In the previous Chapters, elaborate discussions have been made on various cases where the English Court made illegal interferences and took hasty and improper decisions, and also on important transactions in connection with the conflict between the Court and Council. This conflict, as we have seen, had reached its climax with the Kasijora case. Admittedly, the conflict between the two Supreme bodies was jurisdictional, and most of the cases arose out of matters concerning the revenues of the country.

The Court, erected to bring order in the existing judicial system of the country, soon proved to be a machinery of endless troubles to all sections of the people. The Natives, the British subjects, and the Governor-General along with the members of the Council were annoyed and terrified because of the conduct and ambitious design of the English judges. It has been previously observed, how the law the judges administered was repugnant, how they were ignorant of the customs and usages of the Natives, and finally how nakedly they attempted to exert their influence in every sphere and encroach upon the jurisdictions of the Supreme council. Different representations complaining against the actions and attitude of

* Chapters: III - VI.
the court were sent from Bengal to the Court of Directors from time to time, and also from the Directors to Lord Weymouth, Secretary of State. The Governor-General and council never before directly challenged the authority of the Court; but in the Kasijora incident of 1779 they for the first time made a strong armed resistance to the invasion of their jurisdictions by the judges. After this incident, they sent a long letter, demanding the revision of the powers and jurisdictions of the Supreme Court, to the Court of Directors; moreover, two petitions—one from the Governor-General and Council, and another from the British subjects residing in the provinces against the Supreme Court were sent to the House of commons. The House appointed a committee to enquire into the troubled state of Bengal and its report, submitted in 1781, finally led to the intervention of the British Parliament. Consequently the Act of 1781 was passed to make an improvement upon the defective Regulating Act, to limit the jurisdictions of the English Court, and also to strengthen the hands of the Government there. Thus the Natives found themselves secure, the long-standing grievances of the petitioners were redressed, and a reign of terror was over. The present chapter deals with the immediate circumstances that led to the passing of the Act of 1781 and also an analysis of the provisions of the same.
Regarding the interference of the Supreme Court, Colonel Monson in 1775 stated that neither the Supreme Court nor any of its judges had any jurisdiction over the Revenue Department of the provinces; the management and collection of revenues were vested solely in the hands of the Governor-General and council by the order of the British Parliament. This interference of the Judges in the revenue affairs was meant to deprive the Government of the authority given to it by the Parliament. Such an act of the Court created the idea in the provinces that the usual and legal process of revenue collections was altered and the mode of collection was to be guided by English laws. It was, therefore, to produce evil and dangerous consequences on the state of affairs in the country. Monson further observed that the powers of the English Court were defined and the judges clearly went beyond their jurisdiction by attempting to exercise the authority of the Government. He stated that if such things continued, it would be impossible for the Company to collect revenues from these provinces.

General Clavering fully agreed with Monson's view on this point and remarked that "it appears plainly that the judges have acted out of their Jurisdiction, and have taken upon themselves to determine matters of Revenue, which by Law are only subject

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1. Revenue Department, Minutes of Consultation, September 13, 1775.
to the Governor-General and Council. He was of opinion that the Calcutta Committee might be instructed not to pay heed to the order of this English Court in matters concerning revenues of the provinces. Under the circumstances, Clavering foresew that there must be grave and fatal consequences on the revenue collection in the Country.

The provincial council of Revenue at Calcutta wrote a letter to the Governor-General and Council in 1780 making a complaint against the supreme Court. In their letter the provincial Council stated that the jurisdiction of the English Court over them created obstruction in the transaction of their business to a great extent. They stated that they had been informed "that a Declaration has been made from the Bench that the Revenue Councils, have no authority to settle Disputes between Farmer and their under-renters. A Declaration of this nature if enforced, must be sensibly felt by the Provincial Councils in all parts of the Country, in the Decline of their authority. And an Interference in Matters of this kind by the judges, which may be deemed the Necessary consequence of a Denial of our authority in point, must divert the channel of Revenue Business, from the provincial Councils, to that court, where the Judges themselves preside."

2. Ibid., September 13, 1775.
3. Revenue Department, Minutes of Consultation, April 13, 1780.
The Governor-General and Council in a separate letter to the Court of Directors in 1780, raised the question of the revision of the powers and jurisdictions of the Supreme Court. In their long letter containing fifty paragraphs, they expressed their grave concern about the illegal interferences of the Supreme Court with the administration of the provinces of Bengal, Bihar and Orissa. They upheld before the Court of Directors the new difficulties created by the continuous efforts of the Supreme Court to establish jurisdiction at par with the Government of Bengal. This ambitious design of the court was a great menace to the peace and security of the country as well as injurious to the purpose for which the Court was erected. The Governor-General and his council opined that the evils and injustice created by this English Court in the provinces, originated more from its own construction than from its known and indisputable powers and jurisdictions. They described the harmful effects produced by the excesses of the Court in the provinces and wrote, "we should have seen the higher classes of the Natives totally alienated, your revenue running fast to ruin, all Idea of a power in your Government to protect them utterly annihilated among the people, with every consequence to the National Interests that may be expected to result from so alarming a state of things."

4. Revenue Department, General Letters to the Court of Directors for William, January 25, 1780 (Paragraph-4).
They then referred to their proceedings in the case of Raja of Kasijora of which the Directors had already been informed previously. They informed that they unanimously adopted their limited measures to avoid the great mischief committed by the Court in the above-mentioned case. They proceeded in this direction as necessity demanded, and just having checked the illegal action of the Court, they abstained from proceeding further. They added that in case of their legal difficulties in their transactions of business, they acted in almost all cases under the direction of the Law Officer appointed by the Directors to advise them in matters involving legal issues. While commenting on the conduct of the judges of the English Court they informed "We saw no motive for their misleading us; and the we felt present Embarrassment to ourselves, and perceived the approaching decline of your Affairs in the admission of their claims; we were willing to trace them rather to a Defect in the charter, than to a wilfull abuse of its powers". They wrote that they waited for a long time for the consequences of their representations on the present affairs to the court of Directors and from the Directors to the ministers of the King of England. During this long period of their continuous difficulties and tyranny upon the Natives caused by the unreasonable actions of the English judges, they hoped a revision of the existing syst

5. Ibid., (paragraph 7.)
of administration of justice or an introduction of a novel one.

The Governor-General and council further informed the Directors that had the judges of the English Court possessed a spirit of conciliation and 'a conceeding Benignity' to a reasonable extent, it would have been advantageous to both the supreme organs in the provinces for the smooth functioning of their business; and so they wrote: "Your Government might then have retained the respect that belonged to it, without which it exists to little purpose, and our Laws, if such an Effect was intended, have imperceptibly taken root at present, with pain we say it, the one is cramped and enfeebled, and the other become the object of universal consternation". They also wrote that they were surprised to observe the process of contempt issued against the Naib Nazim of the provinces, who at that time had his residence at Murshidabad, the seat of the country Government. This was due to the fact that the Naib Nazim made no return to the Writ of Habeas Corpus and this action was considered by the Court as a violation of the 'protection to which a witness is entitled eundo and redeundo'.

In the opinion of the Governor-General and council, it was a matter of great regret that the English judges did not seem to be solicitous in any case. They put emphasis on the fact that

6. Ibid., (Paragraph - 9.)
no institution would be able to resist the action of the judges, if they made attempt to exercise the strict provisions of the law of England in the provinces. They were conscious of the fact that they had to resist the actions in this matter of the English judges possessing remarkable wisdom and knowledge. If the Naib Nazim, they said, pleaded to the jurisdiction, he must give jurisdiction to another court at the same time. So far as this case was concerned, the Naib Nazim should be exempted from the jurisdiction of the foreign laws for his different blood, temper and complexion from those of the Englishmen. Moreover, the party in this case had no allegiance to the King, obedience to his laws, lived out of his protection, derived no security, and enjoyed no liberty and fortune from the English system of judicial administration.

From the very establishment of the Supreme Court in Bengal, the Petitioners (the Governor-General and council) wrote, the English judges tried their best to make the inhabitants of the provinces, without discrimination, amenable to the jurisdiction of their own court. They in this connection cited the case of the Naib Nazim. The Naib Nazim was not subject to the jurisdiction of the Court, was not in the service of the Company in any way, and did not receive from the Company stipend or remuneration of any kind. It was mentionable, they wrote, that the Naib Nazim was a man of great importance; he possessed
the full executive jurisdictions of the Native Government. He was again the Chief Magistrate exercising criminal jurisdiction in the provinces and his powers "the Statute has not abridged, and which, by being thus tolerated, we apprehend are legalized; to which we may add that, in his jurisdiction, in matters of criminal cognizance, the Judges have not only at all times acquiesced, but in a particular instance have actually resorted to it in aid and exoneration of themselves?*. The fact that one section of the population in the provinces was not within the jurisdiction of the Court, was declared by the court in loose terms very often. They said that the right itself was never brought to a decision and the attorney of the defendant with the interest to prevent the decision, acquiesced. They further added that the client of that attorney "glad at any rate to be freed from the vexations and expenses already incurred, has submitted to the Deception, and returned to his own home; whence, after a short interval of quiet, he has been again dragged by a new writ to Calcutta, to go through the same process with the same Termination*. Here they drew the attention of the court of Directors by referring to the famous case of the Zaminder of Pauakhali to justify their above description.

The Supreme Court with the help of the 'Rule instituted for the professed purpose of facilitating its operation',

8. Ibid, (Paragraph - 20).
Attempted to extend its powers and jurisdiction exceeding their limits marked by the Act and the charter previously. The Court, they informed, also attempted frequently to bring each and every class of the inhabitants of the provinces indiscriminately under their sphere of influence. The petitioners did not know how to reconcile the temporary jurisdiction by law over these inhabitants who were exempted from it. They informed that they might suspect the rights and authorities of the Court in certain cases, but they never thought of questioning and disputing these; it was only after the recent Kasijora affairs that they took up the question for their examination.

After examinations and observations they could understand that the rights and jurisdictions of all Courts in England were well-demarcated, unlike those of the Supreme Court, on the basis of the long and acknowledged usages. They also perceived that laws must be interpreted by the simple and literal construction of the words and phrases in which these had been written and expressed; and laws which were not based on long and recognised usages should not be made binding on the people. The Supreme Court, they remarked, "is itself of too recent an institution to claim the sanction of usage for any practice, which it hath either constituted or permitted."9

9. Ibid, (Paragraph-26.)
The writs issued by the Supreme Court were everywhere obeyed and even on occasions when the orders of the Governor-General and council were disputed. The court exercised the right, derived from the necessity of a temporary jurisdiction over those who were exempted from the same by the law; but in such cases the Governor-General and council suspected the right and necessity at the same time. The judges of the Court could have done better and acted wisely in determining a person to be under their jurisdiction had they, instead of declaring persons under their jurisdiction, examined the very basis of their such declaration. Moreover, in case of any doubt on their part as to the subjection of a particular person, the judges should have sought the opinion of the Governor-General and Council on the point whether the person concerned was in the service of the company or not. The Governor-General and Council considered that they were the fittest body to give just opinion on this point.

They were of opinion that difficulties had been created by some technical distinctions and it was not possible for them to remove all these. It was certain that all classes of persons in the provinces were not amenable to the jurisdictions of the Supreme Court; according to the real meaning of the Act of the Parliament some sections of persons were clearly outside the jurisdiction of that English Court. Still by the order of this Court, such exempted classes of men were made liable to all
sorts of punishments inflicted upon persons for contempt of jurisdiction. When these persons disobeyed the process of the Court, they were fined, rigorously imprisoned and even their properties were sequestered illegally by the orders of that court. What is more, a Zamindar* residing four hundred miles from Calcutta, were dragged down to Calcutta, compelled to appear before the Court and put to a prison for not obeying the Court's process. He was imprisoned there for many a month till the determination of his pleas to the Court's jurisdiction. Under the circumstances they remarked: "In what sense are we to understand the force and authority thus far exercised over him, if the Judges should at least decide that he is not subject to their jurisdiction? Is it jurisdiction, or is it merely an act of power, against which no right can protect him?" So, if the Court took measures to establish its authority over these classes of men, many of them were destined to be ruined. Here the petitioners cited the case of the Raja of Kasijora where they intervened in favour of that Raja; and had they not interfered with this case, the Court's action would have certainly produced menacing consequences. The Raja, being unable to pay 3,00,000 sicca rupees, had to suffer rigorous imprisonment in Calcutta for a long period of not less than a year; and during the period

* In this letter of the Governor-General and Council, there is no mention of the name of the Zamindar.

10. Ibid, (Paragraph-28).
of the absence of the Raja his zamindary might have passed into a state of anarchy and revenue collections in his zamindary might have suffered considerable loss.

They also referred to the case of the Rani of Rajshahi, a lady of very high rank and caste, having the first great zamindary. They observed with alarm the English Court's Mandatory process issued against such an influential lady of the country. This honourable lady being totally ignorant of the intention and language of that process of the Court, did not act in obedience to the above process. True to its principle the Court at once sent a Capias; a party of armed ruffians went to the Rani's house, "her house is pillaged, her Temples polluted, the most secret recesses of her family violated, and that sanctity of character trampled upon, which throughout the East, even in times of fiercest Hostility, the most barbarous Nations reverse in women." 11

In their letter the Governor-General and council were not willing to cite the numerous cases in the Supreme Court. In all these cases, the judges of the court pursued a principle unknown in England and this showed clearly that they only attempted to extend and establish the Court's powers and jurisdictions paying no heed to the interest of the Natives. They wrote that they sincerely had been trying to evade any

11. Ibid. (paragraph-32).
possibility of intervening in the legal authority and powers of the court from the very beginning of its establishment in Calcutta. Even applications were made to the judges of the Court for the removal of certain doubts in connection with the Court's jurisdiction over certain classes of persons in the provinces as soon as their commission had been proclaimed by the judges. They mostly enquired about the position of the Zamindars in the provinces. They took special interest in this class of men, because their subjection to the jurisdiction of the court would have certainly hampered the revenue collection of the provinces seriously.

In their letter, the Governor-General and council further informed the Court of Directors that they asked for the opinion of the highest Legal Authority for their guidance and they (Petitioners) were informed of the fact that the Court had no jurisdiction over any zamindar or quad Zamindar. The Court could have claimed its jurisdiction over a Zamindar only if he expressed, by a written contract, his willingness to that effect. In the Kasijora case, the Raja was by no means a subject to the Court's jurisdiction, since he was not a servant of the Company, or a subject of the King of England. It was the rule of the Court previously that the person, who applied for a writ against a Native in these provinces, was to take oath to be subject to the jurisdiction and without that rule, write
could not be granted. But the Court paying no heed to that rule, granted such write. The intention of the Act was to protect the inhabitants of the provinces from the injustice and injury. But this noble attempt of the British parliament, they wrote, proved to be futile, and the law became an injury and oppression to those Natives for whose peace and security it was made by the Parliament. Thus by upholding these arguments elaborately in their letter, the Governor-General and Council attempted to draw the attention of the Court of Directors to the important question of the revision of the jurisdiction of the supreme court in Bengal.

It has been noticed earlier that after the passing of the Regulating Act and the Charter, Bengal came into prominence and became the seat of the Government of the British dominions in India. In Bengal two Supreme organs were created; one organ was the Governor-General and Council having the executive and political powers of the Government, and the other was the Supreme Court composed of the English judges being completely independent of the former. The former was the enlargement of the ancient presidency and the latter superseded the old Mayor's Court of Calcutta. So with the establishment of the two separate jurisdictions, the affairs of India, especially of Bengal gradually became very serious and complicated. The attention of the British Parliament was soon drawn to these
affairs in Bengal. As a natural corollary, these two independent institutions erected at a place far away from England and possessing wide jurisdictions, were destined to clash against each other.

Under the circumstances it was difficult to say how much of these complications was due to the defect in the framing of the constitution or to the activities of those who had to act under this constitution, but it was a recognised fact that such an attempt on the part of the king of England to introduce English laws or courts or system of judicature in a country where there had been different nations, races, religions and languages, was a serious political blunder. It has been observed previously that the newly erected English Court denied the authority of the well-recognised Native courts and inflicted severe punishments upon the officers who acted according to the established laws of the Country. The terrified inhabitants of Bengal then witnessed the whimsical and unwarranted actions of the Court, which dragged even the zamindars of the provinces to Calcutta only to put them into long and rigorous confinement.

The sacred apartments of the females were broken into and their own men suffered wounds from the rough and brutal treatment of barbarous persons employed by the Court purposely.

But this was not the worst. Their places of private and domestic worship were violated in the same manner; and those symbols or
external objects of their adoration, which had been sanctified by the reverence of ages, were dragged from their places by profane hands, and thrown amongst the heap of household furniture, and lumber, which were collected to answer the ends of the execution.\textsuperscript{12}

It is essential to discuss in brief the two aforesaid petitions (one from the Governor-General and Council and the other from the British subjects), which were presented to the House of Commons and read there subsequently. The first-mentioned petition was that of the Governor-General and Council, subject-matter of which can be discussed here. By the Regulating Act (Stat.13. Geo.3) the civil and military government and the ordering and management of the revenues in the provinces of Bengal, Bihar and Orissa were vested in the hands of the Governor-General and Council. At the same time, the same Act erected a Supreme Court at Fort William in Bengal having jurisdiction over British subjects residing in the provinces and servants of the Company. By a provision of this Act it was stated that no summons or writ could be issued against the Governor-General and Council by the Supreme Court. In a word the Governor-General and Council were exempted from the jurisdictions of the English Court. So, any attempt on the part of the Court to compel the Governor-General and Council

\textsuperscript{12} Parliamentary History of England, Vol.21, Annual Register, p. 1164.

\textsuperscript{13} Ibid. pp. 1165-1175. (Petition from the Governor-General and Council at Calcutta which was read in the H/C on Feb. 1, 1780.)
to appear before the Court was contrary to the meaning of Act. But in spite of these provisions which granted to the Petitioners (the Governor-General and Council) privileges and immunities and set a limit to the jurisdiction of the Supreme Court, the judges of the Court very often attempted to exercise jurisdictions over persons not amenable to them. They even went to the extent of instituting suits against the Governor-General and Council for acts done by them collectively. In their representation the Petitioners referred to the famous Kasijora case to prove this point. In the present case a writ was issued by the Supreme Court against the Raja Sundernarayan who being terrified remained underground. The revenue collection of the Raja was at a standstill and the Petitioners being alarmed at the loss of revenue, informed the Raja that he was not amenable to the jurisdiction of the English Court by any means and so was not to obey the Court's Process. But afterwards a writ was ordered for sequestering the effects and lands of that Raja, and for the execution of this writ, the sheriff sent a force to Kasijora. The petitioners had never before exercised the powers of the Government against the actions of the Supreme Court; but they then determined to protect the Company's property in the provinces and the Natives from the tyranny and control of the English Court by opposing the sheriff's officers employed to enforce the writ. What followed next was an actual fight between the two Supreme powers of Bengal. To execute the writ, the female
apartment of the Raja's house were entered by force, his temple was polluted and what is more, the image of his worship was 'thrust into a basket'. "Such acts are accounted instances of the grossest violation and sacrilege, according to the principles and persuasions of the inhabitants of these provinces, and have been never known to have been authorised with impunity by the most despotic of their Mahometan rulers." 14.

The judges of the court at this resistance of their jurisdiction attempted to inflict 'exemplary punishment' on all persons employed on this occasion by the Governor-General and Council. Kasinath Babu (the plaintiff on the Court's advice instituted a suit against the Petitioners and summons were served upon them separately by the Court accordingly to appear before the court. But they refused to obey the Process of the Court, since they were not answerable to the Court for any act done by them collectively. Such was the unfortunate state of affairs in Bengal at that time. The petitioners wrote that they were well-informed that the Court had attempted often previously to make many Zamindars of these provinces subject to the English law of which they were completely ignorant. For this extension of jurisdiction illegally over the Zamindars, the petitioners understood that the Company would suffer more loss of revenue and the Government of the provinces would be humiliated.

14. Ibid. p. 1170. (Petition from the Governor-General and Council at Calcutta which was read in the H/C on Feb. 1, 1780.)
The Governor-General and council in their petition were also of opinion that "the attempt to extend to the inhabitants of these provinces the jurisdiction of the Supreme Court of Judicature, and the authority of the English law, and of the forms and fictions of that law, which are yet more intolerable because less capable of being understood, would be such a constraint on the minds of the people of these provinces, by the difference of such laws and forms from their laws, habits, manners and religious principles, which, under every successive constitution of the former Governments have been respected and supported, as might inflame them, notwithstanding the known mildness and patience which constitute their general character, to an open rebellion, less indeed to be apprehended in a time of peace, but certain in the event of an invasion; and thus an incident like this, besides previous other unhappy events, would bring about a great disaster and calamity in the Indian possessions of the British Government. The petitioners observed that their submissions to the jurisdiction of the English Court would amount to some thing like 'public ruin', and there would be 'personal ruin', if they resisted its authority. They, however, in their representation did not pray for any remedy of the complained evils and injustice. It was observed by the Governor-General and Council that they might labour hard, had they been free from the anxieties in connection with their awkward position.

15. Ibid., p. 1173.
to perform the allotted duty vested in them for the advancement of the national interest.16

The second petition was the petition17 of John Touchet and John Irving who were the agents for the British subjects; and this representation was signed by six hundred and forty eight British subjects residing in the provinces of Bengal, Bihar and Orissa. This petition was also presented to the House of Commons and read like the former one. The aggrieved British subjects in order to have their longstanding grievances redressed, sent this petition to the members of the House of Commons in England which they considered to be the protector of the properties and liberties of the British subjects. They thought that as Englishmen they could enjoy certain fundamental rights granted by the British parliament and no institution could ever deprive them of their rights residing under British laws. But they observed with great alarm that many scandalous and false reports about their conduct and activities in the provinces, had been sent to England before the passing of the Regulating Act. Receiving these reports, they conceived, the British Parliament adopted rigorous methods to punish the English men residing in the provinces.


17. Ibid, pp.1175-1181. (Petition from the British subjects against the Supreme Court which was read in the House of Commons, on Feb. 1, 1780).
The petitioners pointed out that one of their 'inherent' rights was the trial by jury in all cases, whether civil or criminal, and while residing under the English law, they could not be deprived of this 'indefeasible' right. But in spite of this recognised benefit, the British subjects in the provinces were not permitted to enjoy the same in civil cases by the strict order of the judges of the Supreme Court; and they considered this to be a clear violation of the fundamental law of England.

The British subjects also conceived that "no tyranny can be more dreadful in its operations, or more fatal in its consequences, than that a Court, established by law, with all the authority of one of the first courts in England, should also possess undefined powers and jurisdiction, of which the Judges of it are the sole interpreters, and under no control but at the immense distance of the mother country"; and they were to face all these evils consequences. The judges of the Court claimed that the charter had granted them the power to adjust the English laws with the usages and customs of the Natives. But their knowledge regarding the languages and usages of the country was very scanty and their only source of informations was the witnesses. Moreover, the judges had the power to reject or allow any evidence according to their sweet will.

18. Ibid. p.1179. (petition from the British subjects against the Supreme Court, which was read in the H/C on Feb. 1, 1780).
The British subjects expressed their extreme satisfaction to know that a provision, made in the Act and charter, had authorized an appeal from the Supreme Court to the King and they considered this to be a check administered to the ambitious design and tyranny of the Court. But at the same time they were frightened to see that the English judges could reject or admit any evidence and also that they had attempted to change and make the rules of the Court. The British subjects perceived that "there must be some fundamental error in that institution, which requires a more than ordinary degree of temper, ability, and integrity, to carry its purposes into execution; and they do not hesitate to declare, that to administer the power appertaining to the institution of the supreme Court without extensive public detriment, and partial acts of private severity and injustice (if it be possible at all) requires more equity and moderation, discernment and enlightened abilities, than they can hope to find in any men". The British subjects were not to decide to what extent the English Judges might acquire the required qualities stated above; they only complained of the unlimited and uncontrolled powers which the court enjoyed and exercised without any hesitation.

In their petition the British subjects, in order to remove their grievances, placed their demands for the kind

consideration of the British Parliament, and these were: firstly, the granting of a trial by jury in all cases where English law operated; secondly, the limitation of the 'retrospective powers' of the Court to the time of its erection; thirdly, the clear definition of the persons who were and were not subject to the jurisdiction of the court; fourthly, the declaration of the statutes which would and would not come into force in the provinces; fifthly, the direction of the power of the Court in connection with the admission and rejection of evidences; sixthly, the appointment of separate judges for the law and equity sides of the Court; seventhly, the restoration of the ancient and constitutional powers of hearing appeals in the first instance to the supreme authority of the Government given to the Governor-General and Council of Bengal; and finally, the granting of a power of staying executions in criminal matters till the King's opinion could be known. The aforesaid petitions were placed before the House of Commons and after the petitions being read, General Smith spoke before the members of the Commons and he tried to convince the House of the necessity of making an immediate enquiry into the distracted state of the Government of Bengal. In order to discuss the

20. Ibid, pp.1190-1191. (Debate on General Smith's motion for a Committee on the petitions against the Supreme Court of judicature in Bengal, Feb. 12, 1780; The Speech of General Smith in the House of Commons.)
present state of the jurisdiction of the Supreme Court, he first of all narrated in brief the jurisdictions of the Mayor's court in Bengal. General Smith upheld before the assembled members the case of Nandakumar who was indicted for forgery committed many years before the Supreme Court had been erected. At the same time he referred to the case of Radha Charan Mitra, who was tried for forgery and condemned by the Mayor's Court, but was ultimately pardoned.

General Smith in the House of Commons mentioned the petitions on the table which spoke much against the extension of the powers and jurisdictions of the English Court. He said that the Court very often extended its jurisdiction over the Natives; but it was not at all the intention of the Parliament to subject the Natives to the jurisdiction of the Court and the Act also clearly exempted them from its jurisdiction. The Supreme Court had the legal right to exercise jurisdiction only over the British subjects and other persons employed in the Company's service. But the judges of the Court interpreted this Clause in such whimsical ways as the Governor-General and Council seriously thought of limiting the Court's jurisdictions; they even went to the extent of sending their petition (which they actually did) to the British parliament, 'for an act of indemnity'.
Next he, to convince the members of the Commons of the chaotic state of Bengal and of the harassment and oppression of the Natives by the judges of the Court, referred to the well-known cases - the Dacca case, the Patna case and the Kasijora case. He narrated these three cases in brief and stated that the third case, namely, the Kasijora case where the Governor-General and Council had to employ military force against the Sheriff's Officers, was the immediate reason for the petition of the Governor-General and Council to the House of Commons. "From this detail of facts", Smith remarked, "the House will perceive the anarchy which now prevails in Bengal, what an alarming situation! The Governor-General and Council find themselves reduced to the indispensable necessity of actually employing military force to restrain the jurisdiction assumed by the Judges of the Supreme Court, the foundation of whose authority is a British Act of Parliament. If these difficulties have arisen from different constructions of the Act itself, it is the strongest argument that I can urge for explaining and amending that Act of Parliament". He then desired that the House should immediately send to Bengal the news to the effect that they would direct their serious attention to the grievances of the petitioners as well as the extension of the Court's jurisdiction. The Governor-General

21. Ibid. p.1190. (Debate on General Smith's Motion for a Committee on the petitions against the Supreme Court in Bengal.)
and Council and all Natives, he conceived, would feel satisfied to know such decision of the Parliament. He, therefore, suggested for the setting up of a Committee to which the abovementioned petitions would be referred.

Broughton House then spoke on the occasion before the House of Commons. He said that the House were to decide upon the good Government of a country whose extent was 150,000 square miles and which was inhabited by men having different races, religions, customs, and usages. He was of opinion that the peace and happiness of ten millions in that country were disturbed and the Natives of the provinces complained of the violation of their customs and usages caused by the judges of the Supreme Court. Besides the extreme grievances of the Natives, the British subjects residing in those provinces, and even the Governor-General and Council had to suffer intolerable hardships. The House received one representation from those British subjects upon whom the people of England had to rely solely for the good government and security of the provinces. Moreover, the House, he said, received another representation from the Governor-General and Council, who have been driven to necessity of employing military force to restrain the alarming extension of power attempted by his Majesty's judges.

He stated that the distant country was passing through universal chaos and disorder and that he severely condemned the first measure of the English Court - the trial of Nandakumar.
Rouse remarked that the powers and jurisdictions of the Governor-General and Council and the provincial Courts were threatened by the English Court. The judges of the Court made an invasion of the powers of the Governor-General and Council; they frequently issued writs of Habeas Corpus to release persons confined by the provincial Councils or collectors for arrears of rent. He then referred to an instance to justify this statement. He cited the language of the two English judges - "We know not what your provincial Chief and Council are". This, he added, would show that the authority of the Governor-General and Council recognised by the British Parliament, was resisted and disrespected. "Thus made an object of taunt and ridicule, was it wonderful, that their acts became inefficacious, or that their powers should be inadequate to the great trust reposed in them, for securing the public revenue, or administering justice amongst the inhabitants?"

Persons, whether Native or European, employed in the Provincial Courts were forcibly made subject to the jurisdiction of the Supreme Court. The competency of the provincial Courts, he said, was never recognised by the Court, though it had been recognised by the fourteenth clause of 13 Geo.3. The English judges resisted the orders of those authorised courts and even went to the extent of punishing the members of the Courts for acts done under the authority of the Governor-General and Council.

22. Ibid, p. 1198. (The Speech of Broughton Rouse in the House of Commons on the same day).
To put an end to this anarchy the Governor-General and Council were forced to employ a military force to oppose the powers exercised by the English Court illegally. On the other hand, the English judges too determined to adopt vigorous methods to exert their influence and authority. Rouse was of opinion, "Civil discord has taken place; the powers of Government are at war with one another; and it would not much surprise me to learn by the next advices, either that the Supreme Court has inflicted death upon the members of your Government; or that your Governor-General and Council have shipped off his Majesty's judges for Great Britain"^23. He then touched upon one important point and the point was that the Supreme Court attempted to establish the equalising principle between a Native and European. He informed that the Natives considered the Europeans as much superior; but they would not regard the Englishmen, if they saw their Government belittled by the English lawyers publicly and the British subjects reduced to the level of the most ordinary Natives. "Our dignity will fall; our power will dwindle, some accident of the moment will produce revolt, and then, Sir, it will not remain a question, how we shall hold that country, but whether we shall hold it at all"^24.

Wrexall next expressed his approbation of this motion.

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23. Ibid. p.1199. (The speech of Broughton Rouse in the House of Commons on the same day).

24. Ibid. p. 1202 (The speech of Broughton Rouse in the House of Commons on General Smith's Motion).
He was of opinion that any insurrection in Bengal was dangerous at that time. The Supreme Court was at war with the Supreme Council; he observed that Bengal would soon turn a place of discord and massacre, and to avoid the unthinkable mishap, effective and immediate steps were essential. At last General Smith's motion was agreed.

About this time the Governor-General and Council wrote a letter to the Court of Directors in 1780, discussing the question of the power and jurisdictions of the Supreme Court to issue process against the Governor-General or the members of the Council separately or individually for acts done in their corporate capacity. They pointed out that the Court illegally issued processes against the Governor-General and Council individually for acts done in their corporate capacity. And they considered that such processes of the Court were contrary to the clauses of Stat. 13 Geo. 3. They informed the Directors that they had already sought the Advocate-General's (John Day) opinion on the question whether the Supreme Court had any legal authority to issue any Process against the Governor-General or any member of the Council separately or individually for any act done in their collective and corporate capacity. The Governor-General and Council stated that the Advocate-General

25. Ibid, pp. 1205/(The speech of Wraxall in the House of Commons on the same day and the same occasion).
in his report formed a very unfavourable opinion about the Court's such processes issued against them. The Advocate-General put emphasis on the fact that the Governor-General and also the members of the Council were immune from all kinds of suits and actions in the Supreme Court which were founded on any act done by them in their corporate capacity. The Advocate-General delivered his opinion on the present issue on the 23rd February of the same year and in this connection, it will be proper to give his opinion in his own words:

"The statute and the charter of Justice, pursuing its provisions, except the Governor-General and the Members of the Supreme Council from arrest in any action, suit or proceeding, and from Trial upon any indictment to be preferred for any offence short of felony or treason; they are nevertheless clearly and incontrovertibly amenable to the Justice of the Court in any civil proceeding of which they may be individually the objects."

The personal exemption of the members of the Supreme Council from Civil and also from Criminal processes with a few exceptions, was granted for a supposed sufficiency of means to answer each demand. However, the charter made them subject to the English Court's jurisdiction beyond doubt. But the Advocate-General considered the above subjection both in common sense and

in law restrained to the acts done by the Governor-General and Council in their private capacities. At the same time he held the view that in the exercise of the powers given by the Parliament to the members of the Supreme Council, their public or joint acts were not examinable at all. When the new system of Government was set up in the provinces, the Advocate-General stated, it was not the intention that the Governor-General and Council should be answerable individually in their 'Private Fortunes' concerning any acts of the Government in the provinces. What the Parliament intended was to retain the powers of the Government as well as of the Court wide and independent of each other to the most practicable extent.

The Governor-General and Council then drew the attention of the Court of Directors to the delicate position in which they themselves would be placed as a result of such illegal processes issued by the Court 'whose constant object is to reduce the powers of the Government and to render its authority contemptible in the eyes of the natives'. This practice of the English Court, they pointed out, had menacing consequences on the peace and security of the Natives. Besides the immediate consequences, they unanimously expressed in strong language their opinion against the Supreme Court. They opined "that the powers vested in the Governor-General and Council by parliament cannot

27. Ibid, p.538.
be exercised by them or applied to the purpose and effect for which they were extended, and that the dependance of these provinces in Great Britain cannot be secured, unless the Supreme Court of Judicature be forthwith abolished, and a new Institution established on different principles and with powers more narrowly limited, and more exactly defined, for the future administration of the law of England in these provinces, so far forth as, upon a reconsideration of the subject, it may be deemed advisable to extend their co-operation in the same. 28 The Governor-General and Council thus appealed to the Directors to consider their opinion and take necessary action for limiting the encroachments made by the English Court.

After a few days the Governor-General and Council in another letter to the court of Directors referred to the summons served upon all the members of the Supreme Council severally by the Supreme Court to answer a charge of trespass brought by Kasinath. They wrote that the Directors had already been informed of the opinion delivered by the Advocate-General against the practice of the Court of allowing the process to be issued against the Governor-General and members of the Council individually for acts done by them in their corporate capacity. They mentioned that by the provisions of the Act and the charter the Governor-General and Council were to constitute a body for

28. Revenue Department, General Letters to the Court of Directors, Feb. 29, 1780.
the administration of the civil and military Government, as well as for the ordering and management of all territorial acquisitions and revenue of the country. Again, they were clearly exempted from arrest in all cases but of felony and treason and a power granted them to constitute an attorney to appear to, on the behalf, and to answer to, all suits instituted against the Company, according to the clauses of the same Act and the charter. They in their present letter informed the Directors of the illegal summons served upon them to answer a charge of trespass brought by Kasisnath Babu. And being duly advised by the Advocate-General, they wrote, they had directed the Attorney to appear for them. The Governor-General and Council also transmitted the Directors a transcript of their proceedings on that occasion along with the summons stated above29.

It is to be noted that the British Parliament at this time appointed a Committee* to enquire into the disturbed state of Bengal; the committee after a thorough enquiry into all important incidents, produced a report in 1781. On the basis of the report, a Bill was brought to the House of Commons to remedy the evils of the previous Act. Now it will be proper to direct our attention to the 'Debate' in the House of Commons on the Bengal Judicature Bill.

29. Revenue Department, General Letters to the Court of Directors, March 3, 1780.

* (The Committee was set up in 1781 after General Smith's motion for a Committee being accepted in the House of Commons)
Ultimately, the Bengal Judicature Bill was prepared. The bill to explain and amend the Stat.13.Geo.3 ("An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe"), as related to the administration of Justice in Bengal; and for the relief of certain persons imprisoned at Calcutta, in Bengal, under a judgment of the Supreme Court of Judicature; and also for indemnifying the Governor-General and Council and all officers who had acted under their orders or authority, in the resistance made to the Process of the Court, was placed before the House of Commons for discussions\(^30\) in June, 1781. Dunning severely opposed the Bill; he severely criticised all clauses of the bill with exception to the clause which was to indemnify the Governor-General and Council for the resistance 'they had given to the execution of the Judges' decrees'. His opinion was that the Bill would make the Governor-General and Council of Bengal a great despot.

The House on June 22 of the same year resolved itself into the Committee formed previously. Sir Richard Sutton also criticised the Bill and demanded an amendment of the Bill to prevent the Governor-General and Council from becoming a despotic institution. But on the other hand, it was argued that the

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Bill, if amended, would be meaningless. Burke argued that Bengal urgently required the establishment of an arbitrary authority and the Governor-General and Council ought to be given more powers than the King's Court. This was, he said, because of the fact that the Governor-General and council were responsible for all their actions and "judges were responsible only when it appeared that they had acted corruptly and wilfully wrong." The proposal for the amendment of the said Bill was rejected; the committee then discussed every clause of the bill.

The report of this Committee on the Bengal Judicature Bill was read and discussed on the 27th of the same month. Dempster examined and criticised different clauses of the Bill; he made a very unfavourable opinion of the clause by which the Governor-General and Council were given arbitrary and supreme power over the lives and property of the Natives. Richard Sutton also shared with his views and objected to the clause.

Burke then delivered his speech and commented that the said Bill was justified in policy as well as in necessity. He said that the Englishmen considered the free system of England as the best basis of Government in Europe; but the Natives would not form such an opinion about it. The Natives

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31. Ibid, p.552. (The speech of Burke in the H/C., on the said Bill on June 22, 1781.)
were well-acquainted with the despotic rule and they should be ruled by their own known laws. The House had in the report of the committee an account of the proceedings of those judges. "They were arbitrary in the extreme. The encroachments which they made on the most sacred privileges of the people, the violation of their dearest rights, particularly in forcing the ladies before their courts; the contempt that was shewn for their religious ceremonies and mysteries; and the cruel punishments inflicted upon them in case of their disobedience; new, strange, and obnoxious to them; all these things contributed in fact, to compel the British legislature to restore peace, order and unanimity to the extensive territories of India, by giving them the laws which they approved."32 Burke said that the opposers of the Bill were jealous of the powers and authority given to the Supreme Council by this Bill, but they should bear in their minds that the English judges were clamouring for more powers. Thus in that distant country two Supreme organs were reigning, each exercising despotism 'in the most offensive way', and this disturbed the security, peace and happiness of the Natives. That is why, he stated, it was the immediate duty of the parliament to put an end to these disorders as there was no higher institution to stop the long-drawn contest. The cause of the

32. Ibid, pp.554-555. (The speech of Burke in the H/C, on the Report of the Committee on the Bengal Judicature Bill June 27, 1781.)
Natives must be taken into consideration first of all, and for the order and security of the Natives, strong government was to be established there. For these reasons, the committee appointed to make an enquiry into the grievances of the Natives and British subjects in those provinces of India, 'had recommended this plan to the House, as the most likely to restore concord and good order to the people, and to give firmness and stability to the Government'. He said that this was the remedy for the redress of the grievances of the people of that distant country and steps must be taken in that direction before the prorogation of the parliamentary session.

In spite of the division in the House of Commons, the report of that committee on the Bengal Judicature Bill was finally accepted by an overwhelming majority.

Thus the Bill 'to explain and amend' the Stat 13 Geo.3. was passed into an Act in the Parliament in the year 1781. This Act of the Parliament recited the Act, passed in the thirteenth year of George III's reign "for establishing certain Regulations, for the better management of the affairs of the East-India Company, as well in India as in Europe". The Supreme Court at Fort William in Bengal with various powers and jurisdictions was erected by a letters-patent on March 26, 1774, in the fourteenth year of the King's reign. But the powers and

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33. Stat. 21 Geo.3, Cap-70 (Sections: I-XXVI.)
jurisdiction of the English Court were not clearly defined and some clauses and provisions of the Act and Charter were ambiguous and to produce different interpretations. Hence difficulties arose, as has been seen previously, regarding the true spirit and meaning of certain provisions. This glaring defect in the Act and Charter created a sense of fear and insecurity in the minds of the Natives of the provinces of Bengal, Bihar and Orissa. The worst thing was that it led to a great disension between the Supreme Court and Governor-General and Council. To avert further mischief and misunderstandings immediately, it was felt that the government of the provinces was to be supported, the Natives were to be protected, and the revenue collections in the provinces were to be made regular. For the remedy of the evils already produced, steps were taken.

This parliamentary Act declared that the Governor-General and Council of Bengal were, whether jointly or severally, not subject to the jurisdiction of the Supreme Court for any act or order, done or issued by them in their public capacity. The Act thus stated that "the Governor-General and Council of Bengal shall not be subject, jointly or severally, to the jurisdiction of the Supreme Court of Fort William in Bengal, for, or by reason of, any act or order or any other matter or thing whatsoever, counselled, ordered, or done by them, in their
public capacity only, and acting as Governor-General and Council. The Act then declared that a person or persons impleaded in the Supreme Court in any civil or criminal action or process, for any act or acts done by the order of the Governor-General and Council, was or were to be permitted to plead the general issue and give that order in evidence. If that order was proved sufficiently justified, the persons concerned was to be acquitted and discharged from all kinds of action, process or suit in the Supreme Court. But the Supreme Court had full jurisdiction where such orders extended to the British subjects. The Governor-General and council, individually or collectively, or any person acting under their orders, could not be discharged from any suitor or process before any competent court in England, (Sections : II - IV).

For the prevention of the abuses of the powers vested in the Governor-General and council, it was declared that "in case any person, by himself or his Attorney or Counsel, shall make a complaint to the Supreme Court and enter the same in writing and upon oath, of any oppression or injury, charging the same to be committed by the said Governor-General, or any member or members of the council, or any other person or persons, by or in virtue of any order given by the said Governor-General and council, and shall execute a bond with some other person,

whom the said court shall deem responsible, jointly or severally, to the United East India Company, in such a penalty as the court shall appoint, effectually to prosecute the said complaint by indictment, information or action, in some competent court in Great Britain, within two years of the making of the same, or the return into Great Britain of the party or parties against whom the same is made; that then, and in such case, the party complaining shall be, and is hereby, enabled to compel, by order of the court, the production in the said Supreme Court, of a true copy or copies of the order or orders of council complained of..."35 All authenticated copies of the orders of the Governor-General and council and the depositions before the Supreme Court, were to be received in any King's Court, whether of law or equity, at Westminster. But there was a limitation of action against the Governor-General and Council; it was not possible to carry on any action or suit against any one of them before any of the Courts of England, if it was not commenced either within five years after his arrival in England or five years after that crime. (Sections : V - VII.)

For the curtailment of the powers and jurisdictions of the Supreme Court, it was enacted that the Court was to possess and exercise no jurisdiction over revenue matters or

35. Stat. 21 Geo. 3 Cap-70, Section-V.
matters concerning any act done or ordered in the revenue collections in accordance with the rules and regulations of the Governor-General and Council or the practice of the country. It was also declared that the Court was to have and exercise no jurisdiction over any person, being a land-holder, land-owner, or farmer and receiving any share of profits for collection or any compensation. No person being a security for the payment of rents payable out of the farms or lands within the provinces of Bengal, Bihar and Orissa, was to be subject to the jurisdiction of the Supreme Court.

(Sections VIII - IX)

It was further declared in the Act that the Supreme Court was not to exercise any jurisdiction over persons employed by the Governor-General and Council or by any person enjoying authority under them or by a Native or a successor of a Native in England, or employed by the Company, in matters concerning inheritance and succession to lands or goods, or concerning any contract between the parties. But this was with exception to actions of trespass or wrongs or to any civil suit, by agreement, between the parties to be submitted to the Supreme Court. Again, to ascertain perfectly the Natives being amenable to the jurisdiction of the Supreme Court due to the fact that they had been employed by any British subject of the King of
England, it was thought proper that the Governor-General and Council were to make arrangements for the entry of the names, descriptions, places of abode of all Natives being employed in the Company's service in any judicial office or as principal Native officers of any district in the revenue collections or in any business concerns of the Company, in a book. This was to be done by the Governor-General and Council on or before 1st January, 1783. Two copies of the book were to be made: one copy was to be preserved in the provincial office and the other was to be registered in the Supreme Court. Moreover, the Governor-General and Council were to take steps for registering the names of persons to be appointed in vacant or newly created offices afterwards. The act said that in case of death or removal of any persons from any employment in the East India Company's service, the names of such persons were to be entered in a book (Sections X - XII).

By this Act it was declared that every British subject of the King of England was to make arrangements in a similar way the entry of the name, description, and place of abode of his Native agent in any revenue concern in the provincial office of the district (in which that British subject resided). And it was further declared that "If any British subject shall be convicted before the Supreme Court, of employing any native agent, or engaging with any native
partner, not registered as herein before is provided, or who shall be bona fide, and in effect and substance such agent or partner, the said British subject, if in the company's service, shall forfeit, on conviction, the sum of five hundred pounds, and if not in the company's service, shall forfeit one hundred pounds to any person suing for the same. It was further stated that a British subject was not entitled to receive any sum of money, if that person engaged him in any trade concern with a non-registered Native partner (Sections 13 - 16).

Thus the Act gave the Supreme Court full powers and jurisdiction to hear and determine, according to the process prescribed in the charter, all actions or suits against all inhabitants of Calcutta. But the Court was not to have any jurisdiction over those inhabitants in matters of succession to lands, rents, goods and inheritance and matters of contract. Such matters were to be determined by the laws and usages of the Muhammadans in the case of Muhammadans. When one party would be a Muslim and another party a Gentoo, the case was to be decided always according to the laws and usages of the defendant. It was enacted that the civil and religious usages of those Nati were to be regarded; the rights and authorities of the fathers or masters of families among the Natives were to be preserved.

36. Stat 21, Geo 3, Cap-70, Section-XIV.
to them. No act committed by the law of caste in those families were to be considered as a crime, inspite of the fact that the act might be unjustified in the eye of English laws. (Sections : XVII - XVIII.)

The Supreme Court was empowered to make Rules and orders, and also frame process in civil and criminal suits against the Natives of the three provinces of Bengal, Bihar and Orissa; but such Rules and forms of Process might suit the religion and manners of those Natives. Moreover, those Rules, orders and forms of process were to be transmitted to one of the principal secretaries of state for the royal approval or alteration or refusal of the King. (Sections : XIX - XX).

According to this Act, the Governor-General and Council might determine on appeals from the Provincial Court in civil cases; the council were to be a Court of Record and their judgment was to be final. But appeal in civil cases was allow to the Crown where the value was five thousand pounds and more. The Governor-General and Council were given the right to hear and determine all offences and extortions committed in the revenue collections and punish the offenders. But in no case the council were to inflict penalties of perpetual imprisonment or death upon such offenders. (Sections : XXI - XXII).
The Governor-General and Council were further empowered to frame Regulations for the Provincial Courts from time to time. They were to transmit copies of all the regulations, within six months after the making of such regulations, to the Court of Directors and also to one of the King's principal Secretaries of state. The King could amend or disallow these Regulations; and if such Regulations were not disallowed within two years by the King, these were to be effective. (Section : XXIII).

It was also declared that the Judicial Officers in the country Courts were not to be liable to actions from wrong or injury in the Supreme Court for any judgment or order of their Courts. Even a person acting under the order of these Courts, was not to be liable to actions for wrong in the Supreme Court. No Process or Rule was to be made or issued against any such Officer or Magistrate for any corrupt act in case of an information, until due notice was served upon him. Moreover, no such Magistrate was to be liable to arrest or any personal caption in such a case, until his refusal to appear to answer after due notice. (Sections : XXIV - XXVI).

From an analysis of the provisions of the present Act, it becomes clear that most of the glaring defects of the Regulating Act (13 Geo. 3 Cap. 63) were rectified. The powers and jurisdictions of the Supreme Court were curtailed
to a great extent and on the other hand, the hands of the Supreme Council were strengthened. Moreover, the Act more or less clearly defined the jurisdictions of the two rival Supreme institutions of Bengal. Of all the sections of this Act of 1781, Sections 1, 8, 9, 17, 21, 22 and 23 deserve special mention.

It has been noticed that by Section 1, the Governor-General and Council were completely exempted from the jurisdiction of the Supreme Court. Section 8 clearly stated that the Court was to have no jurisdiction in matters concerning revenues. It was declared again by Section 9, that the Court was to exercise no control over the Zamindars or revenue Farmers. Section 17 stated that no one was to be subject to the Court's jurisdiction in cases of succession and inheritance, on the ground of his being in the service of the Company. Sections 21 and 22 declared that the Supreme Council might determine on appeals and references from the Provincial or Country Courts in all civil cases, and the Council were to determine all offences committed in the revenue collections; and Section 23 empowered the Supreme Council to frame Regulations for the Provincial Courts from time to time. Thus the interferences of the English Court with the revenue affair (which was the primary source of almost all conflicts between the Judiciary and the Executive) were made impossible, and the question of the subjection of the Zamindars of the provinces was settled.
But the Act could not completely remove the evils of the Regulating Act. Like the Act of 1773, the Act of 1781 also failed to provide a clear statement whether the Natives of India were to be styled 'Subjects,' or whether the Provincial Courts would exercise an exclusive jurisdiction, or with the Supreme Court a concurrent jurisdiction. It also could not clearly state the relation of the Indian possessions with the crown of England. It is also observed that "the phrase 'British Subjects' is used in both acts in such a way as necessarily to exclude from its meaning the Hindu and the Muhammedan inhabitants; but it is so used that, with respect at least to subjects not being natives of Great Britain or India, subsequent glosses made it almost impossible to affix any definite understanding to it."

Insipite of the shortcomings, it must be admitted that the Act of 1781 solved many a source of contention between the two Supreme machineries and the settlement made by it continued upto 1861. The Act may be said to be a compromise, because by it the powers of the English Court were limited to a considerable extent, and Parliamentary recognition was given to the Company's


institutions. It will be a great mistake to think that the Supreme Court after 1781 lost its prestige and respect for its restricted jurisdictions. The supreme Court, being thus regulated anew with diminished powers and authority in 1781, continued to function for a long period of more than eighty years. The period from 1781 to 1862 in British India saw the glorious career of the supreme Court; during this time the Court enjoyed more popularity and respect from all sections of the people of the Country than it had ever before enjoyed. The purposes and intentions of the drafters of the Regulating Act remained unfulfilled up to the year 1781, and now these were reflected through the present Parliamentary Act.

This Act may be said to have favoured the policy of amalgamation, and it was felt, just after the assumption of direct responsibility of the Indian Government by the English Crown in 1858, that for the better administration of justice in India, the English and the Native Courts should be amalgamated. In the meantime the Indian Law Commission, appointed in 1934, submitted its four Reports, the last of which bearing date May 20, 1856. The commission recommended an amalgamation of the Supreme Court and the Sadar Courts in Calcutta into one Court, which was to be named the 'High Court'. Thus on the basis of this recommendation of the Law Commission
the Act of 1861 was passed. To establish a uniform system of justice in India, the Act of 1861 thus led to the subsequent abolition of the Supreme Court along with other two Sadar Courts in Bengal, and the establishment of the 'High Court' in Calcutta in the month of July, 1862.