

2 of Report No. 1 on Liability of the State in Trust

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~~the territories in India which till then were under the ad-~~
ministration of the East India Company. Section 65 of that Act enacted:

"All persons and bodies politic shall and may have and take the same suits, remedies and proceedings, legal and equitable against the Secretary of State for India as they could have done against the said Company."

This, it would be seen, preserves against the Secretary of State for India the same suits, remedies and proceedings which were till then available against the East India Company. This provision was continued under the Government of India Acts, 1915 and 1935.¹ The liability of the Dominion and the Provinces before the Constitution was thus the same as that of the East India Company before 1858. It is, therefore, incumbent on us to consider the question to what extent the East India Company was liable before 1858.

4. The East India Company came into existence under a Charter of Queen Elizabeth of the year 1600. It started merely as a trading concern with a monopoly to carry on trade within certain geographical limits. Under various subsequent Charters it acquired certain judicial and legislative functions. It acquired territories. The sovereignty of the Crown in respect of acquisition of territories made by the East India Company was reserved in the Charter of 1698. It was not, however, till 1833 that the sovereignty over the territories was directly assumed by the Crown. It was the Charter Act of 1833 that reduced the Company to the position of a trustee for the Crown in respect of the territorial possessions acquired by the Company. Under this Charter the Company was allowed to remain in possession of the territories for a further period but its monopoly of even the China trade and the tea trade was finally taken away. It was directed to close its commercial operations but retain its administrative and political power under the system of double Government instituted under the Charter. The Charter Act of 1833 contained elaborate pro-

visions in respect of various matters. Section 9 of that Act continued the liability of the Company—liability then existing as well as to be incurred thereafter—which was charged upon the revenues. Section 10 of the Act which was similar in language to section 65 of the Government of India Act, 1858 provided:

"that so long as the Possession and Government of the Territories shall be continued to the said Company all persons and bodies politic shall and may have and take the same suits, remedies and proceedings legal and equitable, against the said Company, in respect of such debts and liabilities as aforesaid, and the property vested in the said Company in Trust as aforesaid shall be subject and liable to the same Judgments and Exe-

¹. *Vide* Section 32 of the Government of India Act, 1915 and Section 176 (1) of the Government of India Act, 1935.