(4) To enter a *nolle-prosequi.*

(5) To grant a fiat for review of verdict in criminal cases tried by the High Court in its original jurisdiction.

(6) To protect public rights in such matters as public charities and public nuisances.

CHAPTER XIX.

The Indian Railways.

110. The first proposal for the construction of Railways in India was made to the East India Company in 1844 and the earliest construction was made by the E. I. Ry. and the G. I. P. Ry. The East India Company guaranteed a return of 5% on the capital invested by the Railway Company. This system of entrusting the construction of Railways to Companies on the guarantee of a specified return was adopted as a policy from the time of Lord Dalhousie in 1853, and between 1854 and 1860 contracts for the construction of Railways were entered into, at first by the East India Company, and after the transfer of Government to the Crown in 1858, by the Secretary of State, with various incorporated companies. Under these contracts, the capital was to be supplied by the companies and the lines were to be constructed and worked by the companies. The East India Company or the Secretary of State provided land for the construction, and guaranteed a specified return of interest. The rate varied from 4½% to 5% according to the prevailing market rates when the contracts were made. If, in any particular year, the profits earned were in excess of the guaranteed interest, half the surplus was to be utilised for repaying to the Government any sum which it may have been called upon to pay, in the previous years, so as to make up the guaranteed rate of interest, and the remainder was to be divided among shareholders. Under the contracts, except in the matter of choice of staff, the companies were placed under the supervision and control of the Government. The Railways were to be held by the companies on leases terminating at the end of 99 years, and on such termination the fair value of their rolling stock, plant and machinery were to be paid to them. The companies were also enabled to surrender their lines to the Government and to receive in return their capital at par. The Government was also enabled to purchase the lines after 25 or 50 years.

Earliest construction.

The guaranteed system.

Under this system, while the Government guaranteed the companies the interest on the capital, and thus became liable for loss on working, they did not stand to gain anything by the successful working of the Railway, as all that they were entitled to was to be repaid the sums contributed by them during the period when the profits earned were less than the guaranteed interest.

The system of annual subsidy.

Between 1862 and 1869 attempts were made to start companies without a guarantee from the Government of India as to a specified return, but in substitution thereof an annual subsidy for a period of 20 years was promised by Government. These terms failed to attract capital and two unguaranteed companies which started work during the period were unable to proceed without further assistance from Government.

111. In 1869 a change was made in the system of guarantee.

(*a*) With regard to three of the most important of the guaranteed companies, *viz.*, G. I. P., B. B. C. I. and Madras, it was agreed that in consideration of the Government giving up its right to purchase the lines at the end of the first 25 years, half the surplus proceeds, over and above the guaranteed interest, were to be the property of Government.

(*b*) The raising and expending of additional capital for new lines, should be undertaken by the Government itself so that the Government may earn the profits thereof.

Construction by State Agency.

Thus between 1869 and 1880, a number of lines were constructed by State Agency and from State Capital.

The revised guaranteed system.

After the great famine of 1878, the Famine Commissioners urged the necessity for the great and rapid extension of the Railway system. By 1880 there were only 6128 miles of Railway constructed by guaranteed companies and 2175 miles of State Railway. The Famine Commissioners estimated that at least 5000 miles of lines more, were necessary for giving the necessary transport facilities to protect the country from famine. There was a limit to the capital borrowed annually by Government, and the limit fixed was not high enough to allow of such progress in Railway construction as was desirable. Therefore the only method possible was to revert to the earlier system of guaranteed Railways, with certain variations, so as to be more favourable to Government. Under this system the companies raised capital not only by shares, but also by debenture loans, and by way of advances from the Secretary of State. The balance of net earnings was divided between the Secretary of State and the Company in the proportion of 3 to 1. Under the new contract, the

Secretary of State could take possession of the Railway at the end of 25 years, or subsequently at intervals of 10 years, on repaying the companies' capital at par. In respect of some companies, the net earnings were calculated after payment of interest on advances by the Secretary of State, in certain others after payment of interest on advances and on debenture capital, and in certain others after payment of interest on advances, on debenture capital and on share capital. In the case of the Assam-Bengal Railway the sharing of profits was proportionate to the capital provided by each.

We have seen that under the contracts entered into with the several companies, the Government was enabled to terminate the contracts after a certain number of years, by purchasing the lines. The Government exercised this right in course of time. Some lines were purchased and transferred to State management outright. Others were acquired but left under the management of companies working other lines with which it was convenient to amalgamate them. In the case of the S. I. R., B. B. C. I., M. S. M. and B. N. R., after acquisition, the lines were continued in the management of the companies on more favourable terms by way of reduction of capital retained by the companies in the undertakings, reduction of the rate of interest guaranteed by the Government on such capital, and modifications in favour of Government of the clauses relating to the division of surplus profits.

The relations between the Government and the guaranteed Companies.

112. The relations between the Government and the guaranteed Companies now working Railways are as follows :—

(1) The lines that they work are the property of the State.

(2) The greater part of the capital is the property of Government either supplied by it originally or by subsequent purchase of the greater part of the Company's interest.

(3) Further capital expenditure is incurred either by the Government or the Company at the option of the Government. The Company receives a guaranteed interest on its capital. The surplus is divided between the Government and the Company, as provided in the contracts. The Company's share is usually only a fraction of the Government share.

(4) All contracts are terminable at specified dates. On termination, the Company's capital is repayable at par.

At present there are five classes of lines :

Railway lines classified.

(1) Those owned by the State and worked and managed by the State :

(i) N. W.

(ii) Eastern Bengal.

(iii) E. I. R.

(iv) G. I. P. R.

(v) Burma Railways.

(2) Those owned by the State and worked by Companies:

(*a*) B. B. C. I.

(*b*) M & S. M.

(*c*) Assam-Bengal.

(*d*) B. N. R.

(*e*) S. I. R.

(3) Those owned by Private Companies and worked by the State or by Companies:

Bengal and North Western,

Rohilkand & Kumaon,

Southern Punjab

and many other Railways of less importance.

(4) Several minor lines which are the property of District Boards, or which enjoy a guarantee of interest by District Boards.

(5) Lines owned and worked by Indian States.

Administrative control of Government over Railways.

113. The administrative control exercised by the Government over the Railways may be summarised as follows :—

(1) The Company is bound, to the satisfaction of the Secretary of State, to keep the line in good repair, good working condition, fully supplied with rolling stock, plant and machinery, to keep the rolling stock in good repair and in good working condition, and to maintain a sufficient staff for the purpose of the line.

(2) The Secretary of State may require alterations to be made either in the lines or in the working thereof, for the safety of the Public or for the effectual working of the lines.

(3) He may require Companies to enter into agreements with adjoining Companies for the exercise of running powers, interchange of rolling stock, settlement of through rates etc.

(4) He may regulate the train service, and the classification of goods, and prescribe maximum and minimum rates.

(5) He may regulate what accounts shall be kept, and the accounts are subject to audit by the Secretary of State.

(6) In all other matters relating to the line, the Company is subject to the supervision and control of the Secretary of State, such as the following :—

(*a*) The Secretary of State may appoint persons for inspecting the lines and auditing the accounts.

(*b*) He has the right to appoint a Government Director to the Board of the Company with a power of vote on all proceedings of the Board.

(*c*) All moneys received by the Company whether on account of capital or revenue account have to be paid over to the Secretary of State.

(*d*) All expenditure by the Company has to be stated and submitted for the sanction of the Secretary of State.

(*e*) A Railway cannot be opened until a Government Inspector has inspected and certified.

(*f*) A Railway Commission may be appointed to investigate complaints as to withholding of reasonable facilities or the grant of undue preference.

The Railway Board.

114. *The Railway Board* :—Till 1905 the administration of Railways was directly under the Railway branch of the Public Works Department of the Government of India. In 1905, a Railway Board was constituted under an Act of the Central Legislature consisting of a Chairman and two members with a Secretary. The Board was made subordinate to the Government of India in the Department of Commerce and Industry. The functions of the Railway Board are :

(i) To prepare the Railway programme of expenditure,

(ii) To consider the questions of policy and economy affecting all the lines,

(iii) Construction of new State lines,

(iv) Carrying out new works upon open lines,

(v) Improvement of Railway management,

(vi) Arrangements for through traffic,

(vii) Settlement of disputes between lines,

(viii) Control and promotion of the staff on State lines, and management of the State lines,

(ix) General supervision over the working and expenditure of Companies' lines.

Certain changes have taken place, from time to time, in the constitution of the Railway Board. In 1908 the Chairman was given the status of a Secretary to Government and he sat in the Imperial Legislative Council as the representative of the Railway interest. In 1920 an additional appointment of Financial Adviser was created.

Sir William Ackworth Committee.

As a result of the recommendations of Sir William Ackworth Committee on Railways in 1920-21, material changes were introduced in the Constitution of the Railway Board.

A Chief Commissioner of Railways and a Financial Commissioner were appointed in 1922 and 1923. In 1924 a responsible Director was placed at the head of each of the main branches of the Board's work, *viz.*,

(i) Civil Engineering,

(ii) Mechanical Engineering,

(iii) Traffic,

(iv) Establishment.

After the separation of the Railway budget from the General budget, as a result of the recommendations of the Ackworth Committee, a fifth Director for finance was added, and the Railway budget is submitted to the vote of the Legislative Assembly.

In 1929 a third member was added to the Board. Therefore the present Railway Board consists of the Chief Commissioner, the Financial Commissioner and three members and is assisted by five Directors, together with a Secretary, Deputy Secretary, Deputy Directors and Assistant Directors.

The separation of Railway finance from General finance.

As already stated, the separation of Railway finance from the rest was effected in 1924 as a result of the recommendations of the Ackworth Committee, in which strong emphasis was laid on the disadvantages of a system whereby the development of Railways was subjected to substantial and incalculable fluctuations from year to year, in accordance with the changes in the Central Government's financial position and the general conditions of trade which happened to prevail throughout the country. In such circumstances, continuity of policy was proving impossible, and waste and confusion ensued. As a result, a scheme was devised which enabled the Railways to be financed simply as a business undertaking and which, incidentally, relieved the Government of many awkward problems. The arrangement entailed the contribution to the Government of a definite annual sum by the Railways, which was to be the first charge on their net receipts. The balance after payment of this contribution was to be placed to Railway reserves on the condition that if, in any one year, the amount available for the transfer to reserve should exceed Rs. 3 crores, one-third of the excess should be paid to general revenues. The Railway Reserve was to be used to secure the payment of the annual contribution to the general revenues, to provide, if necessary, for arrears of depreciation, and for writing down and writing off capital, and to strengthen the financial position of Railways in order that the services rendered to the public may be improved and rates reduced. The effect of this arrangement has been that the State, and thereby the tax-payer, is now practically assured by the Railways, of a regular annual return bearing a reasonable relation to the amount of public money expended upon them, while the task of maintaining a continuous financial policy and of distinguishing between a temporary and permanent surplus or deficit in accounts, is immensely facilitated.

CHAPTER XX.

The Army in India.*

115-A. The origin of the Army in India to-day can be traced to the bands of armed retainers trained and commanded by the British East India Company servants. The East India Company in the olden days felt the need to fortify and garrison their factories because of the unsettled and disturbed state of the country at the time. Therefore, they trained their European Company servants as well as the Indian employees. In course of time, it was found expedient and desirable to supplement the Indian troops trained and officered by Europeans, with regiments of British troops recruited in Great Britain for service in the East Indies. Thus there was, in the service of the East India Company, a regular army composed of both British and Indian troops, and this passed to the Crown after 1858.

* In a series of articles officially contributed to the press recently, the Indian Army budget was examined in detail.