairs since 1773 of employing ‘much pains and labour...to render crooked that which was strait, and to make a road, plain as turnpike, “dark and intricate, puzzled in mazes, and perplex’d with errors.”’¹¹⁷ In spite, and in some ways because of the profusion of publications concerning India and the East India Company in the 1770s and early 1780s, the British public faced considerable difficulties both in verifying the authenticity of particular first-hand accounts and adjudicating the relative viability of the myriad proposals for reform.

The sheer amount of printed material available to metropolitan Britons concerning India and the East India Company meant that few contemporaries would

¹¹⁵ Lord Macartney to John Macpherson, 20 January 1782 in BL, Macartney Papers, Add. MS. 22456, f. 26.

¹¹⁶ Sir Elijah Impey to Lord Thurlow, 11 January 1780 in BL, Impey Papers, Add. MS. 16259, f. 257. Emphasis in original.

¹¹⁷ J.Z. Holwell, *Thoughts on East-India affairs, most humbly submitted at this critical conjuncture, to the consideration of the legislature, and the proprietors of East-India Stock. By a quondam servant of the Company* (London, 1784): 41; the original quote, ‘puzzled in mazes, and perplex’d with errors’, appears to have emerged from the popular play, *Cato, a Tragedy*, written by Joseph Addison in 1712, and this line in particular drew much attention from contemporaries, see the letter signed ‘P.C.A.’ in *The Lady’s Magazine, or Entertaining Companion for the Fair Sex. Vol. III for the Year 1772* (London: G. Robinson, 1772): 178-179; and James Beattie, *The Theory of Language. In Two Parts* (London: A. Strahan, T. Cadell, and W. Creech, 1788): 341-342.

have taken the time and effort required not only to peruse but to understand what were a complex and unfamiliar set of subjects. As we have seen, parliamentarians relied on successive committees to distil the vast quantity of information into slightly more manageable and understandable reports. However, even many of these reports would have proven dense and obtuse material for the casual reader. In an attempt to combat this, Edmund Burke and his select committee in 1783 produced their ninth report ‘in plain and popular Language’ and even leaked it to a printer for mass-publication.¹¹⁸ It remains unclear, however, just how many parliamentarians took the time to read the reports upon which the reform legislation put before them was ostensibly based. The Earl of Hardwicke can be found repeatedly requesting copies of the reports of Burke’s select committee from his nephew for leisure reading while he was away from Westminster.¹¹⁹ However, this same nephew, Philip Yorke, rose up in the House of Commons and spoke in defence of those members of Parliament who—presumably like himself—‘had not given themselves the trouble of reading the reports’. He argued that this in no way rendered them ‘incompetent to decide upon any question that related to the East Indies,’ for if one extended the same logic to other issues, ‘a very important part of the business of the session would be done in very thin Houses.’¹²⁰ Based on the thousands of printed items concerning India and the Company published between 1772 and 1784, including newspaper paragraphs, letters to editors, pamphlets, books, and satirical prints, it is clear that a considerable number of metropolitan Britons, whether parliamentarians, Company stockholders, or simply interested members of the wider reading public, felt no such inhibitions in

¹¹⁸ *Ninth Report of the Select Committee*, 25 June 1783 in P.J. Marshall ed., *Writings and Speeches of Edmund Burke*, Vol. V, *India: Madras and Bengal: 1774-1785* (Oxford: Clarendon Press, 1981): 197; for criticism of this leak, see John Scott, *Two Letters to the Rt. Hon. Edmund Burke in Reply to the Insinuations and Palpable Misrepresentations, in a Pamphlet Entitled the Ninth Report from the Select Committee* (London, 1783); John Scott, *A Reply to Mr. Burke’s Speech of the First of December, 1783, On Mr. Fox’s East-India Bill* (London: J. Debrett, 1784): 43; and Joseph Price, *A Ministerial Almanack: Addressed to the Right Hon. Lord Thurlow, in which is set forth and clearly explained, the Nature and Value of every Sort of Patronage now about to be transferred from the East India Company to the Crown* (London, 1783): 4.

¹¹⁹ Earl of Hardwicke to Philip Yorke, 30 April 1783 in BL, Hardwicke Papers, Add. MS. 35381, f. 75.

¹²⁰ Speech of Philip Yorke, 5 December 1782 in *Cobbett*, xxiii, col. 226.

expressing their views on the topic. Just how well-informed or well-read individual contributors to Indian debates were is difficult to determine. But the vast quantity of material printed on the topic suggests that there was a high (if uneven) degree of interest in the East India Company and its environs in the East Indies. These works collectively contributed to forming a body of knowledge upon which other commentators and even parliamentarians debating Indian reforms could and did base their own ideas and schemes.

If, among the British public, there was clearly a discernible interest in and knowledge of the East India Company and its newly acquired territories in the East Indies, it remains to be seen how the views expressed on this topic clashed with the pre-existing normative conceptions of empire which had been predominantly based on the imperial experience of the Atlantic World. While contemporaries did not often approach the subject of an ‘empire in the East’ as a theoretical subject in and of itself, they did frequently engage in debates upon various aspects of it that happen to correspond to what are widely accepted as the major ideological contours of the British Empire in the mid-eighteenth century. It may be useful, then, to proceed by dissecting the particular ways in which the East India Company’s acquisition of an empire in India challenged the prevailing conceptions of the British Empire as a whole. The remainder of this chapter is an attempt to engage with this issue by following the normative framework, that the British Empire was ‘Protestant, Commercial, Maritime, and Free’ and to analyse various ways in which the debates on the Company’s empire intersected with each of these concepts in turn.

IV. PROTESTANT

At first glance, the religious dimension appears to be the most straightforward, and in some respects this is true. The territories acquired by the Company in Bengal could in no way be considered Protestant. The vast majority of the peoples who were

brought under the Company's rule after 1765 were either Hindu or Muslim. The European population in the Company's presidencies numbered only around 5,000.¹²¹ Immigration and colonisation were actively discouraged and deliberately stymied by the requirement that Britons possess a licence from the Company in order to travel to and reside in their territories. There were also bye-laws in place restricting European ownership of landed property in the East Indies and travel outside of the boundaries of the Company's factories except on official business.¹²² These impediments, of course, were both loosely administered and frequently broken. Nonetheless, they did severely restrict the growth of the European population of these settlements and hindered the creation of what P.J. Marshall described as a 'colonial society.'¹²³ While the Company hired poorly paid chaplains to serve the religious needs of their own employees, it was not until the nineteenth century, as Penelope Carson has

¹²¹ The precise numbers of Europeans in the three presidencies, including the Company's military establishments are notoriously difficult to calculate with estimates ranging from 3,000 to 10,000. See, for instance, the account given by the Company's counsel Elijah Impey and James Adair in 1772, in *Cobbett*, xvii, cols. 653-654; for Boughton Rouse's calculation in 1781 in *Ibid.*, xxi, col. 1202; Henry Vansittart's estimate of 1767 for Bengal only in BL, Add. MS. 18469, f. 9; Warren Hastings's estimate for Bengal only in a letter to Lord Thurlow, 1 February 1786 in Gleig ed., *Memoirs of Hastings*, iii, 260-262. Christopher Bayly reportedly calculated the European population of the Company's presidencies in 1780 at 3-4,000, see Francisco Bethencourt, *Racisms: From the Crusades to the Twentieth Century* (Princeton: Princeton University Press, 2013): 184; see also Linda Colley, *The Ordeal of Elizabeth Marsh: A Woman in World History* (New York: Pantheon Books, 2007): 205; Thomas Curley, *Sir Robert Chambers: Law, Literature, and Empire in the Age of Johnson* (Madison, WI: University of Wisconsin Press, 1999): 175; Holden Furber, *John Company at Work: A Study of European Expansion in India in the Late Eighteenth Century* (Cambridge, MA: Harvard University Press, 1948): 25; P.J. Marshall, *Bengal: The British Bridgehead, Eastern India 1740-1828* (Cambridge: Cambridge University Press, 1987): 103.

¹²² Debendra Nath Banerjee, 'Studies in the Early Governmental System of the Company in Bengal (1765-74),' *BP&P* 54-55 (1937-8): 93-94; Philip Stern, *The Company-State*, 36-38; Archibald Keir, *Thoughts on the Affairs of Bengal* (London, 1772): 42, 44; *The Origin and Cause of the Continuance of the Disorders in our East India Affairs, and the means of restoring* (London, 1772): 18; Philip Francis, *Original Minutes of the Governor-General and Council of Fort William on the Settlement and Collection of the Revenues of Bengal with a Plan of Settlement Recommended to the Court of Directors, January 1776* (London, 1782): ii-iii.

¹²³ P.J. Marshall, 'British Society in India under the East India Company,' *MAS* 31, no. 1 (1997): 89-108; Marshall, 'The White Town of Calcutta under the Rule of the East India Company,' *MAS* 34, no. 2 (2000): 307-331; and Marshall, 'The Whites of British India, 1780-1830: A Failed Colonial Society?' *The International History Review* 12, no. 1 (1990): 26-44; Suresh Chandra Ghosh, *The British in Bengal: A Study of the British Society and Life in the Late Eighteenth Century* (New Delhi: Munshiram Manoharlal, 1998); see also Andrew Otis, *Hicky's Bengal Gazette: The Untold Story of India's First Newspaper* (Chennai: Tranquebar, 2018).

pointed out, that the Company were forced by a strong domestic petitioning campaign, to accept evangelisation as part of their duties in governing India in trust for the British State.¹²⁴ In the earlier period covered by this study, the Company's main contribution to proselytising efforts involved providing free freight to the Society for Promoting Christian Knowledge and allowing their missionaries occasional passage on their ships.¹²⁵ However, during times of war and financial crisis such grants were often refused.¹²⁶

Although proselytising was not at the top of the Company's agenda in the eighteenth century, religion, in general, was still seen as an important aspect of its governance. In fact, both British policy-makers and the Company's servants in India identified religion almost ubiquitously with the customs, manners, and character of the people.¹²⁷ Just as eighteenth-century Britons identified Protestantism with political liberty, they tended to associate Hinduism with indolence and subservience, and Islam with despotism.¹²⁸ It was argued, therefore, that modes of governance ought to 'be adapted to the spirit, the temper, the constitution, the habits, and the manners of the people.'¹²⁹ This was strongly reflected in the debates over the legacy

¹²⁴ Penelope Carson, *The East India Company and Religion, 1698-1858* (Woodbridge: Boydell & Brewer, 2012).

¹²⁵ Minutes of the Court of Directors, 9 December 1772 in BL, IOR/B/88, 325.

¹²⁶ Minutes of the Court of Directors, 2 April 1782 in BL, IOR/B/97, 710.

¹²⁷ Warren Hastings to the Court of Directors, 24 March 1774 in *FWIHC*, vii, 484-485; speeches of Nathaniel Wraxall and Boughton Rouse, 12 February 1781; speech of John Courtenay, *Cobbett*, xxii, col. 558; speech of Edmund Burke, 22 June 1781 in *Cobbett*, xxii, col. 550; Archibald Keir, *Thoughts on the Affairs of Bengal* (London, 1772): 13, 22; *Morning Chronicle*, 6 May 1782.

¹²⁸ See, for instance, Robert Orme, *Historical Fragments of the Mogul Empire, of the Morattoes, and of the English Concerns in Indostan; from the Year M.DC.LIX* (London: F. Wingrave, 1805): 421-431; 'Account of the Manners of the Inhabitants of India within the Ganges, in some measure necessary to the comprehension of the present State of Indostan' in *London Chronicle*, 11 June 1774; speech of Lord Clive, 30 March 1772 in *Cobbett*, xvii, col. 354; [William Chapman], *Essays commercial and political, on the real and relative Interests of imperial and dependent States, particularly those of Great Britain and her Dependencies* (Newcastle: T. Saint, 1777): 115; see also Richard Koebner, 'Despot and Despotism: Vicissitudes of a Political Term,' *Journal of the Warburg and Courtauld Institutes* 14, no. 3/4 (1951): 275-302; Sen, *Distant Sovereignty*, 30.

¹²⁹ Speech of Edmund Burke, [27 June 1781], *Cobbett*, xxii, col. 554; see also Richard Bourke, *Empire and Revolution: The Political Life of Edmund Burke* (Princeton, NJ: Princeton University Press, 2015): chapter 10.

of the Mughal constitution in British policy in Bengal.¹³⁰ Although some feared that governing Bengal by a somehow tempered and regulated form of despotism could corrupt and undermine liberty in Britain itself,¹³¹ there emerged, particularly in the metropolitan debates concerning the appropriateness of imposing English law in Bengal, a growing acceptance in the diversity of the Empire and the peoples who composed it.¹³²

Indeed, in an attempt to, ‘conciliate the Affections of the Natives’, Warren Hastings and his supporters in India sought to ‘investigate the Principles of the [Hindu] Religion.’ This involved the production of an English translation of their major tenets so that ‘by a proper Attention to each Religion, Justice might take place impartially, according to the Tenets of every Sect.’¹³³ When the translation into

¹³⁰ Robert Travers, *Ideology and Empire*, chapters 4-5; Ranajit Guha, *A Rule of Property for Bengal: An Essay on the Idea of Permanent Settlement* (Durham, NC: Duke University Press, 1996): 17; C.A. Bayly, *Imperial Meridian: The British Empire and the World 1780-1830* (London: Longman, 1989): 8-9; Jon Wilson, *Domination of Strangers*, 64; Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor, MI: University of Michigan Press, 2003): 44-52.

¹³¹ Lord Elibank to William Young, 3 May 1777 in A.C. Murray ed., *The Five Sons of Bare Betty* (London: John Murray, 1936): 181; and Arthur Lee to Samuel Adams, 3 December 1773 in Richard Henry Lee ed., *The Life of Arthur Lee, LL.D.* (Boston, MA: Wells and Lilly, 1829), i, 261.

¹³² ‘Statement of the Political and Commercial Relation of Great Britain with the East Indies,’ [c. 1791]; Bruce, *Historical View*, 5-6; see also David Milobar, ‘Quebec Reform, the British Constitution and the Atlantic Empire: 1774-1775,’ in Philip Lawson ed., *Parliament and the Atlantic Empire* (Edinburgh: Edinburgh University Press, 1995): 83; Emma Rothschild, ‘Global Commerce and the Question of Sovereignty in the Eighteenth Century Provinces,’ *Modern Intellectual History* 1 (2004): 11-12; Eliga Gould, ‘Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, circa 1772,’ *WMQ* 60, no. 3 (2003): 471-510; and H.V. Bowen, Elizabeth Mancke, and John G. Reid eds., ‘Introduction’ in *Britain’s Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850* (Cambridge: Cambridge University Press, 2012): 2.

¹³³ Nathaniel Brassey Halhed, *Code of Gentoo Laws* (London, 1777); see also B.B. Misra, *The Central Administration of the East India Company: 1773-1784* (Manchester: Manchester University Press, 1959): 25; Sudipta Sen, ‘Imperial Subjects on Trial: On the Legal Identity of Britons in Late Eighteenth Century India,’ *JBS* 45, no. 3 (2006): 544; and Ballantyne, *Orientalism and Race*, 23. For a discussion of how Halhed’s Bengali grammar (1778) was also an ideological intervention in imperial governance, see Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago, IL: University of Chicago Press, 2008): 212-213; Jon Wilson dismisses Halhed’s *Code* as ‘little more than a piece of propaganda produced within the battles that raged in London during the 1770s about the Company’s government,’ in his ‘Anxieties of Distance: Codification in Early Colonial Bengal,’ *Modern Intellectual History* 4 (2007): 16; equally dismissive is Thomas Curley’s, *Sir Robert Chambers: Law, Literature and Empire in the Age of Johnson* (Madison, WI: University of Wisconsin Press, 1999): 383.

English was complete, the first publication was somewhat misleadingly, entitled *Code of Gentoo Laws*. Indeed, as critics both then and now have been quick to point out, it was less a comprehensive body or treatise of laws than a variety of customs and practices collected and translated from a variety of *pandits* who agreed to share their knowledge and experience.¹³⁴ The diversity of Bengal was further recognised when similar measures were also taken to codify a body of Islamic laws for the use of the Company's servants and the judges of Calcutta's Supreme Court.¹³⁵

There was considerable debate in Britain over proposals to introduce English law to India.¹³⁶ Ostensibly, the reason for establishing a new court of judicature in Calcutta in 1773 was to facilitate the punishment of Company employees accused of peculation or oppression.¹³⁷ However, the extension of English laws and the establishment of a court to apply them also served to more closely align the Company's territories with other parts of the Empire. The idea of imposing these foreign laws on the Hindu and Muslim inhabitants of Bengal was extremely controversial and, as will be discussed in more detail below, became intertwined with concepts of British subjecthood. Charles James Fox declared, and many others agreed, that attempting to impose English laws on the non-Europeans of Bengal would be 'ridiculous and chimerical' since they would clash with 'the customs and religion of India.'¹³⁸ Not attempting to establish English laws in their overseas

¹³⁴ George Costard, *A Letter to Nathaniel Brassey Halhead, Containing Some Remarks on his Preface to the Code of Gentoo Laws lately Published* (Oxford: Clarendon Press, 1777): 1; see also R. Lariviere, 'Justices and *panditas*: Some Ironies in Contemporary Readings of the Hindu Past,' *Journal of Asian Studies* 48 (1989): 758-762; and J. Duncan M. Derrett, 'The Administration of Hindu Law by the British,' *Comparative Studies of Society and History* 4, no. 1 (1961): 10-52.

¹³⁵ Warren Hastings to Samuel Johnson, 7 August 1775; see also speech of Boughton Rouse, 12 February 1781, *Cobbett*, xxi, cols. 1192-1193.

¹³⁶ For the Indian dimensions of this debate, see Curley, *Sir Robert Chambers*, 186-188, 450-451; Lauren Benton, *Law and Colonial Culture: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002): 138-139; and Travers, *Ideology and Empire*, chapter 5.

¹³⁷ Speech of Sir William Meredith, 10 May 1773 in *Cobbett*, xvii, cols. 861.

¹³⁸ Speech of Charles James Fox, 18 November 1783 in *Ibid.*, xxiii, 1204; see also Alexander Macaulay to Lord Lewisham, 8 February 1783 in HMC, *Eleventh Report, Appendix, Part V. The Manuscripts of the Earl of Dartmouth* (London: Her Majesty's Stationery Office, 1897), iii, 261; Alexander Dalrymple, *Considerations on a Pamphlet entitled 'Thoughts on our Acquisitions in the East-Indies, particularly respecting Bengal'*, (London, 1772): 57-58.

possessions, however, would have been a departure from the prevalent view that Britons and British subjects carried with them the laws and rights of their home country and expected to be governed in a similar manner.¹³⁹ In fact, Hastings's pragmatic attempts to codify and administer justice based on British stereotypes of the peculiar nature of the various peoples of Bengal seem to have been far less controversial than proposals for the introduction of English laws into India. This is revealing of the extent to which views on the Empire were changing in response to the acquisition of territorial dominion in India. That the Company's territories did not conform to the ideal of a Protestant empire of settler-subjects forced Britons to come to terms with the new realities of empire, particularly when drafting legislation to bring the Company's territories more closely within the fold of the rest of the Empire.

V. COMMERCIAL

Next, it is necessary to consider whether the Company's territories could be seen as antithetical to the view that the British Empire was commercial in character. On the surface, the answer appears simple. Surely, if any part of the British Empire could be considered to be primarily based on commercial foundations it would be that part actually governed and administered by a chartered company of merchants. Despite the fact that they obtained *de facto* sovereignty over large territories after 1765, Huw Bowen has shown that the Company's commercial character continued to play an important role in its governance.¹⁴⁰ The Company's imports from the East Indies brought a large volume of traffic in goods to London, although it paled in

¹³⁹ John Hyde, *Hyde's Notebooks*, 23 November 1780 in <http://hydebooks.njit.edu/> (Accessed 6 August 2019). My thanks to Andrew Otis for not only digitising this resource but also kindly pointing me to it; see also Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth-Century British Empire* (Oxford: Oxford University Press, 2017): 17; Paul Halliday, *Habeas Corpus: From England to Empire* (Cambridge, MA: Harvard Belknap Press, 2010).

¹⁴⁰ H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006): 187; H.V. Bowen, Margarete Lincoln, and Nigel Rigby eds., *The Worlds of the East India Company* (Rochester: Boydell and Brewer, 2002): xv.

comparison to the much larger volume of transatlantic trade.¹⁴¹ Indeed, the size of the Company's trade is perhaps remarkable only insofar as it was carried by a single trading company and delivered to a single entrepôt, London; whereas the trade with the Americas and West Indies was undertaken by individual merchants and merchant houses dispersed across the major port cities of Britain and the colonies.¹⁴² Despite the limitations of its exclusive trade, it is nonetheless true, however, that many contemporaries considered the Company to be among the most important British commercial concerns.¹⁴³ Its wildly exaggerated territorial revenues were seen to hold out the possibility that their surplus, when transmitted to Britain, could pay off the ever-increasing national debt. The Earl of Chatham described them 'as a kind of gift from heaven.'¹⁴⁴ His colleague, William Beckford, reportedly called upon his fellow parliamentarians to 'Look to the rising sun...your Treasury coffers are to be filled from the East, not from the West.'¹⁴⁵ The frequent description of the Company's

¹⁴¹ Maxine Berg, 'In Pursuit of Luxury: Global History and British Consumer Goods in the Eighteenth Century,' *Past and Present* 182 (2004): 132; H.V. Bowen, 'Sinews of Trade and Empire: The Supply of Commodity Exports to the East India Company During the Late Eighteenth Century,' *Economic History Review* 55, no. 3 (2002): 466-486; Javier Cuenca-Esteban, 'India's Contribution to the British Balance of Payments, 1757-1812,' *Explorations in Economic History* 44, no. 1 (2007): 165; Bowen, *Britain's Oceanic Empire*; P.J. Marshall, *Making and Unmaking of Empires*, 368; Patrick O'Brien, 'European Economic Development: The Contribution of the Periphery,' *Economic History Review* 61 (1988): 3-4, 18; M.E. Yapp, "'The Brightest Jewel": The Origins of a Phrase,' in Kenneth Ballhatchet and John Harrison eds., *East India Company Studies: Papers Presented to Sir Cyril Philips* (Hong Kong: Asian Research Service, 1986): 33.

¹⁴² David Hancock, *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (Cambridge: Cambridge University Press, 1995); Perry Gauci, *Emporium of the World: The Merchants of London, 1660-1800* (London: Continuum, 2007); and Margarette Lincoln, *Trading in War: London's Maritime World in the Age of Cook and Nelson* (New Haven, CT: Yale University Press, 2018).

¹⁴³ Letter 'To the Real Electors of Westminster,' in *The Wit of the Day, or the Humours of Westminster. Being a Complete Collection of Advertisements, Hand-bills, Puffs, Paragraphs, Squibs, Songs, Ballads, &c. which have been written and circulated During the late remarkable Contest for that City* (London, 1784): 75.

¹⁴⁴ Earl of Chatham to the Duke of Grafton, 7 December 1766 in Anson, ed., *Grafton Autobiography*, 110-111.

¹⁴⁵ George Colebrooke, *Retrospection: Or Reminiscences Addressed to My Son Henry Thomas Colebrooke* (London: Bradbury, Agnew, & Co., 1898), i, 108. While this reference from Colebrooke bears slightly the appearance of hearsay, it is corroborated in a letter from Edward Hooper to James Harris, 27 November 1766 in Earl of Malmesbury ed., *A Series of Letters of the First Earl of Malmesbury, His Family and Friends from 1745 to 1820* (London: Richard Bentley, 1870), i, 147.

territories as ‘the brightest jewel’ in the monarch’s diadem is a strong reflection of the importance placed upon them by contemporaries as well as the extent to which they were seen as a ‘national’ or ‘public’ resource.¹⁴⁶ By the 1770s, it was also increasingly recognised that the only means by which the Company could transmit the surplus revenues to Britain without effectively ‘draining’ Bengal of specie was through increasing the amount of goods imported into Britain.¹⁴⁷ Thus, the Company’s commerce was always seen as a vital element of its contribution to the Empire, even after it obtained territorial sovereignty in Bengal. Following the loss of the American colonies, the East India Company became seen as Britain’s ‘last great stake’ and its ‘principal remaining source of wealth and power.’¹⁴⁸ As Thomas Pownall reported, ‘people now at last begin to view those Indian affairs, not simply as beneficial appendages connected to the Empire; but from the participation of their

Beckford also used similar language in a letter to Chatham, see William Beckford to the Earl of Chatham, 15 October 1766, in TNA, Chatham Papers, PRO 30/8/19, f. 91.

¹⁴⁶ Letter signed ‘Veridicus’ in *Public Advertiser*, 10 April 1772; letter signed ‘Antonius’ in *Public Advertiser*, 31 August 1772; letter ‘to Lord North’ signed ‘Brunswick’ in *Public Advertiser*, 27 November 1772; ‘The Origin and Causes of the Continuance of the Disorders in our East India Affairs, and the Means of Restoring them’ in *London Chronicle*, 7 January 1773; letter ‘To the Proprietors of India Stock’ in *London Courant*, 26 February 1780; speech of Charles James Fox, [ca. 15 April 1782] in *Cobbett*, xxii, col. 1285; speech of the Earl of Upper Ossory, [11 November 1783] in *Ibid.*, xxiii, col. 1136; speech of Thomas Powys, 1 December 1783 in *Ibid.*, col. 1312; letter ‘To Sir Henry Fletcher, Bart.’ signed ‘An Old Proprietor,’ in *Gazetteer and New Daily Advertiser*, 10 March 1782; Joseph Price, *Five letters from a free merchant in Bengal to Warren Hastings, esq.* (London, 1783): 2. See also M.E. Yapp, ‘“The Brightest Jewel,”’ 32-56; and Tillman Nechtman, ‘A Jewel in the Crown?’, 71-86.

¹⁴⁷ On the ‘drain’ of wealth from Bengal, see Om Prakash, ‘The English East India Company and India,’ in Bowen, Lincoln, and Rigby eds., *Worlds of the East India Company*, 11; Christopher Bayly, *Indian Society and the Making of the British Empire* (Cambridge: Cambridge University Press, 1988): 45-47; Robert Travers, ‘British India as a Problem in Political Economy: Comparing James Steuart and Adam Smith,’ *Proceedings of the British Academy* 155 (2009): 137-160; Javier Cuenca-Esteban, ‘India’s Contribution to the British Balance of Payments, 1757-1812,’ *Explorations in Economic History* 44, no. 1 (2007): 158; Rajat Datta, ‘The Commercial Economy of Eastern India Under Early British Rule,’ in Bowen, Mancke, and Reid eds., *Britain’s Oceanic Empire*, 367; and Rama Dev Roy, ‘Some Aspects of the Economic Drain from India During the British Rule,’ *Social Scientist* 15, no. 3 (1987): 39-47. On specie in particular, see James Steuart, *The Principles of Money Applied to the Present State of the Coin of Bengal* (London, 1772).

¹⁴⁸ *Annual Register* (1781): 192; ‘A Member of Parliament,’ *Review of the Question Concerning the Government of the British Possessions in India: with the heads of a plan proposed*. (London: J. Robson, [1784?], 18; John Scott, *Two Letters to the Rt Hon. Edmund Burke in Reply to the Insinuations and Palpable Misrepresentations, in a Pamphlet Entitled the Ninth Report from the Select Committee* (London, 1783): 5.

revenues being wrought into the very composition and frame of our finances.’ Loss of the Company’s territories and commerce, he claimed, would ‘necessarily involve with its fall, the ruin of the whole edifice of the British Empire.’¹⁴⁹

Despite the general perception of the importance of the Company’s commerce, it came under increasing criticism that its acquisition of territories had undermined its commercial character.¹⁵⁰ The Company’s monopoly privileges had always been attacked as anti-commercial and these criticisms continued unabated throughout this period.¹⁵¹ However, after the Company acquired territorial sovereignty in Bengal it also became widely criticised for exceeding its chartered status as a mercantile corporation. Critics frequently argued that the Company’s charter only granted it a monopoly of the *trade* to the East Indies and that it said precious little about territorial governance.¹⁵² Although the Directors of the Company repeatedly claimed that they did not desire ‘conquest and power’ and that they only pursued their commercial interest, MPs expressed concerns that the territorial revenues could ‘lessen the Spirit of Trade in the Company.’¹⁵³ In many ways the acquisition of the revenues of Bengal did undermine the Company’s status

¹⁴⁹ Thomas Pownall, *The Right, Interest and Duty of Government, as Concerned in the Affairs of the East Indies*. Revised ed. (London, 1781): 4.

¹⁵⁰ H.V. Bowen, *Business of Empire*, 8.

¹⁵¹ See, for instance, ‘India Affairs’ signed ‘Algernon Sidney’ in *St. James’s Chronicle or the British Evening Post*, 25 December 1781; William Macintosh, *Travels in Europe, Asia and Africa...* (London: J. Murray, 1782): 222; see also William B. Todd ed., *The Glasgow Edition of the Works and Correspondence of Adam Smith, Vol. 2: An Inquiry into the Nature and Causes of the Wealth of Nations, Vol. 2* (Oxford: Oxford University Press, 1976): 630-641; Gary M. Anderson and Robert D. Tollison, ‘The Economic Organization of the English East India Company,’ *Journal of Economic Behaviour and Organization* 4 (1983): 221-238; Sankar Muthu, ‘Adam Smith’s Critique of International Trading Companies: Theorizing Globalization in the Age of Enlightenment,’ *Political Theory* 36 (2008): 185-212.

¹⁵² *Annual Register* (1773): 66-67; *Annual Register* (1784-5): 62; speech of John St. John, [June 1773], in BL, Egerton MS 250, f. 166; speech of Lord North, 27 November 1783 in *Cobbett*, xxiii, col. 1284; Thomas Walpole to the Earl of Chatham, 9 September 1766 in Taylor and Pringle eds., *Chatham Correspondence*, iii, 62; ‘A Member of Parliament,’ *Review of the Question Concerning the Government of the British Possessions in India: with the heads of a plan proposed* (London: J. Robson, 1784): 13; and Andrew Stuart, *Considerations on the Present State of East-India Affairs by a Member of the Last Parliament* 2nd ed. (London: John Stockdale, 1784): 13.

¹⁵³ See for example, the examination of Zephaniah Holwell, 30 March 1767 and Thomas Rous, 10 April 1767 in BL, Add. MS 18469, f. 71.

as a commercial enterprise. Whereas previously it had been forced to purchase goods from Bengal with bullion shipped from Britain; after it had acquired the *diwani*, the Company was able to use the excess of the territorial revenues of Bengal to supplement their investment.¹⁵⁴ Furthermore, it was in this period that the Company first began experimenting with the idea of supplying China ‘with commercial articles instead of bullion’ to pay for their home imports, primarily tea.¹⁵⁵ While this may have quieted the arguments of mercantilists who decried against the export of bullion, it was widely viewed as undermining the extent to which the Company could be seen as traders, in the true sense of the term.¹⁵⁶ The Company had been transformed from an adventurous and enterprising mercantile corporation into an oppressive and extractive rentier.

Adam Smith developed this argument further, juxtaposing the circumstances of traders and sovereigns. He argued that:

*[n]o two characters seem more inconsistent than those of the trader and the sovereign. If the trading spirit of the English East India Company renders them very bad sovereigns; the spirit of sovereignty seems to have rendered them equally bad traders. While they were traders only, they managed their trade successfully, and were able to pay from their profits a moderate dividend to the proprietors of their stock. Since they became sovereigns, with a revenue which, it is said, was originally more than three millions sterling, they have been obliged to beg the extraordinary assistance of government in order to avoid immediate bankruptcy.*¹⁵⁷

¹⁵⁴ *Ninth Report of the Select Committee*, 25 June 1783 in Marshall ed., *Writings and Speeches of Burke*, v, 223; Bayly, *Indian Society*, 35, 51; Bowen, *Business of Empire*, 222-228; Marshall, *Bengal: The British Bridgehead*, 105.

¹⁵⁵ Richard Barwell to Robert Gregory, 26 February 1773 in Sutherland ed., *Barwell Letters*, ii, 36. See also, Connors, ‘Storm in a Tea-Cup,’ in Henderson and Robicheau eds., *Nova Scotia Planters*, 180-202; and H.V. Bowen, ‘Tea, Tribute and the East India Company, c. 1750-c.1775,’ in Taylor, Connors, and Jones eds., *Hanoverian Britain and Empire*, 160-176; Richard Connors, ‘Opium and Imperial Expansion,’ in *Ibid.*, 249-262.

¹⁵⁶ On critics of the Company’s export of bullion in mid-century, see Bob Harris, *Politics and the Nation: Britain in the Mid-Eighteenth Century* (Oxford: Oxford University Press, 2002): 117.

¹⁵⁷ Adam Smith, *Wealth of Nations*, ii, 819.

Smith was not alone in wondering how such an apparently profitable mercantile corporation could be so woefully mismanaged as to sink into bankruptcy.¹⁵⁸ An anonymous pamphleteer argued strenuously that placing ‘imperial jurisdiction in a trading company implies a monstrous contradiction of contending and irreconcilable principles from which the worst kind of tyranny must necessarily result. The sole principle of a commercial company is *gain*; and the sole principle of every just government ought to be *to secure the prosperity of the people governed*.’ The same author predicted that commercial gain would always prevail over the necessary duties of such a government.¹⁵⁹ The imperial theorist Thomas Pownall summed up these arguments, stating in his famous phrase, that the ‘first origin of the evil is, *that the merchant is become the sovereign*.’¹⁶⁰

On the other hand, William Pitt the Younger and others challenged the claim that commercial companies could not govern empires, despite the view being almost ‘universally admitted in theory’. They pointed out that, in practice, the Company had succeeded not only in acquiring territories in India but also had successfully defended them from a variety of enemies during the American Revolutionary War.¹⁶¹ They claimed, as a result, that the Company’s government had actually been more successful than the North ministry’s governance of the rest of the Empire, which had faced severe losses on the North American mainland and in the Caribbean.

¹⁵⁸ Letter ‘To the Committee appointed to examine into East India Affairs’ signed ‘Candor’ in *Public Advertiser*, 7 May 1772; Letter signed ‘Nemesis’ in *Public Advertiser*, 19 March 1772; examination of Zephaniah Holwell, 30 March 1767 in BL, Add. MS. 18469, f. 12.

¹⁵⁹ *The True State of the Question* (London, 1784): 25.

¹⁶⁰ Thomas Pownall, *The Right, Interest, and Duty of Government, as Concerned in the Affairs of the East Indies* (London, 1781): 3.

¹⁶¹ Speech of William Pitt, 6 July [1784] in *Cobbett*, xxiv, col. 1090; see also speech of George Johnstone, 16 April 1777 in *Cobbett*, xix, col. 157; letter ‘To the Proprietors of East-India Stock’ signed ‘Nemo’ in *Gazetteer and New Daily Advertiser*, 2 September 1772; letter signed ‘A Looker-On’ in *St. James’s Chronicle or the British Evening Post*, 20 July 1775; letter ‘To the People of England’ signed ‘A Lover of Truth’ in *Public Advertiser*, 2 December 1783; George Rous, *The Restoration of the King of Tanjore Considered* (London, 1777): 1; and John Dalrymple, *The Proper Limits of the Government’s Interference with the Affairs of the East India Company* (London, 1784): 21.

Nonetheless, the repeated financial crises afflicting the Company undermined the strength of arguments that it was by itself competent to govern a territorial empire in India. The Company's financial precarity, alongside the continued belief that the profits from its territorial revenues in Bengal could prove to be the salvation of Britain's public finances, led to increasing calls for state intervention to reform and superintend its affairs. Commerce, it was commonly argued, had to be separated from the governance of the Company's territorial acquisitions.

VI. MARITIME

The very fact that the East India Company had engaged in a project of territorial empire appeared to contradict another one of the prevailing conceptions of Britain's Empire that was supposed to have distinguished it from those of its continental rivals. The British Empire was idealised as being based primarily on maritime connections, defended by its dominance of the seas through a strong navy rather than by the militarism and despotism associated with standing armies. In the wake of the Seven Years' War and the conquest of Quebec, British policymakers were already struggling to come to terms with the fact that they had acquired an extensive territorial empire in America, and one that, many believed, would require a standing army to secure it from foreign invasion.¹⁶² Unlike the proposals for a defensive force stationed in North America, however, the East India Company's acquisition of territories appeared to hold out the prospect of embroiling the metropole in ever-increasing military campaigns for territorial expansion on the subcontinent.¹⁶³

¹⁶² Charles Jenkinson to the Earl of Bute [4 March 1763], Bodleian Library, North MSS, b. 6, ff. 95-99; John Bullion, "'The Ten Thousand in America': More Light on the Decision on the American Army, 1762-1763," *WMQ* 43, no. 4 (October 1986): 646-657; John Bullion, 'Security and Economy: The Bute Administration's Plans for the American Army and Revenue, 1762-1763,' *WMQ* 45, no. 3 (1988): 499-509; and P.D.G. Thomas, 'The Cost of the British Army in North America, 1763-1775,' *WMQ* 45, no. 3 (1988): 510-516.

¹⁶³ See, for instance, Philip Francis to Lord North, 23 April 1778 in BL, Add. MS. 61865, f. 52; Sir Robert Chambers to [Charles Jenkinson], 28 January 1780 in BL, Add. MS. 38404, f. 50, 52; Sir Robert Chambers to Charles Jenkinson, 16 October 1780 in *Ibid.*, f. 228; Richard Price, *Observations on the Nature of Civil Liberty: The Principles of Government and the Justice and Policy of the War*

Expansion, it was argued, would come at such an ‘expence of *blood and treasure*’ as would plunge ‘the Company’s mercantile concerns...into every species of distress and difficulty.’¹⁶⁴ Far from this being merely speculative, however, Henry Dundas’s secret committee in 1782 accused Warren Hastings and other governors in India of directly disobeying the orders of the Company’s directors which had consistently urged the restriction of military operations by its overseas servants. These accusations resulted in the passage of a series of motions in the House of Commons, stipulating that ‘to pursue schemes of conquest and extent of dominion, are measures repugnant to the wish, the honour, and policy of this nation’. Moreover, they called upon the Company’s directors to recall those who had been accused of breaching their orders.¹⁶⁵ The Company, then, was seen as dragging the British state into unwanted territorial expansion on the Indian subcontinent in direct contradiction to the still-favoured ‘blue-water’ policy of successive British governments.¹⁶⁶ It was, therefore, imperative in the eyes of statesmen like Dundas, to obtain a strong degree of government supervision over the Company’s affairs.

The major links connecting Britain with India in the eighteenth century were, of course, predominantly maritime. The East India Company, however, possessed few ships of its own, choosing instead to rent them from private companies, many of which were owned and built by its major stockholders.¹⁶⁷ In the Company’s defence, it was argued that it contributed to Britain’s naval strength by providing an alternative ‘nursery for seamen’ to that of the North Atlantic commerce and

with America (London, 1776): 39. On British imperial expansion in India, see P.J. Marshall, ‘British Expansion in India in the Eighteenth Century: A Historical Review,’ *History* 60, no. 198 (1975): 28-43.

¹⁶⁴ J.Z. Holwell, *Thoughts on East-India affairs, most humbly submitted at this critical conjuncture, to the consideration of the legislature, and the proprietors of East-India Stock. By a quondam servant of the Company* (London, 1784): 30.

¹⁶⁵ Speech of Henry Dundas, 15 April 1782 in *Cobbett*, xxii, cols. 1292, 1302.

¹⁶⁶ Daniel Baugh, ‘Great Britain’s “Blue-Water” Policy, 1689-1815,’ *International History Review* 10, no. 1 (1988): 33-58.

¹⁶⁷ Jean Sutton, *Lords of the East: The East India Company and its Ships* (London: Conway Maritime Press, 1981): chapter 1.

fisheries.¹⁶⁸ A paper in the possession of Sir Gilbert Elliot estimated that the Company in the early 1770s, engaged ‘about ninety sail of large ships...employing nine thousand seamen’ which he considered to be a ‘prodigious Branch of the Naval Strength of the Kingdom.’¹⁶⁹ The Company’s role in providing employment for a body of experienced sailors became all the more necessary upon the loss of the American colonies, whereby, at least theoretically, only the sailors from British vessels engaged in transatlantic trade could be impressed into the service of the Royal Navy.¹⁷⁰ Others, however, expressed scepticism on this issue. One pseudonymous writer claimed that ‘the East and West Indies, and Africa, from the heat of their climate, enervate and destroy our seamen.’¹⁷¹ John Courtenay raised the issue in Parliament, asserting that ‘the commerce of the Company was rather prejudicial to the maritime strength of Britain’ since ‘not above a third of the sailors sent out to India ever returned, and most of them so debilitated and worn out, that they were rarely fit for any other service.’¹⁷² These figures, however, were almost

¹⁶⁸ On the political and strategic importance of the North Atlantic fisheries, see Christopher P. Magra, *The Fisherman’s Cause: Atlantic Commerce and the Maritime Dimensions of the American Revolution* (Cambridge: Cambridge University Press, 2009): esp. 217; Renaud Morieux, ‘Anglo-French Fishing Disputes and Maritime Boundaries in the North Atlantic, 1700-1850,’ in Peter C. Mancall and Carole Shammas eds., *Governing the Sea in the Early Modern Era* (San Marino, CA: Huntington Library, 2015): 41-75; and Bob Harris, ‘Patriotic Commerce and National Revival: The Free British Fishery Society and British Politics, c. 1749-58,’ *EHR* 114 (1999): 285-313.

¹⁶⁹ ‘The Advantages Accruing to the Nation in General from the Trade and Possessions of the East India Company are various and Extensive,’ NLS, Minto Papers, MS 11041, f. 7. Similar sentiments can be found in a [Plan for settling the Affairs of the East India Company, ca. 1780] in BL, Liverpool Papers, Add. MS. 38404, f. 64; and speech of Edmund Burke, 13 April 1772 in *Cobbett*, xvii, col. 463. Huw Bowen, however, estimated that the directors dispatched twenty-five ships from London per year in the 1760s, manned by 2,500 officers and crew. If we assume, therefore, that there were the same or a similar number making the simultaneous return journey, that places the Company’s active fleet at closer to 5,000 crew and 50 ships. See Bowen, *Business of Empire*, 269.

¹⁷⁰ Holwell, *Thoughts on East-India affairs*, 34-35. On naval impressment, see Keith Mercer, ‘Resistance to Naval Impressment in British North America, 1775-1815,’ *Canadian Historical Review* 91, no. 2 (2010): 200-232; Christopher P. Magra, *Poseidon’s Curse: British Naval Impressment and the Atlantic Origins of the American Revolution* (Cambridge: Cambridge University Press, 2016); Nicholas Rogers, *The Press Gang: Naval Impressment and its Opponents in Georgian Britain* (London: Continuum, 2007); Denver Alexander Brunsmann, *The Evil Necessity: British Naval Impressment in the Eighteenth-Century Atlantic World* (Charlottesville, VA: University of Virginia Press, 2013).

¹⁷¹ *Gazetteer and New Daily Advertiser*, 10 December 1779.

¹⁷² Speech of John Courtenay, 10 August [1784] in *Cobbett*, xxiv, col. 1340.

certainly exaggerated. Although the Company's naval service was not quite the 'grave of the British marine' as opponents of the slave trade referred to that controversial branch of Britain's maritime Empire, the relatively high mortality rates in its service rendered it, at best, a rather uncertain naval nursery.¹⁷³

The Company's territories also seemed to interfere with Britain's blue-water strategy for defence and commercial success. Even George III pointed out that 'distant territorial possessions...held by precarious Tenure,' such as those in Bengal, lacked sufficient internal resources to repel a strong European force, and could only be preserved 'by means of a superior Navy.'¹⁷⁴ By relying on the Royal Navy for protection, the Company's territories, at a sailing distance of over 15,000 miles, drew upon resources that some observers felt ought to have been used to protect shipping lanes in other parts of the Empire.¹⁷⁵ Moreover, the large ships commissioned by the Company, known as East Indiamen, were built primarily for trade rather than war. Their regular rotation and construction was widely accused of needlessly depleting Britain's timber which was desperately needed to furnish new ships for the navy.¹⁷⁶ It was, therefore, often difficult for contemporaries to reconcile the Company's acquisition of a territorial empire in India with a predominantly maritime conception of the British Empire.

¹⁷³ David Macpherson, *Annals of Commerce, Manufactures, Fisheries, and Navigation...* 4 vols. (London, 1805), iv, 152; John Clark, *Observations on the Diseases in long Voyages to hot Countries, and particularly on those which prevail in the East Indies* (London: Wilson and Nicol, 1773); see also Robert Travers, 'Death and the Nabob: Imperialism and Commemoration in Eighteenth-Century India,' *Past and Present* 196 (2007): 83-124.

¹⁷⁴ John Bullion ed., 'George III on Empire, 1783,' *WMQ* 51, no. 1 (April 1994): 306-307; see also the examination of Zephaniah Holwell, 30 March 1767 in BL, Add. MS. 18469, ff. 14-15; Colebrooke, *Retrospection*, i, 138-139; Mickle, *A Candid Examination of the Reasons for Depriving the East-India Company of its Charter...* (London, 1779): 17.

¹⁷⁵ Walpole, *Last Journals*, i, 3; John Robinson to Lord North, 18 March 1778 in Eridge Park, Robinson Papers, No. 176; for the contrary view, that the naval reinforcements to the East Indies were 'perfectly inadequate' see Henry Dundas to Charles Jenkinson, 27 August 1781 in BL, Liverpool Papers, Add. MS. 38192, ff. 16-17.

¹⁷⁶ William Wells to the Earl of Sandwich, 20 February 1771 in G.R. Barnes and J.H. Owen eds., *The Private Papers of John, Earl of Sandwich, First Lord of the Admiralty 1771-1782* (London: Navy Records Society, 1932), i, 16-17; Lord North to the Earl of Sandwich, 5 September 1772 in *Ibid.*, 21-22; speech of the Earl of Sandwich, 2 March 1778 in *Cobbett*, xix, cols. 827-828; on the construction of East Indiamen, see Sutton, *Lords of the East*, chapter 3; *English Chronicle*, 4 November 1783.

VII. FREE

The prevailing contemporary view of the British Empire as being comprised of free British subjects enjoying political systems broadly analogous to that of the metropole, was fundamentally challenged by the Company's territorial expansion. This normative imperial identity, based primarily on the concept of political liberty, as described in the works of Kathleen Wilson, Jack Greene, and Richard Koebner, among others, was clearly already at odds with the realities of plantations in the West Indies and North America which relied heavily on the transatlantic slave trade. The works of Richard Allen have also shed considerable light on the relatively neglected aspect of the East India Company's participation in the slave trade as well as its use of forced migration and labour in the Indian Ocean region.¹⁷⁷ The focus of this section, however, will be on the complex issue of subjecthood in the Company's territories, which has attracted attention in recent years.¹⁷⁸

Questions of subjecthood in the Company's territories were inextricably bound together with those of sovereignty. The failure or unwillingness of Parliament to come to a decision on the sovereign status of the Company's territories before 1813 was partly responsible for the lack of clarity concerning the subject status of their diverse populations.¹⁷⁹ Despite the prevalence in the press of claims that the Company's territories formed a part of the British Empire, the question of whether

¹⁷⁷ Richard Allen, 'European Slave Trading, Abolitionism, and "New Systems of Slavery" in the Indian Ocean,' *Journal of Multidisciplinary International Studies* 9, no. 1 (January 2012): 1-21. See also, Andrea Major, *Slavery, Abolitionism and Empire in India, 1772-1843* (Liverpool: Liverpool University Press, 2012).

¹⁷⁸ Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth Century British Empire* (Oxford: Oxford University Press, 2017); Hannah Weiss Muller, 'Bonds of Belonging: Subjecthood and the British Empire,' *JBS* 53, no. 1 (2014): 29-58; Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010): 30, 288; and Lauren Benton, 'Colonial Law and Cultural Difference: Jurisdictional Politics and the Formation of the Colonial State,' *Comparative Studies in Society and History* 41, no. 3 (1999): 563-588. See also Paul Halliday, 'Laws' Histories: Pluralism, Pluralities, Diversity,' in Lauren Benton and Richard J. Ross eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013): 270.

¹⁷⁹ See 53 Geo. III, c. 155 in *A Collection of Charters and Statutes relating to the East India Company* (London: George Eyre and Andrew Strahan, 1817): 1130; Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 36, 149.

the Company's territories *legally* fell under the jurisdiction of the British Crown was, for a variety of reasons, left unsettled.¹⁸⁰ The Crown appeared to have reserved its sovereignty over the Company's territories in the charters it had granted since the beginning of the eighteenth century and Parliament acted, as it had in other imperial contexts following the Seven Years' War, as though it possessed an undisputed imperial sovereignty. In this frame of mind, it passed North's Regulating Act in 1773, which attempted to bring the Company's territories at least partially into line with other constituent parts of the British Empire. This legislation also erected a Supreme Court of Judicature in Calcutta, replete with Crown-appointed judges, which was ostensibly designed to provide fast access to justice against wayward Company employees.¹⁸¹ However, due to the cultural and religious diversity in Calcutta and Bengal, the Court was faced with cases involving the majority Muslim and Hindu inhabitants, many of whom had little or no direct connection to the Company as a commercial body. In defining the jurisdiction of the court, the legislation attempted to distinguish between 'British Subjects' and the 'natives of India'.¹⁸² The only ways in which the so-called 'natives of India' could be amenable to the jurisdiction of the newly-created court is if they were employed, directly or indirectly, by the East India Company or any British Subject, or if they voluntarily submitted their case to the Court.¹⁸³ The court's jurisdiction was, therefore, by statute, in no way strictly commensurable with British subjecthood.

¹⁸⁰ For a more detailed examination of this problem, see chapter 3 of this dissertation.

¹⁸¹ See, for instance, the Speech of Sir William Meredith, 10 May 1773 in *Cobbett*, xvii, col. 861. Robert Chambers to Lord North [1776], cited in Curley, *Sir Robert Chambers*, 186; debate of 3 June [1773] in BL, Egerton MS 249, f. 263.

¹⁸² Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 24, 109. See also the Charter of the Supreme Court of Judicature in Calcutta, 26 March 1774 in *The Rules and Orders of the Supreme Court of Judicature at Fort William in Bengal, with the Charter of Justice, and the Several Statutes Relating to the Court, down to the 7th Geo. IV. Charter 37th, Inclusive. To which are Added Notes of Decisions of the Court, on Points of Practice* (Calcutta: Samuel Smith and Co., 1829): 143-144. This distinction was further solidified in the instructions sent by the Company's Court of Directors to their employees in Bengal, see Court of Directors to the Governor General and Supreme Council of Bengal, 29 March 1774 in *FWIHC*, vii, 56.

¹⁸³ Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 24, 88-89.

As Weiss Muller has recently described, the uncertain and undefined categories of ‘British Subject’ and ‘native of India’ as well as the difficulty in determining precisely who was either directly or indirectly ‘employed’ by the Company, or by individual British Subjects, left Calcutta’s judges with a vast amount of discretion in determining the extent of the court’s jurisdiction.¹⁸⁴ However, by conflating the category of becoming amenable to the Court’s jurisdiction with the status of British subjecthood, Weiss Muller oversimplifies some of the crucial peculiarities of subject status in the Company’s territories in order to render them more commensurable with the other parts of the British Empire analysed in her work. As Paul Halliday argued, ‘[p]lace—distance, topography, territorial bounds of different degrees of clarity—conditioned how relationships of sovereignty and subjecthood played out in empires.’¹⁸⁵ In no context is this clearer than in the Company’s ill-defined territories in India. Among its many idiosyncrasies was the Company’s not entirely implausible argument that it held only *de facto* sovereignty of Bengal as an officeholder of the Mughal Emperor, and therefore that the non-European inhabitants of the Company’s provinces were subjects of the Mughal Emperor.¹⁸⁶

The lack of clarity concerning the issue of subjecthood in British legislation on India reflected the contested nature of the place of the Company’s territories within the British Empire. Perhaps more importantly, it was also a result of ongoing metropolitan debates over how far subjecthood ought to extend to the non-European inhabitants of the Company’s territories. These debates were taking place at precisely the same time that the Calcutta judges were utilising their discretion to expand the jurisdiction of their Court. What is clear, however, is that, when it came to subjecthood in the Company’s territories, Britons struggled to find a balance

¹⁸⁴ Weiss Muller, *Subjects and Sovereign*, 168.

¹⁸⁵ Halliday, ‘Laws’ Histories,’ 270.

¹⁸⁶ J.Z. Holwell, *Thoughts on East-India affairs*, 48; letter signed ‘Asiaticus’ in *London Courant*, 11 April 1781; *A Speech intended to have been spoken at the general court of the East-India Company, on Friday the 28th of May, 1779, on opening the trade* (London: J. Bew, 1779): 37-38; Bruce, *Historical View*, 346.

between what Frederick Cooper has called ‘the poles of incorporation...and differentiation’;¹⁸⁷ in other words, there was a distinction made between those who could partake in the liberties and benefits associated with the ‘rights of free-born Englishmen’ and those who did not (or perhaps could not) fall under this category and, therefore, even in the views of the most humanitarian of British political commentators, ought to be treated in accordance with their own customs, manners, habits, and prejudices.¹⁸⁸

William Bolts opened his influential 1772 work, *Considerations on India Affairs* with a discussion of subjecthood. His work drew attention to the Company’s oppressive and despotic behaviour not only towards the non-European inhabitants but also the relatively small body of British and other Europeans in Bengal who were not in the Company’s employ.¹⁸⁹ He argued that:

*the attention of the Legislature of this kingdom should be awakened to the concerns of British subjects in the East Indies, which, notwithstanding all that has been said or written concerning India affairs, seem to have lain neglected, as if those distant individuals were not members of the same body-politic, or did not deserve the care of the mother-country, while this government as yet received every advantage it chooses from them as subjects.*¹⁹⁰

Bolts, unlike many of his contemporaries, was remarkably transparent when defining what he meant by subjecthood. He made it clear that, ‘in speaking of British subjects, we would be understood to mean his Majesty’s newly-acquired Asiatic

¹⁸⁷ Frederick Cooper, *Colonialism in Question*, 154.

¹⁸⁸ Speech of Edmund Burke, 27 June 1781 in *Cobbett*, xxii, col. 554; speech of Lord North, 9 April 1781 in *Ibid.*, col. 112; speech of Charles William Boughton Rouse, 12 February 1781 in *Cobbett*, xxi, cols. 1192-1193. On the use of the term humanitarian, which emerged in the nineteenth century, see Renaud Morieux, *The Society of Prisoners: Anglo-French Wars and Incarceration in the Eighteenth Century* (Oxford: Oxford University Press, 2019): 77 n.3; and Matthew Hilton, ‘History and Humanitarianism: A Conversation,’ *Past & Present* 241, no. 1 (2018): e1-e38.

¹⁸⁹ See, for instance, the letter signed ‘An Enemy to East-India Oppression’ in *Gazetteer and New Daily Advertiser*, 26 March 1772; Ralph Leycester to Warren Hastings, 12 March 1772 in BL, Hastings Papers, Add. MS. 29133, f. 72; these views are corroborated in John Caillaud to Warren Hastings, 27 March 1772 in BL, Hastings Papers, Add. MS. 29133, ff. 90-91; and Marquess of Rockingham to Charles Turner, [c. 7 April 1772] in Sheffield Archives, Rockingham Papers, WWM/R/1/1402.

¹⁹⁰ William Bolts, *Considerations on India Affairs* (London, 1772): iii.

subjects, as well as the British emigrants residing in India.’¹⁹¹ He was far from alone, however, in outlining such an expansive conception of British subjecthood. In the months and years following the publication of his book, many letters, paragraphs, and pamphlets appeared in the press, some explicitly corroborating his views, others simply agreeing that a trading Company ought not to be given the right to govern over ‘so many millions of people, subjects to the Crown of Great Britain (as the native inhabitants of those countries all really are).’¹⁹² Another challenged his fellow Britons on their commitment to the principle of political liberty, wondering how anybody could oppose East India reform, ‘unless they would exclude Asiatics from a participation of those blessings enjoyed by other subjects of the British empire.’¹⁹³ Many of those advocating the extension of subjecthood to the non-European inhabitants of Bengal also suggested that the Company’s territories be transferred to the Crown. Subjecthood under the British Crown, it was argued, ‘would create an affection and attachment’ that would ‘render our possessions in that country as permanent as any one part of the British empire.’¹⁹⁴ They also tended to tie the issue of subjecthood closely with the extension of English law to Bengal. ‘Give them the Benefit of our English Laws’ declared one commentator, ‘they will soon feel themselves happy in being English Subjects.’¹⁹⁵ The establishment of “[t]rials by Jury, and wafting over to them every Benefit of English Subjects’, so the argument ran, was the only reliable method of ‘conciliating the[ir] Affections.’¹⁹⁶ As we have seen, the idea of imposing English law on Bengal was extremely controversial, and it

¹⁹¹ *Ibid.*, iv.

¹⁹² Letter to ‘Mr. Miller’ signed ‘Honestus’ in *London Evening Post*, 28 July 1772; see also *A Speech intended to have been spoken at the general court of the East-India Company, on Friday the 28th of May, 1779, on opening the trade* (London: J. Bew, 1779): 28-33; and William Knox, *The Present State of the Nation: Particularly with respect to its Trade, Finances, &c. &c. Addressed to the King and both Houses of Parliament* 3rd ed. (London: J. Almon, 1768): 85-89; Letter ‘To Lord North’ signed ‘Surena’ in *Public Advertiser*, 7 December 1772.

¹⁹³ Letter signed ‘No Party Man’ in *Morning Chronicle*, 2 August 1773.

¹⁹⁴ Speech of Alexander Wedderburn, 21 March 1780 in *Cobbett*, xxi, col. 318.

¹⁹⁵ Letter ‘To the Proprietors of India Stock’ signed ‘Brunswick’ in *Public Advertiser*, 1 September 1772.

¹⁹⁶ Letter ‘To Lord North’ signed ‘Brunswick’ in *Public Advertiser*, 27 November 1772. Emphasis in original.

was upon this point that opinions on subjecthood were most heavily contested. In fact, during the decade following North's Regulating Act, the initial optimism concerning the extension of English laws and subjecthood to the non-European inhabitants significantly faded in light of repeated challenges.

Some of the challenge came from those who argued that English laws could not be imposed upon the non-European inhabitants without dramatically clashing with the customs and manners associated with their climate and religion.¹⁹⁷ Others felt more strongly that the non-European inhabitants were in fact 'not capable of enjoying that degree of freedom' provided by English law. The suggestion, then, was that they ought to be governed in the same manner as they had been under 'the wisest and best of their own princes.'¹⁹⁸ George Johnstone, whose West Indian connections have been revealed in the work of Emma Rothschild, was equally sceptical about the extent to which 'liberty' could be 'communicated to the subjects under our dominions in the East Indies at once.'¹⁹⁹ He argued that 'communicating freedom to men, that are not prepared to receive it...is like letting in the light upon those who have long been confined in a dungeon.'²⁰⁰ In outlining a position reminiscent of the 'apprenticeship' of former slaves following abolition in the 1830s, Johnstone argued that Britain's Indian subjects ought only to possess the 'degree of freedom and regular protection' as their situation would admit.

To illustrate the confusion caused by this issue, consider the contradictory views of another pamphleteer, who argued that 'the power of the English government, and the freedom of native juries, are two things that cannot possibly exist together in Bengal; the life of the one must unavoidably cause the death of the other.' At the same time, however, they argued that the government ought to offer

¹⁹⁷ *Observations upon the Administration of Justice in Bengal* (London, 1778): 4.

¹⁹⁸ Nathaniel Smith, *The measures to be pursued in India, for ensuring the permanency, and augmenting the commerce, of the Company, farther considered; with the heads of a plan for carrying those measures into execution* (London: J. Nourse, 1772): 12-13.

¹⁹⁹ Rothschild, *Inner Life of Empires*.

²⁰⁰ George Johnstone, *Thoughts on our Acquisitions in the East-Indies, Particularly Respecting Bengal* (London: T. Becket and P.A. De Hondt, 1771): 23.

protection to its ‘unhappy subjects’ in Bengal from the Company’s depredations.²⁰¹ These thinkers were proposing a differentiated kind of subject status, which suggests, at the very least, that the introduction of English laws and the extension of subjecthood were not *necessarily* linked in the minds of contemporaries. According to these arguments, it was possible to possess a form of British subjecthood without being amenable to English laws, while at the same time one could be amenable to English law under the jurisdiction of the Supreme Court of Judicature without possessing any form of British subjecthood.

From a survey of the metropolitan newspaper and pamphlet literature between 1772 and 1784, it appears that a majority of the commentators and politicians who explicitly discussed the issue of British subjecthood in the context of the Company’s territories were in favour of extending it to the non-European inhabitants. However, this could also be the result of an element of selection bias, insofar as those who discussed subjecthood as a problem were also those most likely to support its application to the non-European inhabitants of Bengal. Most commentators did not, in fact, discuss subjecthood at all and thus their views on the topic are difficult to discern. There was, however, a marked rise in humanitarian rhetoric toward the non-European inhabitants of Bengal that corresponded with an increase in the information readily available to metropolitan Britons concerning the East India Company’s affairs. This is consistent with what P.J. Marshall labelled as a ‘moral swing to the East.’²⁰² However, as we have seen, differing definitions of subjecthood and conflicting views on the utility of introducing British laws into Bengal rendered this a less coherent current of opinion than might be assumed by such a designation.

²⁰¹ *The Present State of the British Interest in India: with a Plan for Establishing a Regular System of Government in that Country* (London: J. Almon, 1773): 63-64.

²⁰² P.J. Marshall, ‘The Moral Swing to the East: British Humanitarianism, India and the West Indies,’ in *A Free Though Conquering People: Eighteenth-Century Britain and its Empire* (Aldershot: Ashgate, 2003): 69-95; see also Jack Greene, *Evaluating Empire and Confronting Colonialism*, 120-155.

It is also important to note that the debates on the problematic nature of subjecthood in the Company's territories were not confined to discussions of whether it ought to be extended to the non-European inhabitants. P.J. Marshall has analysed the petition of the British inhabitants of Calcutta calling for the implementation of trials by jury in cases heard before the Supreme Court.²⁰³ The denial of this, they claimed, was a fundamental breach of their rights as 'free-born Englishmen.' Such juries, they envisioned, could only be populated by British subjects, meaning specifically to exclude the non-European inhabitants of Calcutta, whom they claimed 'from natural and unsurmountable Obstacles can never become loyal or affectionate Subjects to any *European Nation*.'²⁰⁴ The pressure they exerted upon the metropolitan authorities resulted in legislation restricting the jurisdiction of the Supreme Court of Judicature in Calcutta in 1781.²⁰⁵ However, their petition would hardly have been so successful if questions had not already been raised in the metropole concerning the subject status of the population of Bengal and the expediency of extending English laws to India. Strong elements of the European population of Calcutta not only attempted to deny the benefits of subjecthood to the non-Europeans, they also sought to defend their own conceptions of the 'rights of Englishmen' residing in overseas colonies. *Hicky's Bengal Gazette*, India's first printed newspaper, served as an outlet for the discontented European inhabitants of Calcutta, wherein they complained of the Company's maladministration and arbitrary governance and drew upon the rhetoric of American revolutionaries and Irish 'patriots.'²⁰⁶ During the course of the American Revolutionary War, they expressed solidarity with their colonial brethren and sent petitions to Britain against

²⁰³ P.J. Marshall, 'The Muharram Riot of 1779 and the Struggle for Status and Authority in Early Colonial Calcutta,' *Journal of the Asiatic Society of Bangladesh (Humanities)* 50 (2005) *Golden Jubilee Volume*, 293-314.

²⁰⁴ *Observations on the foregoing Petition of the British Subjects residing in Bengal, &c. to the Parliament of Great Britain; and on the Situation of the Inhabitants of that Country at large* (London, 1780?): 25.

²⁰⁵ Weiss Muller, *Subjects and Sovereign*, 170-171; also Curley, *Sir Robert Chambers*, 188-189, 238.

²⁰⁶ Ben Gilding, 'The Rise and Fall of *Hicky's Bengal Gazette* (1780-2): A Study in Transoceanic Political Culture,' *JICH* 47, no. 1 (2019): 1-27.

what they claimed was arbitrary taxation by the Company's government in which they had no representation. After the manner of Benjamin Franklin, they claimed that they were being treated not as 'fellow subjects, but the subjects of subjects.'²⁰⁷

It is easy to question the extent to which the British Empire ever lived up to the normative conceptions of freedom or liberty frequently expressed and exalted by contemporaries. However, it is equally certain that the Company's newly-acquired territories, if they constituted part of the British Empire, only increased these doubts. Britons at home and abroad were deeply divided not only over the idea of extending British subjecthood to the population of Bengal but also over what such a status would mean in practice.

CONCLUSION

The East India Company's acquisition of an 'empire in the East' posed considerable challenges to the previously dominant normative conceptions of the Empire. The fact that its affairs became entangled with the contested ideologies of empire from the early 1770s suggests that Britons were increasingly convinced that the Company's territories actually constituted a part of Britain's imperial dominions. Equally, however, the revelation of the true extent of the Company's maladministration and oppressions in India, both in the newspaper and pamphlet press, and in the evidence given before successive parliamentary committees, fed a growing consensus that the East India Company, as a monopolistic commercial body, was unfit to govern such an extensive branch of the Empire. Such views could only be developed after the British public had taken a far keener interest in the Company's territories in India. This took place in the two decades following the Company's acquisition of the *diwani* in 1765, as the significant increase in pamphlets, newspaper coverage, plays, poems, and print satires on the topics of India, the East India Company, and their

²⁰⁷ Letter signed 'A.B.' [Benjamin Franklin] in *The Gentleman's Magazine*, xxxviii, January 1768, 6-7.

returned servants adequately attests. This provided the reading public with an opportunity to draw upon a more substantial, if not necessarily more accurate, body of knowledge concerning the Company's affairs. If levels of British knowledge on India dramatically increased after the mid-1780s, it is reflective of the important role played by Pitt's India Act in rendering the Company's dominions legally subservient to the British executive for the first time. More importantly, Pitt's India Act could hardly have taken the form that it did without the extensive and wide-ranging debates touched on herein, whereby the Company's territories were brought awkwardly both ideologically and legally into the fold of the British Empire.

The East India Company's acquisition of vast territories in South Asia clashed dramatically with the ideological foundations of the eighteenth-century British Empire. The vast majority of the inhabitants of these new territories were non-European and non-Christian, which raised considerable questions in the minds of contemporaries about the proper modes of governing its diverse and relatively unfamiliar population. Entrenched Montesquieuan theories of climate affecting the temperament, customs, and consequently the best mode of governing a people collided with a notable increase in humanitarian rhetoric toward the peoples of Bengal. The question of whether the Company should govern Bengal despotically, as befitted the 'nature' of the place, was sharply contrasted with calls for the introduction of English laws and the extension of British subjecthood and its concomitant legal and political rights to the non-European population. At the same time, observers questioned whether the acquisition of territories had undermined the Company's commercial character. So, while the Company's constitution was widely deemed to be inadequate for imperial governance, many contemporaries also felt that the acquisition of territories had also undermined its commercial *raison d'être*. Although the Company's territorial acquisitions and the raising of standing armies for their defence, signalled, as many contemporaries recognised, a departure from the blue-water strategy which characterised Britain's overseas ventures, it never entirely displaced that system. Indeed, as P.J. Marshall pointed out, territorial empire and

rule over non-British peoples came to coexist alongside the 'earlier concepts of an empire of the seas based on trade and naval power.'²⁰⁸ Thus, despite undermining many of the prevalent notions that underpinned British conceptions of the Empire, the acquisition of territories in South Asia did not simply result in the supplanting of a libertarian for an authoritarian empire even if it did open the door to new forms of undemocratic, even despotic, governance within that polity.

²⁰⁸ P.J. Marshall, 'Empire and British Identity,' in Cannadine ed., *Empire, the Sea and Global History*, 43.

CHAPTER V

‘A GAME AT CROSS-PURPOSES’: THE REMOVAL OF WARREN HASTINGS
AND THE PROBLEM OF DISTANCE IN THE GOVERNANCE OF THE EAST INDIA
COMPANY

I have often thought the distance of the East India Company's Possessions from the Source of their Government, one of the greatest impediments to the success and prosperity of their Affairs. The Correspondence of the Company with their servants abroad resembles often a Game at Cross-purposes; before their Answers reach India, the subjects of them are absolutely out of date & frequently quite foreign to the state of their Affairs; at least such has often been the case in Bengal. But the inconvenience of this distant Intercourse never operated so much to their detriment as in the late national Measures which were taken with a view to retrieve their Affairs in that Country.¹

These were the perspicuous thoughts of Alexander Elliot, a promising young servant of the East India Company.² His two volumes of letters to an unnamed correspondent, apparently penned during the course of a voyage from India to Britain in 1775, display an acute awareness of the problems facing the British Empire in India.³ His return to Britain was occasioned by the momentous disputes among the members of the Supreme Council of Bengal and he was dispatched to

¹ [Alexander Elliot] to [Sir Gilbert Elliot?], [ca. 1775] in NLS, Minto Papers, MS 11022, f. 2.

² Perhaps a result of his untimely death in 1778, Alexander has received far less attention than his elder brothers Gilbert and Hugh, the former of whom would go on to become the 1st Earl of Minto and Governor-General of India and the latter served as Governor of Madras. For more on his family, see George F.S. Elliot, *The Border Elliots and the Family of Minto* (Edinburgh: D. Douglas, 1897). For the reaction to Elliot's death, see Warren Hastings to Laurence Sullivan, 29 November 1778 in Gleig ed., *Memoirs of Warren Hastings*, ii, 219. In a letter to Sir Elijah Impey, Hastings exclaimed when hearing of Elliot's fatal illness: 'What a multiplied Calamity is the loss of this excellent young man [?] to me! May God prevent it, if it is not already past!' See the letter of 28 September 1778 in BL, Impey Papers, Add. MS. 16261, f. 153; and Warren Hastings to Lady Mary Impey, 15 October 1778 in *Ibid.*, f. 159.

³ Clements Markham to the Countess of Minto, 25 April 1879 in NLS, Minto Papers, MS 11022, f. 1.

Britain with information in defence of his patron, Warren Hastings.⁴ Elliot was one of several agents who played a crucial role as intermediaries on behalf of prominent British officials in India in their attempts to overcome, to circumvent, and even take advantage of the problem of distance in the governance of such far-flung territories.

The sheer distance, in both space and time, between Britain and the East India Company's territorial enclaves in India was omnipresent in the minds of the Company's directors who shaped the policies to be pursued by their overseas servants.⁵ These factors were equally crucial considerations for the British parliamentarians seeking to reform the Company's widely-reported maladministration. The unofficial roles of Elliot and other agents were among the several methods employed in attempts to bridge the communicative limitations caused by the vast distance separating Britain and India. Each of these agents fell victim to the demands of their task, either through miscommunication, outdated information, or even nautical disasters. The success and failure of these agents had a dramatic effect on the ability of British authorities to impose reforms upon the Company's overseas operations and to enforce obedience to their orders and legislation. By analysing Warren Hastings's supposed resignation in 1776 as a case study, this chapter highlights the impact of distance upon the attempts to reform the East India Company and argues that it was a crucial factor in shaping the trajectories and contours of reform in the decade following Lord North's Regulating Act of 1773.

⁴ He was also the bearer of a copious account in defence of Calcutta's Supreme Court of Judicature in their infamous proceedings against Nandakumar. See Sir Elijah Impey to Edward Thurlow, 20 January 1776 in BL, Impey Papers, Add. MS. 16259, ff. 22-23; Sir Elijah Impey to Lord [North?], 20 January 1776 in BL, Liverpool Papers, Add. MS. 38398, f. 221; Sir Robert Chambers to Charles Jenkinson, 9 January 1778 in BL, Liverpool Papers, Add. MS. 38401, ff. 10-11.

⁵ For discussions of the concepts of space and time in historical writing, see the *Past & Present* special issue on 'Temporalities', especially Matthew S. Champion, 'The History of Temporalities: An Introduction,' *Past & Present* 243, no. 1 (2019): 247-254; David Grange, 'Time, Space and Islands: Why Geographers Drive the Temporal Agenda,' *Ibid.*, 299-312; Ian K. Steele, *The English Atlantic, 1675-1740: An Exploration of Communication and Community* (Oxford: Oxford University Press, 1986); Christopher Bayly, *Empire and Information. Intelligence Gathering and Social Communication in India, 1780-1870* (Cambridge: Cambridge University Press, 1996).

I. DISTANCE, DIALOGUE, AND DISRUPTION: THE NETWORK AS AN IMPERIAL METAPHOR

The communicative and governmental problems raised by the vast distances between the Company's London headquarters on Leadenhall Street and its Indian presidencies highlights, perhaps more than any other British imperial context in the late eighteenth century, the historical and historiographical tensions between the centre and 'edges' of empire. By examining the ways in which contemporary policymakers attempted to circumvent, ameliorate, and overcome the problem of distance as well as the extent to which opportunistic individuals took advantage of it and saw the prospect of innovation in potential impediments, we can come to a greater understanding of the inner workings and foundational structures of the emerging British 'empire in the East.'⁶

From a historiographical perspective, the Company's attempts to govern its newly acquired territories in Bengal in the decades following the acquisition of the *diwani* provides a strong opportunity to assess the utility of some of the prevailing metaphoric interpretations of the underlying structures of eighteenth-century European empires. The immense distances involved, alongside the East India Company's relatively unique status as a private mercantile corporation governing a branch of the Empire on behalf of the state, throws into sharp relief not only the metropole-periphery divide but also the 'overlapping' or 'layered' conglomerate of private social and commercial networks and quasi-institutional structures that composed Britain's burgeoning imperial interests on the Indian subcontinent.

The age-old yet still historiographically central question of the relationship between the metropolitan centre and its colonies and their relative importance within the imperial project has figured prominently in most studies of the East India Company. Such works differ considerably over the extent to which the Company's

⁶ Lauren Benton emphasises that such logistical challenges often bred innovation, see *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010): 24.

home authorities were able to effectively direct and supervise its overseas operations or whether they were simply bystanders in the process, faced with acknowledging a series of *faits accomplis* presented to them by their agents ‘on the spot.’⁷ This chapter argues that the Company’s governance cannot be adequately understood without reference to the dialogical relationships between the multiple poles of its authority in both Britain and India as well as the resulting ‘feedback effects’ of their reciprocal influence upon one another’s actions and policies.⁸ In fact, the Company’s authorities in Britain and India were so mutually dependent that, when combined with the problem of distance, their disputes substantially hindered the implementation of reforms.

To overcome the binary limitations of the metropole-periphery divide, some scholars have introduced metaphors such as the web or network to describe the structure of empires.⁹ These metaphors often consciously seek to decentre the

⁷ See Lucy Sutherland, *East India Company* (Oxford: Clarendon Press, 1952): 55; James Lees, ‘A “Tranquil Spectator”: The District Official and the Practice of Local Government in Late Eighteenth-Century Bengal,’ *JICH* 38, no. 1 (2010): 1-19; Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational*, 2nd ed (London: Pluto Press, 2012): 33; Herbert Hilder, ‘The East India Company’s Regulation of its Servants—A Study in Failure: Bengal in the 1760s,’ *BP&P* 97 (1978): 1-23; Santhi Hejeebu, ‘The Colonial Transition and the Decline of the East India Company, c. 1746-1784,’ in Latika Chaudhary, Bishnupriya Gupta, Tirthankar Roy, and Anand V. Swamy eds., *A New Economic History of Colonial India* (London: Routledge, 2016): 41-44; and H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006): 13-16, 183-184, 194; H.V. Bowen, ‘Investment and Empire in the Later Eighteenth Century: East India Stockholding, 1756-1791,’ *The Economic History Review* 42, no. 2 (1989): 192-193; P.J. Marshall, *Problems of Empire: Britain and India, 1757-1813* (London: George Allen and Unwin, 1968): 52-53, 77.

⁸ While ‘feedback effects’ or ‘feedback loops’ in communications circulating through the British Empire remain a relatively undeveloped concept, for discussions of them, see Robert Travers, ‘British India as a Problem in Political Economy: Comparing James Steuart and Adam Smith,’ *Proceedings of the British Academy* 155 (2009): 159; Dana Rabin, ‘Empire on trial: slavery, villeinage and law in imperial Britain,’ in Shaunnagh Dorsett and John McLaren eds., *Legal Histories of the British Empire: Laws, Engagements and Legacies* (Abingdon: Routledge, 2014): 210-212; Annie Tindley and Andrew Wodehouse, *Design, Technology and Communication in the British Empire, 1830-1914* (London: Palgrave Macmillan, 2016): 5, 88.

⁹ Tony Ballantyne, *Orientalism and Race: Aryanism in the British Empire* (Basingstoke: Palgrave, 2002): 3-16, 194; Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley, CA: University of California Press, 2005): 199-201; Emily Erikson, *Between Monopoly and Free Trade: The English East India Company, 1600-1757* (Princeton, NJ: Princeton University Press, 2014); Natasha Glaisyer, ‘Networking: Trade and Exchange in the Eighteenth-Century British Empire,’ *HJ* 47, no. 2 (2004): 451-476; Alan Lester, *Imperial Networks: Creating Identities in*

metropole and in its place emphasise the more fragile yet dynamic ties between various other ‘nodal’ points within the imperial structure.¹⁰ However, they need not relegate the importance of the metropole and this chapter argues that the metaphor of a network can be usefully applied to make sense of the mixture of overlapping institutional and private connections between the various actors involved in the affair of Hastings’s supposed resignation in 1776 and its influence on the North ministry’s attempts to reform the burgeoning Company-state.

One of the important advantages of the network metaphor is its emphasis on the movement of peoples and information. As such, it can be very useful for describing the activities of political agents and both the public and private epistolary communications that underpinned British imperial governance in the eighteenth century. Indeed, many historians have argued that the circulation of written information was so fundamental to imperial governance that they have spoken of the eighteenth-century British Empire as a ‘paper empire.’¹¹ In addition to its ‘elaborate, standardized’ official forms of communications, the East India Company’s ‘paper

Nineteenth-Century South Africa and Britain (London: Routledge, 2001); Alan Lester, ‘Imperial Circuits and Networks: Geographies of the British Empire,’ *History Compass* 4, no. 1 (2006): 121-141; John McAleer, *Britain’s Maritime Empire: Southern Africa, the South Atlantic and the Indian Ocean, 1763-1820* (Cambridge: Cambridge University Press, 2017): 2-10; 28-29; Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge: Cambridge University Press, 2009): 5-13; 41-42.

¹⁰ See, for instance, the essays in H.V. Bowen, Elizabeth Mancke, and John G. Reid eds., *Britain’s Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850* (Cambridge: Cambridge University Press, 2012).

¹¹ Steele, *The English Atlantic*, 265; Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago, IL: University of Chicago Press, 2008): xvii; Bowen, *Business of Empire*, 180; and Ballantyne, *Orientalism and Race*, 9. On the circulation of news more generally, see Julius Scott, *The Common Wind: Afro-American Currents in the Age of the Haitian Revolution* (London: Verso, 2018); Christopher Bayly, *The Birth of the Modern World, 1780-1914: Global Connections and Comparisons* (Oxford: Blackwell, 2004); Andrew Pettegree, *The Invention of News: How the World Came to Know about Itself* (New Haven, CT: Yale University Press, 2014); Francesco Anthony Morriello, ‘The Atlantic Revolutions and the Movement of Information in the British and French Caribbean, c. 1763-1804,’ (Unpublished Ph.D. thesis, University of Cambridge, 2017).

empire' was complemented by vast amounts of private and even familiar letters sent between friends and relatives.¹²

On the other hand, this chapter also contributes to a growing body of literature emphasising the 'frictions' inherent in historical imperial networks.¹³ The case of Hastings's resignation provides many examples of the failure of the existing communicative infrastructure to provide the kinds of institutional connections necessary to support the style of government envisioned in Britain for their territories on the Indian subcontinent. While scholars such as Ian Steele have quite rightly warned against anachronistically characterising transoceanic communications in this period as 'slow,' the evidence provided in this chapter suggests that contemporaries recognised the distance in space and time between Britain and India as a considerable problem and their evident frustration spurred numerous innovative attempts to overcome it.¹⁴ However, many of these innovations were not only prone to failure, they also exacerbated the existing tensions between the attempts to implement metropolitan reform programmes and the inevitable discretionary power lodged in local authorities in the governance of distant imperial possessions.

¹² Kate Telscher, 'Writing home and crossing cultures: George Bogle in Bengal and Tibet, 1770-1775,' in Wilson ed., *New Imperial History*, 282; Lauren Benton, 'The British Atlantic in Global Context,' in Armitage and Braddick eds., *The British Atlantic World*, 287; Olivera Jokic, 'Commanding Correspondence: Letters and the "Evidence of Experience" in the Letterbook of John Bruce, the East India Company Historiographer,' *The Eighteenth Century* 52, no. 2 (2011): 109-136. On the importance of transoceanic familiar letters in general, see Sarah Pearsall, *Atlantic Families: Lives and Letters in the Later Eighteenth Century* (Oxford: Oxford University Press, 2008).

¹³ Margot Finn, '«Frictions» d'empire: les réseaux de circulation des successions et des patrimoines dans la Bombay coloniale des années 1780,' *Annales. Histoire, Sciences Sociales* 65, no. 5 (2010): 1175-1204; David Hancock, 'The Trouble with Networks: Managing the Scots' Early-Modern Madeira Trade,' *Business History Review* 79, no. 3 (2005): 467-491; S.R.H. Jones and S.P. Ville, 'Efficient Transactors or Rent-Seeking Monopolists? The Rational for Early Chartered Trading Companies,' *The Journal of Economic History* 56, no. 4 (1996): 898-915; Sarah Pearsall, *Atlantic Families: Lives and Letters in the Later Eighteenth Century* (Oxford: Oxford University Press, 2008): 36, 44-47; and Rhys Jones, 'Temporal Claustrophobia at the Continental Congress, 1774-1776,' Presented at the Cambridge American History Seminar, 19 February 2018.

¹⁴ Ian K. Steele, 'Time, Communications and Society: The English Atlantic, 1702,' *American Studies* 8, no. 1 (1974): 1-2, 21; see also Steele, *English Atlantic*, introduction.

II. NORTH'S REGULATING ACT AND THE CREATION OF BENGAL'S SUPREME COUNCIL (BRITAIN: JUNE 1773 - APRIL 1774)

The episode that Lucy Sutherland aptly dubbed 'the resignation *on behalf* of Warren Hastings', has received mention in most histories discussing the early years of the Company's territorial governance in Bengal.¹⁵ Indeed, it is easy to see why an event with such potentially disastrous consequences for the very fabric of the British 'empire in the East', has so frequently captured the attention of historians. Very rarely, however, has it been studied in its own right. It is often treated as just another event in the bitter struggle between Philip Francis and Warren Hastings over the governance of Bengal.¹⁶ When Sutherland made it the subject of an article, she did so as part of an introduction to the revelation of a new primary source.¹⁷ Her rather narrow aim was to uncover the truth about whether Hastings had given his agent, Lauchlin Maclean, the authority to resign on his behalf when he deputed him to Britain in early 1775. This chapter takes a different approach to the topic, emphasising instead the importance of Hastings's supposed resignation to the trajectory and dynamics of East India Company reform, as agents and information traversed the vast oceanic distance, shifting the initiative, pendulum-like, between the poles of power in Britain and India.

¹⁵ Travers, *Empire and Ideology*, 146 n; John Clark Marshman, *History of India from the Earliest Period to the Close of the East India Company's Government* (Edinburgh and London: William Blackwood and Sons, 1876): 180-181; Keith Feiling, *Warren Hastings* (London: Macmillan, 1954): 185-187; T.H. Bowyer, 'Philip Francis and the Government of Bengal: Parliament and Personality in the Frustration of an Ambition,' *Parliamentary History* 18, no. 1 (1999): 5-6; John Riddy, 'Warren Hastings: Scotland's Benefactor?' in Geoffrey Carnall and Colin Nicholson eds., *The Impeachment of Warren Hastings: Papers from a Bicentenary Commemoration* (Edinburgh: Edinburgh University Press, 1989): 30, 45-46; Thomas Curley, *Sir Robert Chambers: Law, Literature, and Empire in the Age of Johnson* (Madison, WI: University of Wisconsin Press, 1999): 266-267; Robins, *The Corporation that Changed the World*, 129.

¹⁶ Travers, *Empire and Ideology*, 178; Weitzman, 45-48; 102-107; Sutherland, *The East India Company in Eighteenth Century Politics*, 301-317; Lock, F.P. *Edmund Burke, Volume II: 1784-1797* (Oxford: Clarendon Press, 2006): 85.

¹⁷ Lucy Sutherland, 'The Resignation on behalf of Warren Hastings, 1776: George Vansittart's Evidence,' *BP&P* 76 (1957): 22-29; the piece is also reprinted in Aubrey Newman's posthumous edition of Sutherland's works, *Politics and Finance in the Eighteenth Century* (London: The Hambledon Press, 1984): 269-276.

In 1773 the pendulum of reform initiative had swung decisively in favour of the British Parliament. Following months of parliamentary debates, Lord North's government imposed strict reforms upon the East India Company. Foremost among these reforms was the creation of a new form of executive government for British India, the Supreme Council of Bengal. North's Regulating Act replaced the existing governor and council of Bengal with a Supreme Council of five, led by a Governor General who was restricted to the role of *primus inter pares*,¹⁸ and therefore only able to overrule the council in the event of an equality of votes on each side of a question, through the use of a casting vote.¹⁹ The choice of appointments for the new Supreme Council has been characterised as an 'odd mixture of bold interventionism and deliberate conservatism.'²⁰ Warren Hastings, who had been appointed governor of Bengal by the Company in 1772, was selected by Parliament to serve as the first Governor General. His appointment was partially the result of a compromise with the Company but also due to the support he had received from the secret committee, whose research underpinned North's reforms.²¹ The only other member of the Company's former council who was invited to serve in the Supreme Council was Richard Barwell, who possessed substantial support at East India House and had served as the Company's chief at Dacca, an important centre of the Company's inland trade.²² Lord North revealed in private that he had appointed Barwell so that 'if any accident should happen to Mr Hastings, there may be some person in the Council already acquainted with the country' and also so as not to 'discourage the

¹⁸ 'First among equals.'

¹⁹ Charles Jenkinson to Sir John Clavering, 13 December 1776 in BL, Francis Papers, IOR MSS Eur E16, 34-37.

²⁰ Travers, *Ideology and Empire*, 145.

²¹ *Ibid.*, 33. See also the speech of Lord North, 8 June 1773 in BL, Egerton MS 246, f. 43-44; for another version of the same speech, see *Cobbett*, xvii, cols. 896-898.

²² On Barwell's appointment to Dacca, see Abdul Majed Khan, *The Transition in Bengal, 1756-1775: A Study of Saiyid Muhammad Reza Khan* (Cambridge: Cambridge University Press, 1969): 156-158; see also his letters concerning it: Richard Barwell to Mary Barwell, 10 September 1773 in 'Letters of Mr. Richard Barwell—VI' *BP&P* xi (1915): 50-51; and Richard Barwell to John Hawkesworth, 3 November 1773 in *Ibid.*, 70-71.

Gentlemen at present there [in Bengal] too much, by totally excluding any of them from the Council.’²³

On the other hand, to reinforce the British state’s new supervisory role in the Company’s affairs, Parliament appointed the remaining three members of the Council from among those believed to be staunch supporters of North’s ministry and who had few if any connections with the East India Company. Lieutenant-General John Clavering, who possessed powerful courtly connections as well as the wholehearted support of George III, was appointed second in council and commander-in-chief of the Company’s forces in Bengal. Colonel George Monson, another military officer strongly favoured by the King, agreed to go out to Bengal as a member of the Supreme Council on the condition that he would succeed Clavering as commander-in-chief upon the latter’s death or resignation.²⁴ The appointment of Philip Francis remains somewhat mysterious. Francis, a former clerk in the War Office, albeit one who maintained strong ministerial connections, appears to have received his appointment due to the fortuitous refusal of previously favoured candidates, the time pressures faced by the Treasury, and his own rather presumptuous application.²⁵ Nonetheless, he was undoubtedly the most able of the three and one whose talents were widely recognised, even by his political rivals.²⁶ Colonel Monson was the only ministerial councillor with previous experience of the East Indies, having served there as a military officer during the Seven Years’ War.

²³ Lord North to King George III, 8 June 1773 in Fortescue ed., *Correspondence of George III*, ii, 497.

²⁴ T.H. Bowyer, ‘Monson, George (1730-1776)’ *Oxford Dictionary of National Biography* <https://doi.org/10.1093/ref:odnb/18985> (Accessed 6 August 2019).

²⁵ Lord North to King George III, 8 June 1773 in Fortescue ed., *Correspondence of George III*, ii, 497-498; Beaumont Hotham to the Duke of Portland, 13 May 1773 in Nottingham, Portland (Welbeck) Collection, Pw F 5385; Beaumont Hotham to Duke of Portland, 18 March 1777 in *Ibid.*, Pw F 5440; Charles Wolfran Cornwall to Charles Jenkinson [early 1773] in BL, Liverpool Papers, Add. MS. 38207, ff. 358-359; [‘Autobiographical Fragment’] in Joseph Parkes and Herman Merivale eds., *Memoirs of Sir Philip Francis, K.C.B. with Correspondence and Journals* (London: Longmans, Green, and Co., 1867), i, 324; Richard Tilghman to Philip Francis, 17 July 1773 in *Ibid.*, 326.

²⁶ King George III to Lord North, 8 June 1773 in Fortescue ed., *Correspondence of George III*, ii, 495-496; Richard Barwell to John Stewart, 9 April 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ *BP&P* xii (1916): 48-49.

However, it is unlikely that his experience fighting in the Carnatic provided him with any relevant experience toward governing Bengal. The Supreme Council was, therefore, almost inevitably bifurcated between those who considered themselves to be ‘the representatives of Government deputed to act generally for the nation; in contradistinction to Mr. Hastings and Mr. Barwell who may be supposed to act for the Company.’²⁷ What seemed in Britain like a useful compromise between placating the advocates of the Company’s independence while still establishing a necessary supervision over its overseas affairs, cemented hostile divisions and led to considerable deadlocks and inactivity in the governance of Bengal.

Throughout 1773 and 1774, the expectation that significant changes were likely to be imposed on the Company’s overseas governance weighed heavily on the minds of its principal servants abroad.²⁸ Warren Hastings had embarked on an ambitious set of reforms in the revenue and judicial departments of the Bengal government and was struggling to win over a recalcitrant council.²⁹ Hastings also expressed concern that ‘instability in the affairs at home does injury to those of Bengal, and weakens the authority not only of the Government but of the Company.’³⁰ Hastings was undoubtedly concerned that he would fall victim to what he described as ‘the rapid succession’ of governors.³¹ However, he also noted the extent to which the Company’s servants were in ‘hopes that we shall speedily be furnished with your instructions for establishing a system of law and polity which we hitherto want’ in order to build ‘a foundation of consistency and permanency’ in the

²⁷ Philip Francis to Christopher D’Oyly, 1 March 1776 in Sophia Weitzman, *Warren Hastings and Philip Francis*, 273.

²⁸ Richard Barwell to John Stewart, 9 April 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ 48-49.

²⁹ B.B. Misra, *The Central Administration of the East India Company: 1773-1784* (Manchester: Manchester University Press, 1959): 114-121; P.J. Marshall, ‘The Making of an Imperial Icon: The Case of Warren Hastings,’ *JICH* 27, no. 3 (1999): 5-6; Warren Hastings to Laurence Sullivan, 10 March 1774 in Gleig ed., *Memoirs of Hastings*, i, 388-389; Richard Barwell to John Hawkesworth, 15 December 1773 in ‘Letters of Richard Barwell—VII’ *BP&P* xi (1915): 275-277.

³⁰ Warren Hastings to Laurence Sullivan, 12 October 1773 in Bodleian, Sullivan Papers, MS. Eng. hist. c. 471, ff. 68-69.

³¹ Warren Hastings to the Court of Directors, 11 November 1773 in Gleig ed., *Memoirs of Hastings*, i, 369.

Company's councils.³² Despite the fact that he was able to implement sweeping administrative reforms in response to the directors' orders to 'stand forth as *Duan*,' Hastings was constantly fearful that both he and his policies could share the fate of many of his predecessors and be dismissed and retracted respectively.³³ News and even rumours of the shifts in power at East India House, or of the potential for government intervention in East India affairs, caused considerable anxiety for the Company's overseas servants and often played a central role in directing their actions.

Warren Hastings famously declared that the Company's territories were 'at what may be call'd a distance of 2 years' from London.³⁴ A sturdy vessel sailing in the right season could traverse the roughly fifteen thousand mile ocean journey in six months. The additional time in Hastings's calculation was not to account for the contingency of a prolonged voyage but was rather a revealing acknowledgement of the importance of dialogue between authorities in Britain and India. The crucial calculus, then, for Hastings and so many others involved in the governance of the British territories in the East Indies was the time required not only for information to be sent from Britain to India or vice-versa, but also for that communication to be digested, a response drafted, and the reply to be delivered. Given the difficulties of processing and adjudicating upon oftentimes complex and unfamiliar information as well as the limitations on sailing seasons due to the trade winds and monsoons, two years was, as Hastings himself later admitted, a rather optimistic, if by no means implausible, estimate of the communications delay endemic to such a long-distance oceanic enterprise.³⁵

³² *Ibid.*, 368.

³³ Court of Directors to the Governor and Council of Fort William, 28 August 1771 in Bisheshwar Prasad ed., *FWIHC*, vi, 123.

³⁴ Examination of Warren Hastings, 31 March 1767 in BL, Add. MS. 18469, f. 20.

³⁵ In a letter to Lord North on 2 April 1775, Hastings noted that 'the length of time which will be required for appeals to England, before their effects can be received...will oftener exceed than fall short of two years,' in Gleig ed., *Memoirs of Hastings*, i, 543. On the disruption to oceanic travel and communications occasioned by environmental factors, see Richard Drayton, 'Maritime Networks and the Making of Knowledge,' in David Cannadine ed., *Empire, the Sea and Global History*

The first vague reports in India of ‘high honours’ conferred upon Warren Hastings and the appointment of a new court of justice in India were received ‘overland by the wings of the *Brussels Gazette*’ in the spring of 1774.³⁶ The fact that these initial reports came from a non-English source and from one of the ‘overland’ amphibious routes through the Red Sea or Persian Gulf, as opposed to the traditional oceanic voyage round the Cape of Good Hope, gives an indication of the uncertainties involved in the transmission of information between Britain and India. As a result of its obscure origins, the information was treated with caution by Hastings, who noted ‘it was too imperfectly related for me to judge whether I am to rejoice or be sorry for the change.’ He was ‘anxious for authentic advices’ to confirm or deny the reports, yet claimed in the meantime he would ‘act as if no alterations were expected.’³⁷

It was not until sometime in August 1774, over a year after the passage of the Regulating Act, that Bengal appears to have received official confirmation of the alterations taking place in their government. Part of the reason for the delay in communication, was the fact that the parliamentary opposition to the North ministry’s Indian reforms had attempted to frustrate their implementation with a surprising degree of success.³⁸ These issues were not resolved until 9 February and the new councillors and judges only set out for India in April 1774. They reached Calcutta after a relatively swift journey on 19 October 1774.

(Basingstoke: Palgrave, 2007): 74-77; H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756-1833* (Cambridge: Cambridge University Press, 2006): 154.

³⁶ Warren Hastings to Laurence Sullivan, 20 March 1774 in Gleig ed., *Memoirs of Hastings*, i, 397-398. The same reports appear in Richard Barwell’s letter to John Stewart of 9 April 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ 48-49; the report appears to have reached Madras before Calcutta, see Alexander Elliot to Sir Gilbert Elliot, Madras, 4 February 1774 in NLS, Minto Papers, MS 11020, ff. 11-12.

³⁷ Warren Hastings to Laurence Sullivan, 20 March 1774 in Gleig ed., *Memoirs of Hastings*, i, 397-398.

³⁸ Court of Directors to the Governor and Council of Fort William, 2 February 1774 in R.P. Patwardhan ed., *FWIHC*, vii, 47. For more details on the Duke of Richmond’s opposition in the Company in late 1773 and early 1774, see Sutherland, *East India Company*, 266-268; and Laurence Sullivan to Warren Hastings, 13 October 1773 in BL, Hastings Papers, Add. MS. 29134, f. 69.

III. THE ARRIVAL OF THE TRIUMVIRATE AND THE DUAL NATURE OF COMPANY OFFICE-HOLDING IN THE AGE OF REFORM (BENGAL: OCTOBER 1774 – JANUARY 1775)

The early signs were positive that the new councillors would cooperate with one another. Several knowledgeable friends wrote to Warren Hastings from London, informing him that Monson and Clavering set off ‘with the best Dispositions to give you their Support.’³⁹ When he received word that the councillors and judges would stop in Madras on their way to Calcutta, Hastings penned several letters to them which provide an indication of his initial desire to cooperate with his new colleagues, despite the strong reservations he had regarding the content of the Regulating Act.⁴⁰ Although he signalled his distaste for the newly-established Supreme Court, Hastings expressed elation at the appointment of his old schoolfellow Sir Elijah Impey as chief justice, noting the fortuitousness that ‘two persons so mutually well inclined are at the head of two departments most admirably adapted for hostility.’⁴¹ In his letter to Sir Elijah Impey, however, Hastings also betrayed his rather prescient fears that he may have to rely on his old friendship with him in order to defend against the actions or accusations of his colleagues in the Supreme Council.⁴²

The ‘grand designs’ proposed by Hastings ‘to be executed by the vast powers concentrated by the Act of Parliament in the new Council’ were very quickly dashed

³⁹ Robert Palk to Warren Hastings, 22 March 1774 in BL, Hastings Papers, Add. MS. 29134, f. 336; Laurence Sullivan to Warren Hastings, 8 December 1773-10 January 1774, in *Ibid.*, ff. 250-251. Mary Barwell appears to have given her brother Richard similar intelligence, see Richard Barwell to Mary Barwell, 30 November 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ 74. Internal evidence from Hastings’s letter to Francis of 26 August 1774 also suggests that Clavering sent a letter to Hastings ahead of his arrival providing assurances of the new councillors’ ‘disposition to co-operate in measures of public utility.’ See BL, Hastings Papers, Add. MS. 29127, f. 150; and Frederick Stuart to Warren Hastings, [n.d. ca. September 1774] in BL, Hastings Papers, Add. MS. 29135, ff. 417-418.

⁴⁰ Warren Hastings to Elijah Impey, 25 August 1774 in BL, Hastings Papers, Add. MS. 29127, f. 149; Warren Hastings to Philip Francis, 26 August 1774 in *Ibid.*, f. 150; Warren Hastings to Colonel Monson, 26 August 1774 in Gleig ed., *Memoirs of Hastings*, i, 452-453.

⁴¹ Warren Hastings to Robert Palk, [n.d., late 1774?] in Gleig ed., *Memoirs of Hastings*, i, 477.

⁴² Warren Hastings to Elijah Impey, 25 August 1774 in BL, Hastings Papers, Add. MS. 29127, f. 149.

by the reality that his new colleagues had little desire to cooperate with him.⁴³ The opening shots were fired, quite literally, as soon as the new councillors arrived in Calcutta. They were welcomed by a seventeen-gun salute by the battery at Fort William but the new councillors were reportedly insulted that the number was not twenty-one.⁴⁴ Hastings and Barwell felt that the disputes that had immediately arisen in the Supreme Council were the product of ‘a decided and permanent combination’ among the three newly arrived councillors.⁴⁵ Whether or not their opposition was premeditated, the three councillors from Britain did arrive with a set of policies and ideas that clashed forcefully with those of Hastings.⁴⁶ By the time the first set of despatches were sent to the Court of Directors in December 1774 it was clear that there was an irredeemable division between two sides of the Council. Hastings made clear his ‘determined resolution to retain the place which your favor originally assigned me, and the Legislature has since so honourably confirmed,’ however, he asserted that his future was contingent upon the decision to be made between him and his opponents. The situation was such that no ‘palliatives can be applied...nothing but a decisive remedy can restore that harmony to the Government which is irrecoverably lost to the parts of which the present is composed and save your property and the national interests in these provinces from anarchy and ruin.’⁴⁷

His opponents likewise awaited the decision of the relevant authorities in Britain, believing the disputes had reached a point where ‘neither party, with honour

⁴³ Warren Hastings to Robert Palk, [n.d., late 1774?] in Gleig ed., *Memoirs of Hastings*, i, 477.

⁴⁴ Warren Hastings to the Court of Directors, 3 December 1774 in Busted, *Echoes from Old Calcutta: Being Chiefly Reminiscences of the Days of Warren Hastings, Francis, and Impey* 4th ed. (London: Thacker & Co., 1908): 62-64; John Stewart to Sir Gilbert Elliot, 9 December 1774 in NLS, Minto Papers, MS 11020, ff. 19-20; ‘Heads of Attack’ [n.d.] in BL, Hardwicke Papers, Add. MS. 35918, f. 210; see also Weitzman, *Warren Hastings & Philip Francis*, 23; and Parkes and Merivale eds., *Memoirs of Francis*, ii, 49.

⁴⁵ Warren Hastings to the Court of Directors, 3 December 1774 in *FWIHC*, vii, 508-509; Richard Barwell to Mary Barwell, 30 November 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ 74.

⁴⁶ ‘Memoranda for Proceedings in Council,’ 24 October 1774 in Weitzman, *Warren Hastings and Philip Francis*, 219-220.

⁴⁷ Warren Hastings to the Court of Directors, 3 December 1774 in *FWIHC*, vii, 508-509.

or decency, can recede.’⁴⁸ If the Regulating Act had provided vast delegated powers to the new Supreme Council, the dissensions within that Council obstructed public business and placed the onus for determining the future direction of British policy in Bengal straight back into the hands of authorities in Britain. The statutory nature of the Regulating Act, however, prevented the Court of Directors from acting unilaterally to remove individual members of the Council or altering the nature of the Supreme Council’s authority. Any alterations in the composition of the Supreme Council required the combined authority of the Company’s directors and stockholders as well as the approbation of the Crown.⁴⁹ The difficulties inherent in getting all sides to agree had already been rendered painfully clear during the passage of North’s reforms. The awkward and relatively undefined mixture of public and private interests in the governance of the East India Company introduced by the Regulating Act added significantly to the difficulties already inherent in the governance of such far-flung territories.

Hastings and Barwell, however, did not see the split in the Bengal Council as a simple extension of the contests between the Company and the Ministry in Britain. After all, by their legislative appointment to the Supreme Council, they had become ‘executive officer[s] of the state, as well as of the East India Company.’⁵⁰ Upon the outbreak of hostilities in the Bengal Council, Hastings addressed separate private letters to Lord North, expressing his gratitude for the support given by the King to his appointment and declaring his ‘Ambition to act in an elevated sphere under the Auspices of my Sovereign.’⁵¹ He was clearly positioning himself as both public servant and private employee. However, the potential problems associated with the

⁴⁸ Alexander Macrabie to [John] Kirkman, 1 December 1774 in Parkes and Merivale eds., *Francis Memoirs*, ii, 17; see also John Clavering, George Monson, and Philip Francis to Edward Wheler, 1 December 1774 in *FWIHC*, vii, 502-505.

⁴⁹ Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 24, 96.

⁵⁰ *Proceedings at the India House, relative to Warren Hastings...from the 29th of May to the 1st of November, 1782* (London, 1782): 24.

⁵¹ Warren Hastings to Lord North, 4 December 1774 in BL, North (Sheffield Park) Papers, Add. MS. 61865, ff. 2-3; Warren Hastings to Lord North, 4 December 1774 [separate letter to above], in BL, Add. MS. 61865, f. 9.

dual nature of Hastings's employment had been explicitly brought to his attention by Laurence Sullivan. Sullivan warned him that 'Scripture says, its impossible to serve two Masters – unhappily the Legislature and the Comp[an]y are in direct opposition – you are responsible to both.'⁵² Sullivan clearly felt that Hastings ought to acknowledge the 'duty and obligation to his original Employers' and seek safety in their support. However, upon his appointment as Governor General, Hastings was evidently inclined to take advantage of his ambiguous situation to make opportunistic appeals to both Company and Ministry. The Supreme Councillors were, as one commentator astutely pointed out, the 'Servants of Two Masters' as a result of the Regulating Act's 'crude, distracted Change of the Constitution of the Company.'⁵³

Richard Barwell was even more explicit than Hastings in appealing to the public nature of his office. He sent letters not only to Lord North but also to his Treasury Secretary, John Robinson, having been informed by his sister and 'confidential agent' in Britain, of Robinson's crucial role in the ministry's attempts to manage the Company.⁵⁴ Barwell recognised that 'the pursuits of the Ministry' in India were to be undertaken through the 'medium of the Company' and he informed Robinson that he had instructed his sister 'to be wholly directed by you in all matters that shall be agitated in the Proprietors' Court.'⁵⁵ He notified Mary, who not only controlled her brother's own portion of East India stock but also acted on his behalf in marshalling the votes of other stockholding friends and family members, that 'the line I am determined to take, is implicit devotion to the Government.' He therefore

⁵² Laurence Sullivan to Warren Hastings, 8 December 1773 – 10 January 1774 in BL, Hastings Papers, Add. MS. 29134, f. 250.

⁵³ 'On the East-India Affairs. A Modest Proposal,' in *Public Advertiser*, 4 February 1774.

⁵⁴ Richard Barwell to Lord North, 30 November 1774 in 'Letters of Mr. Richard Barwell—IX,' *BP&P* xii (1916): 185-186; Richard Barwell to John Robinson, 30 November 1774 in *Ibid.*, 189-190; for more on the political role of Richard's sister Mary Barwell, see Amy M. Froide, *Silent Partners: Women as Public Investors during Britain's Financial Revolution, 1690-1750* (Oxford: Oxford University Press, 2016): 106-117.

⁵⁵ Richard Barwell to John Robinson, 30 November 1774 in 'Letters of Mr. Richard Barwell—IX,' 189-190.

enjoined her to promote the interests of Government ‘to the utmost of your power and engaging all the friends you can influence to carry them through the Proprietary Courts.’⁵⁶ At the same time, Barwell attempted to remain friendly with Hastings’s supporters. ‘[W]e are now *one*’ he assured Laurence Sullivan, informing him that the former antipathy between him and Hastings had been resolved.⁵⁷ On the other hand, in secret instructions to Mary, he urged her to ‘[k]eep well with all parties, operate with Purling and Sullivan [*sic*] Hastings’s friends, but in all questions for or against them made a point of by the Ministry, go implicitly with the Ministry.’⁵⁸ While publicly supporting Hastings in his opposition to the Triumvirate of Clavering, Monson, and Francis, Barwell told Robinson that ‘if it is judged necessary hereafter that the chair shall be vacated to promote the General [Clavering] and Col. [Monson]...I will not decline my services while I think I can in any respect render them to the satisfaction of the Minister and the Company.’⁵⁹ Richard Barwell has often been portrayed rather simplistically by historians as both a servile creature of Hastings and a Company loyalist.⁶⁰ The evidence presented here, however, suggests that he was an astute, if self-interested, politician. He was willing to put former antagonisms aside to support Hastings when he felt he was in the right, and yet was also prepared to abandon him if the ministry chose to support his rivals in the Supreme Council.

While Barwell took full advantage of the ‘anarchy and confusion’ produced by the ‘motly pye-bald Government of *Administration and Company*,’ the Triumvirate, so obviously indebted to the ministry for their appointments, were

⁵⁶ Richard Barwell to Mary Barwell, 1 December 1774 in *Ibid.*, 182-185.

⁵⁷ Richard Barwell to Laurence Sullivan, 30 November 1774 in ‘Letters of Mr. Richard Barwell—VIII,’ 87.

⁵⁸ Richard Barwell to Mary Barwell, 25 February 1775 in ‘Letters of Mr. Richard Barwell—IX,’ 212.

⁵⁹ Richard Barwell to John Robinson, 24 July 1776 in ‘Letters of Mr. Richard Barwell—XIII,’ *BP&P* xv (1917): 111.

⁶⁰ Amba Prasad, ‘Introduction’ in *FWIHC*, xiv, xxxi; P.E. Roberts, ‘Hastings and his Colleagues,’ in H.H. Dodwell ed., *Cambridge History of India, Vol. V, British India, 1497-1858* (Cambridge: Cambridge University Press, 1929): 225-247; Travers, *Ideology and Empire*, 145 and throughout.

forced to hope that the combination of the North Administration and the so-called ‘Ministerial Directors’ would support their policies against an otherwise hostile Company.⁶¹ Despite the fact that they, too, possessed a dual appointment as servants of Crown and Company, the Triumvirate made no attempt to court the proprietors at large. Their pleas for a resolution to the dissensions in the Supreme Council, were directed towards the North administration.⁶² The success of their copious minutes to the directors relied on the Treasury’s ability to engineer the election of a sympathetic set of directors. This task, however, was easier said than done. As Charles Jenkinson astutely informed General Clavering shortly before the latter’s death, ‘when the whole body of Indians join the opposition against government...it will always be defeated.’⁶³

The rapidity with which dispatches were sent to Britain declaiming against the insuperable divisions within the Supreme Council reveals not only the fundamental unviability of North’s reforms but also the extent to which responsibility for the future of British policy in India was almost immediately shifted back to the metropolitan policy-makers in Westminster and Leadenhall Street. The Triumvirate certainly took advantage of their conciliar majority to direct small aspects of policy on the ground. As Hastings pointed out, however, the ‘business of every department stands still’ and ‘unless new movements are given to [‘the springs of government’], they must cease to act and the whole machine fall into disorder.’⁶⁴ Affairs in Bengal awaited the critical decision over which side of the Council would

⁶¹ J.Z. Holwell, *Thoughts on East-India affairs, most humbly submitted at this critical conjuncture, to the consideration of the legislature, and the proprietors of East-India Stock. By a quondam servant of the Company* (London, 1784): 46; ‘On the East-India Affairs. A Modest Proposal,’ in *Public Advertiser*, 4 February 1774; ‘India Intelligence. Extract of a Letter from a Gentleman in Town to his Friend in the Country’ in *Public Advertiser*, 5 April 1774.

⁶² Philip Francis to Welbore Ellis, 18 November 1777 in Weitzman, *Warren Hastings and Philip Francis*, 296-297.

⁶³ Charles Jenkinson to Sir John Clavering, 13 December 1776 in BL, Francis Papers, IOR MSS Eur E16, 37

⁶⁴ Warren Hastings to the Court of Directors, 8 September 1775 in *FWIHC*, vii, 566-567. Hastings also noted the ‘total stagnation of business during the last six months’ in his letter to John Graham and Lauchlin Maclean, 25 March 1775 in Gleig ed., *Memoirs of Hastings*, i, 513.

receive the support of their superiors. There is no greater proof of this temporary shift in momentum from the provinces to the metropole than Warren Hastings's decision to dispatch Lauchlin Maclean and John Graham as his agents to Britain. Their joint role was not only to ensure the safe delivery of confidential documents aiming to inform the British authorities of the controversies in the Supreme Council but also to put their first-hand experience and knowledge to use in conducting negotiations to effect either a change in personnel or policy at the head of the Company's administration in Bengal. Maclean's dismissal from the post of Commissary General provided the immediate opportunity for Hastings to dispatch him to Britain. The Triumvirate's decision to refuse Maclean's request for a salary equal to the most junior member of their council forced him to return to Europe to argue his case with the directors.⁶⁵ It also provided Maclean with a strong motive, if mutual connections were not already enough, for him to promote Hastings's cause in Britain.⁶⁶ After providing Maclean with a set of verbal instructions in the presence of his close associates John Stewart and George Vansittart, Hastings dispatched him to Britain on the *Dutton* East Indiaman in January 1775, less than three months after the arrival of the Triumvirate.⁶⁷

⁶⁵ Supreme Council of Bengal to the Court of Directors, 4 January 1775 in *FWIHC*, vii, 322; the annual salary of each of the Supreme Councillors was £10,000, the Governor General received £25,000. See Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 24, 100-101.

⁶⁶ The potentially lucrative post of Commissary General of the Company's forces in Bengal was created for Maclean by Sir George Colebrooke and Laurence Sullivan in order to help him repay the considerable debts he had incurred to them and others in various stockjobbing and stock-splitting schemes. See Sir George Colebrooke, *Retrospection*, ii, 38; Laurence Sullivan to Warren Hastings, 28 April 1773 in BL, Hastings Papers, Add. MS. 29133, ff. 535-536. Court of Directors to the Governor and Council of Fort William, 7 April 1773 in *FWIHC*, vii, 16; see also James M.N. Maclean, *Reward is Secondary: The Life of a Political Adventurer and an Inquiry into the Mystery of 'Junius'* (London: Hodder and Stoughton, 1963); McGilvary, *Guardian of the East India Company*, 161-164.

⁶⁷ If Hastings provided written instructions of Maclean's powers as his agent, it appears that they have been lost from several archival collections. Maclean did not present them to the Court of Directors or Hastings's friends when they sought to authenticate his credentials as Hastings's agent, nor was Hastings himself able to provide a copy of them to contradict Maclean's fateful actions in Britain. For Maclean's departure, see Frederick Stuart to Warren Hastings, 15 January 1774 [*sic*] in BL, Hastings Papers, Add. MS. 29134, f. 262.

Francis inferred from Maclean's sudden departure that he had been 'commissioned...to support Mr. Hastings, and do us all the Mischief [he] can.'⁶⁸ There was, however, another aspect of Maclean's mission that contained a serious potential conflict of interest. During the first year of his residence in India, Maclean reportedly fell ill and was encouraged by Hastings's physician to travel to Madras for a change of air.⁶⁹ While there, he was introduced to the Nawab of Arcot and rapidly obtained his confidence. Upon his return to Calcutta, he was reportedly solicited by James Johnson, another of the nawab's agents, to serve as the nawab's agent in London.⁷⁰ When he was forced out of his position as Commissary General by the Triumvirate, Maclean decided to take on the dual roles of agent for both Warren Hastings and the Nawab of Arcot. Hastings did not discuss Maclean's other role in his many letters to his agent and we only have Maclean's word that he was ever informed of it.⁷¹ If Hastings accepted the dual nature of Maclean's appointment, it is unlikely that he foresaw the fateful potential it had to conflict with the mission upon which he had deputed his agent.

⁶⁸ Philip Francis to Lord Clive, 12 January 1775 in BL, Francis Papers, IOR MSS Eur E15, 35-37.

⁶⁹ Maclean, *Reward is Secondary*, 425-426; Governor and Council of Fort William to the Court of Directors, 15 March 1774 in *FWIHC*, vii, 275-276. Governor and Council of Fort William to the Court of Directors, Similar to 'taking the waters' in Britain or traveling to the warmer climes of the Mediterranean coast, it was common for East India Company servants in Calcutta to travel to other parts of Bengal, such as the Dutch and French factories at Chinsura and Chandernagore, respectively, or in more extreme cases, to take an ocean voyage or a trip to Madras for the recovery of their health. Sir William Jones to Warren Hastings, 20 January 1786 in BL, Hastings Papers, Add. MS. 39871, f. 43; Warren Hastings to John Scott, 10 January 1784 in Gleig ed., *Memoirs of Hastings*, iii, 142; Warren Hastings to Mr. Thompson, 21 July 1785 in *Ibid.*, 243; Sydney C. Grier ed., *The Letters of Warren Hastings to His Wife* (London: William Blackwood and Sons, 1905): 51.

⁷⁰ Maclean, *Reward is Secondary*, 429-430.

⁷¹ See Maclean's narrative of his reasons for leaving the Company's service, 13 February 1776 in BL, IOR/ H/286, 39-65; also printed in Appendix 106 of the ninth report of Burke's select committee, see Lambert ed., *House of Commons Sessional Papers of the Eighteenth Century*, vol. 140, 356-358.

IV. THE ARRIVAL OF THE AGENTS AND MINISTERIAL INDECISION (BRITAIN: JUNE – DECEMBER 1775)

The *Dutton* reached Britain in June 1775, carrying letters and other supporting documents from Hastings, Barwell, and the Triumvirate.⁷² This was the first indication the Ministry had received that the reforms they had fought so strenuously to procure in the first half of 1773 had so ignominiously failed almost as soon as they arrived in India. Lord North faced a conundrum. Having read through the materials, he concluded that the Triumvirate was right to raise serious concerns about Hastings's conduct on a number of issues, most notably his hiring out the Company's troops for the use of the Vizier of Oudh in the Rohilla War.⁷³ However, North also recognised that Hastings 'appears in other matters to have been a very able & useful servant to the Company, & in particular to have put their finances in Bengal into a much better situation than they were before his time.'⁷⁴ 'The worst part of the business', he reported to the King, 'is that the two parties in the council appear too much irritated against one another to act together with any cordiality for the future.'⁷⁵ George III's response, which was made after several days of reading the dispatches with the great care and attention which he claimed they deserved, was very critical of Hastings and Barwell. Expressing none of the praise found in North's response, the King accused Hastings of refusing to accept that the Supreme Council were more than just 'mere Successors to the late President and Council of Calcutta.'⁷⁶ Indeed, in a very revealing passage, the King referred to the Supreme Council as 'the new General Council for Superintending the Affairs of the East India Company.' He envisioned their role as necessarily involving a retrospective investigation of the actions of the Company's former administration of Bengal, and

⁷² Weitzman, *Warren Hastings and Philip Francis*, 45.

⁷³ On the Rohilla War, see C.C. Davies, *Warren Hastings and Oudh* (London: Oxford University Press, 1939): chapter 1.

⁷⁴ Lord North to King George III, 1 July 1775 in Fortescue ed., *Correspondence of George III*, iii, 228-229.

⁷⁵ *Ibid.*, 229.

⁷⁶ King George III to Lord North, 3 July 1775 in *Ibid.*, 230.

claimed that the Triumvirate ‘would have acted very wide from the Spirit of the intention of sending them to rectify the abuses that have grown so enormous in the management of the Affairs of the Company in India’ had they not done so.⁷⁷ A notable absence in either response, however, was any kind of solution to the dissensions paralysing the Supreme Council.

The lack of a clear and decisive response to the dissensions in Council, so anxiously besought by those ‘on the spot’ in India, can be at least partially explained by the fact that news from America had destabilised the North administration.⁷⁸ In the early summer of 1775, news arrived in Britain of the first violent clashes between British forces and colonists in Massachusetts and it was widely believed that the conflict would continue to escalate. Indeed, the topic had so grasped the public’s attention that Samuel Johnson famously noted that ‘America now fills every mouth, and some heads’.⁷⁹ Differing views within the Cabinet and, perhaps more importantly, the fractures appearing within North’s parliamentary following, over the ministry’s handling of the American crisis removed some of the political latitude which may have convinced North to take a decisive stance either in favour of Hastings or the Triumvirate. Such a move risked alienating a set of potential supporters at a time when North’s parliamentary majority seemed under threat. Compromise and conciliation were also common characteristics of North’s premiership. For example, several months earlier, he had attempted to please both sides of the American question by offering a conciliatory proposal to Parliament

⁷⁷ *Ibid.*, 230.

⁷⁸ Lord North to General John Burgoyne, 31 July 1775 in Eridge Park, Robinson Papers, No. 58; John Robinson to Lord North, 12 August 1775 in *Ibid.*, No. 62; Duke of Grafton to Lord North, 30 August 1775 in *Ibid.*, 68; see also Stephen Conway, *The British Isles and the American War of Independence* (Oxford: Oxford University Press, 200): 136-137.

⁷⁹ Samuel Johnson to Hester Thrale, 1 August 1775 in Hester Lynch Piozzi ed., *Letters to and From the Late Samuel Johnson, LL.D. To which are added Some Poems Never Before Printed* (London: A. Strahan and T. Cadell, 1788), i, 293. Robert Palk wrote to Warren Hastings in November 1775 that ‘American Affairs engross all the Attention’ see BL, Hastings Papers, Add. MS. 29136, f. 342.

while still making preparations for armed conflict.⁸⁰ His previous negotiations with the East India Company were likewise characterised by his attempts to obtain their consent and collaboration for reforms. Laurence Sullivan, claimed that the North Administration's 'secret plan' was 'to cast no more blame upon Mr. Hastings than it was supposed he would bear, as his Resignation would be consider'd a public Misfortune[,] to treat the Triumvirate tenderly that their friends here might not be disgusted, and it is the wish of the Government that harmony in the Supreme Council, if practicable, may be cordially establish'd.'⁸¹ While somewhat conspiratorial, Sullivan's assessment was accurate. We have already seen that North declared that 'the worst part of the business' was the lack of cordiality among the Supreme Councillors. North evidently hoped to give his reforms a chance to operate and take effect without resorting the difficult and hazardous step of denouncing either party within the Supreme Council.⁸² By drawing attention away from the divisions within the Bengal government and destabilising the North ministry's support base, the outbreak of conflict in America resulted in the softening, and therefore ultimately the postponement, of the metropolitan response so desperately anticipated in Calcutta. Viewing Parliament as the fulcrum of the Empire allows for the connection of imperial theatres frequently studied in isolation, which reveals the crucial impact they could have upon one another.⁸³

Despite appearing in public as Hastings's avowed agent, in private Maclean revealed the potential conflicts of interest involved in his deputation. Although he

⁸⁰ Andrew O'Shaughnessy, *The Men Who Lost America: British Command during the Revolutionary War and the Preservation of the Empire* (London: Oneworld, 2013): 55-56; P.D.G. Thomas, *Lord North* (London: Allen Lane, 1976): 85-87.

⁸¹ Laurence Sullivan to Warren Hastings, 7 December 1775 in BL, Hastings Papers, Add. MS. 29136, ff. 379-380.

⁸² Laurence Sullivan to Warren Hastings, 28 November 1775 in *Ibid.*, f. 361; this opinion was not entirely unpopular, with one newspaper writer calling on proprietors of East India stock to promote unity in their councils abroad rather than encouraging discord 'by a servile Partiality'. See *St. James's Chronicle or the British Evening Post*, 27 January 1776.

⁸³ For other instances of this approach, see Marshall, *The Making and Unmaking of Empires*, 1; Philip Lawson, 'The Missing Link: The Imperial Dimension in Understanding Hanoverian Britain,' *HJ* 29, no. 3 (1986): 747-751; and Jonathan P. Eacott, *Selling Empire: India in the Making of Britain and America, 1600-1830* (Chapel Hill, NC: University of North Carolina Press, 2016).

had delivered Hastings's letters upon his arrival, he appears to have been primarily concerned with whether he would be officially recognised as the agent of the nawab of Arcot in his initial approaches to the ministry.⁸⁴ Maclean confided in Lord Rochford, the Secretary of State, that 'he had views in coming over [from India], the first was in regard to getting his own place in Bengal put on the original footing in which if he succeeded to that he might go back, the next was to assist & support Mr. Hastings, & the 3rd was this Commission from the Nabob which he says was forced upon him.'⁸⁵ His claim that he was 'forced' into accepting the commission from the nawab is entirely unconvincing given his well-documented financial difficulties and his admission that he was in receipt of an annual salary of £6,000. Perhaps Maclean's strategy was to pursue Hastings's interests entirely through the Company's courts of directors and proprietors, but his main concern in approaching the ministry upon his arrival in Britain seems to have been the recognition of his agency to the nawab. Robinson's advice to Lord North questioned the propriety of the minister receiving '*any Agent* here, publick or private, especially a Subject, or whether you sh[oul]d...acq[ui]t the Indian Powers, that if they have anything to offer either by way of Complaint for Redress, or as Compliment...that it may come thro' the Gov[ernor] Gen[era]l & Council of Bengal.' By going through the medium of the Supreme Council, Robinson suggested, it would arrive 'accompanied with their Information & Remarks & you w[oul]d be able to form a Judgement on the Business. Whatever is done here will be represented partially & can't be depended upon.'⁸⁶ Despite this initially pragmatic approach, the administration were quickly faced with the reality that they could not manage the East India Company in opposition to the diverse and interconnected personal and financial 'interests' emanating from prominent Company servants in India and Indian powers such as the nawab of Arcot. This effectively opened the doors to further agencies such as those

⁸⁴ John Robinson to Lord North, 12 August 1775 in Eridge Park, Robinson Papers, No. 62.

⁸⁵ *Ibid.*, No. 62.

⁸⁶ *Ibid.*, No. 62.

of William Burke, James and John Macpherson, and Nathaniel Wraxall, among others.⁸⁷

The first response of the Company's directors to the divisions in Bengal was, as one might expect given their ministerial connections, governed by the indecisiveness of the North administration. George III, upon reading a draft of their letter to Bengal, criticised its indeterminacy, noting that it was 'not drawn up with that perspicuity that I think the first essential in conveying directions; but they manifestly neither chuse to hurt Hastings nor his Adversaries and therefore will most probably disoblige both.'⁸⁸ The goal of the directors, however, was to 'give decisive Opinions' upon specific acts of policy in order to quell the divisions in the Council, rather than to definitively choose between and thereby force the resignation of specific individuals. The result was that they signalled their clear disapproval of Hastings's policy towards Oudh and the Rohillas while also praising some aspects his reforms in the collection of revenues.⁸⁹ When the contents of the letter were brought before the Company's General Court, Hastings's supporters, led by Lauchlin Maclean, argued strongly for the addition of a conciliatory paragraph, stating that the proprietors had 'the highest opinion of the Services and Integrity of Warren Hastings and cannot admit a suspicion of corrupt motives operating on his conduct without proof.'⁹⁰ This addition was unanimously agreed upon and was portrayed to Hastings as a great victory on the part of his supporters in Britain.⁹¹ What Sullivan and others failed to explain was that the paragraph in praise of his services as

⁸⁷ On William Burke, see Lucy Sutherland and John A. Woods, 'The East India Speculations of William Burke,' in Sutherland, *Politics and Finance in the Eighteenth Century*, 327-360; on the Macphersons, see James Maclean, 'The Political Career of James (Fingal) Macpherson and Sir John Macpherson,' (Unpublished Ph.D. thesis, University of Edinburgh, 1967).

⁸⁸ King George III to Lord North, 15 November 1775 in Fortescue ed., *Correspondence of George III*, iii, 239.

⁸⁹ Minutes of the Court of Directors, 28 November 1775 in BL, IOR/B/91, 318-319; Court of Directors to the Governor General and Supreme Council of Bengal, 15 December 1775 in *FWIHC*, vii, 129-138.

⁹⁰ Minutes of the General Court, 6 December 1775 in BL, IOR/B/91, 345-346.

⁹¹ Laurence Sullivan to Warren Hastings, 7 December 1775 in BL, Hastings Papers, Add. MS. 29136, f. 379.

Governor General was only obtained in return for the General Court's acquiescence with the directors' censure of Hastings's policy towards Oudh. Furthermore, when Hastings's supporters attempted to add a further article calling into question the Triumvirate's insinuations against Hastings's 'motives for engaging in the Reduction of the Rohillas,' they were denied by a successful motion to adjourn. The resulting letter was, as Sophia Weitzman pointed out, 'a curious mixture of abuse, tempered with approbation and coupled with fulsome praise for the Majority.'⁹² More importantly, its substance was a reflection of the divisions within the several decision-making bodies now responsible for determining British policy in India.

V. DEADLOCK AND SUSPENSE IN THE SUPREME COUNCIL (BENGAL: FEBRUARY – AUGUST 1775)

In the meantime, the deadlock in the Supreme Council continued throughout 1775. Hastings continued to write letters to Lord North and to his agents Maclean and Graham expressing his desire for a definitive settlement of the issue.⁹³ He hoped to be freed 'from the state I am in, either by my immediate recall, or by the confirmation of the trust and authority of which you have hitherto thought me deserving.'⁹⁴ He even reported to his agents his determination 'to leave this place, and return to England on the first ship of the next season, if the first advices from England contain a disapprobation of the treaty of Benares, or of the Rohilla War, and mark an evident disinclination towards me.'⁹⁵ Although he quickly retracted this resolution, opting instead to await 'the issue of my appeal,' he was saved the necessity of leaving his station immediately by the arrival of the directors' letter of 3 March 1775, which had been written and dispatched before they had received any

⁹² Weitzman, *Warren Hastings and Philip Francis*, 46.

⁹³ Unbeknownst to Hastings, John Graham fell ill shortly after his arrival in Britain and died in Marseille, leaving Maclean as Hastings's sole agent. See Lauchlin Maclean to Warren Hastings, 25 June 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 249-257; Laurence Sullivan to Warren Hastings, 14 May 1777 in BL, Hastings Papers, Add. MS. 29138, f. 409.

⁹⁴ Warren Hastings to Lord North, 27 March 1775 in Gleig ed., *Memoirs of Hastings*, i, 520;

⁹⁵ Warren Hastings to John Graham, 27 March 1775 in *Ibid.*, 521.

information from the Triumvirate.⁹⁶ This letter cautiously approved both policies but did warn Hastings that the Company's participation in the Rohilla War seemed suspiciously close to being an instance of territorial conquest which the directors had so consistently outlawed.⁹⁷ Since they had signalled some approval of his conduct, Hastings felt free to 'wait the issue of my appeals' for a decisive settlement between him and his rival councillors.⁹⁸

However, when the trial and 'judicial murder' of Nandakumar in August 1775 provided his opponents with further powerful arguments against his actions as Governor General, Hastings was required not only to send further copious letters and minutes in self-defence, but also to dispatch Alexander Elliot to Britain as yet another agent (albeit in a less official capacity) in order to provide Maclean and his other supporters with an updated account of the most recent occurrences in Bengal.⁹⁹ As Hastings wrote by way of an apology to Alexander's father, 'I have Friends in England of great Abilities and Experience in the Affairs of Bengal, who have been Eye Witnesses of the first of these Disturbances...but even these Gentlemen can have but an imperfect Conception of the present Scene.'¹⁰⁰ It was initially planned for Elliot to depart for Britain overland, by way of 'Bussorah' (Basra) and then through Baghdad and the desert route to Aleppo, but conflict between the forces of

⁹⁶ Warren Hastings to John Graham and Lauchlin Maclean, 18 May 1775 in *Ibid.*, 533. This was the letter identified by Gleig as retracting the powers of his agents Graham and Maclean to resign on his behalf. Its contents reveal, as Sutherland has pointed out, that it was simply a revocation of his sentiments from the abovementioned letter of 27 March that he would resign before their negotiation was completed.

⁹⁷ Court of Directors to the Governor General and Supreme Council of Bengal, 3 March 1775 in *FWIHC*, vii, 97, 99-100.

⁹⁸ Warren Hastings to the Court of Directors, 19 November 1775 in *FWIHC*, vii, 579-580.

⁹⁹ Warren Hastings to Lord North, 7 August 1775 in BL, North (Sheffield Park) Papers, Add. MS. 61865, f. 13. On the trial and execution of Nandakumar, see Sir James Stephen, *The Story of Nuncomar and the Impeachment of Sir Elijah Impey*, 2 vols (London: Macmillan and Co., 1885); Henry Beveridge, *The Trial of Maharaja Nanda Kumar, a Narrative of a Judicial Murder* (Calcutta: Thacker, Spink and Co., 1886); Lucy Sutherland, 'New Evidence on the Nandakuma Trial,' *EHR* 72, no. 284 (1957): 438-465; and Narendra Krishna Sinha, 'Trial of Maharaja Nandakumar,' *BP&P* 78 (1959): 134-145.

¹⁰⁰ Warren Hastings to Sir Gilbert Elliot, 7 August 1775 in NLS, Minto Papers, MS 11020, f. 42; and John Stewart to Sir Gilbert Elliot, 7 August 1775 in *Ibid.*, f. 47.

Karim Khan Zand and the Ottoman Empire caused that route to be shut off.¹⁰¹ As a result, Elliot took the traditional oceanic route around the Cape of Good Hope and was subjected to a prolonged voyage due to poor weather, arriving in Britain in the late spring of 1776.¹⁰² The fact that Hastings could afford to send so many partisans back to Britain to advocate on his behalf was one of the most significant advantages he possessed over his rival councillors. Philip Francis vented his frustrations on this point in an important letter to Lord North: ‘My opponents have every Advantage over me but in the Quality of their Cause. The Receipt and Conveyance of Intelligence is their principal object, and as they have all India in their Party, every Avenue of course is guarded by them.’¹⁰³ To some extent, these opportunities came as a result of Hastings’s position as Governor General. But alongside the maintenance of a fiercely loyal set of supporters in Britain, it provides an indication of Hastings’s considerable success in navigating the tempestuous patronage networks of the Company and his efforts to gratify powerful individuals both in the Company’s government and, to a lesser extent, in ministerial circles. It is also revealing of the extent to which the early governance of the East India Company in India was structured by its epistolary correspondence and dependent on the variety of public and private networks connecting it to the metropole. The Triumvirate’s overreliance on official channels proved to be a significant weakness in their contest for supremacy in the Supreme Council.

VI. BREAKTHROUGH: ‘THE RESIGNATION ON BEHALF OF WARREN HASTINGS’ (BRITAIN: MARCH – NOVEMBER 1776)

Back in Britain, after the General Court of 6 December 1775, when Hastings’s supporters successfully incorporated a paragraph in praise of the Governor General

¹⁰¹ John R. Perry, *Karim Khan Zand: A History of Iran, 1747-1779* (Chicago, IL: University of Chicago Press, 1979): 167-183.

¹⁰² Alexander Elliot to Sir Gilbert Elliot, 16 March 1776 in NLS, Minto Papers, MS 11020, ff. 54-55.

¹⁰³ Philip Francis to Lord North, 11 September 1777 in BL, Francis Papers, IOR MSS Eur F5, 131.

into an otherwise censorious letter, little was undertaken concerning the divisions in the Bengal Council until March 1776. Directors and Ministers perhaps felt they had done enough to express their strong preference for unity by praising and censuring policies rather than personnel. The ships that arrived from India in January 1776 which carried news as late as April 1775, failed to cause a considerable stir.¹⁰⁴ After all, they merely confirmed the continued divisions within the Council. It was not until early March that the directors finally took the repeated censures of Hastings's conduct into further consideration. A committee of directors was formed to inspect the relevant materials and, on the basis of their report, charges were introduced accusing both Hastings and Barwell of separate incidents of corruption and speculation.¹⁰⁵ The directors had initially moved to dismiss both Hastings and Barwell, under significant pressure from the North ministry, but the move was rejected 7-12, with five of the twenty-four directors remaining silent or absent—probably all too conscious of the potential ramifications of such a move for the prospects of their re-election in April.¹⁰⁶ The result was that the directors passed further censures upon both Hastings and Barwell without imposing any kind of punishment.¹⁰⁷ The direction of 1775-6 proved unable or unwilling to commit to decisive measures concerning the government of their territories in Bengal.

¹⁰⁴ The primary issue they raised was a constitutional one, over whether the Governor General had the unilateral authority to dissolve meetings of the Supreme Council, and while they sought the advice of legal authorities the Company ordered the suppression of the practice until further notice, see Court of Directors to the Governor General and Supreme Council of Bengal, 31 January 1776 in *FWIHC*, vii, 141; see also the dissent of Nathaniel Smith, 7 February 1776 in BL, IOR/B/91, 453-454.

¹⁰⁵ Minutes of the Court of Directors, 2 April 1776 in BL, IOR/B/91, 550-551.

¹⁰⁶ Laurence Sullivan to Warren Hastings, 1 April 1776 in BL, Hastings Papers, Add. MS. 29137, f. 137; the reporting of this vote is absent from the minutes of the Court of Directors, as they had resolved themselves into a committee to discuss it. As a result, this first attempt to remove Hastings has been overlooked by many historians, including in Sutherland, *East India Company*, 308. See also, minutes of the Court of Directors, 29 March 1776 in BL, IOR/B/91, 545-546. Lauchlin Maclean claimed that the Treasury gave contracts to six directors and promised seats for a further two if they voted to remove Hastings and Barwell, see his letter to Warren Hastings, 25 June 1776 in BL, Hastings Papers, Add. MS. 29137, f. 249.

¹⁰⁷ This lack of punishment occasioned the strong dissent of Nathaniel Smith and Robert Gregory of 10 April 1776 in BL, IOR/B/91, 570-573; see also the dissent against even the censure of Hastings and Barwell by Richard Becher of 11 April 1776 in *Ibid.*, 575-576.

This situation changed considerably following the election of a new batch of directors in 1776. While Robinson was disappointed with the results of the election from a ministerial perspective, the North Administration was increasingly inclined to take decisive measures towards the Company's government in Bengal.¹⁰⁸ As a result, discussions on the charges against Hastings and Barwell were quickly resumed and on 8 May the directors voted 11-10 to remove Hastings and Barwell from their respective offices.¹⁰⁹ Almost immediately after the vote, Hastings's supporters gathered the nine signatures required to request a referral of the issue to a General Court. Knowing their measures might be rejected by the proprietors, the directors consulted their standing counsel. However, after reviewing the provisions of the Regulating Act 'in respect to the Right of the Proprietors to control this Court in the Removal' of members of the Supreme Council, the directors were forced to concede to the request.¹¹⁰

The General Court held on 15 May was the occasion of a considerable debate on the merits and demerits of the directors' decision to remove Hastings and Barwell. It also resulted in the initiation of a press war between the ministry and supporters of Hastings.¹¹¹ The debate ended inconclusively but the General Court agreed to hold a ballot on the proprietors' motion to block the dismissal of Hastings and Barwell. On the ballot of 17 May, the proprietors voted 377-271 to reject the directors' decision to remove Hastings and Barwell.¹¹² The ballot was pitched as a question upon which the Company's independence was at stake.¹¹³ As Lauchlin

¹⁰⁸ John Robinson to Charles Jenkinson, 9 April 1776 in BL, Liverpool Papers, Add. MS. 38398, f. 323.

¹⁰⁹ Minutes of the Court of Directors, 8 May 1776 in BL, IOR/B/92, 44-45; J[ohn] Roberts to Unknown, 8 May 1776 in Fortescue ed., *Correspondence of George III*, iii, 360.

¹¹⁰ Minutes of the Court of Directors, 9 May 1776 in BL, IOR/B/92, 48-49.

¹¹¹ For the proceedings of debates in the General Court, see BL, IOR/B/259, 177-181; and *Middlesex Journal*, 18 May 1776 and *London Evening Post*, 16 May 1776, which also contains the opening shots in the press war. On the press war, see also *A short answer to an anonymous libel, circulated at the doors of the India House during the ballot on May the 17th, 1776* (London, 1776).

¹¹² Minutes of the General Court, 17 May 1776 in BL, IOR/B/259, 182-183.

¹¹³ Letter signed 'An Old Proprietor,' dated 16 May 1776 in *St. James's Chronicle or the British Evening Post*, 18 May 1776; for a retrospective justification of the vote, see *An Essay on the rights of*

Macleane reported to Hastings, '[y]our cause is now become the cause of the Company. You stand and fall together.'¹¹⁴ As a result of this conjunction, the Treasury's managers were unprepared for the defection of so many stockholders from whom they expected support.¹¹⁵ This fateful ballot exposed the extent to which the Regulating Act had left far too much power in the hands of the stockholders for the government to effectively manage the Company's affairs and thereby secure the implementation of its proposed reforms. It was an issue that not only preserved Hastings's power as Governor General but also plagued attempts to reform the Company until the powers of the General Court were diminished by Pitt's India Act of 1784. In practical terms, it also caused a further delay in providing either side of the Supreme Council of Bengal with any relief from their acrimonious situation.

The Court of Proprietors had made their stand against the ministry and effectively blocked the removal of Hastings and Barwell, which, by law, had to come from the joint concurrence of the Crown and the Company. The Treasury, reeling from its unexpected defeat at the India House, determined to 'have nothing to do with India matters out of Parliament.' Their plan was to call Parliament together for an early session in October and once again push for tougher measures to control and rein in the affairs of the Company.¹¹⁶ In fact, if Macleane did not renew discussions with the ministry in autumn, the Ministry would probably have been forced to propose more intrusive reforms at a much earlier date.¹¹⁷

Over the course of the summer, ministerial paragraphs continued to appear in newspapers, putting pressure on the Company and Hastings's supporters to either

the East India Company to the perpetuity of their trade, possessions and revenues in India (London: T. Payne, 1776): 38-40.

¹¹⁴ Lauchlin Macleane to Warren Hastings, 25 June 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 249-257.

¹¹⁵ Lord North to King George III, [17 May 1776] in Fortescue ed., *Correspondence of George III*, iii, 535. Incorrectly dated as '? 1777' in Fortescue.

¹¹⁶ Lauchlin Macleane to Warren Hastings, 25 June 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 249-257.

¹¹⁷ Sutherland, *East India Company*, 311.

stand their ground or to come to terms with the ministry.¹¹⁸ Maclean admitted to Hastings that the reason he had been encouraging him to remain in his post in Bengal and the reason he was fighting against his removal was because the motions from the directors contained criminal charges against him and therefore would have rendered his retreat ‘dishonourable.’¹¹⁹

By the autumn, with the very real threat that Parliament would punish the Company for its disobedience with far more overbearing reforms and would attempt to remove Hastings ‘by violence,’ Maclean chose to enter negotiations with the Ministry. He hoped to give his patron the opportunity for an honourable departure from his station. Maclean may also have had a further, and far more self-interested, reason for seeking a negotiated settlement with the ministry at this time. Engaging in a further struggle with them would have, by his own admission, rendered any attempt at future compromise impossible.¹²⁰ However, he had yet to complete his mission on behalf of the nawab of Arcot and therefore needed to maintain good relations with the ministry.¹²¹ By reaching a compromise over Hastings’s resignation, he was attempting to promote the causes of both of his patrons simultaneously. In response to overtures from the ministry, Maclean gathered Hastings’s closest supporters in Britain and together they agreed to submit Hastings’s resignation in return for assurances that his supporters in India would be

¹¹⁸ Letter signed ‘Honestus’ in *Public Advertiser*, 27 May 1776; ‘East India Matters’ in *Public Advertiser*, 29 May 1776; letter signed ‘Vigilans et Audax’ in *Public Advertiser*, 1 June 1776; letter signed ‘Honestus’ in *Public Advertiser*, 10 June 1776; letter signed ‘An Old Proprietor of India Stock’ in *St. James’s Chronicle or the British Evening Post*, 20 July 1776. The famed pamphleteer and forger of Ossian, James Macpherson was approached by the government to write on their behalf but he refused, given the nature of his connections with John Macpherson, the nawab of Arcot, and Lauchlin Maclean, see Lauchlin Maclean to Warren Hastings, 10 November 1776 in BL, Hastings Papers, Add. MS. 29137, f. 44; John Macpherson to Warren Hastings, 16 June 1778 in BL, Hastings Papers, Add. MS. 29141, f. 77.

¹¹⁹ Lauchlin Maclean to Warren Hastings, 25 June 1776 in Gleig ed., *Memoirs of Hastings*, ii, 59-61.

¹²⁰ Lauchlin Maclean to Warren Hastings, 10 November 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 441-457.

¹²¹ George Vansittart reports that Maclean was ‘very busy in his negotiations in behalf of the Nabob of Arcot’ in a letter to Warren Hastings, 17 December 1776 in BL, Hastings Papers, Add. MS. 29138, f. 17; see also Maclean, *Reward is Secondary*, 434.

protected from retrospective prosecution.¹²² For Hastings, the group had to settle for the promise of a ‘vote of thanks’ rather than an Irish peerage which the ministry had rejected for appearing too much like a bribe.¹²³ On 23 October 1776 the Court of Directors voted unanimously to accept Hastings’s ‘proposed resignation’, appointing Edward Wheler, one of the ‘ministerial’ directors, to fill his vacancy in Council.¹²⁴ They immediately dispatched a letter to Bengal informing them of the decision.¹²⁵ Robinson wrote to Clavering of his palpable sense of relief: ‘it is now, thank God, at an end by Mr. Hastings’ resignation.’¹²⁶ It seemed that, almost two years after the arrival of the Triumvirate in Calcutta in October 1774, a solution to the dissensions in the Supreme Council had finally been determined upon by the home authorities. However, the news of the decision was not to arrive in India for a further eight months and events there in the intervening time dramatically altered the situation in Bengal and therefore all but negated the orders from Britain.

VII. THE DISINTEGRATION OF THE TRIUMVIRATE AND HASTINGS’S CHANGE OF HEART (BENGAL: SEPTEMBER 1776 – MAY 1777)

The day after Robinson and Maclean had agreed upon the terms of Hastings’s resignation in September 1776, Colonel Monson succumbed to the prolonged illness

¹²² John Robinson to King George III, 24 September 1776 in BL, Robinson Papers, Add. MS. 37833, f. 36; King George III to John Robinson, 24 September 1776 in *Ibid.*, f. 38; John Robinson to King George III, 25 September 1776 in *Ibid.*, f. 40; and King George III to John Robinson, 25 September 1776 in *Ibid.*, f. 41. Those who gathered and approved of the propositions were: Robert Palk, Samuel Pechell, General John Caillaud, John Stewart, Alexander Elliot, George Vansittart, Laurence Sullivan, and John Woodman. See Lauchlin Maclean to Warren Hastings, 10 November 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 441-457.

¹²³ Lauchlin Maclean to Warren Hastings, 10 November 1776 in BL, Hastings Papers, Add. MS. 29137, ff. 441-457.

¹²⁴ Minutes of the Court of Directors, 23 October 1776 in BL, IOR/B/92, 376-378; John Robinson to King George III, 24 October 1776 in BL, Robinson Papers, Add. MS. 37833, f. 96; see also Parker, ‘Directors of the East India Company,’ 310.

¹²⁵ Court of Directors to the Governor General and Supreme Council of Bengal, 25 October 1776 in *FWIHC*, vii, 158-161.

¹²⁶ John Robinson to General Clavering, 11 November 1776 in Weitzman, *Warren Hastings and Philip Francis*, 320-321.

from which he had been suffering.¹²⁷ His death rendered permanent the situation, which had been in place since his illness prevented him from attending council meetings, whereby Hastings could force his policies through with the use of his casting vote.¹²⁸ The disintegration of the Triumvirate had a considerable impact on the actions of both sides. Alongside the news, which had arrived via the overland route through Suez, that the proprietors had overturned the decision to remove Hastings and Barwell, Monson's death caused Clavering to offer his resignation to the directors.¹²⁹ However, his decision to resign was post-dated to 'November or December 1777', presumably in hopes that the ministry would take further measures to effect Hastings's removal.¹³⁰ Francis, too, was resolved to remain in office under the same presumption.¹³¹

Hastings and Barwell, as might be expected, reacted rather differently to the news. Barwell had been contemplating resigning his post and returning to Britain. Ostensibly, this was for the purpose of recovering his health.¹³² However, he was certainly alarmed at the charges of peculation being levelled against him in Britain and perhaps also sought to obtain a seat in Parliament as a platform to defend himself and also to acquire the benefit of parliamentary privilege to avoid facing

¹²⁷ Governor General and Supreme Council of Bengal to the Court of Directors, 26 September 1776 in *FWIHC*, vii, 459.

¹²⁸ John Clavering to the Court of Directors, 22 September 1776 in BL, Francis Papers, IOR MSS Eur F5, 139; Philip Francis to Christopher D'Oyly, 21 August 1776 in Weitzman, *Warren Hastings and Philip Francis*, 284.

¹²⁹ The news via the overland route brought information up to the 24th May 1776 to Calcutta by mid-August, an astonishingly rapid conveyance. Richard Barwell to Mary Barwell, 20 September 1776 in 'Letters of Mr. Richard Barwell—XIII,' *BP&P* xv (1917): 123-124; Philip Francis to Christopher D'Oyly, 21 August 1776 in Weitzman, *Warren Hastings and Philip Francis*, 284.

¹³⁰ John Clavering to the Court of Directors, 22 September 1776 in BL, Francis Papers, IOR MSS Eur F5, 140. The fact that he did not communicate his resignation to Francis only adds to this supposition, see Philip Francis to Welbore Ellis, 18 November 1777 in Weitzman, *Warren Hastings and Philip Francis*, 297-298.

¹³¹ See Philip Francis to Christopher D'Oyly, 26 September 1776, Philip Francis to Henry Strachey, 16 September 1776, and Philip Francis to John Bourke, 23 September 1776 in Weitzman, *Warren Hastings and Philip Francis*, 292-293, 306.

¹³² Richard Barwell to John Robinson, 20 September 1776 in 'Letters of Mr. Richard Barwell—XIII,' 118.

civil suits from the Company or others.¹³³ Monson's death gave Hastings and Barwell the ability to push through their policy agenda and 'clear off a great part of the load of business that was before the Board.'¹³⁴ Barwell had therefore been convinced by Hastings to remain in Bengal, at least until the new settlement for the collection of revenues had been arranged, which was scheduled for April 1777.¹³⁵ Hastings, on the other hand, was less cautious. While he was still anxiously awaiting a definitive decision from Britain, he was determined to take advantage of the 'revolution in our Council' occasioned by Monson's death.'¹³⁶ Hastings assured North that he would 'let the affairs of this government remain in their present channels, and...avoid alterations which in the course of a few months may possibly be subject to new changes'.¹³⁷ To his trusted friends, however, Hastings expressed his desire to 'retrie[v]e...the first wound' given to his authority by the restoration of several of his supporters which was almost certain to raise the ire of Clavering and Francis.¹³⁸ Monson's death also seems to have hardened Hastings's intention to remain in his position, even if the directors or Parliament called for his removal. He declared that '[h]aving gone through two years of persecution, I am determined now that no less authority than the King's express act shall remove me, or death.'¹³⁹ While the sword of Damocles remained poised over the Supreme Council, Monson's

¹³³ Barwell took this course of action upon his return to Britain in 1780, along with many other returned Company servants, see Namier and Brooke eds., *History of Parliament: The House of Commons 1754-1790*, ii, 60-61; Philip Lawson and Jim Phillips, "'Our Execrable Banditti': Perceptions of Nabobs in Mid-Eighteenth-Century Britain," *Albion* 16 (1984): 228. On Sir Thomas Rumbold's use of Parliament, see Jim Phillips, 'Parliament and Southern India, 1781-1783: The Secret Committee of Inquiry and the Prosecution of Sir Thomas Rumbold,' *Parliamentary History* 7 (1988): 81-97.

¹³⁴ Richard Barwell to Ralph Leycester, 25 November 1776 in 'Letters of Mr. Richard Barwell—XIV,' *BP&P* xvi (1918): 72-73.

¹³⁵ Richard Barwell to John Robinson, 23 November 1776 in Eridge Park, Robinson Papers, No. 119. On the plans for a new revenue settlement, see Ranajit Guha, *A Rule of Property for Bengal: An Essay on the Idea of Permanent Settlement* (Durham, NC: Duke University Press, 1996).

¹³⁶ Warren Hastings to John Graham, 26 September 1776 in Gleig ed., *Memoirs of Hastings*, ii, 111

¹³⁷ Warren Hastings to Lord North, 26 September 1776 in *Ibid.*, 108-110.

¹³⁸ Warren Hastings to Alexander Elliot, 23 November 1776 in *Ibid.*, 114-115; Warren Hastings to John Stewart, 21 December 1776 in *Ibid.*, 118-221.

¹³⁹ Warren Hastings to John Graham, 26 September 1776 in *Ibid.*, 112.

death temporarily threw the initiative in the governance of Bengal back into the hands of the Company's employees in India.

Between the overland package from Suez, carrying news as late as 24 May 1776, and the receipt of another overland conveyance, this time by way of Basra, sometime in April 1777, Bengal received no news or information from Britain.¹⁴⁰ Such were the potential communicative disruptions during wartime, exacerbated by the delay of political indecision, that almost a year could elapse between the receipt of any public or private dispatches between Britain and India. The package via Basra contained news only up to 20 September, and therefore did not provide any significant update on the decision between the rival factions in the Supreme Council.¹⁴¹ It was not until the middle of June 1777 that information reached Bengal that the Company's directors had accepted the resignation made by Maclean on Hastings's behalf. The events of the week following the arrival of the official dispatches from the Company by HMS *Rippon* on 18 June 1777 were decisive in structuring the future course of East India Company reform at least until the appointment of Earl Cornwallis as Hastings's permanent replacement as Governor General in 1786.

VIII. CLAVERING'S COUP AND JUDICIAL INTERVENTION: THE AVOIDANCE OF REVOLUTION (BENGAL: JUNE – JULY 1777)

The Company's official letters, along with many others by private hands, were dispatched on Sir Edward Vernon's flagship *Rippon* as he arrived to relieve Sir Edward Hughes as the commander of the Royal Navy's East Indies Station. However, Hastings received early notice of the resignation submitted on his behalf by Maclean. William Mackintosh, who had been employed several times as a

¹⁴⁰ William Hornby to Warren Hastings, 27 February 1777 in BL, Hastings Papers, Add. MS. 29138, f. 208; Richard Barwell to Mary Barwell, 31 March 1777 in 'Letters of Mr. Richard Barwell—XIV,' 97-98.

¹⁴¹ Sir Edward Hughes to Warren Hastings, 27 March 1777 in BL, Hastings Papers, Add. MS. 29138, f. 247.

messenger by Hastings's supporters, was entrusted by Maclean with carrying the dispatches on the *Rippon*.¹⁴² To obtain a speedier passage, Mackintosh left the *Rippon* for another ship at Madagascar, having benefitted from the protection offered by its 60 guns from the threats posed by American privateers in the Atlantic. He was therefore able to arrive at Calcutta and deliver Hastings's private letters on 14 June 1777, a full five days before the arrival of those aboard the *Rippon*.¹⁴³ According to Hastings's own narrative, although he was 'greatly dissatisfied with the offer which Mr. Maclean had made to the Directors of my resignation,' he was, out of respect for Maclean, 'resolved to ratify his act, and resign at the time which should be pointed out either by the subsequent advices from the Court of Directors, or from my friends, who in their last letters had desired me in a particular manner to suspend every thought of resigning, until I should hear from them again.'¹⁴⁴ As proof of his initial willingness to abide by Maclean's resignation, Hastings cited his revocation of a recent appointment to Burdwan (Bardhaman) of one of his partisans, John Shakespear.¹⁴⁵ Hastings does not appear to have made any preparations for the official revelation of the news of his resignation, nor does it appear that he shared the early information widely.¹⁴⁶ The considerable differences in the responses of the different council members to the arrival of the official news suggests that Hastings did not make the news of his resignation public.

The course of events following the arrival of the public letters from the Court of Directors on 19 June is not an object of dispute among the detailed accounts given

¹⁴² On William Mackintosh, see Laurence Sullivan to Warren Hastings, 27 January 1773 in BL, Hastings Papers, Add. MS. 29133, f. 345; and James Macpherson to Warren Hastings, 30 August 1778 in BL, Hastings Papers, Add. MS. 29141, f. 342; and Lauchlin Maclean and John Stewart to Warren Hastings, 26 November 1776 in BL, Hastings Papers, Add. MS. 29137, f. 496-497.

¹⁴³ Warren Hastings to Laurence Sullivan, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 162.

¹⁴⁴ *Ibid.*, 164-165.

¹⁴⁵ *Ibid.*, 165.

¹⁴⁶ Hastings apparently informed Barwell, who briefly felt betrayed by Hastings, absenting himself from several council meetings before returning to his side in light of Clavering's actions. See Philip Francis to Christopher D'Oyly, 28 June 1777 in BL, Francis Papers, IOR MSS Eur E15, 741-743.

by each of the five individuals who were most intimately connected with the affair. The following brief narrative is derived, in aggregate, from their various accounts.¹⁴⁷

On Thursday 19 June, the Company's dispatches from on board the *Rippon* were received and officially opened in the council chamber.¹⁴⁸ They confirmed the news that the directors had accepted Hastings's resignation and that Edward Wheler had been appointed a councillor, though Wheler did not depart with the letter.¹⁴⁹ Despite the momentous revelations contained in the dispatches, nothing occurred in consequence of them on that day. The following morning, Hastings proceeded to convene the Council in its Revenue Board, as scheduled. At the same time, Clavering sent out a summons for a general council meeting. Francis attended the council with Clavering, apparently ignoring Hastings's summons, while Barwell attended Hastings at the Revenue Board, alerting Hastings that Clavering had summoned a general meeting of the council under the assumed authority of Governor General.¹⁵⁰ Having officially taken the oaths as Governor General, Clavering then wrote to Hastings requesting that he hand over the keys to the fort and treasury. Evidently alarmed at what they felt to be a usurpation, Hastings and Barwell wrote to the commanding officers at Fort William and several other important military stations and provincial councils throughout Bengal, forbidding

¹⁴⁷ For Hastings's account, see Warren Hastings to Francis Sykes, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 151-156; Warren Hastings to Lord North, 29 June 1777 in *Ibid.*, 157-161; Warren Hastings to Laurence Sullivan, 29 June 1777 in *Ibid.*, 162-172; and Warren Hastings to the Court of Directors, 15 August 1777 in Eridge Park, Robinson Papers, No. 138. For Philip Francis's, see Francis to Alexander Wedderburn, 28 June 1777 in BL, Francis Papers, IOR MSS Eur E15, 727-730; and Philip Francis to Christopher D'Oyly, 28 June 1777 in *Ibid.*, 740-743. For Sir Elijah Impey's see Impey to Edward Thurlow, 29 June 1777 in Impey ed., *Memoirs of Impey*, 162-164' and Impey to Lord Bathurst, [n.d. ca. June 1777] in BL, Impey Papers, Add. MS. 16259, ff. 49-50. For Barwell's, see Richard Barwell to Mary Barwell in 'Letters of Mr. Richard Barwell—XIV,' 241-243. And for Sir John Clavering's, see Sir John Clavering to John Robinson, 12 July 1777 in BL, Francis Papers, IOR MSS Eur E15, 779-791; and Sir John Clavering to John Robinson, 14 July 1777 in *Ibid.*, 795-801.

¹⁴⁸ Lucy Sutherland incorrectly reports the date as 18 October 1777 in 'Resignation on Behalf of Warren Hastings,' 269.

¹⁴⁹ Court of Directors to the Governor General and Supreme Council of Bengal, 25 October 1776 in *FWIHC*, vii, 158-161.

¹⁵⁰ Hastings had presumably not received a summons from Clavering because he was deemed to have resigned from the Supreme Council.

them to obey orders from anyone outside the Revenue Board. The respect commanded by Hastings among the Company's military and civil servants was such that these orders were obeyed. The orders were also timely, as Clavering and Francis had penned similar letters to the commandant of Fort William and had drafted a proclamation to be delivered throughout the province announcing Clavering's assumption of the Governor-Generalship. When they heard that Hastings had summoned the Supreme Court judges to determine the legality of Clavering's actions, Clavering and Francis suspended the resolutions they had passed in council and awaited the decision of the judges. Both sides submitted their arguments and accompanying documentation and at four o'clock in the morning the following day the judges came to the unanimous determination that Clavering's assumption of the position of Governor General was illegal. Their reasoning was that 'the place and Office of Governor General...has not yet been vacated by Mr. Hastings' because Maclean had only signalled Hastings's '*desire to resign*', thereby only intimating that he would do so in the future but not stipulating a specific time.¹⁵¹ All sides agreed to acquiesce in the decision of the judges.

Events might have stopped there, however, were it not for the further vindictive measures pursued by Hastings and Barwell. On Monday 23 June, they resumed proceedings in the Revenue Board and declared that, since Clavering had vacated his offices of senior councillor and commander-in-chief by taking the oaths as Governor General, the Supreme Council did not possess the power to readmit him to his former stations. By this manoeuvre, they hoped to exclude Clavering from future participation in the Supreme Council and thereby solidify their own position in Bengal. Francis and Clavering submitted the new resolutions to the judges for their opinions. The judges ruled the following day that the Supreme Council had no legal authority to declare the office of one of its members vacant. On Wednesday 25 June the affair was concluded by a further meeting of the Council, attended by all

¹⁵¹ Supreme Court of Judicature to the Supreme Council of Bengal, 20 June 1777 in BL, Hastings Papers, Add. MS. 29138, f. 473.

four members, in which it was resolved to refer all the claims and counterclaims since 20 June to the relevant authorities in Britain for a decision. They consented to the restoration of the *status quo ante* as it existed prior to the arrival of the *Rippon*. Thus ended the ‘convulsion of four days’ which Hastings warned, if it were not for the timely and judicious intervention of the judges, ‘might have shaken the very foundation of the national power and interests in India.’¹⁵² Once again, therefore, the onus was placed squarely upon the authorities in Britain to direct the future trajectory of British policy in India.

In the wake of this incident, Francis and Clavering must have felt a mixture of vindication and frustration. Their actions in the Supreme Council had been vindicated insofar as the ministry had gone to great lengths to procure Hastings’s resignation and to thereby bestow the delegated government of Bengal into their hands. Clavering had also been rewarded with admission into the Order of Bath, a strong testimonial of the support of the Crown and one which Hastings’s supporters in Britain felt had directly contravened the propositions agreed upon Maclean’s delivery of Hastings’s resignation.¹⁵³ For its supposed proof of the ministry’s willingness to dispense with the agreement once Hastings had resigned, it was among the primary reasons why many of his friends (including Maclean) argued that Hastings should no longer abide by his resignation.¹⁵⁴ However, Clavering and Francis were also evidently frustrated by the fact that a decision which had taken so long to be reached had been dashed not only by their own overzealousness in attempting to seize the reins of power immediately, but also by the ‘loose and careless Terms, in which the directors thought fit to communicate to us an Event of so much Importance to this Government.’¹⁵⁵ Indeed, the directors had established no

¹⁵² Warren Hastings to Lord North, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 159.

¹⁵³ Sir John Clavering to John Robinson, 12 July 1777 in BL, Francis Papers, IOR MSS Eur E15, 779-780.

¹⁵⁴ Lauchlin Maclean and John Stewart to Warren Hastings, 13 November 1776 in Gleig ed., *Memoirs of Hastings*, ii, 95-96.

¹⁵⁵ Sir John Clavering to John Robinson, 12 July 1777 in BL, Francis Papers, IOR MSS Eur E15, 781-783.

time-frame for Hastings's resignation and made no explicit declaration that Clavering would become their new Governor General, however much that might be implied by his seniority in the Council. Clavering was also critical of Hastings's mobilisation of the military against him. Indeed, he declared that it was not owing to the directors 'that a Question, concerning the actual Possession of the Government, which they ought to have foreseen and provided for...was not decided here by an appeal to the Sword.'¹⁵⁶ Although they were perhaps fortunate to evade violence, Francis and Clavering were still faced with the harsh reality that it could take a year or more for further action to be taken concerning Hastings's refusal to resign from his post as Governor General.

Hastings's ability to refuse to abide by the resignation submitted on his behalf by Maclean, in spite of the clear intentions of the North Ministry to effect his removal, highlights the shortcomings of the communicative links between authorities in Britain and India. Loopholes in the wording of epistolary correspondence, instructions, or orders could dramatically restrict the implementation of reforms. The communicative delays caused by the distance between India and Britain meant that when news of Hastings's refusal to resign reached London it became intertwined with other issues that not only preserved Hastings in his office but also effectively delayed substantial East India reforms for almost seven years.

IX. RESPONSES TO HASTINGS'S REFUSAL TO RESIGN

It has already been noted that Hastings's supporters took offence to the honours bestowed upon General Clavering and urged him not to resign as a result.¹⁵⁷

¹⁵⁶ *Ibid.*, 784-785. Hastings, too, was fearful that Bengal could become the scene of 'anarchy and civil bloodshed' see Warren Hastings to Laurence Sullivan, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 163-164.

¹⁵⁷ Laurence Sullivan to Warren Hastings, 18 October 1776 in BL, Hastings Papers, Add. MS. 29137, f. 408; John Stewart to Warren Hastings, 31 October 1776 in Gleig ed., *Memoirs of Hastings*, ii, 92; Lauchlin Maclean and John Stewart to Warren Hastings, 13 November 1776 in BL, Add. MS. 29137, ff. 459-460; Lauchlin Maclean to Warren Hastings, 13 November 1776 in *Ibid.*, f. 461.

Hastings himself, however, was scrupulous enough not to include it as a reason for his refusal to resign. Despite the encouragement he received to temporarily forego his resignation and his ‘dissatisfaction’ with Maclean’s agreement with the government, Hastings was initially resolved to comply with it. He argued that it was Clavering’s violent and precipitous conduct in attempting to seize the Governor-Generalship that determined him to stand his ground.¹⁵⁸

Over time, however, Hastings began to deny ever having empowered Maclean to tender his resignation. In a letter to Francis Sykes, one the few of Hastings’s supporters in Britain who had consistently opposed Maclean’s accommodation with the government, he claimed that the resignation was ‘contrary to all the letters I have written to Colonel Maclean and my other friends since his departure...which all call out for a decision, either by my dismissal or confirmation, and all vow that I will not resign.’¹⁵⁹ He admitted, however, to being unable to ‘distinctly remember what instructions I gave to Graham and Maclean, and if I kept a copy I have mislaid it.’¹⁶⁰ Despite claiming that he gave his agents ‘an unlimited discretion to act for me as they thought best,’ he still complained of the presumptuousness of the directors in feeling themselves ‘authorized to receive my voluntary resignation from the doubtful hands of an agent.’¹⁶¹ Hastings argued that his declarations since their departure had essentially revoked any proxy power he may or may not have assigned to Maclean. If Maclean had received any of the letters to which Hastings was referring, however, it was in no way clear to him that his instructions had been altered. George Vansittart agreed that ‘the constant tenour’

¹⁵⁸ Warren Hastings to Francis Sykes, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 156; Warren Hastings to Lord North, 29 June 1777 in *Ibid.*, 159; Warren Hastings to Laurence Sullivan, 29 June 1777 in *Ibid.*, 165-166.

¹⁵⁹ Warren Hastings to Francis Sykes, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 154. The passages he quotes to Sykes, however, he admits were not in Maclean’s possession when he came to the compromise with government over Hastings’s resignation. He also extracted a number of other passages in his letter to the Court of Directors, 15 August 1777 in Eridge Park, Robinson Papers, No. 138.

¹⁶⁰ Gleig ed., *Memoirs of Hastings*, ii, 155.

¹⁶¹ Gleig ed., *Memoirs of Hastings*, ii, 155

of Hastings's letters suggested that he was 'disgusted with [his] situation.' This language led him to believe that 'Macleane's resignation would be agreeable to you.'¹⁶² Within a few years, however, perhaps emboldened by Macleane's death, Hastings's language had hardened yet further. He declared that 'I never gave such Powers to any Man living...nor any Power or Trust which could admit of such a Construction.'¹⁶³ Whether or not he ever did empower Macleane, Hastings—and through him the East India Company—were clearly the victims of miscommunication, one of the perennial problems of distance. Even the dispatching of an agent could not overcome the misapprehension of the constantly shifting situation in Bengal.¹⁶⁴ It is perhaps telling, given his experiences with Macleane, that Hastings did not send the information concerning his refusal to resign through the medium of another agent. He chose instead to allow his letters to do the talking, a move which also potentially bought him crucial time to exchange further information with his supporters in Britain.

Sutherland, in attempting to evaluate whether Hastings ever gave Macleane the authority to resign on his behalf, came to the conclusion that there was 'little doubt that Macleane was acting in good faith and in the spirit of his instructions.'¹⁶⁵ Although we may have reason to doubt Macleane's 'good faith' given his negotiations on behalf of the nawab of Arcot, the extant evidence appears to corroborate Sutherland's claim that the agents 'honestly believed they were empowered to hand in Hastings's resignation unless certain conditions were obtained.'¹⁶⁶ Indeed, Macleane had explained what he considered to be his

¹⁶² George Vansittart to Warren Hastings in BL, Vansittart Papers, IOR MSS Eur F331/22, 40-42.

¹⁶³ Warren Hastings to Laurence Sullivan, 6 January 1780 in Bodleian Library, Sullivan Papers, MS. Eng. hist. c. 271, ff. 22-41.

¹⁶⁴ For similar problems with misunderstandings and miscommunications involving British Residents in the Indian Princely States, see Callie Wilkinson, 'Weak Ties in a Tangled Web? Relationships between the Political Residents of the English East India Company and their munshis, 1798-1818,' *MAS* 53, no. 5 (2019): 1574-1612.

¹⁶⁵ Sutherland, 'The Resignation on Behalf of Warren Hastings,' 23.

¹⁶⁶ *Ibid.*, 24; see also George Vansittart to Warren Hastings, 15 November 1780 in BL, Vansittart Papers, IOR MSS Eur F331/22, 38-42.

instructions to Hastings's supporters in Britain from the moment of his arrival, and no subsequent information appeared to have revoked his powers.¹⁶⁷ It is not particularly surprising, therefore, that they acquiesced in Maclean's accommodation with the government. Even Hastings's partisans who had more recently returned from India, such as George Vansittart and Alexander Elliot, did not oppose Maclean's actions. Vansittart, who was called as a witness by the directors to testify upon the veracity of Maclean's credentials, justified his actions to Hastings by claiming that he 'considered Lord North's determination to remove you by Act of Parliament as a full decision in favour of your Opponents, and consequently as entitling Maclean to make use of his former instructions.'¹⁶⁸ Alexander Elliot, who had strongly supported the accommodation with government negotiated by Maclean, reported that before he returned to India he had 'learnt what Maclean[']s powers were' and upon that basis claimed that he would not have submitted Hastings's resignation were he in Maclean's situation.¹⁶⁹ This evidence adds weight to the argument that Hastings's verbal instructions to his agents and his written propositions (the several copies of which appear to have been lost)¹⁷⁰ contained enough ambiguity to support Maclean's authority to submit Hastings's resignation while also providing Hastings with the latitude to claim plausible deniability in refusing to comply with his agent's actions. If Hastings became more resolute in his determination not to resign, it was only after the death of Colonel Monson dissolved the Triumvirate's majority in the Supreme Council and allowed him to carry his policies against the wishes of Clavering and Francis through his casting vote.

¹⁶⁷ Laurence Sullivan to Warren Hastings, 28 November 1775 in BL, Hastings Papers, Add. MS. 29136, f. 361; Laurence Sullivan to Warren Hastings, 7 December 1775 in *Ibid.*, f. 379.

¹⁶⁸ George Vansittart to Warren Hastings, 15 November 1780 in BL, Vansittart Papers, IOR MSS Eur F331/22, 40-42.

¹⁶⁹ Alexander Elliot to Lady Agnes Elliot, 15 November 1777 in NLS, Minto Papers, MS 11020, ff. 144-145.

¹⁷⁰ Warren Hastings to Francis Sykes, 29 June 1777 in Gleig ed., *Memoirs of Hastings*, ii, 155; Warren Hastings to the Court of Directors, 15 August 1777 in Eridge Park, Robinson Papers, No. 138. Maclean apparently showed the Court of Directors the instructions written in Hastings's hand and they claimed that in them 'Hastings declares that he will not continue in the Government of Bengal unless certain Conditions therein specified can be obtained, of which they see no probability.' See Minutes of the Court of Directors, 23 October 1776 in BL, IOR/B/92, 376.

Hastings's attempts to mitigate the potential disruptions inherent with long-distance oceanic voyages as well as the limitations of epistolary or textual communications, by sending Maclean as his agent in the metropole, ended in abject failure. Even if he maintained his position as Governor General, he did so under the constant anxiety that the next advices from Britain could order his removal.¹⁷¹ When he later sent John Scott to London as his official agent in the early 1780s, Hastings attempted to rectify his previous error by providing Scott with a clear set of written instructions to govern his behaviour. Scott also submitted a heavily redacted copy of these instructions to the Court of Directors.¹⁷²

X. THE DEATH OF CLAVERING AND THE DEFERRAL OF EAST INDIA COMPANY REFORM

The death of General Clavering in August 1777, just two months after he had attempted to seize the reins of government in Bengal, had a dramatic effect on the future of East India reform. In the wake of Hastings's resignation, the responsibility for ensuring the operation of North's Regulating Act in India was supposed to have devolved upon him.¹⁷³ The setback he received when Hastings refused to resign was reported to have affected him so greatly that he fell fatally ill.¹⁷⁴ For Hastings, Clavering's death came as a relief. 'In this breathing time,' he wrote to John Macpherson, 'after a hard struggle of three years, I feel no small pleasure, and even a

¹⁷¹ Richard Barwell to Mary Barwell, 13 September 1777 in 'Letters of Mr. Richard Barwell—XIV,' 251; Warren Hastings to John Purling, 22 November 1777 in Gleig ed., *Memoirs of Hastings*, ii, 178; Warren Hastings to Laurence Sullivan, 31 December 1777 in *Ibid.*, 185.

¹⁷² John Scott to Warren Hastings, 8 January 1781 in BL, Hastings Papers, Add. MS. 29147, ff. 32-34; John Scott to Warren Hastings, 27 August 1782 in BL, Hastings Papers, Add. MS. 29155, f. 487; John Scott to Warren Hastings, 29 August 1782 in *Ibid.*, ff. 497-500.

¹⁷³ The term 'India' is used here rather than 'Bengal' because the Governor General and Supreme Council were granted powers in North's Regulating Act to supervise the military and diplomatic affairs of the Company's other presidencies.

¹⁷⁴ Lady Katherine Clavering to Sir Robert Chambers, 31 August 1777 in BL, Liverpool Papers, Add. MS. 38400, f. 114; Philip Francis to Lord North, 9 September 1777 in BL, Francis Papers, IOR MSS Eur F5, 111-113; David Killican to George Graham, 17 September 1777 in NRS, Kinross House Papers, GD29/2061/11.

degree of vanity.¹⁷⁵ Striking a more official yet still optimistic tone, Hastings wrote to Lord North hoping that Clavering's death 'will have removed the Object for which my Resignation was required' and wished therefore to be confirmed in the continuation of his government.¹⁷⁶ Philip Francis, on the other hand, though affecting to have been hurt by Clavering's death, also saw in it an opportunity. If Hastings and Barwell were to be removed from the Supreme Council by future orders from Britain, he would be next in line to the Governor-Generalship and this, it seems, was his primary motivation for remaining in Bengal in the face of such dramatic setbacks.¹⁷⁷ Barwell's response to Clavering's demise was similar to that of Francis but rendered slightly more complex by his ostensible support for Hastings. While maintaining the public façade of supporting Hastings, he wrote to his sister that he still wished to resign unless Hastings was removed from the Governor-Generalship, which, of course, would result in Barwell's succession to the chair.¹⁷⁸ Hastings's greatest supporter throughout his tenure as Governor General wrote that 'I shall be disappointed I own if he does not go home.'¹⁷⁹ Clavering's death therefore awakened the ambitions of the three remaining members of the Supreme Council, ensuring that the trio lingered in Bengal in eager anticipation of the next orders from Britain.

Despite attempts to expedite the transmission of the news of Clavering's death by sending it through multiple conveyances, the information did not arrive in Britain until April 1778.¹⁸⁰ What is more, the news arrived in Britain just prior to the

¹⁷⁵ Warren Hastings to John Macpherson, 23 November 1777 in Gleig ed., *Memoirs of Hastings*, ii, 179.

¹⁷⁶ Warren Hastings to Lord North, 2 October 1777 in Eridge Park, Robinson Papers, No. 153.

¹⁷⁷ Philip Francis to Edward Wheler, 13 November 1777 in BL, Francis Papers, IOR MSS Eur F5, 159-161.

¹⁷⁸ Richard Barwell to Mary Barwell, 30 August 1777 in 'Letters of Mr. Richard Barwell—XIV,' 249-250.

¹⁷⁹ Richard Barwell to Mary Barwell, 13 September 1777 in 'Letters of Mr. Richard Barwell—XIV,' 251.

¹⁸⁰ Warren Hastings to Lord North, 7 September 1777 in Eridge Park, Robinson Papers, No. 143; Warren Hastings to John Woodman, 8 September 1777 in BL, Hastings Papers, Add. MS. 29139, f. 145; Governor General and Supreme Council of Bengal to the Court of Directors, 10 September 1777

intelligence that Hastings had refused to abide by Maclean's resignation, an instance that, fortuitously for Hastings, had the effect of softening the blow of his refusal to resign.¹⁸¹ Maclean, for his part, had ventured back to Madras in a lightning trip associated with his agency for the nawab of Arcot.¹⁸² By the time news of Hastings's refusal to resign had reached Britain, the *Swallow*, upon which Maclean was travelling, was widely feared to have been lost at sea on its return voyage.¹⁸³ The nearly simultaneous arrival of the news of Clavering's death and Hastings's refusal to resign severely restricted the options available to the authorities in Britain. Hastings was correct in assuming that they would be hesitant, if not entirely unwilling, to push for his removal and leave Bengal in the hands of Barwell or Francis. The escalation of the American Revolution into a full-scale global conflict with France also raised fears that British possessions in India could be targeted.¹⁸⁴ The need for stability and experience in such critical times no doubt informed the decision not to pursue Hastings's removal.¹⁸⁵ Rather than making an

in *FWIHC*, viii, 347; William Hornby to Warren Hastings, 10 November 1777 in BL, Hastings Papers, Add. MS. 29139, f. 276; Lord North to King George III, [6 April 1778] in Fortescue ed., *Correspondence of George III*, iv, 99.

¹⁸¹ Minutes of the Court of Directors, 17 April 1778 in BL, IOR/B/94, 17-18; John Macpherson to Warren Hastings, 17 April 1778 in BL, Hastings Papers, Add. MS. 29140, f. 279; Laurence Sullivan to Warren Hastings, 20 April 1778 in *Ibid.*, f. 286; Laurence Sullivan to Warren Hastings, 5 May 1778 in *Ibid.*, f. 350.

¹⁸² Laurence Sullivan to Warren Hastings, 10 June 1778 in BL, Hastings Papers, Add. MS. 29141, ff. 30-31. See also Maclean, *Reward is Secondary*, 434-435.

¹⁸³ Lauchlin Maclean to Warren Hastings, 28 November 1777 in Add. MS. 29139, f. 365. In this last fateful letter, Maclean reports on the *Swallow*'s state of disrepair upon arriving at the Cape.

¹⁸⁴ 'Minute of Cabinet,' 8 November 1781 in G.R. Barnes and J.H. Owen eds., *The Private Papers of John, Earl of Sandwich, First Lord of the Admiralty 1771-1782* (London: Navy Records Society, 1938), iv, 226; John Robinson to Charles Jenkinson, 10 January 1783 in BL, Loan MS 72/29 ff. 116-117; Court of Directors to the Governor General and Council of Bengal, 4 March 1778 in *FWIHC*, viii, 148; Warren Hastings to Laurence Sullivan, 18 August 1778 in Gleig ed., *Memoirs of Hastings*, ii, 200-207; James Macpherson to John Macpherson, 1 June 1781 in BL, Macpherson Papers, MSS Eur F291/123.

¹⁸⁵ Laurence Sullivan to Warren Hastings, 21 December 1778 in BL, Hastings Papers, Add. MS. 29142, ff. 218-219; 'Letter First. To the Proprietors of East-India Stock,' signed 'An Independent Proprietor' in *Morning Chronicle*, 20 April 1782; John Scott to Warren Hastings in Gleig ed., *Memoirs of Hastings*, iii, 111; Warren Hastings to David Anderson, 5 December 1782 in *Ibid.*, ii, 549; Joseph Price, *A Third Letter to the Right Honourable Edmund Burke, Esq. on the Subject of the Evidence Contained in the Reports of the Select Committee of the House of Commons. With an Introductory Preface* (London, 1782): 66.

immediate decision to confirm Hastings in power, however, the ministers and directors merely postponed making any decision, a move which was eventually justified on the grounds that the Company's charter was up for renewal and the Regulating Act was set to expire.¹⁸⁶ The future of the Supreme Council was to be decided alongside the future of the Company but, in the absence of definitive statements, the councillors in Bengal were left, once again, in considerable suspense.

The initial response from George III to the news of Hastings's refusal to resign was unequivocal. He called it a 'daring step' and argued that unless the Company or Parliament acted to rectify it, by removing Hastings and Barwell, the 'Dignity of Parliament...is annihilated.'¹⁸⁷ Robinson initially shared these views, having only read Francis's account, and the ministry were apparently willing to push for Hastings's impeachment.¹⁸⁸ Upon receiving more balanced accounts from both sides and seeing Hastings's supporters prepared in the press and at East India House to confound the government's aims, the Ministry backed down from their intended hostilities. Astonishingly, it was not until their letter of 23 December 1778, a year and a half after the event, that the directors officially responded to Hastings's refusal to comply with Maclean's resignation on his behalf. Despite the amount of time that had already elapsed since the arrival of the news and the composition of their letter, the directors reported that they 'deem it expedient to take the best legal opinions and advice, before we decide' on a course of action and claimed that they had 'not [yet] been able to obtain those opinions and Advice.'¹⁸⁹ The resulting letter contained only

¹⁸⁶ John Macpherson to Warren Hastings, 23 May 1778 in BL, Hastings Papers, Add. MS. 29140, f. 430; Laurence Sullivan to Warren Hastings, 10 June 1778 in BL, Hastings Papers, Add. MS. 29141, ff. 35-36

¹⁸⁷ King George III to Lord North, 17 May 1778 in Fortescue ed., *Correspondence of George III*, iv, 143.

¹⁸⁸ Laurence Sullivan to Warren Hastings, 10 June 1778 in Bodleian, Sullivan Papers, MS. Eng. hist. c. 269, ff. 29-30; and John Macpherson to Warren Hastings, 13 June 1778 in BL, Add. MS. 29141 f. 53.

¹⁸⁹ Court of Directors to the Governor General and Council of Bengal, 23 December 1778 in *FWIHC*, viii, 176.

the directors' 'remarks' insinuating that Hastings ought to have abided by his agent's resignation but containing no further orders for him to do so.

Although the King continued to insist that 'the Company is ruined and Parliament turned into ridicule unless Mr. Hastings is instantly removed from his station', during the course of North's ministry no further attempt was made to remove Hastings.¹⁹⁰ The repeated extensions of the Regulating Act simply deferred any substantial reforms in the government of India and confirmed the remaining Supreme Councillors in office. This only prolonged the uneasiness and instability of the Bengal government.¹⁹¹ It was not until after Cornwallis's surrender at Yorktown that the British government turned its attention once again to imposing substantial reforms upon the East India Company. By this time the ministry had formed an alliance of convenience with Hastings and his supporters which was only seriously challenged by the fall of North's ministry and the subsequent onslaught of Henry Dundas and Edmund Burke, who attempted to effect Hastings's recall, backed up by the copious reports of their parliamentary committees.

CONCLUSION

The confusion, miscommunication, and indecision surrounding the resignation on behalf of Warren Hastings in 1776 was among the most crucial factors preventing the North government from following through with their efforts to reform the East India Company. The divisions within the Supreme Council hindered the implementation of North's reforms in Bengal and the failure of Hastings to abide by

¹⁹⁰ King George III to Lord North, 11 May 1779 in Fortescue ed., *Correspondence of George III*, iv, 339.

¹⁹¹ Court of Directors to the Governor General and Council of Bengal, 28 December 1778 in *FWIHC*, viii, 209; Court of Directors to the Governor General and Council of Bengal, 24 March 1780 in *Ibid.*, 257-258; Court of Directors to the Governor General and Council of Bengal, 31 May 1781 in *Ibid.*, 307; Court of Directors to the Governor General and Council of Bengal, 28 January 1784 in *FWIHC*, ix, 145; Warren Hastings to Laurence Sullivan, 30 June 1780 in Bodleian, Sullivan Papers, MS. Eng. hist. c. 271, ff. 56-57; Warren Hastings to the Earl of Shelburne, 12 December 1782 in Gleig ed., *Memoirs of Hastings*, iii, 23-24.

the resignation only exacerbated and prolonged the tensions and indecision which characterised Britain's fledgling imperial project in the East. As a case study, a close analysis of this episode gives crucial insights into the underlying political and communicative networks that provided structure to the Company's far flung territories in Bengal. It clearly exhibits the problems, as well as the opportunities, associated with Britain's attempts to supervise the governance of territories at a sailing distance of over fifteen thousand miles. An admixture of public and private communications was crucial to a process in which the interests of private stockholders were frequently juxtaposed with the ostensibly 'public' or 'national' interests of the ministers. The East India Company, as a chartered corporation possessing a monopoly for the exclusive trade to the East Indies, embodied by its very design this potential contradiction between private gain and public good. Moreover, the legislative appointment of the members of the Supreme Council introduced a public dimension to the ethos of the Company's most senior employees, one which Hastings and Barwell attempted to take advantage of even while frustrating the efforts of the ministerial Triumvirate to impose their interpretation of the reforms intended by North's Regulating Act. Divided councils in India mirrored the bifurcated authority between Westminster and East India House established by North's reforms and the resulting relationship between the two was marked by governmental paralysis and indecision.

Throughout the disputes in the Bengal Council, close-knit communicative networks of private friends and family members played a crucial role in the process of imperial governance. By sharing further information and intimate details with those who they trusted unreservedly, the individuals involved in this transaction sought to obtain an advantage in the negotiations which were central to the kind of delegated governance established by the British in Bengal. The letters between Francis and Christopher D'Oyly, Hastings and Laurence Sullivan, or Richard Barwell and his sister Mary are among the most revealing sources precisely because they were often intended to assist their author's careers in ways that transcended the bounds of an official letter. The fact that such relationships could be strengthened by

common institutional ties or interests is an example of the interconnections between private networks and the institutions of state, or ‘quasi-public’ bodies such as the East India Company, in the process of imperial governance.¹⁹²

The anxieties caused by the problem of distance, however, also spawned considerable ingenuity and opportunity, especially among the Company’s overseas servants. Warren Hastings, in particular, was acutely aware of the advantages to be gained by speedier, more accurate, and more detailed information than could be transmitted simply by letter. He later admitted that his actions as Governor General were influenced by the fact that he knew they would ‘be reviewed through a very remote medium, with a thousand refractions of private interest, secret misrepresentation, and general prejudice and the precipitation of unformed judgement.’¹⁹³ Command over the transmission and dissemination of information between Britain and India was therefore crucial to Hastings’s strategy to maintain his post in the face of a hostile administration. Hastings, therefore, was instrumental in patronising George Baldwin’s attempts to open an ‘overland’ communicative and mercantile route between Britain and India through the Red Sea, Suez, and Alexandria, which he hoped would cut the transmission of information between Britain and India by several months.¹⁹⁴ Another strategy to overcome the problems associated with distance was the deputation of agents to the metropole. While agents could personally carry and safeguard important letters and information, they were also invaluable for engaging in negotiations which were otherwise impossible through long-distance epistolary correspondence. However, the several strategies

¹⁹² Mancke, ‘Empire and State’ in Armitage and Braddick eds., *The British Atlantic World, 1500-1800*, 195-196.

¹⁹³ *The Defence of Warren Hastings, Esq. (Late Governor General of Bengal,) At the Bar of the House of Commons, Upon the Matter of the several Charges of High Crimes and Misdemeanors, presented against him in the Year 1786* (London: J. Stockdale, 1786): 33.

¹⁹⁴ See, for instance, George Baldwin, *The Communication with India by the Isthmus of Suez, vindicated from the Prejudices which have prevailed against it, whether proceeding from the supposed invincible Aversion of the Turks, or arising from Apprehensions of its Tendencies in respect to the Trade of the East-India Company in Leadenhall Street* (London, 1784); see also James Capper, *Observations on the passage to India, through Egypt, and across the great desert; with Occasional Remarks on the adjacent Countries, and also sketches of the different routes* (London, 1784).

associated with mitigating the problems of distance were riddled with their own potential drawbacks and they could considerably exacerbate the tensions inherent in the relationship between metropolitan authorities and their overseas delegates.

Analysis of Hastings's supposed resignation in 1776 reveals that the British state's attempts to reform the East India Company were significantly delayed and disrupted by the inability of the North ministry to simply impose their personnel and policies upon the Company. The American Revolutionary War and the French threat to India contributed to the delay in the British response to the dissensions in the Bengal Council and ultimately preserved Hastings in power for several years. More importantly, however, the case of Maclean's resignation on behalf of Warren Hastings highlights the fact that the springs of political action in imperial governance were far from unidirectional. Neither the authorities in Britain nor their 'delegated sovereigns' in India were able to determine policy in isolation of one another. The dialogical relationship between the multiple poles of authority in both Britain and India was a central feature of imperial governance in this period. As Warren Hastings's supposed resignation shows, the fragility and complexity of the communicative structures linking authorities in Britain with the Company's imperial activities in South Asia were major factors behind the British state's inability to successfully implement the ambitious reform agenda initiated by Lord North in 1773.

CONCLUSION

[T]he difficulty of preserving the relation between distant provinces and the sovereignty arises solely from the political arrangements required to maintain them. From the nature of the British constitution this relation must invariably be a subject of political jealousy. Should the officer, to whom the power is delegated...be at the command of the executive power, then the legislative power might apprehend, that he could become an instrument fitted to abridge the privileges of the subject. Should the same officer be entirely in the nomination...of the Legislature, then the executive Power might be depressed below its constitutional character...It is a domestic government between these two extremes, in delegating power, which points out the system required for British India.¹

In making these observations on the eve of the renewal of the East India Company's charter in 1793, John Bruce was defending the Company's rather anomalous position vis-à-vis Crown and Parliament that had been enshrined in Pitt's India Act of 1784. His motive, however, was not merely to review the history of attempts to reform the Company but more particularly to bolster support for and increase the powers of the Board of Control, of which his patron, Henry Dundas, served as president.² The Board was established in 1784 precisely to mediate the tensions identified by Bruce between the executive and legislative branches of the domestic Constitution. This dissertation has argued that these constitutional tensions were thrown into sharp relief by the acquisition of the vast territories and revenues of Bengal by a company of merchants in possession of a form of delegated sovereignty from authorities in Britain. Such an acquisition raised crucial questions over their sovereignty and ownership which had serious repercussions for the nature and composition of the

¹ Bruce, *Historical View of Plans for the Government of British India* (London: J. Debrett, 1793): 594-595.

² Although Dundas was not officially appointed as president until 1793 he essentially served in that capacity from the board's establishment in 1784. See William Foster, 'The India Board (1784-1858),' *Transactions of the Royal Historical Society* 11 (1917): 67-68; and C.H. Philips *East India Company 1784-1834* (Manchester: Manchester University Press, 1961): 5, 34. On John Bruce, see R. Thorne ed., *The House of Commons 1790-1820: III, Members A-F* (London: Secker & Warburg, 1986): 288.

British Empire. Responses to these questions of imperial sovereignty were refracted through a lens of domestic constitutional jurisprudence that accentuated their political importance and drew the attention of contemporaries to what might otherwise been a rather technical debate about the logistics of governing far-flung imperial possessions. And while the problems associated with attempting to govern such distant possessions from London persisted throughout the duration of the British presence in India, Pitt's India Act and the creation of the Board of Control did succeed, to a considerable degree, in effectively removing the East India Company as a major issue of British domestic politics.³ Once it was no longer considered to pose a substantial threat to the delicate constitutional balance associated with the relative political stability of Hanoverian Britain, efforts to reform the Company ceased to play the same pivotal role in the metropolitan political arena that they had during the crucial decades between 1765 and 1784.

This dissertation has sought to uncover the various intersections between domestic and imperial politics during the debates concerning East India reform. It has taken as its chronology the relatively understudied period from 1773 to 1784 in order to trace the trajectories of reform between the first substantial intervention by the British state in the Company's affairs (Lord North's Regulating Act) and the definitive settlement of Pitt's India Act which established the enduring features of the place of British India within the Empire well into the nineteenth century. The considerable increase in the number of publications on India in this period and the expansion of the reporting of parliamentary debates in the early 1770s provides a valuable context from which to examine the variety of ways in which Britons grappled with the idea of an 'empire in the East' as well as the multiplicity of reform programmes that contemporaries felt were necessary in order to bring the Company's territories into line with the governance of Britain's variety of other overseas interests.

³ P.J. Marshall, *The Problems of Empire: Britain and India 1757-1813* (London: George Allen and Unwin, 1968): 43-50.

By tracing the development of the debates, both inside and outside of Parliament, on India and the East India Company in this transformative period, this dissertation has highlighted several of the major factors that led to the hesitant and ambivalent incorporation of the Company's newfound sovereign status more formally into the structures of the British Empire. It has done so primarily through the examination of three themes which respectively underline the constitutional, ideological, and structural implications of the efforts to reform the East India Company. Each of these themes has followed a similar thread, stressing in particular the reciprocal influences between East India Company reform and domestic politics, policies, and ideas. As such, underpinning the whole dissertation is the assertion that the Company's development in the late eighteenth century, and even the nature of its expansion in India, cannot be fully understood without reference to the ways in which it intersected with the politics and ideologies of empire in the metropole. In proposing this argument, this dissertation makes no grand claim, as some have done, to have 'transcended' the impressive body of work which emphasises the role of factors 'on the spot' in the process of British expansion in India.⁴ Instead it has aimed to complement this historiography by positing the immense reciprocal influence between the prevailing domestic political and constitutional concerns of the early years of George III's reign and the trajectory of the Company's evolving position within the British Empire in constitutional, ideological, and logistical terms. By stressing the transoceanic and dialogical nature of the Company's governance in India, this dissertation has therefore attempted to reconcile what has often been two

⁴ For the argument that a metropolitan-based history has 'transcended' what he has referred to as a 'sub-imperialist account' see James Vaughn, *The Politics of Empire at the Accession of George III: The East India Company and the Crisis and Transformation of Britain's Imperial State* (New Haven: Yale University Press, 2019): 12; for the non-metropolitan factors behind British imperial expansion in India, see Sanjay Subrahmanyam and C.A. Bayly, 'Portfolio Capitalists and the Political Economy of Early Modern India,' *Indian Economic and Social History Review* 25, no. 4 (1988): 410-424; Lakshmi Subramanian, 'Banias and the British: The Role of Indigenous Credit in the Process of Imperial Expansion in Western India in the Second Half of the Eighteenth Century,' *MAS* 21, no. 3 (1987): 473-510; and P.J. Marshall, 'British Expansion in India in the Eighteenth Century: A Historical Review,' *History* 60, no. 198 (1975): 28-43.

antagonistically divergent historiographies whose bifurcation is often characterised by the metropole-periphery divide.

The reciprocal constitutional relationship between the East India Company and the British state is the subject of the first theme analysed in this dissertation. It has argued that the constitutional debates surrounding the relative powers of the Crown and Parliament and the settlement of the Company's position within the British Empire were, in fact, mutually constitutive—that one cannot be fully understood without reference to the other. North's reforms in 1773 were the result of a compromise between attempting to provide political and financial stability to the Company while at the same time avoiding such intrusive government oversight that his administration could be accused of attempting to seize the Company's extensive patronage for itself. The reasons for this were twofold. Firstly, there were the widespread fears that the North administration's acquisition of the vast patronage of the Company could result in a 'new tide of corruption' with the potential to unbalance the Constitution in favour of the executive branch. In short, many contemporaries expressed concerns that Lord North would be able to bribe MPs by offering lucrative offices in India to their friends and relatives and thereby essentially purchase a permanent majority in the lower chamber. Secondly, the defence of the Company's chartered rights and Parliament's sensitivity to what could be seen as invasions of private property forced governments to act cautiously when handling proposals to reform the Company for fear of inciting the opposition of corporations across the country and independent country gentlemen in Parliament. Such genuine constitutional fears informed the moderate nature of North's Regulating Act. This forced North's treasury secretaries to resort to exercising other forms of executive patronage in order to attempt to control the Company's metropolitan institutions. It also resulted in the appointment of a perpetually divided Supreme Council in Bengal which effectively prevented the British state from implementing any programme of reforms upon the Company's overseas servants and from exercising sufficient supervision to prevent further political and financial crises in the early 1780s.

Ultimately, when Fox and Pitt presented two radically different proposals for East India Company reform in 1783-4, it was the resolution of the domestic constitutional crisis over the relative powers of the Crown and Parliament which also decided the future course of the Company's governance in India. Conversely, the domestic constitutional crisis was significantly exacerbated by the need to find a safe means by which the Company could be incorporated within the institutions of the British state. As Bruce pointed out in the quotation that opened this conclusion, the Board of Control in Pitt's India Act acted as something of a *deus ex machina* to resolve the fears that control over the East India Company could augment the power of the executive or the legislature and thereby unbalance the Constitution. The Company's role in opposing Fox's Bill and garnering support in favour of Pitt's far milder reforms not only solidified the anomalous position of the Company within the constitutional apparatus of the British Empire but also effectively removed the Company's patronage as a source of domestic constitutional strife.

Inspired by John Brewer's *Party Ideology and Popular Politics*, this dissertation has taken seriously the debates on constitutional issues among the wider public in order to come to a greater understanding of the constitutional context within which the crises caused by East India Company reform occurred. It is difficult to see how else one could assess the state of a largely unwritten constitutional jurisprudence except perhaps through the traditional manner of focusing on particular decisions or momentous events that were believed to have established precedents. This dissertation, however, has argued, particularly in examining the events surrounding the rejection of Fox's India Bill in the House of Lords, that simply taking the outcome to have established a constitutional precedent can be critically misleading about the state of the Constitution when the event occurred. For example, A.V. Dicey argued that the King's decision to advise the Lords to reject Fox's Bill was an admission that the royal veto over parliamentary legislation had

become a dead letter through misuse by 1783.⁵ However, the close analysis presented in chapter two suggests that not only did the King and his advisors seriously consider such a move, it was also debated in the newspaper and pamphlet press and very few contemporaries explicitly denied the right of the monarch to negative parliamentary legislation. Similarly, by taking seriously the constitutional arguments often dismissed as ‘shibboleths’ or ‘party cant’ it is possible to come to a greater understanding of the trajectories of East India reform which had significant reverberations both in Britain and upon the burgeoning Company-state in India. Such contextual constitutional analysis could prove a useful tool in examining other periods of constitutional debate and flux in eighteenth-century Britain by providing a useful safeguard against both whiggish and uncompromisingly static understandings of the British Constitution while also enriching the variety of sources used in constitutional analysis and allowing for the easier integration of important work on the topic such as that conducted by historians of colonial America.⁶

The second theme examined in this dissertation is the metropolitan ideological context within which East India reforms were developed and debated. The fourth chapter, in particular, assessed the levels of interest and knowledge displayed by the metropolitan public on India and the East India Company through a qualitative analysis of the rapidly expanding printed literature on the subject. It revealed that there was a considerable interest in the Company’s affairs and the idea of a British ‘empire in the East’, and that participation in the debates on Company

⁵ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (London: Macmillan, 1915): 55-56

⁶ Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States 1607-1788* (Athens, GA: University of Georgia Press, 1986); Eliga Gould, *The Persistence of Empire: British Political Culture in the Age of the American Revolution* (Chapel Hill, NC: University of North Carolina Press, 2000); Lauren Benton and Richard J. Ross, *Legal Pluralism and Empires, 1500-1850* (New York, NY: New York University Press, 2013); Ken MacMillan, ‘Imperial Constitutions: Sovereignty and Law in the British Atlantic,’ in H.V. Bowen, Elizabeth Mancke, and John G. Reid eds., *Britain’s Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850* (Cambridge: Cambridge University Press, 2012): 69-97; Barbara Black, ‘The Constitution of Empire: The Case for the Colonists,’ *University of Pennsylvania Law Review* 124 (1976): 1157-1211.

reform appears to have extended far beyond those who were directly involved with the Company either financially or politically. This perhaps contributed to the wide diversity in the ways in which contemporaries publicly responded to the Company's acquisition of substantial territories in Bengal as well as the variety of alternative programmes of reform which they proposed. Indeed, one area where further work could be fruitfully undertaken is in an analysis of these diverse projects of East India reform, the ways in which they intersected with the more general ideas circulating about empire at the time, and their relationship to the resulting legislative trajectories of reform. Doing so could be crucially revealing of the sheer scale of possibilities being proposed on East India reform, ranging from those drafted by acknowledged experts with the ear of the powerful, such as Charles Jenkinson, to those of anonymous pamphleteers whose ideas reflected a huge range of expertise and ignorance on the topic. While being cautious of counterfactualism, such a study could reveal the options available to contemporary policymakers, what Frederick Cooper called 'the paths not taken, the dead ends of historical processes, the alternatives that appeared to people in their time.'⁷ It could thereby contribute to our understanding of why the regulation of the East India Company took the form that it did, all the while guarding against the idea that the British state had been restricted by a form of 'path dependency' toward territorial empire in India from almost the moment of the acquisition of the *diwani* in 1765.⁸

⁷ Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley, CA: University of California Press, 2005): 18; see also John M. Murrin, 'The French and Indian War, the American Revolution, and the Counterfactual Hypothesis: Reflections on Lawrence Henry Gipson and John Shy,' *Reviews in American History* 1, no. 3 (1973): 307-316, recently reprinted in John M. Murrin, *Rethinking America: From Empire to Republic* (Oxford: Oxford University Press, 2018); Simon T. Kaye, 'Challenging Certainty: The Utility and History of Counterfactualism,' *History and Theory* 49, no. 1 (2010): 38-57; and Paul Dukes, 'The Problem with Counterfactualism,' *History Today* 67, no. 1 (2017): <https://www.historytoday.com/archive/problem-counterfactualism>.

⁸ Robert Travers tentatively suggests a kind of 'path dependency' whereby the British state clung 'to choices made early on whose reversal seems unthinkable.' It is a potentially valuable concept that deserves more attention, see Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007): 14-15.

The British Empire in India certainly was not acquired, as the oft-misquoted J.R. Seeley is made to say, ‘in a fit of absence of mind.’⁹ It only ‘seemed’ so to nineteenth-century historians who had yet to take stock of the substantial body of evidence connecting British political debates with imperial issues and ideologies.¹⁰ The analysis in this dissertation of the ways in which the acquisition of an empire in India challenged the prevailing ideological conceptions of the Empire as ‘Protestant, maritime, commercial, and free’ adds to the growing body of literature arguing that the Empire could play a considerable, if extremely uneven, role in the lives of metropolitan Britons in the eighteenth century. Conversely, it also reveals that the ways in which Britons came into contact with or were informed about the Empire could significantly shape their proposals for reform.

The third and final theme covered in this dissertation is that of the logistical structures underpinning the Empire, rendering possible the enterprise while also having a substantial effect on both the nature and implementation of metropolitan efforts to reform the East India Company. Chapter five focuses on the problem of distance in the governance of the East India Company’s newly acquired territories in Bengal and engages with the communicative challenges this raised through the case study of Warren Hastings’s abortive resignation in 1776 and its significant repercussions for the implementation of reforms. The resignation tendered on Hastings’s behalf by his private agent in London highlights the problems associated with attempting to govern territories at such a distance, which frequently involved information asymmetries—particularly when existing communicative schedules were disrupted by war or poor weather—as well as miscommunication. This chapter argued that these factors prevented the North administration from following through with their programme of East India reform and had the significant result of postponing substantial reform of the Company until after the resolution of the

⁹ See the discussion of this common misquotation in Noel Malcolm, ‘Empire? What empire?’ *The Telegraph*, 12 December 2004.

¹⁰ John Robert Seeley, *The Expansion of England: Two Courses of Lectures* (London: Macmillan & Co., 1883): 8.

American War. The new political circumstances in the wake of that conflict, including the fall of Lord North's ministry, resulted in the proposal of a much more severe set of reforms limiting the independence of the Company and bringing its territories more clearly under the auspices of the British state.

Such 'frictions' or failures within the communicative infrastructure connecting the poles of authority in Britain and India, as we have seen, spawned innovative attempts to circumvent or ameliorate the obstacles associated with the governance of the Company's distant territories. Even these innovations, however, were prone to their own difficulties and failure. Agents were often indispensable for the speedy conveyance and safeguarding of important letters, documents, and information.¹¹ They also played a crucial role as negotiators, making use of their first-hand knowledge to inform British policymakers and advocate directly on behalf of their patrons in ways that were simply impossible over long-distance epistolary correspondence. However, the case of Hastings's agent Lauchlin Maclean shows that, in the wake of a long ocean journey their information could quickly become outdated in light of rapidly shifting events in the colonies. This dramatically increased the risk that they could unintentionally act in ways that no longer suited the interests of their patrons. Far from assisting the Governor General, the failure of Maclean's agency considerably exacerbated the already tenuous relationship between the North ministry and the Company's top employees in Bengal and stymied their programme of legislative reform.

¹¹ The literature on various kinds of imperial agents has expanded in recent years, see, for instance, Muzaffar Alam and Sanjay Subrahmanyam, 'Witnesses and Agents of Empire: Eighteenth-Century Historiography and the World of the Mughal *Munshi*,' *Journal of the Economic and Social History of the Orient* 53 (2010): 393-423; Callie Wilkinson, 'Weak Ties in a Tangled Web? Relationships between the Political Residents of the English East India Company and their munshis, 1798-1818,' *MAS* 53, no. 5 (2019): 1574-1612; Verity Mcinnis, 'Indirect Agents of Empire: Army Officers' Wives in British India and the American West, 1830-1875,' *Pacific Historical Review* 83, no. 3 (2014): 378-409; Jonathan Curry-Machado, "'Rich flames and hired tears": sugar, sub-imperial agents and the Cuban phoenix of empire,' *Journal of Global History* 4, no. 1 (2009): 33-56; Lipokmar Dzuwichu, 'Empire on their Backs: Coolies in the Eastern Borderlands of the British Raj,' *International Review of Social History* 59 (2014): 89-112.

Another of the strategies adopted by Hastings to overcome some of the communicative problems associated with the delegated governance of Bengal deserves more attention than this dissertation has been able to allocate to it. That is, the establishment of amphibious ‘overland’ conveyances for dispatches between Britain and India. Hastings, fully aware of the importance of control over the transmission and dissemination of information between Britain and India, was instrumental in patronizing attempts to open a second ‘overland’ communicative and mercantile route through the Red Sea, Suez, and Alexandria. This was intended to run alongside the other long-established ‘overland’ route—of which Hastings also made frequent use—through Basra, Baghdad, and the desert road to Aleppo and Constantinople. Given the vast importance of communication in connecting the authorities in Britain and India responsible for governing the Empire, these vital alternative connections deserve more attention than they have hitherto received for the period between the battle of Plassey in 1757 and Napoleon’s invasion of Egypt in 1798.¹² Particularly in times of crisis and conflict, the oceanic route around the Cape of Good Hope could become increasingly dangerous and reliant on slow and relatively infrequent convoy systems in order to defend merchant vessels from privateers and enemy warships. The ‘overland’ routes, while they could potentially cut the distance between Britain and India by several months were prone to their own set of ‘frictions’ and dislocations caused by military and diplomatic conflicts in the regions through which they traversed. These factors severely limited their official use. Nonetheless, these amphibious routes and the numerous semi-official agents,

¹² See, for instance, Holden Furber, ‘The Overland Route to India in the Seventeenth and Eighteenth Centuries,’ *Journal of Indian History* 29 (1951): 105-133; H.L. Hoskins, ‘The Overland Route to India in the Eighteenth Century,’ *History* 9, no. 36 (1925): 302-318; H.L. Hoskins, *British Routes to India* (London: Frank Cass & Co., 1928); Abdul Amir Amin, *British Interests in the Persian Gulf* (Leiden: E.J. Brill, 1967); and the more recent yet tangential discussions in Edward Ingram, *Empire-Building and Empire-Builders: 12 Studies* (London: Frank Cass, 1995): chapter 3; Ingram, *In Defence of British India: Great Britain in the Middle East, 1775-1842* (London: Frank Cass, 1984): chapter 3; James Onley, *The Arabian Frontier of the British Raj: Merchants, Rulers, and the British in the Nineteenth-Century Gulf* (Oxford: Oxford University Press, 2007); and Maya Jasanoff, *Edge of Empire: Lives, Culture and Conquest in the East, 1750-1850* (New York, NY: Vintage, 2006): 125-132.

residents, and consuls stationed at strategic ports and mercantile nexuses played a crucial role in connecting far-flung territories of the British Empire and served to promote British commercial and diplomatic interests in the Middle East and North Africa.

Other important features of the East India Company's delegated governance in this period could also benefit from further study. For instance, the attempts to establish English laws in India have primarily been studied in recent years from the perspective of the Supreme Court of Judicature established in 1773 and its well-documented conflicts with the Supreme Council and European community in Calcutta.¹³ The various efforts to create and enforce laws designed for the punishment of returned Company servants accused of peculation and oppression prior to the impeachment of Warren Hastings in 1788 have received far less attention.¹⁴ The attempts to prosecute Lord Clive and Sir Thomas Rumbold, as well as the inclusion in Pitt's India Act of a highly controversial and unprecedented judicial tribunal for the punishment of delinquent administrators in India warrant greater scholarly scrutiny. Together they form a pattern of Parliament's failure to establish a judicial framework capable of exercising jurisdiction over the Company's

¹³ Lauren Benton, 'Colonial Law and Cultural Difference: Jurisdictional Politics and the Formation of the Colonial State,' *Comparative Studies in Society and History* 41, no. 3 (1999): 563-588; Thomas Curley, *Sir Robert Chambers: Law, Literature, and Empire in the Age of Johnson* (Madison, WI: University of Wisconsin Press, 1999); Nasser Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (Ann Arbor, MI: University of Michigan Press, 2003); Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth Century British Empire* (Oxford: Oxford University Press, 2017); Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007).

¹⁴ On Hastings's impeachment, see P.J. Marshall, *The Impeachment of Warren Hastings* (Oxford: Oxford University Press, 1965); Geoffrey Carnall and Colin Nicholson eds., *The Impeachment of Warren Hastings: Papers from a Bicentenary Commemoration* (Edinburgh: Edinburgh University Press, 1989); Nicholas Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: Harvard University Press, 2006); Mithi Mukherjee, 'Justice, War, and the Imperium: India and Britain in Edmund Burke's Prosecutorial Speeches in the Impeachment Trial of Warren Hastings,' *Law and History Review* 23, no. 3 (2005): 589-630; Brian Smith, 'Edmund Burke, the Warren Hastings Trial, and the Moral Dimension of Corruption,' *Polity* 40, no. 1 (2008): 70-94; Finbarr Barry Flood, 'Correct Delineations and Promiscuous Outlines: Envisioning India at the Trial of Warren Hastings,' *Art History* 29, no. 1 (2006): 47-78; Marouf Hasian, 'Nostalgic Longings and Imaginary Indias: Postcolonial Analysis, Collective Memories, and the Impeachment Trial of Warren Hastings,' *Western Journal of Communication* 66, no. 2 (2002): 229-255.

overseas employees which in turn intensified the already prevalent critiques of ‘nabobs’ in British society. The failure of British governments to address this problem, alongside the other factors analysed in this dissertation, resulted in extensive debates over the suitability of the East India Company and its employees for the role of imperial governance and the responsibility of the British state to supervise their actions.

By unravelling these three major themes—which themselves point the way to further studies—this dissertation has sought to account for the idiosyncrasies of the East India Company’s anomalous position within the British Empire after 1757. Particularly in the 1770s and 1780s, the British public and parliamentarians alike engaged in debates over whether the Company’s territories constituted part of the British Empire. These debates not only informed the future trajectories of East India reform but also played a crucial role in British domestic and constitutional politics by forcing policymakers to clarify the nature of the relationship between the Company and the British state. This ignited the ‘political jealousies’ of both Parliament and the Crown and therefore served as a crucial catalyst for what has traditionally been analysed as a purely domestic ‘crisis of the constitution’ in the winter of 1783-4. Initial attempts to reform the Company were significantly hampered not only by the discomfort of the metropolitan public with many aspects of the Company’s governance in Bengal but also by the fact that the need for political compromise virtually precluded the implementation of a thoroughgoing reform programme. Distance and communicative limitations also severely restricted and delayed the transmission of the information necessary for the metropolitan government to supervise the operation of their reform legislation. In spite of the great efforts to transform the East India Company between 1773 and 1784, these combined factors contributed substantially to the entrenchment of the Company’s position as a kind of arms-length sub-imperial agency into the nineteenth century.

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