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**THE DEVELOPMENT**  
**OF**  
**INDIAN POLITY**

**BY**  
**M. RAMACHANDRA RAO, B.A., B.L.,**  
**MEMBER, MADRAS LEGISLATIVE COUNCIL**

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**1917**

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*With the author's compliments.*



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## PREFACE

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THE scheme of reforms formulated by the Indian National Congress and the All India Muslim League in December 1916 has been criticised as suggesting catastrophic changes in the present administrative system of India. The object of this book is to show that the proposals embodied in the joint scheme are based on existing foundations and constitute the next natural step in the evolution of Indian polity. The most important plank in the scheme is the substitution, as far as possible, of the control of the Legislative Councils for the present official control in the mechanism of Indian Government. I trust that, on a perusal of these pages, the reader will come to the conclusion that the suggested reforms are by no means revolutionary and that they have been under discussion for a long time. In the recent debate in the House of Lords, Lord Islington also pointed out that the proposals for the reform of the Indian Government have been under consideration for many years.

I have avoided, as far as possible, any lengthy reference to topics already dealt with in the political literature of the day. One of these is the way in which the proposals of the Indian National Congress and the Muslim League have been received throughout the country. Those who contend that the

demand for self-government is the hobby of a few agitators will find an answer in the symposium of opinions on the memorandum of the Nineteen elected members and on the Congress-League Scheme collected by Mr. G. A. Natesan in his *Indian Demands*. The names of the many distinguished Indians who have expressed their approval of the memorandum and the scheme is a sufficient answer to this class of critics. Nor did I think it necessary to refer at any length to the growth of the National movement in India since 1885. A succinct and connected account of the Indian National Congress and other allied organisations and of the growth of Indian Nationalism has already been given in various publications during the last two or three years. The condition of the Colonies at the time when Self-Government was conceded to them and the general history of the movement for Self-Government in the Colonies since 1840 has also been dealt with by the Hon'ble Mr. V. S. Srinivasa Sastri in his *Self-Government for India under the British Flag*. Any reference to those three topics, though relevant to the subject, was, therefore, unnecessary. I have, accordingly, confined myself to the actual proposals put forward by the Indian National Congress and the All India Muslim League and have tried to point out their bearing on the present constitutional machinery for the Government of India. I have also alluded to the more important criticisms of the proposals made in the Press and elsewhere. Some of the topics herein have been dealt with by me in a series of articles in the columns of the *Hindu* with a view to elicit public criticism.

PREFACE

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I am indebted to Mr. B. Pattabhi Seetharamayya, B.A., M.B. & C. M., for valuable help given to me in the preparation of this work, to Mr. C. R. Venkatarama Ayyar, B.A., for reading the manuscript and the proofs and for the preparation of the index and also to Mr. V. S. Ramaswami Sastri, B.A., B.L., for correcting the proofs.

ELLORE,  
MADRAS PRESIDENCY.  
5—11—17.

M. RAMACHANDRA RAO.

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# THE DEVELOPMENT OF INDIAN POLITY

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## CHAPTER I.

### CONSTITUTIONAL CHANGES IN THE EMPIRE.

“ There are times in history when the world spins so leisurely along its destined course that it seems for centuries to be at a standstill. There are also times when it rushes along at a giddy pace, covering the track of centuries in a year. These are such times.” Mr. Lloyd George.—

(AT THE AMERICAN LUNCHEON CLUB, LONDON

*April 14, 1907.:*)

The growing necessity for constitutional reform with a view to securing to all the component parts of the Empire an organic unity has been the theme of many writers and thinkers for over thirty years before the war. So early as 1872 Lord Beaconsfield discerned the need for co-ordinating the establishment of self-government in the colonies with a scheme of Imperial consolidation. The foundation of the Imperial Federation League in 1884 saw the beginning of a movement for the earnest consideration of Imperial problems in various parts of the British Empire. The British Empire had, at the beginning of the present war, an area of 11,273,000 square miles and a population of 417,268,000 being respectively one-fifth of the total area and one-fourth of the total population of the world. Great Britain is the sovereign state of the Empire and the British Parliament is the ultimate repository of power in the case both of the Dominions and of the dependencies. The domestic affairs of the United Kingdom as well as the common affairs of the British Empire

are in the hands of one Government and one Parliament. The need, then, for some organically connected administrative machinery for the whole Empire has been urged for a long time by constitutional reformers in the United Kingdom and the Colonies. Leading statesmen in all parts of the Empire have also expressed the view that under the present constitutional system, the Dominions and the dependencies have no voice in the declaration of war or the making of peace and that these questions are now entirely at the discretion of a Government elected by, and responsible to, the people of the United Kingdom. The Imperial Government is now responsible for the safety of the whole of the British Empire and the foreign policy of the Empire with its consequential liabilities of peace and war is now in the hands of the British Cabinet and Parliament and the people of the United Kingdom. The Dominions, India and other dependencies have no voice in the settlement of these questions. The application to the Imperial constitution of the federal principle by which every unit in the Empire may secure its legitimate share in the administration of Imperial affairs and also share the responsibilities has, therefore, been, strenuously advocated. An Imperial Parliament relieved of local administrative responsibility for the purely domestic affairs of the United Kingdom, and the transaction of the Imperial affairs by an Imperial executive responsible to an Imperial Parliament, with a new Imperial Treasury and new Imperial taxes have all been discussed with earnestness and vigour.

## THE IMPERIAL CONFERENCES.

These ideals of constitutional reform are now generally accepted and have gained a firm hold in the United Kingdom, the dominions and to some extent in the dependencies. They took definite shape and have been formulated and discussed at the Imperial Conferences summoned from time to time for the discussion of Imperial questions. Their growth and development can be clearly seen in the proceedings of those Conferences. The position of India never came under consideration in the earlier years of these Conferences. At the Colonial Conference held in 1887 the Secretary of State for India attended the formal opening of the meeting, but at the subsequent meetings neither he nor any representatives of Indian interests was present. The Secretary of State for India neither attended nor was represented at the Conferences held in 1897 and 1902. In 1907 Lord Morley deputed Sir James Mackay, now Lord Inchcape, to attend the meeting not as a member of the Conference but as a representative of India. Lord Inchcape's enunciation of Indian economic policy at the Conference was repudiated at once in this country. In 1911 the Secretary of State for India was present at a meeting of the Imperial Conference but India had no recognized place. Till 1915, therefore representation at the Imperial Conference was confined to the United Kingdom and the Self-Governing Dominions and no one could attend the conference except a Minister. At a meeting of the Indian Legislative Council held in September 1915 a resolution was adopted that India

should, in future, be officially represented at the Imperial Conferences. The claim of India was put forward with great eloquence and strength of feeling by the non-official Indian representatives and Lord Hardinge's Government accepted the resolution. Her representatives were therefore invited to the last Imperial War Conference.

At the Imperial Conference of 1911 Sir Joseph Ward, the Prime Minister of New Zealand, dwelt on the constant growth of the self-governing dominions and their just claim to a share in the conduct of Imperial policy. He pointed out that it was within the power of the Imperial Government to involve the self-governing Dominions in hostility with other nations without their consent, though it remained with the Dominions to decide to what extent they would actually co-operate with the Imperial Government. He therefore proposed a Parliament of Defence for the consideration of foreign policy and of international relations in which the self-governing Dominions and the United Kingdom were to be represented by 300 members. He recommended the establishment of an Imperial Council of Defence consisting of 15 members which was to be the Executive Council with whom the executive responsibility was to rest. He also discussed the principles of Imperial taxation and the methods of raising the Imperial revenues. Sir Joseph Ward, however, recognised that this proposal involved the alteration of the constitutional system of the United Kingdom into a federal system. It is worthy of note that in the scheme put forward by him India had no



place whatever. Mr. Asquith, however, considered that Sir Joseph Ward's proposals were "fatal to the present system of responsible government in the United Kingdom" and would hopelessly impair the authority of the Imperial Government, while they would also interfere with the present powers of self-government possessed by the dominions.

## THE CONFERENCE OF 1917.

In the Imperial War Conference held a few months ago the representatives of India were admitted on terms of perfect equality with those of the dominions and the members of the Conference unanimously recommended that India should be accorded the right of full representation at future Imperial Conferences. The resolution adopted is a momentous one in the history of the British Empire and is in the following terms:—

"The Imperial War Conference is of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the war, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities. It deems it its duty, however, to place on record its view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same, should recognise the right of the dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several governments may determine."

The decision embodied in this Resolution is bound to have a profound influence on the political relations of the various component parts of the Empire. The Conference has for the present decided that the constitutional development of the Empire should proceed along the lines of improved consultation and co-operation rather than that any federal reconstruction should be undertaken immediately after the war. The Imperial Conference is the common deliberative organ now possessed by the Empire and until a representative constitutional assembly is created this will be utilized as the machinery for securing continuous action on all matters of common imperial concern. The status, powers and responsibilities of the nations of the Empire, though fairly well settled by the events of this war, cannot so easily be moulded into a definite and concrete shape. The Empire which has been fashioned and framed in prosperity has been subjected to the rigid test of adversity and the cohesion and solidarity by which the different units are held together have grown stronger and more potent than ever.

#### THE TWO PROBLEMS FOR INDIA.

The two problems that the constitutional reformer in India has now to consider are, first, the position of India in any scheme of imperial reconstruction that may be undertaken after the war and, secondly, the development, as rapidly as possible, of self-governing institutions for the realisation of responsible government for India as an integral part of the British Empire. The first question is not now pressing for

solution and will only arise for serious consideration after the conclusion of the war, while the second is under active discussion both by the authorities in the United Kingdom and in India. The object of this book is to discuss only the latter problem. The inter-relation between the two questions is, however, so obvious that a very brief reference to the position of India in the impending reconstruction of the Empire is a necessary preliminary to the discussion of the problem of self-government. Happily, that position is no longer in doubt. India has now asserted her claim to be heard in the settlement of fundamental questions of Imperial policy and her position to be fully admitted into the Councils of the Empire on terms of perfect equality with the self-governing dominions has now been conceded. She has been acknowledged a partner State in the Empire and she will no longer be a mere dependency hereafter. What is more the portals of the British Cabinet have been thrown open to the oversea Dominions and to India. "When it was in session," said Mr. Lloyd George, "the oversea members had access to all the information at the disposal of the Government and occupied a status of absolute equality with the members of the British Government. As far as the Government were concerned, they could state with confidence that the experiment had been a complete success." It was agreed accordingly that the conference should be held annually or more often when urgently necessary.

Even under the present elastic constitution of the Imperial Conference, this recognition of India's status

in the Empire raises many important questions for decision. How should its voice in foreign policy and foreign relations be adequately secured? In the matter of representation, at the Imperial Conference, the self-governing dominions depute their Premiers or other duly elected and accredited representatives of the people. In the case of India also it was claimed that the Indian representative should be selected by popular approbation. By a resolution adopted at the Indian National Congress in December 1915, the national assembly of India demanded that the persons selected to take part in the Imperial Conference on behalf of India should be elected by the members of the Imperial Legislative Council. The Indian representatives were, however, nominated last time by the Viceroy. It was happy indeed that the Viceroy's choice fell on three such men as the Maharajah of Bikanir, Sir Satyendra Sinha and Sir James Meston. Each of these represented three different points of view and formed a harmonious combination of administrative and political experience so necessary for the discharge of their delicate mission; but however good the choice this time, it is necessary to evolve a suitable machinery for a proper representation of India not only at future Imperial Conferences but in any federal assemblies that may be constituted in due time.

#### SCHEMES OF REPRESENTATION.

The problem of Imperial reconstruction has, since the beginning of the war, been dealt with ability and cogency by Mr Lionel Curtis of the Round Table and by Mr. Basil Worsfold. Mr. Curtis

has discussed at length the federal machinery, the constitution of an Imperial Legislature and an Imperial Executive and a scheme of Imperial taxation and its incidence, and he has at the same time examined the position of the dependencies in such a scheme of reconstruction. The views enunciated by him in regard to India in his "Problem of the Commonwealth" gave rise to a great deal of misunderstanding. He has subsequently explained his views more elaborately in a letter addressed to the people of India. Mr. Curtis has considerably changed his opinion on the subject since he came to India. He is now convinced that, in any Imperial Legislature that may be constituted, India must be represented in the Upper as well as in the Lower House and develops his views as follows:—

"Assuming then, that the Imperial Parliament is to include two Houses I will deal with the Upper Chamber first. I suggest that we want such an Upper House in order to give a voice to certain interests which could not be represented in a purely elective chamber vested with power to turn the Imperial Government out of office. Let me point to two such interests. Of the total population of India a quarter, I think, are in Feudatory States, which no less than the dominions, are committed to peace and war by the decisions of the Imperial Government. I submit that their princes should have a voice in the counsels which lead to such decisions. There is no more difficulty in representing them on the Upper House of a real Imperial Parliament, than there was in representing the Scottish and Irish Peers in the House of Lords. And then there are the followers of Islam, not only in India but also outside it. Turkey contains less than 20,000,000 Moslems. India alone contains 66,000,000, while Egypt and Central Africa must include some 34,000,000 more, making in all at least 100,000,000-followers of Islam. The majority of Moslems

are in fact citizens of the British Commonwealth although the principal centres and authorities of their faith are outside its limits. The result, as this war has shown, is that foreign relations affect the Moslem community at a sensitive point and in various ways as they affect no other important section of British subjects. Surely it would greatly add to the strength of this commonwealth if this vast cosmic community could feel that when foreign affairs were under discussion their views were voiced by spokesmen on their own faith. Here then are two great interests, the Feudatory states and the great Islamic community, a place for whose spokesmen could be found in an Upper Chamber, such as could scarcely be found in a Lower House which must be purely an elective assembly."

Mr. Curtis has also come to the opinion that the elected representatives of India should sit in the Lower House as well. He has not yet come to a decision as to the basis on which the various communities of the British Commonwealth should be represented in the Lower House. Nor is he in a position to indicate how many elected representatives of India should sit in the Lower House. These matters he has reserved for subsequent consideration. He is in favour of the proposal that the representatives of India in the Imperial Parliament should be eligible for seats in the Imperial Ministry.

The problem of representation of India in any federal machinery has also been considered by Mr. Basil Worsfold whose book "The Empire on the Anvil" has attracted a certain amount of attention in this country. Under his scheme the Imperial Legislature is to be composed of two Houses. The Lower House is to be constituted on the basis of a total representation for the Empire of 400 members,

of whom three hundred seats are to be assigned to the European states, apportioned among them in strict numerical proportion to their respective population and the remaining 100 for the non-European states. In regard to the latter he states his views as follows :—

“The second of the conditions special to the British Empire, the differences of race and civilisation in its various peoples may, and probably will, make it impracticable for the present, and for many years to come, to grant to the native races of India, Egypt, South and Central Africa, and the West Indies, the right of electing persons of their own race to represent them in the Lower House of the Central Legislature. In respect of the Upper House, however, the position would be different. Here the component states (or provinces) would be represented as states, and it would be for the respective Governments of the several states to determine in each case the methods by which the seats assigned to them were to be filled up. There would be nothing, therefore, to prevent the Government of India, and of other non-European states of the Empire, from selecting their respective representatives in this Chamber by the method of nomination; and since these Governments would be unlikely to choose any but fully competent persons, it would be possible to allow natives of these states, who had attained the standards of European civilisation, and were otherwise qualified for such positions, to be eligible for service in the Upper House of the Central Legislature. Indeed, both the desire to increase the representative character of the Central Legislature, and the long-established policy of British statesmen to do everything possible to secure “the gradual progress of the native races towards self-government, would cause such persons to be nominated whenever possible.”

“But whether the principle of limiting the membership of the Lower House to persons of European descent be adopted or not, the representation of non-European populations in an

elective Chamber is not a new problem, but a matter in which the Empire affords a storehouse of experience.

"It is India, of course, with its 300,000,000 people, that presents the salient difficulty. If India received a representation proportionate to its population, it would elect three-fourth of the members of the Lower House; and as these Indian members, if they combined, would always form a majority, no Ministry which had not secured the Indian vote could take or hold office. In other words, India would rule the Empire. Obviously, therefore, no one could propose that seats should be allotted to India on the same numerical basis of population as to England or New Zealand. There is, further, the fact that the vast majority of the people of India are illiterate and unversed in the methods of constitutional government; and in view of this fact the attempt to give them any voice at all in the choice of their representatives might well be regarded as hopeless, if the mass of the people of India (it may be argued) are to have no voice, or practically no voice, in the choice of the Indian members of the Central Legislature, then the representation of India will be a pretence; and it would be far better to exclude frankly her people, and the other non-European peoples, from any share in the government of the Empire, than to set up a mere constitutional fiction of the kind.

"The object to be attained is, therefore, to find an electoral system which will give the real people of India an effective representation in the Lower House of the Central Legislature, without endangering the control of the European states over it, or otherwise lowering its efficiency as the chief organ of Imperial Administration."

In drawing attention to those views it is not my present purpose to discuss their merits or to suggest any other scheme of representation of India in future Imperial Conferences or in any Federal assemblies where all the component parts of the Empire may be represented. Mr. Curtis and



Mr. Worsfold have each of them propounded their views prior to the admission of India into the Imperial War Conference on terms of equality, and it is doubtful whether these writers would still hold the view that in the matter of representation emphasis should be laid on the differentiation between European and non-European states in the Empire. I merely wish to draw attention to the supreme importance of adequate representation to India which, to quote Mr. Lloyd George, is now a partner nation and also of the development of a well considered scheme for consideration and adoption in this country. Indian public men have still to think out the requirements of this country in this respect.

#### THE POSITION OF INDIA.

Mr. Curtis is of opinion that a change in the constitution of the British Commonwealth is bound to come sooner or later—a change by which the present function of the Imperial Parliament will be divided between two Legislatures. There would be or should be one Government for British Isles responsible for its local, domestic affairs and therefore elected by the British people alone and another Government which would have nothing to do with the domestic affairs of Great Britain but whose sole function is the safety of the Commonwealth and on which other communities now included therein as well as the British Isles would be represented.

He, therefore, raises the question 'what would be the position of India in such a readjustment of the machinery? India is a dependency, and at present the British Parliament is the ultimate authority

responsible for the affairs of India. If this were to be modified in the manner suggested and if the two legislative assemblies came into existence, what is to become of India over whose affairs, domestic and foreign, Parliamentary responsibility was established by the Government of India Act of 1858? In his own words "how is India to be worked into the settlement which ought to follow the war?" The Imperial Parliament, as at present established, will no longer exist. The two problems in relation to India are, firstly the management of her domestic affairs and, secondly, her position in regard to her external relations with the rest of the Empire. If responsible Government is immediately granted to India the management of her domestic affairs could be transferred to the people of India at once. But if this cannot be done at once and self-government in India is established by evolution, in steps and stages, of the machinery of Indian Administration, where should the ultimate sovereignty over her domestic affairs now vested in the Parliament, as at present constituted, reside till then? Mr. Curtis raises the question whether India would prefer that the Secretary of State should be answerable to the domestic Parliament of the United Kingdom or to the new Imperial Parliament in which the communities of the dominions including India would be represented and asks the people of India to consider this question from the Indian standpoint and make their choice. In his scheme of reconstruction, the domestic Parliament of the United Kingdom would represent only the people of the United Kingdom and its main function would

be the solution of essentially local problems of that country. In such an assembly the Secretary of State for India has no place. Mr. Curtis is convinced that India must be represented in his new Imperial Parliament and her spokesmen should be in both the Houses. He is, therefore, of opinion that the final responsibility for Indian affairs should, till responsible Government is fully established in India, vest in the new Imperial Parliament where India will have direct representation rather than in an assembly where her problems will not come up for consideration.

## AN ANSWER TO MR. CURTIS.

These schemes for Imperial reconstruction attracted a great deal of attention before the Imperial War Conference began its sittings. Mr. Keith, the well-known authority on the subject, came to the conclusion that the constitution of a federal Parliament for the British Empire and a federal Executive must necessarily lead to the modification of the existing constitutions of the self-governing Dominions and that the proposals are not likely to find acceptance from the statesmen of the United Kingdom and the Dominions. In an article in the "Nineteenth Century and after" Sir Charles Lucas, K.C.B., K.C.M.G., came to similar conclusions. He was of opinion that the solution of the problem depended more or less on general considerations and past experience. What are the leading characteristics of the British race? Do they favour the creation of a brand new constitution? What guidance, if any, can we derive from the greatest cataclysm in the history of the Empire,

the war of American Independence? What guidance, if any, is the present war, giving us? What is the dominating factor at the present time in the lives of men and Communities? On a consideration of all these questions Sir Charles Lucas was of opinion that the characteristics of the British race a stubborn, resolute instinct of self-government and the strong strain of conservatism, are against the establishment of a new federal machinery. The British are satisfied if the obvious need of the moment is met and they do not ask for a far reaching logical plan. The requirements of the immediate situation do not favour the plan of a federation of the Empire and the Imperial Conference with enlarged members and added powers would answer the purpose as well.

The soundness of these criticisms has been amply proved by the proceedings of the Imperial War Conference. The Dominion Ministers showed no enthusiasm whatever for the proposals for an Imperial constitution. A sufficient answer to Mr. Curtis, will, therefore found in the proceedings of the Conference. Sir Robert Borden said, "that he looked forward to development along the line of increasing equalization of status between the Dominions and the United Kingdom." He believed that the Dominions fully realized the ideal of a Commonwealth of the states in the Empire with the Crown as a tie, but under the present conditions he held that it would be unwise for the conference to attempt to enter upon the subject. General Smuts, considered that "the British Empire was the most important and most fascinating problem in political and

constitutional Government, the world had ever seen. When they came to the question of the constitution they touched the very gravest issue." "As a matter of fact," he observed, "we are the only group of nations that ever successfully existed as founded on principles of equality. We hope we may become an instrument for good in the whole world. Yet too much of the old ideas still cling to the new and growing organism. Although in practice there is great freedom, yet in theory the Dominions are the subject provinces of Britain. This would be a most important question when the permanent basis came to be considered." General Smuts was emphatically of opinion that the circumstances of the Empire entirely precluded a federal solution. An attempt to so run different races, languages, economic conditions and even common concerns would be absolutely to court disaster. It is not beyond the wit of man to devise a scheme of continuous consultation to keep the various groups together. Sir Joseph Ward strongly opposed any attempt to hand over the control of individual Defence Forces to any Empire of Parliament, but he reiterated his previously expressed views on the necessity for such a Parliament. Mr. Lloyd George practically agreed with the views expressed by General Smuts. "It is true," as he said, "that no attempt has been made to settle the constitutional developments to which the war Cabinet might lead. The whole question would be reserved for consideration by a special conference to be summoned as soon as the War is over to readjust the constitutional relations of the Empire.

It was felt, however, that the experiment of constituting an Imperial Cabinet in which India was represented has been so fruitful in better understanding and unity of purpose and action that it ought to be perpetuated and it is believed that the proposal would commend itself to all nations of the Empire." However commendable the idea of a federal reconstruction may look, "it is nevertheless full of perils and quicksands. Above all it is open to the fatal objection that it does not seem to be desired by the spokesmen of the dominions." Said the daily Telegraph (May 16-17) and the same journal added, "it may be taken, therefore, as certain that the special war Conference which will be called at the end of the war to consider the general problem of Imperial reconstruction will not favour the idea of a united Parliament of the Empire. Reconstruction will proceed on lines less sensational but far more consonant with the British tradition of gradual evolution. Indeed it has already begun during the last few weeks in the admission to the Imperial Cabinet of the statesmen of the Dominions and the representatives of India." The imperial war Conference and the Imperial war Cabinet, called into being under an emergency, have served the national purpose and may be trusted to do so for some time to come. An Imperial Parliament, an Imperial Treasury and Imperial taxes are but institutions of a remote future. They may come into being in good time but before the day arrives, the domestic constitutions of the Empire will have undergone changes of a far-reaching character. The problem of Home Rule for Ireland which has been under discussion for over

three decades is in sight of an early solution and a Parliament at Dublin will transact the domestic affairs of Ireland. In due course England, Scotland and Wales will have their autonomous Legislatures. When the different parts of the United Kingdom and Ireland have obtained their subordinate state Parliaments, India will also have succeeded in working her way onward to complete internal autonomy within the Empire and the Secretary of State for India, will be to India, what the Colonial Secretary will be to the Colonies. Until then the British Parliament in its existing form will continue to be in the ascendant, with new auxiliaries such as the Imperial Cabinet and the Imperial Conference, or a standing committee of the Imperial Conference, an enlarged committee of the Imperial Defence and a foreign relations committee such as Sir Charles Lucas has suggested or a committee of the Dominions delegates such as that recommended as a half way house by Mr. Worsfold himself.

#### THE CONSTITUTIONAL CHANGES.

So much then for the question raised by Mr. Curtis. The changes brought about by the Imperial War Conference without the development of federal institutions are, however, of a very vital character and it is as well they should be described in the language of a minister who has taken active part in the discussions of the Conference. Sir Robert Borden said "it may be that in the shadow of the war we do not clearly realise the measure of recent constitutional development and the constitutional position which has arisen from the summoning of an Imperial

War Cabinet. The British Constitution is the most flexible instrument of government ever devised. It is surrounded by certain statutory limitations, but they are not of a character to prevent the remarkable development to which I shall allude. The office of Prime Minister, thoroughly recognised by the gradually developed conventions of the constitution, although entirely unknown to the formal enactments of the law, is invested with a power and authority which, under new conditions demanding progress and development, are of inestimable advantage.

"The recent exercise of that great authority has brought about an advance which may contain the germ and define the method of constitutional development in the immediate future. It is only within the past few days that the full measure of that advance has been consummated.

"For the first time in the Empire's history there are sitting in London two Cabinets, both properly constituted and both exercising well-defined powers. Over each of them the Prime Minister of the United Kingdom presides. One of them is designated as the "war cabinet," which chiefly devotes itself to such questions touching the prosecution of the war as primarily concern the United Kingdom. The other is designated as the Imperial War Cabinet" which has a wider purpose, jurisdiction, a personnel. To its deliberations have been summoned representatives of all the Empire's self-governing dominions. We meet there on terms of equality under the presidency of the First Minister of the United Kingdom; we meet there as equals, and he is *primus inter pares*. Ministers from six nations sit around the council board, all of them responsible to their respective parliaments and to the people of the countries which they represent. Each nation has its voice upon questions of common concern and highest importance as the deliberations proceed; each preserves unimpaired its perfect autonomy, its self-government, and the responsibility of its Ministers to their own



electorates. For many years the thought of statesmen and students in every part of the Empire has centred around the question of future constitutional relations; it may be that now, as in the past, the necessity imposed by great events has given the answer.

"The Imperial War Cabinet as constituted to-day has been summoned for definite and specific purposes, publicly stated, which involve questions of the most vital concern to the whole Empire. With the constitution of that Cabinet a new era has dawned and a new page of history has been written. It is not for me to prophesy as to the future significance of these pregnant events; but those who have given thought and energy to every nation may be pardoned for believing that they discern therein the birth of a new and greater Imperial Commonwealth."

#### THE PRIME MINISTER.

In the House of Commons, the Prime Minister described the new arrangements as follows:—

"The Imperial War Cabinet was unanimous that the new procedure had been of such service not only to all its members but to the Empire, that it ought not to be allowed to fall into desuetude. Accordingly at the last session I proposed formally on behalf of the British Government, that the meeting of an Imperial Cabinet should be held annually or at any intermediate time when matters of urgent Imperial concern required to be settled, and that the Imperial Cabinet should consist of the Prime Minister of the United Kingdom and such of his colleagues as deal specially with Imperial affairs, of the Prime Minister of each of the Dominions, or some specially accredited representative possessed of equal authority, and of a representative of the Indian people to be appointed by the Government of India. This proposal met with the cordial approval of the Overseas representatives, and we hope that the holding of an annual Imperial Cabinet to discuss foreign affairs and other aspects of Imperial policy will become an accepted convention of the British constitution."

"I ought to add that the institution in its present form is extremely elastic. It grew not by design but out of the

necessities of the war. The essence of it is that the responsible heads of the Governments of the Empire with those Ministers who are specially entrusted with the conduct of Imperial policy should meet together at regular intervals to confer about foreign policy and matters connected therewith, and come to a decision in regard to them which, subject to the control of their own Parliaments, they will then severally execute. By this means they will be able to obtain full information about all aspects of Imperial affairs, and to determine by consultation together the policy of the Empire in its most vital aspects, without infringing in any degree the autonomy which its parts, at present, enjoy. To what constitutional developments this may lead we did not attempt to settle. The whole question of perfecting the mechanism for continuous consultation about Imperial and foreign affairs between the "autonomous nations of an Imperial Commonwealth" will be reserved for the consideration of that special conference which will be summoned as soon as possible after the war to re-adjust the constitutional relations of the Empire. We felt, however, that the experiment of constituting an Imperial Cabinet, in which India was represented, had been so fruitful in better understanding and in unity of purpose and action that it ought to be perpetuated, and we believe that this proposal will commend itself to the judgment of all the nations of the Empire."

Judging from the trend of events in England and the tendencies of statesmen in the Empire Mr. Lionel Curtis's question regarding the position of India under a reconstructed Imperial constitution needs no answer at present. The probabilities are against the establishment at one bound of an Imperial Parliament just at this juncture. After the session of the Imperial War Conference the Round Table has also taken this view. It says that "the creation of a true Parliament for the Commonwealth may not come within the sphere of practical politics in the

near future. It is useless, unwise and dangerous to take short-cuts. For the present our task is to think out the best means of making effective the new imperial machinery which the special Imperial Conference is to perfect and regularise. But in welcoming the recent changes let us not suppose that they will in themselves solve the fundamental problem which lies at the root of the politics of the Empire." Further when an Imperial federal assembly does come into existence Mr. Curtis' question will need no answer. By that time India hopes to realise responsible government and to be placed on the same position in regard to her internal affairs as the self-governing Dominions. So long as the present British Parliament continues to play her present part in the domestic affairs of India the question does not arise and the day on which it ceases to do so will be a proud day in the history of India. She will hold a position of partnership in the Empire such as that held by the other component States of the Empire. Till then India pleads for two privileges that must justly fall to her share, namely, she should send to the Imperial Conference, the Imperial Cabinet and other allied organisations persons selected with the approbation of the people and that she should have a measure of representation equal to her position in the Imperial system.

## CHAPTER II.

### THE POSITION OF INDIA IN THE EMPIRE.

“Every nation must have the choice of its own destiny and not be cut and carved to please the Great Powers.”

GENERAL SMUTS, *May 14, 1917.*

The story of the struggle of the Colonies for more than half a century reveals their desire for freedom to regulate their economic conditions and their political relations with the United Kingdom as well as with outside nations. The former comprises problems of immigration and tariffs between the various parts of the Empire as well as between the Empire and the outside world, while the latter relates to the establishment of a position of equality with the United Kingdom in the administration of Imperial affairs. The settlement of all these problems has, in the past, been reached more or less by judging conditions from the standpoint of the white races of the Empire and of the United Kingdom, much to the detriment till the interests of India which, as a dependency till now, has been obliged to rest content with decisions in the shaping of which she has been denied all part or share.

#### IMMIGRATION.

The first of these problems is immigration. The Indian view of the subject is that the full rights of citizenship of the British Empire include the right to settle in any part of that Empire, irrespective of the existence of local legislation barring or limiting

access. The Government of India have long and consistently contended for the principle of free immigration between all parts of the Empire, but without any appreciable results. The self-governing dominions have their own legislatures which, under their constitutions, are entitled to regulate their own internal affairs. The control of immigration, it is contended on behalf of the Dominions, is primarily an internal question, and each self-governing community is entitled to determine the material which should form its citizens. The right of free movement within the Empire is, therefore, conditioned by the exercise of the undoubted powers of local Legislatures to restrict emigration. Legislation on the subject of emigration in the Colonies became more and more drastic in proportion to the strength of the agitation for the removal of Indian disabilities.

LORD HARDINGE.

In reviewing the situation in 1914, Lord Hardinge stated that the Colonies naturally placed above all other conditions the interests of their own country as they understand them, just as we in India should put the good of India in front of our motives for legislation. He repudiated the idea that the Colonial Governments, in formulating their measures of exclusion, are actuated by feelings of animosity towards Indians and suggested that they are by no means unmindful of the possible effect of their action on the government and the people of this country. They are quite willing to consider the Indian requirements once they are satisfied that the interests of their own country are adequately secured.

The Imperial War Conference has afforded opportunities to the Dominion representatives to understand better the case for India. The utterance of Sir Robert Borden in the Canadian Parliament is a notable one. He said:—

"I found it of very great advantage in discussing matters of common concern to India and ourselves that we had the representatives of India at the Conference I invited the members of the conference to meet me informally at the hotel at which I was staying, and we had a free, full and frank discussion of the whole situation. In so far as the dominions are concerned India has had matters of difference, matters sometimes of controversy with South Africa, perhaps also with Australia and New Zealand and on some occasions with Canada. Sir Satyendra Sinha stated the case from the Indian standpoint with great ability, fairness, conspicuous moderation and very deep feeling. His address to us was not the less impressive because it was so fair and so moderate. On our part we spoke with equal freedom, equal frankness, and I hope with equal moderation. The net result was the resolution at which we arrived and which I have read. Its basis is that the self-respect of India shall be maintained by an arrangement that whatever measures we enforce in regard to the emigration or the visits of Indians to Canada shall also prevail with regard to the emigration or visits of Canadians to India. I do not think that any one in this House can dispute the fairness of that proposal. Upon certain other matters which we discussed I need not dwell to-day. I see nothing but good in the presence of India at that Conference, and I believe that there will be no objection in this House or in the country to having the great dependency of the Empire represented at future meetings. India has been splendidly loyal in this war and has contributed her manhood and her treasure for the purpose of enabling us to win it. We must take that all into account. Her civilisation is different from ours. It is more ancient in some respects and it may be said to be on a higher plane. There is more of idealism in their

civilisation, more perhaps of materialism in ours. I am not disposed to discuss the question as to whether one or the other is superior, but I do say that the Indian civilisation is entitled to our respect, and that we must do our part in making the inhabitants of that great dependency of the Empire feel that they are not treated with contumely or injustice by the people of any of the Dominions. I believe that the purpose will be carried out. I believe it will be materially assisted by the conference which we had with the Indian representatives."

#### THE INDIAN MEMORANDUM.

The memorandum on immigration from India to the Dominions presented to the last Imperial Conference by the Indian representatives refers to the restrictions imposed in the Dominions and puts the Indian point of view as follows:—

"Indians in their outlook upon the Empire are at present powerfully swayed by two ideas. They are proud of the fact that they are British subjects and that their country is an integral portion of the Empire and they wish to claim their Imperial privileges. They are at the same time proud of their Indian nationality, ancient civilization and great intellectual traditions which they have inherited. They have made sacrifices for the Empire and have proved their loyalty, courage and fortitude and ask that this should be recognised. Thus sentiment and imagination enter largely into the controversy. If the Dominions would meet feelings of this order; they would probably find that India would not be unreasonable on material points." The principle of reciprocity of treatment has now been accepted by the Conference and commended to the Governments of the Dominions. It is suggested that the facilities

for settlement accorded to the Indians should not be less advantageous than those allowed to the subjects of other Asiatic Nations. It was also demanded that facilities should be accorded to the educated Indians visiting the colonies for travel and study as apart from settlement; and that Indians who have already been permitted to settle in the self-governing dominions should receive a more sympathetic treatment. These recommendations, though they mark an advance on the existing position, do not really place us in terms of equality with the Colonial Governments. Reciprocity is a wide term and it remains to be seen how this will work in practice. Mr. H. S. Polak, a considerable authority on Colonial questions, and to whose efforts in the cause of Indian emigrants we owe a debt of gratitude, has in a recent article in the *Indian Review*, indicated many difficulties. On the first question the racial discrimination is still clearly maintained and the memorandum recommends that Asiatics of British nationality should at least not be less favourably treated than other Asiatics. Mr. Polak therefore raises a pertinent question whether the Government of India will claim that Indian businessmen should be granted the same facilities of landing at South African ports and carry on their business as are apparently being granted to Japanese traders. He states the further position as follows:—

“And if they do make claim, are the Union Government at all likely to admit it? The extension of Japanese trade in South Africa, since the war, has been enormous, and no one acquainted with



Japanese commercial methods would, for a moment, suppose that it has been created by the European agency. A few weeks ago, two Indian graduates from Cambridge were refused permission to land at Cape Town, whilst permission was freely granted to European and Japanese passengers; these last were, presumably, not desirous of landing for the good of their health. But it is idle to expect the Indian or the Imperial authorities to insist upon better terms for British Asiatics, within the British Empire than are accorded to alien Asiatics. In the territories of Zanzibar and East Africa, which are directly under the control of the British Government, Portuguese Asiatics are allowed to land where British Asiatics are refused. Of course, in times of war, all kinds of restrictions may be deemed to be necessary, but that does not explain why a Portuguese Asiatic may be allowed to land on British soil, where permission is refused to an Asiatic of British origin, who has, of course, no consul to whom to appeal."

Without raising the question of unrestricted immigration the true position, therefore, is the establishment of preferential treatment to British Asiatics within the Empire.

#### RECIPROCITY.

In this view of the situation most people in this country will agree. Mr. Polak has also set out very fully the logical consequences of reciprocity of treatment. He has pointed out the outstanding grievances of the Indians in the different provinces of the South African Union which are of a fundamental and of a legislative character. They include the still

existing lo-cation byelaws which require Indians to reside in certain circumstances in a location, the refusal to issue new trading licenses to Indians by Municipalities in South Africa, the refusal of the right to own fixed property in the Transvaal, deprivation of the Municipal vote and the right of the Indians to be represented upon a Municipal Council by members of their own community. These and other acts of the Colonial Governments can only be undone by the introduction of appropriate legislation in the Colonies. A reciprocity of treatment without the removal of these disabilities would merely lead to the admission of a certain number of Asiatics, into the Colonies with a corresponding obligation to receive an equal of Colonial emigrants into India. In the one case they are subjected to most irritating racial restrictions in the Colonies and also restrictions on trade and on the exercise of the rights of citizenship; while the Colonial emigrants are not subjected to this harsh treatment in this country. Unless the parties are placed exactly in the same position reciprocity will secure no advantage and the bargain will be of a one-sided nature. Indian emigration to the self-governing Colonies, with the existing restrictions, will never be welcomed in this country.

#### THE CROWN COLONIES.

The resolution of the Imperial War Conference recommends the principle of reciprocity only between India and the self-governing dominions. The position of India in the Crown Colonies was not within the purview of the Conference. Indians in these Colonies are subjected to a good many of the same restric-

tions as are in force in the self-governing Dominions. The Conference held in London on Indian emigration, was wholly an official body, and none of these questions appear to have been considered. There were no representatives from India, no witnesses either Indian or Colonial were called, public opinion was not invited, no programme and agenda of the subjects to be discussed were furnished for public discussion. Nevertheless it is a matter for great satisfaction that as a result of this Conference, indentured emigration has been completely stopped. The Conference has no doubt formulated many necessary provisions for affording reasonable facilities for Indian colonization in the Crown Colonies. But apart from these there are many questions of status. One of these is the subject of marriage and legitimacy. In 1916 the Government of India circulated a Bill prepared by the Government of Fiji relating to the marriage laws of the Colony. The Bill which was intended to be applied to every immigrant did not provide for the recognition of the rights of the migrating Hindu or Muhammadan to marry according to his own personal law. On the other hand the Bill proposed the imposition of formalities on Hindu and Muhammadan immigrants which appeared essentially like the preliminaries to Christian marriages. One of the other proposals in the Bill was that a wife should not be convicted of adultery where she was deserted by her husband or where the husband compelled her to leave his protection. Such a provision is entirely opposed to Hindu and Muhammadan sentiment in India. The

Bill contained many other curious provisions unknown in this country. It may be mentioned that one of the points very much discussed in South Africa was the right of the emigrant to have his own marital law recognised in the Colonies. The settlement of these questions of status of the indian emigrant in the Crown Colonies are still outstanding points of dispute.

#### COMMERCIAL RECIPROCITY.

Then there is the whole group of questions relating to the fiscal and economic systems of the various states in the Empire which are now under consideration. This is a time of universal reconstruction and indian public opinion has not been as yet directed to the serious study of these vital problems. Her own somewhat subordinate position till very recently in the hegemony of the Empire has been a hindrance to her self-assertion. While the problem of immigration was largely viewed from the standpoint of the white races of the Empire, the problem of Tariffs has been looked at largely from the point of view of the United Kingdom and like disabilities have been imposed on the commercial and economic development of India and the Colonies. The economic rivalries between the United Kingdom and the Colonies are not of recent growth. So early as in 1872 when the Colonies and outlying Dominions were still considered a burden and an encumbrance to the Empire, Lord Beaconsfield urged that concessions of self-government to the latter should be accompanied by certain conditions of Imperial consolidation of which 'Imperial Tariffs' was

indicated as one. The Colonial Conference held in 1887 and 1897 urged the principle of preferential tariffs and trading notwithstanding the existence of treaties which prevented Great Britain and the Colonies from entering into agreements of commercial reciprocity. The next conference in 1902 re-affirmed the principle of preferential trade and Mr. Joseph Chamberlain actually resigned his place in the Government of the United Kingdom on a question of the repeal of the corn duty upon imports from outside the Empire as against a promise by the Cabinet of the day in favour of Canadian Corn.

In the following year Mr. Chamberlain became a convert to the policy of Imperial reciprocity as the only practicable way to Imperial consolidation. The Conference of 1907 discussed again at some length the principles of reciprocity, but the Imperial Government stated quite clearly that it was opposed to any scheme of preference and the question was not much discussed.

At the Imperial Conference held in 1911 the Conference again adopted a resolution in favour of the appointment of a Royal Commission representing the United Kingdom, Canada, Australia, New Zealand, South Africa and New Foundland "with a view of investigating and reporting upon the natural resources of each part of the Empire represented at the Conference, the development attainable and the facilities for production, manufacture and distribution; the trade of each part with the others and with the outside world, the food and raw material requirements of each and the sources thereof available, to

what extent, if any, the trade between each of the different parts has been affected by the existing legislation in each, either beneficially or otherwise, and what method consistent with the existing fixed policy of each part the trade of each part with the others may be improved and extended." This very comprehensive inquiry into the whole subject of trade and commerce between the Colonies and the United Kingdom and the outside world has since been undertaken by a Royal Commission and its report has been published a few months ago. India was not also represented on this Commission but its recommendation include a variety of matters in which they had to consider the position of this country. The fact is that, with the exception of the United Kingdom, India is by far the most important constituent State of the Empire and it is impossible to formulate any proposals, economic, industrial or fiscal affecting the whole Empire leaving India out of consideration. Up to the present moment India has had to abide by whatever tariffs and customs suited the self-interest of the United Kingdom which, in the one instance of cotton duties, paid till recently more heed to the well-being of Lancashire than the prosperity of India. The economic conditions of India as an agricultural country have been confounded with the wholly different industrial conditions of the United Kingdom and her right to separate treatment in regard to tariffs in support of her infant industries has been till now disregarded.

#### EXISTING FISCAL SYSTEM.

India at present possesses what is called a free trade tariff and the existing fiscal system under free

trade has been criticised in this country for several years. The excise duty on Indian manufactured cotton which has been imposed for over forty years in the interests of English manufactures has been recently removed. Sir Valentine Chirol said some years ago that "No measure has done greater injury to the cause of free trade in India or more permanent discredit to British rule than the excise duty on the Indian manufactures in cotton or none has done more to undermine the Indian faith in principles of justice upon which British rule claims, and on the whole legitimately claims, to be based." The late Romesh Chander Dutt was a resolute Indian protectionist and was wholly opposed not only to free trade but also to Imperial preference within the Empire. He demanded absolute protection against British goods as well as foreign and denounced the cotton excise duties as unknown in any other country in the world. It is not necessary to dilate further on the present fiscal system of free trade in India. The critics of the present fiscal policy come under two categories: (1) The advocates of complete protection for India against British and foreign goods alike, and (2) the advocates of Imperial preference for India with a moderate degree of protection against the protected countries outside the British Empire. Almost every known Indian politician, economist and publicist in India belongs to the Indian protectionist party. A large number of English Liberal politicians of considerable prominence on Indian questions such as the late Sir Henry Cotton, the late Mr. Dadabai Nowrojee, Sir

William Wedderburn and practically all the members of Parliament who were members of the Indian Parliamentary Committee organised by Sir Henry Cotton were all committed to a policy of protection for Indian Industries. On the other side there are, in the United Kingdom, a number of advocates of Imperial Preference for India. The Hon'ble Sir Gangadhar Chitnavis moved a resolution in the Imperial Legislative Council in 1913 recommending a system of preferential tariffs with the United Kingdom and the Colonies. "A customs Union with the Colonies," Sir Gangadhar Chitnavis declared, "will gradually secure for India a better and more dignified position than we now have."

The motion was eventually withdrawn after a discussion in the Council of the respective merits of free trade, protection and preference. India has therefore not committed itself as yet to a policy of Imperial preference and the Indian National Congress has, on the contrary, adopted a resolution in 1915 demanding that, in the best interests of the people of India, it is necessary that complete fiscal freedom should be conceded to the Government of India. Sir Roper Lethbridge and other advocates of preference hope that the inclusion of India within the Empire system of preferential tariffs offers to this country the only possible chance of obtaining better terms from the various protectionist countries of the world who are, year by year, raising higher and higher their tariff walls. This benefit is more a potential one, at any rate for at present; Indian exports mostly consist of food and raw materials which are keenly



sought after by all the industrial countries of the world than of manufactured goods.

#### RECENT ECONOMIC ENQUIRIES.

The resolution adopted by the Imperial War Conference with regard to trade and commerce is of a comprehensive character. The principle of preference in tariffs; the development of imperial resources; the establishment of a mineral resources Bureau; the appointment of trade commissioners; these and other subjects have been discussed. They are all questions of vital importance to India, and sufficient consideration can only be given to them in this country when the full proceedings of the Conference are available. The Paris Economic Conference was summoned by Great Britain and the Allies for the discussion of questions relating to trade and commerce and for regulating future commercial treaties with allied and neutral countries. Another important committee composed of businessmen and a few politicians presided over by Lord Balfour of Burleigh, was also appointed to consider the commercial and industrial policy of the Empire after war. The deliberations of this committee involved problems of the greatest moment to India and yet India was not accorded any representation on this committee. The committee urged on His Majesty's Government "to declare forthwith their adherence to the principle of Imperial Preference and to establish in pursuance of this object, a wider range of customs and duties which would be remitted or reduced on the products and manufactures of the Empire." The committee also recommended that

a preferential tariff such as that suggested by them should be the basis of commercial treaties with the allied and neutral powers in accordance with the recommendations of the Paris Economic Conference. The proposal for the establishment of Imperial Preference has been put forward not only to safeguard British Industries but also for the sake of the unity of the Empire for which they think it necessary that "a serious attempt should now be made to meet the declared intentions of the dominions and the colonies for the development of their economic relations with the United Kingdom." They have also considered the necessity of finding alternatives by way of subsidies in lieu of tariff preferences. The committee have refrained from making any recommendations regarding India, but have reserved an examination of the case for India with the remark "that the special position of India as well of Egypt and Sudan will require consideration." There is a great conflict of interests between this country and the United Kingdom in the matter of trade policy and if the committee's recommendations are aimed, as they seem to be, at the promotion of certain industries in Great Britain with the raw materials from India and a corresponding discouragement of the growth of industrialism in this country, there is bound to be an emphatic protest against this policy.

#### THE POSITION OF INDIA.

What, however, the Irish members of the committee have expressed in regard to Ireland, applies equally to India and may well be quoted here: "We are unable to subscribe to any resolution of the nature now

submitted by the Committee which does not deal with the special case of Ireland. Past experience has shown that Ireland has had to conform to whatever fiscal system suited the needs of Great Britain, without regard to her own needs. We therefore feel that when new arrangements are being considered it is necessary to secure that Ireland's claims to separate treatment should be recognised. Realising that the decay of her industries and of her agricultural cultivation which the consequent depopulation have been the result of confounding her economic conditions as an agricultural country with the totally diverse industrial conditions of Great Britain, we are of the opinion that the same fiscal liberty which is at present enjoyed by the self-governing dominions should be extended to Ireland. Only by this means we consider can Ireland's economic resources be properly developed." Similar sentiments have been expressed by the Indian delegates to the recent Imperial War Conference. Speaking at a Luncheon given by the East India section of the London Chamber of Commerce, Sir S. P. Sinha referred to the expansion of industry and commerce in India and said: "The resources of India must not be exploited by other parts of the Empire for their own benefit. The first aim must be the welfare of India herself and this would be most advantageous to the Empire as well." Mr. Austen Chamberlain described the position of India and stated that "India could take a great part in the scheme of rendering the Empire independent of outside resources. She would be a great store-house of the Empire, but she

must not remain a mere hewer of wood and drawer of water. It is essential that her industrial development which is only beginning should progress, enabling her to take a large share in manufactures and production. I emphasize the fact that we must watch and help the development of India without jealousy or suspicion." It must be made plain that schemes of reconstruction, in order to be acceptable to India and her growing aspirations, must satisfy the sentiments so unequivocally expressed by the Secretary of State.

It is also necessary to invite attention to the activities of the Empire Resources Development Committee. A question has been raised with regard to the exact position of India in the scheme for the development of the resources of the Empire, formulated by this committee. Lord Islington, the present Parliamentary Under-Secretary of State for India, stated that it is in contemplation to organise an Imperial development Board in which India, the United Kingdom, Self-governing Dominions and the Crown Colonies will be represented. One of the duties of this board is the consideration of the lines in which Indian Industrial development should be pursued in the interest of the Empire as a whole. The appointment of the Industrial Commission presided over by Sir Thomas Holland is stated to be in pursuance of this new policy. Lord Islington declared "that the whole trend of the inquiry of this commission is in keeping with the policy of the Empire Resources Development Committee." We really do not know at present how in these important economic changes

that are impending India will be affected. Her representatives have never been asked to consider this new economic policy. The war has brought about a revolution in the ideals of economic policy. On the one hand, there is an attempt at the development of a policy of preference between the component parts of the Empire. On the other there is also a movement for the establishment of some kind of Customs Union between the British Empire and the Allied countries. The advocates of Preference apparently believe that their policy would make the Empire a virtually self-sufficient economic system on the one hand and a harmonious political system on the other. These views are not generally accepted even in the United Kingdom. A writer in the "Manchester Guardian", Mr. Hobson, controverts these assumptions. After reviewing the statistics of imports and exports immediately before the war, he came to the conclusion that not only Great Britain but the Empire as a whole is far more dependent upon trade with foreign countries than upon trade with its own members, and that it would be unwise to take any fiscal steps which would damage the trade relations of Great Britain with countries outside the Empire. "The establishment of a tariff such as that now under contemplation would injure commercial and political relations with our own Allies in the present war. The attempt to make the Empire a self-sufficient unit is attendant with a great many difficulties. Any scheme of Imperial Preference within the Empire is also bound to affect the present independence of the several self-governing dominions in the making and

changing of their tariffs in which they now enjoy perfect freedom." This is the essential difficulty in the creation of Preferential Tariffs. No mutual preference could work without some scheme of centrally controlled Imperial finance involving some fixity of tariff arrangements. It is also possible that any system of preference accorded in Great Britain might be also of unequal value to the several Dominions and India.

#### POLITICAL STATUS.

These large problems which will affect India along with the other parts of the Empire are looming in the horizon. But in a consideration of these and other questions India can no longer be ignored. The sittings of the Imperial War Cabinet have constituted an immense step forward on the path of Imperial organisation by conceding with all possible fulness the right of the Dominions and India to share in the framing of such policy as affects the Empire as a whole. India, as a most important unit of the Empire, has now for the first time been admitted to the innermost Imperial councils and henceforth has to take her share alike in advantages and obligations of the Empire along with the United Kingdom and the Dominions. At the last Imperial War Conference, the Indian representatives have taken part in all the deliberations of the Conference and the Imperial War Cabinet. It has now been made clear that this representation is to be permanent. The admission of India to the Imperial Conference, was recommended so early as 1905 by Mr. Lyttleton, the

Secretary of State for Colonies at the time, and yet it was not till she had mingled the blood of her warrior sons with that of the Canadian and the Anzac, the South African and the Australian on the battle fields of Flanders and France, of Mesopotamia and Egypt, of Gallipoli and the Suez, of East and West Africa, that her value to the Empire was recognised and demonstrated by an invitation to her to join the Imperial War Conference and the War Cabinet. The Maharajah of Bikanir spoke with legitimate pride when he referred to the heroism of the Indian troops in the following terms:—"But our greatest pride is that our troops were privileged to go out to France almost immediately after the outbreak of the war and to arrive at the opportune moment when the units as they came, were rushed straight from the Railway to help to stem what the Germans confidently anticipated would be their triumphant march on Paris and the Channel. I was there with the Meerut Division and I speak from personal experience. The fate of nations and of civilization then hung in the balance. Every additional man counted. We had veritably a thin Khaki line with very little but our loyalty, our patriotism and sense of duty to carry us through." India did not ask a price for her services to the Empire for, in the words of the Maharajah of Bikanir, her loyalty has no price. These services have been handsomely acknowledged in a spirit of grateful recognition by those responsible for the conduct of affairs of the Empire and they constitute the title by which she has established an altered status in the

Empire as a partner nation in common with the self-governing Dominions.

#### THE PRIME MINISTER.

India is, therefore, grateful to the statesmen throughout the Empire who have recognised her services to the Empire. It is enough to refer to the generous terms in which the Prime Minister and the Secretary of State for India have spoken of these services. On receiving the freedom of the city of London on 27th April, 1917, Mr. Lloyd George, speaking of India and acknowledging the help that India has given to the Empire, said, "I think I am entitled to ask that this loyal people should feel not that they are a subject race in the Empire, but partners with us. Timorous faint-heartedness is abhorrent in peace or war and in war it is fatal. Britain has faced the problem of war with a courage which is amazing. She must face the problem of peace in the same brave spirit." He is not the only Minister who has so generously acknowledged the services of the country.

#### INDIA'S CONTRIBUTION TO THE WAR.

In moving the Resolution in the House of Commons accepting India's contribution of £100,000,000 towards the cost of the war, Mr. Chamberlain, the Secretary of State for India, said:— "I would ask the House, before we pass to the particular gift now under discussion, to spend a little time in reviewing other contributions which India has made. The figures which I shall use, partly of necessity and partly from choice, have not been brought up to date. It is not desirable that the latest figures and the latest position should be revealed to the world, I hope;



however, that the account which I shall be able to give will be one which shall do proper justice to India but at the same time satisfactory to this House, and not misleading to anyone in India.

#### INDIAN ARMY'S ACHIEVEMENTS.

"The army of India, before the war, consisted of 78,000 British troops and 158,000 Indian troops, or a total of 236,000 men. In addition to these, there were 18,000 Imperial service troops. That force was organised, for a purpose not confined of its own motion, by the Indian Government, but laid down after consultation with the Imperial Government at home, to discharge duties which was then contemplated the Indian Army might be called upon to fulfil. The Indian Military Budget in the year before the war amounted to £20,000,000. This country has, under the Resolutions of the House, borne the extraordinary charges attendant upon the employment of Indian troops elsewhere. The Indian Military Budget for this year, instead of being £20,000,000 is 26,000,000. That additional £6,000,000 of expense is, I may say, almost entirely due, and directly due, to the circumstances of the present great war. What use has been made of the Indian forces constituted as I have described in the course of this struggle? Indian troops have fought, I think, in almost every theatre of the War in France, in Egypt, at Aden, on the Suez Canal, in Gallipoli, in East Africa, and in West Africa.

Hon'ble Members: Mesopotamia!

Mr. Chamberlain: Neither the House nor I am likely to forget that they have fought in Mesopotamia nor will that Army! Let the House cast itself back to the anxiety felt in relation to our Army in France in the winter of 1914. Nearly one-third of the forces were drawn from India. They were the first of the oversea troops. The Indian Army provided the first defence of British East Africa and repelled the first Turkish attack on the Suez Canal. The Army in Mesopotamia, which in the last few days, retrieved—how gloriously retrieved!—the check and misfortunes of our earlier operations, and which has struck a blow that resounds throughout the whole of the Eastern world, and not the Eastern world alone, is an Army which, from

first to last through all its sufferings, hardships and disappointments—and in its triumphs!—is in the main an Indian Army. It is difficult when one reviews the deeds of the Indian Forces in this War to select for illustration any particular instance, but the House will not forget, and the country will not forget, such episodes as in France, the recapture of Neuve Chapelle in October 1914 by the 47th Sikhs and the 20th and 31st Company of Sappers and Miners. The 47th Sikhs lost in that attack 178 out of 289 engaged; and the Sappers and Miners lost 119 out of 300. They will not forget the attack of the Garhwal Brigade at Neuve Chapelle on 10th March, and I am sure the House will forgive me, on the occasion in particular, for referring to the action—the glorious action of the Indian regiments in Gallipoli. Who is there who can read without emotion of the action of the 14th Sikhs at Cape Helles, when the supporting troops on the other side unable to get to them fought their way, and held on to the last with the loss of nearly all their British and nearly all their Indian officers, and with a loss of 430 men out of 550 engaged? When a day or two afterwards the same ground was traversed again in a successful advance of our troops, the General who was in command has told me every Sikh had fallen facing his enemy, and most of them had one of their enemies under him. May I remind the House that on that occasion, fighting alongside them, were the Lancashire Fusiliers. No narrow spirit of sectional or racial jealousy animated either of them on that day, but one glorious emulation as to how best they might do glory to it.

#### STRENGTH OF THE FORCES.

“ I am going to ask the House to listen to a brief summary of what the Indian Army has contributed. On the outbreak of War there were 530 officers of the Army in India on leave in this country. They were made over to the War office to help them to organise the New Armies which it was necessary to create here. Before the close of last year over 2,600 British Officers had been drawn from India, apart from those who accompanied their units abroad, and the total number of British

Officers in India before the War broke out was less than 5,000. On the outbreak of War the Indian Army Reserve of officers consisted of forty members. It comprises now over 2,200 of whom about 800 are on field service. Apart from the Indian Army Reserve of Officers, commissions have been given in the Indian Army to 271 cadets from Quetta and Wellington, where military schools corresponding to Sandhurst have been established since the War began. Of the rank and file—again, I say, I have not tried to get the very latest figures—the total British and Indian Forces which have gone on active service must approximate a figure of 350,000, and the Army, as I have reminded the House, before the War was 236,000. All the units of the Indian Forces have been kept well supplied with drafts, and in order that might be done, the establishments of the cavalry regiments in India have been increased by 20 per cent., and the establishment of the infantry regiments in India have increased by 40 per cent. New units have been created drawn not wholly from those classes or races which were recruited before the War; and in particular I note on this occasion—because I am anxious to correct a mistaken answer which I gave some months ago—that a company of Burma Pioneers was enlisted in consequence to the desire of the people to take their share in the great struggle. There is another experiment which has been made, which I am watching with the greatest interest and with earnest hope for its success. A Bengali Double Company has been created, and I hope it will justify its creation.

“ I leave the direct supply of combatant troops, and the House will not blame me if I spend a moment over the medical services.

“ The medical arrangements of the Indian authorities, whether at home or abroad, have come under severe criticism, and this is not the occasion for me to offer any justification or any defence ; but I want to tell the House in a few words what the Government of India did from the narrow resources, for, after all, they were narrow resources, at their disposal. Forty field ambulances, six clearing hospitals, thirty-five stationery hospitals, eighteen general hospitals, nine-X-Ray sections, eight sanitary

sections, seven advanced depots and one general medical store depot have been sent on service overseas. The personnel provided for these units and other services amounts to 258 officers of the Royal Army Medical Corps, 704 officers of the Indian Medical Service, 40 lady nurses, 475 assistant surgeons, 854 sub-assistant surgeons, 720 British nursing orderlies, 2,840 Indian ranks, and nearly 20,000 Indian followers. In order to meet the heavy demands on the Indian Medical Service nearly 350 officers have been withdrawn from civil employment and some 200 private practitioners and civil assistant surgeons have been given temporary commissions. In the subordinate branches, 205 assistant surgeons and 560 sub-assistant surgeons in various kinds of civil employment have been released for military duty. May I say at once whilst abstaining from any plea in defence of either the Secretary of State for India or the Government of India in connection with the Military arrangements, that, as far as I know all the testimony from everyone who has had experience concurs in this, that the devotion and self-sacrifice of the officers of the Medical Service attached to the Expeditionary Forces have not been exceeded, and could not be exceeded in this War? The House knows that this is not the last word of the Government of India on the subject. They have just made service compulsory for men of European birth and Anglo Indians in India and they have opened registers for Indians to volunteer for the defence of their own country."

#### INDIA'S MATERIAL RESOURCES.

After referring to the Imperial Service Troops, output of munitions, German influence in India and Frontier troubles, Mr. Chamberlain proceeded:—

"Very briefly I would just like to say that my review of the contribution of India to the War is not complete and it cannot be complete, without some mention of the aid rendered by India in producing and supplying for our needs, products, raw or manufactures which were of vital importance to us. Her mineral resources have been of first-class consequence to the War. Take a single instance, that of the wolfram mines of

Burma. Before the War the whole output was 1,700 tons, and that went to Germany. The exports now are at a rate equalling half of the pre-War production of the whole world, and they do not go to Germany, except in such a form as we should all wish. Then there is manganese ore, saltpetre, mica, shellac, jute bags, raw jute, tanning materials, wool, army blankets, oil seeds, wheat, rice and forage. All these things we have drawn from India, and all these India has contributed to help the Empire in its struggle. The list of commodities is a long one, and it has recently been calculated that the value of the Indian exports of direct national importance is over £3,000,000 a month, a figure which may reach or even exceed £5,000,000 during the season of heavy wheat shipments. The significance of these figures will be appreciated when it is stated that the total value of Indian exports to all destinations is, roughly, £12,000,000 a month and to this country £4,000,000."

India is grateful to the late Secretary of State for this full and generous recognition of the services of India during the War and for bringing the same so forcibly to the notice of the British people.

## CHAPTER III.

### SELF-GOVERNMENT FOR INDIA.

"The British Empire is a Commonwealth which has come into being not through any consciously Imperial design, not as Sely said, in a fit of absence of mind or by accident but because it has supplied the needs of the people within it. It bridges in its law and in its institutions the gulf between east and west, between white and black and between race and race. It is even able to combine it with loyalty to a greater commonwealth. To all it promises not good government merely but eventual self government. Its whole purpose is to ensure that every citizen may lead the freest and fullest life consistent with the acknowledgment and discharge of his duties to the rest of the four hundred millions of human beings who are his fellow-citizens. Things can never be after the War what they were before. We need not hazard exact prophecies as to what ought and what can be done. But we can say that whatever steps are taken must be in the direction of helping the people of the dependencies to govern themselves as rapidly as possible."—MR. P. H. KERR, *Editor of the Round Table*, 1916.

In the preceding chapters attention has been drawn to the great constitutional innovations directly resulting from the Imperial War Conference. Imperial consolidation has been effectively secured but not by the creation of a new political machinery. A great deal has been said and written on the subject of a new Federal constitution for the Empire, but it does not now appear to be within the range of practical politics. The impulse for this movement for participation in Imperial affairs has come partly from the self-governing dominions. Independently of this movement, for the establishment of Federal Institutions, another movement for constitutional reform, equally far-reaching in its consequences,

has been gathering strength in Great Britain for several years. The movement for Home Rule all round and the establishment of subordinate legislatures in England, Scotland and Ireland has been under active discussion and consideration by constitutional reformers and the Parliament of Great Britain. It has its origin in a desire to have the domestic business of the four Kingdoms included in Great Britain transacted by Provincial Assemblies. Such a reform has become more and more urgent with the advent of various new conditions. The assumption of sovereignty over India by the Crown, the vast growth of the Empire since 1833, the dominant position of Great Britain in the World-politics during the last fifty years, the rapid extension of legislation to social questions, have all tended to increase Parliamentary business to such a degree that the administration of Imperial affairs as well as of the affairs of the outlying parts of the Empire has been made impossible. Parliament has also been unable to discharge its domestic functions with efficiency or quickness. So early as in 1846, Sir Robert Peel complained of the immense multiplication of details in public business and in 1879 Mr. Gladstone definitely took the view that Parliament had become overweighted and overwhelmed with work of all kinds. He promised that if Ireland or any other part of the country was desirous of arranging and able to arrange its affairs by taking the local part or some local part of its transactions off the hands of Parliament, he would support any scheme that might be brought forward with this view. This declaration was followed by the Irish Home Rule

Bill in 1886 and its chequered history is too well-known to need recapitulation. Mr. Gladstone committed himself in 1890 to the adoption of what he called 'devolution' as a method of Parliamentary constitutional reform.

In Scotland, the principle of devolution for local affairs began to attract public attention from 1894. In that year, Sir Henry Dalziel proposed a resolution in the House of Commons that it was desirable, while retaining intact the power and supremacy of the Imperial Parliament, to establish a legislature in Scotland for dealing with purely Scottish affairs. In the following year the House of Commons accepted a motion of the same member which was much wider in its terms. It was an affirmation of the principle of devolution upon Legislatures to be constituted in Ireland, Scotland, Wales and England respectively for the management and control of their domestic affairs. In 1912 when the Irish question reached an acute stage another resolution was adopted in the House of Commons that, in its opinion, the measure providing for the delegation of Parliamentary powers to Ireland should be followed by the granting of similar powers of self-government to Scotland as part of a general scheme of devolution. Apart from these resolutions, a bill for granting self-government to Scotland was actually introduced in Parliament in 1908 and its first reading was passed by a large majority. In 1912 another Bill for Home Rule was introduced to secure local autonomy for Scotland. "Home Rule for Ireland," the Prime Minister declared in 1912 in reply



to a deputation of Scottish Liberal Members, "would leave the Constitution lopsided, incoherent and logically inconsistent." There was again another Bill in 1913 which reached the second reading stage and was passed in the House of Commons. Wales has also strenuously supported the principle of Home Rule. During the discussion of the Bill for the Government of Scotland in 1913, the Welsh members of Parliament expressed the opinion "that the people of Wales regard that the management of the domestic affairs of the four nationalities in the United Kingdom by subordinate Legislature will redound enormously to the advantage of the entire British Commonwealth. They regard this as an essential initial stage in the way of enabling the Imperial Parliament to discharge properly its Imperial functions and responsibilities." Mr. T. P. O' Connor admirably summarized the present situation in regard to domestic legislation and administration in Parliament with his characteristic humour and geniality. He said: "The affairs in Scotland are discussed and decided not by the local knowledge of Scotsmen but by the ignorance of the Englishmen, Irishmen and Welshmen; and that is what goes on all round. Irish affairs are discussed and decided by English ignorance. Scottish affairs are discussed and decided by English or Irish or Welsh ignorance. Welsh affairs are discussed and decided by English or Scottish ignorance and English international affairs are decided not by English knowledge but by Irish or Scottish or Welsh ignorance. So far as local affairs are concerned they are decided in the

Imperial Parliament not by the knowledge of the Kingdom to which legislation applies but by the comparative ignorance of all the Nationalities in Parliament. In the Imperial Parliament hurried men scamped work, undebted Bills, and undebated great issues, and at the same time two or three hours during the several weeks of the sessions are given to a turnpike in Ireland or to a tramway in Scotland or to the question whether Liverpool shall have 32 or 26 candle power its gas." There was no doctrine more imbedded in his mind than that there is only one safeguard in the world for good administration and that is the responsibility of the administrators to local opinion.

The movement for devolution and the establishment of subordinate Legislatures is much more likely to come to fruition than the proposals for new Federal Institutions on the Imperial scale. The Parliament will thereby obtain some relief and be able to attend to the common affairs of the Empire.

#### THE NATIONAL MOVEMENT IN INDIA.

In India the national movement for the attainment of self-government within the Empire began with the establishment of the Indian National Congress in 1885. The President, Mr. W. C. Bonnerjee, declared that "it was the desire of Indians to be governed according to the ideas of Government prevalent in Europe and that the people should have their legitimate share in the Government of their country." Among the aims and objects of the movement stated for the first time from the platform of

the Congress was the fuller development and consolidation of the sentiments of national unity which had already taken root in the country. Mr. George Yule, President of the 4th Indian National Congress pleaded for political institutions on a wider basis, for a change in Indian Polity and for the extension of representative institutions. Mr. Dadabhai Nowrojee dwelt on Indian National aspirations at the Congress in 1893 and pleaded for justice and the rights of true fellow-citizenship for the vast mass of humanity in India. In 1902 Mr. Surendra Nath Banerjee presided over the 18th session of the National Congress and implored that "the new Sovereign should enthrone himself in the hearts of the people by the gradual extension to them of that system of self-government which had been the invariable accompaniment of British power and civilization and which wherever it has been granted, has been the strongest bulwark of Imperial Rule." Sir Henry Cotton whose Indian experience as a Civil Servant is second to none warmly advocated, as President of the Congress, in 1904, autonomy for India so that the United States of India might constitute the brightest jewel of the Empire. In 1906 the grand old man of India—Dadabhai Nowrojee—presided for the third time over the Indian National Congress and pleaded for "such a systematic beginning in Indian Polity which would in no long time develop into full legislatures of self-government like those of the self-governing colonies. Self-government is the only and chief remedy," said the patriarch of Indian politics. "In self-

government lies our hope, strength and greatness." For the first time a resolution was adopted in 1906 declaring that the ideal of the Indian national party was the attainment of self-government of the colonial pattern within the Empire. The goal of Indian political aspirations was definitely laid down by the Indian National Congress in 1908. Sir Rash Behari Ghose, the President of the year, expressed the hope "that a future exultant President of the Indian National Congress may be able to announce to a united people, amid universal rejoicings, the extension to India of the colonial type of government." The scheme of reforms formulated in 1916 by the Indian National Congress and the Muslim League is intended as a definite step towards the attainment of full self-government within the Empire.

The admission of India to equality of treatment along with the self-governing Dominions in the consideration of the common affairs of the British Empire has strengthened our cause in a variety of ways. It has secured to us the sympathy of the Imperial Government and the statesmen of the Empire for the movement for self-government which has engaged the public mind in India for a considerable time. Our own representatives to the Imperial War Conference were not slow to utilise their opportunities for pressing the claims of their country for constitutional changes for the transformation, as rapidly as possible of the present system of Government in India to the self-governing type prevalent in the Colonies. The Maharajah of Bikanir declared "that further steps in the internal and political evolution of India would

seem not merely a desirable but a necessary corollary to the momentous decision that India, with the Dominions, should be regularly consulted in peace, as in war, at the Imperial Conference and the Imperial Cabinet." The Maharajah "declined to believe that British statesmanship would not rise to the occasion and be able to handle Indian problems with sympathy, imagination and broad-minded and generous perspicacity." Finally he strenuously urged "that the advance to be made should be conceived with the breadth and generosity of view that have marked the British policy in so many other parts of the world and which, the history of British Colonial expansion has shown, Britain had never occasion to repent." Sir S. P. Sinha also spoke in equally emphatic terms. He said: "It is from our point of view less important now that we should have a perfect Government than that we should govern ourselves." His Majesty's Government have now affirmed that the goal of British policy in India is the establishment of self-Government with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire and that substantial steps in this direction will be taken as soon as possible. In arriving at this momentous decision British statesmen have set their seal of approval on the national aspirations of the people of India. It is in accord with the development of British constitutional system. The British Empire has been described as a league of nations. It presents the unique spectacle of the development of democracy under a monarchical Government and the evolution of separate

and distinct nationalities within the Empire. The variety of laws and systems of government which a bird's-eye-view of this marvellous organization reveals to the student of politics, and the harmony with which they are administered are almost unparalleled in the history of the world, ancient or modern. In the fifty Colonies that the Empire comprises, there is the Roman Dutch Law as in Quebeck, the modern French Law as in Mauritius, the Spanish Law as in Trinidad and the old Sicilian Feudal Law as in Malta. The several Dominions, the Crown Colonies, the Dependencies, Protectorates and spheres of interest and of influence represent various forms of sovereignty from a benevolent despotism to responsible Government. The strong point of the Empire is that it seeks to foster local autonomy with a sense of common interest in the corporate organisation, distinguishing Pax Britannica from a military Imperialism and maintaining order without imposing 'a limitation on the natural development of what is set in order.' The Empire receives its strength and support by the assiduous care with which it has fostered a sense of nationality. India has, therefore, entered on a new era in her national life and her hopes at the present day run high.

#### A CONTRAST.

The position of India as a partner state in the Empire having been acknowledged, the struggle of India for self-government in her domestic affairs, presents a contrast to the struggle of the Dominions for a position of equal partnership in the Empire after they have had the fruits of self-government for several

years. The emigrants to the Colonies carried with them their inherited and ingrained birth-right of self-government and now they are striving for a share in the administration of Imperial affairs, whereas in India which has been justly admitted to the innermost councils of the Empire along with the self-governing Colonies, the demand of self-government, however insistent it may have been for years, has only just now evoked the sympathies of responsible men in the United Kingdom. Again the synthesis of Indian nationality has preceded her demand or self-government while the people of the Colonies, "in equipping themselves to think and act as nations, have like those of the United States of America severally acquired a national consciousness of their own." There is another point of contrast. The component states or Provinces of each Dominion started as self-governing units and had to solve the problem of a Central National Government in order to co-ordinate their progress and consolidate the strength of each of them. India, on the other hand, has had a strong Central Government carried on by a bureaucracy for more than half a century and a devolution of powers to make the Provinces autonomous in domestic matters has yet to be undertaken. The control of the people over the administration does not as yet exist in India.

#### THE BUREAUCRACY.

His Majesty's Government have now stated that their policy in India is the establishment of self-governing institutions. This policy involves necessarily a change in the present administrative system

of this country. Mr. Fisher, the present Education Minister in the United Kingdom, has very recently pointed out the difference between the present Indian system and responsible Government in the following terms:—" Administrations fall, in the main, into two types, those which are and those which are not responsible to immediate Parliamentary control. For the purposes of clearness, though the phraseology is far from being accurate, we will designate them as responsible and irresponsible administrations. The Civil Services of Canada and Australia are responsible because they are under the immediate eye of a democratic Parliament. The Civil Service of India is irresponsible because, although ultimately subject to the Parliament of Great Britain, it is exempt from interference from any popularly constituted body in India, and possesses therefore a liberty of action considerably in excess of that enjoyed by the administrative agents in our self-governing Dominions." The Indian Civil Service is the political, governing service of the country. The Indian Civil Service is the Government. The administration of India is no doubt theoretically subject to the control of Parliament. But the affairs of India are really in the hands of the Government of India and the Local Governments. Mr. Fisher has given a very correct description of the all-embracing powers of the Indian Civil Service when he said " It may accept amendments, it may withdraw a measure in the face of criticism which it judges to be well founded, it may profit by the non-official criticism but it is master in its own house. Cabinet Councils,



Government majorities, diplomatic agencies in the Native States, administrative agencies, in British India—all are provided by the Indian Civil Service, that wonderful bureaucracy recruited by a competitive examination in London, which is expected to turn out judges, revenue officers, heads of administrative departments, pro-consuls, legislatures, political officers or diplomatists, and under the new regime, parliamentarians as well." There is no limit to the capacity or ability of a member of the Indian Civil Service. He is the most efficient Accountant-General, Director of Agriculture, Director of Criminal Intelligence, Director of Industries, Director of Survey. He is qualified to be a member of the Railway Board. There is, in fact, no technical Department for which a civilian is not considered eligible and competent.

Now the Bureaucracy has been ruling this country for over one hundred and fifty years. So long ago as 1787, Sir John Shore condemned the bureaucratic form of administration as "inseparable from a system of government of a remote foreign dominion." Sir Thomas Munro pointed out in 1823 that, were Britain subjugated by a foreign power and the people excluded from the Government of their country, all their knowledge and all their literature, sacred and profane, would not save them from becoming in a generation or two a low-minded, deceitful and dishonest race. Referring to the bureaucracy in India, Lord Macaulay stated in 1844 that "of all forms of tyranny he believed that the worst is that of a nation over a nation." The proposal to place

the Indian administration directly under the Crown brought the subject of the bureaucratic form of government prominently before the British public in 1858 with a view to focus Parliamentary opinion on the subject. Amongst the friends of India in England at the time was Mr. John Dickenson, M.R.A.S., F.R.G.S., who, in a pamphlet under the title of "the Government of India under a bureaucracy" dealt with the then existing evils of the political system in India and made an impassioned appeal to his countrymen in the following words: "Oh, my countrymen; may heaven itself soften your hearts, and awaken your sympathy for this interesting people; may it teach you not to reject your fated opportunity, nor again thrown such a pearl as India before an irresponsible Bureaucracy." Another Englishman, well known in India, Mr. John Bruce Norton, said at the same time that the executive civil service, with its associations, with its amour propre, its esprit-de-corps, its hereditary nomenclature, regarded itself as the "aristocracy" of India, and indeed was proud so to designate itself. It regarded with disfavour the instruction of any independent Englishman to the discharge of functions which savoured of civil administration. "It saw with alarm every encroachment on its privilege and prerogative; and even while the revenue collectors are exclaiming against the amount of work imposed upon them, and the numerous different descriptions of duties they have to perform, they at the same time protest against the separation of magisterial and revenue functions, because they know that this measure, so indispensable

to the well-being of the people, must, if carried, necessitate the employment of Indians largely in the magistracy. Notwithstanding that the members of the Civil service were taken in England, from the "middle classes" it must not be forgotten that their position was entirely altered from the moment they set foot in India. They became a sort of imported fictitious aristocracy; they were no longer of the middle classes, but constituted, in their own opinion on all points, and, in fact, so far as governing functions are concerned, the highest class. They are an oligarchy; and I consider that a "middle class oligarchy" is the worst theoretical Government in the world, for it wants all that nobility of feeling, largeness of view, politeness of demeanour. Hence the petty jealousy of the civilians towards all those who refused to look upon their body as one entire perfect chrysolite, or who trenched, however sparingly, upon the ruling functions which they have looked upon as exclusively appertaining to themselves." These opinions of cultured and unbiassed Englishmen reflect the public opinion of the day in 1858 on the administrative system in India, its tendencies and effect on the machinery of Government and are enough to show how powerful was and is the influence of the members of the great services who constitute themselves the governing class and how helpless even Englishmen with independent views feel in the advocacy of any cause which clashed with that of the bureaucracy. The position is practically the same to-day and it is perhaps desirable to refer also to more recent opinions on the character of the present system.

A remarkable confirmation was given, after a hundred years, to Sir John Shore's description of 1787, by the Secretary of State for India in 1886. In discussing some proposals for taxation made by the Government of India, the Secretary of State said: "The position of India in relation to taxation and the sources of the public revenue is very peculiar, not merely from the habits of the people and their strong aversion to change which is more specially exhibited to new forms of taxation but likewise from the character of the Government, which is in the hands of foreigners who fill the principal administrative offices and form so large a part of the Army."

In 1894, Mr. Samuel Smith, M.P., pointed out in the House of Commons that India was the only example in the whole world at the present time, of the government of a great country entirely by a bureaucracy. They might imagine what it would be like if the Government of the United Kingdom was in the hands of permanent officials without the directions of Parliament and without the control of State for India, who was thoroughly acquainted with official life, could form for himself a pretty good idea of what the Government of this country under the control of permanent officials. Mr. Smith stated "that the system of bureaucracy necessarily produced a whole class of abuses peculiar to itself. The official classes looked upon themselves as a privileged class. They were drawn together by an *esprit-de-corps*. The tendency of all bureaucracies was to condone the faults of their members, and to white-wash the black sheep that might turn up amongst

them : for in all bodies of men they had a certain number of black sheep."

## MERITS AND DEFECTS.

Like all human institutions, the bureaucracy has done its work in India and it must now make way for a system of government more congruous with present-day conditions. The bureaucratic system has its weaknesses and virtues, which are inherent to it anywhere in the world. There are now complaints in the United Kingdom that, within the lifetime of the present generation, the bureaucratic system has established itself firmly in the machinery of government and that officialism has silently spread its tentacles over the whole life of the people. It is also asserted that centralization has also come in its wake. These evils have grown in a democratic country like the United Kingdom and Mr. Harold Cox, the Editor of the *Edinburgh Review*, laments the growth of a paid bureaucracy in English political life. He said that "officials whose names are unknown, who work behind thick walls free from all fear of public criticism defy the elected representatives." They are, however, under the eye of Parliament where there is a possibility of bringing them under proper control. In India, there is no such fear and besides, the ruling bureaucracy is essentially foreign in its composition and has no permanent interests in the country. So long as the Government contents itself with the constituent functions of the state, such as the collection of taxes, the maintenance of law and order, the

construction of roads, dams and railways, the governing bureaucracy in India must be considered to have done its duty. However defective their performance may be, owing to difference of race and language and the importation of foreign methods and the neglect of indigenous ones, the utter good faith in which they have approached their task cannot be questioned. But the bureaucracy does not much concern itself with the ministrant functions of the state directed towards the advancement of the general interests of society and of every social organization, those which combat poverty, ignorance, distress, disease, death, those which elevate the masses of the country and train them in the ways of self-help and self-government. These are not its ideals. Efficiency of the administrative machinery is its sole aim, and a benevolent interest in the well-being of the people is, however, cultivated so long as they are docile. "Most bureaucracies seem to require from the people they govern a sort of reverent respect—reverence for their wisdom and respect for the admirable manner in which they conduct the affairs of the nation. They are shocked at the display of any feeling incongruous with this attitude. A nation, in their estimation, is best compared to a number of school boys working and playing happily under the supervision of benevolent and very wise school-masters." This is the considered opinion of a member of the Indian Civil Service who ought at least to know the characteristic points of his service. Few men give up power voluntarily which they have long wielded and no body of men in

this world are impartial judges when their own interests are concerned. No bureaucracy will voluntarily abdicate its powers, however irksome those powers may be to the common people, but which conduce to the convenience of the officials or which strengthen their grip on the country. The jealousy and tenacity with which the European bureaucracy has maintained its power can only be fully appreciated by a thorough study of its methods in dealing with the subject of the wider employment of Indians since 1833. Sir Michael O'Dwyer's recent performance in the Indian Legislative Council shows how a bureaucratic administrator views the demand of the people for self-government. A bad situation was saved through the wisdom and political sagacity of Lord Chelmsford, whose conciliatory attitude on the occasion restored the confidence of the people in the intentions of the Government.

#### THE VITAL POINTS OF REFORM.

The two great evils of the present Indian system are, therefore, the want of popular control in the Indian constitution and excessive centralisation of administrative functions. The problem before us is the transformation of the present Indian polity from a bureaucratic system into a set of decentralized self-governing units. Although India has been under British rule for nearly one hundred and fifty years, Lord Ripon was the first Viceroy who introduced popular control in the administrative machinery. It has been

well said of him that "he was the first Viceroy to discover the new India, the India not of expanding frontiers but of expanding souls." The growth of knowledge, of Indian national aspirations in the Indian peoples and the necessity to meet these new factors, were clear to him from the very beginning of his rule in this country. The scheme of local self-government associated with his name aimed at the introduction of popular control only in one branch of district administration. The expansion of the Legislative Councils in 1892 by the Government of Lord Lansdowne was intended to provide suitable opportunities to the people for offering their views on matters relating to general administration. The privileges then conferred on the councils were inconsequential but they paved the way for others. The Minto-Morley Reforms of 1909 were, therefore, the first real steps taken, in India, since 1858, to associate the people with the task of administration.

#### THE MINTO-MORLEY REFORMS.

Lord Morley enlarged the legislative councils, and extended their functions to the discussion of administrative and financial questions. He had also in view, a larger scheme of popular government beginning with the village. He affirmed that the village in India has been the fundamental and indestructible unit of the social system surviving the downfall of dynasty after dynasty. He desired to see the initiation of a policy that would make the village the



starting point of public life and laid great emphasis on the fact that Lord Ripon's scheme was intended not so much to secure improvement in the administration but as chiefly desirable as an instrument of political and popular education. He had also in view the linking up of the taluk and district boards with the legislative councils as one whole chain of representative institutions for giving the people a real and effective voice in the day-to-day administration of the country. He also recognised that the doctrine of administrative efficiency has been pressed too far and the wheels of the huge machine of Indian Government have been driven too fast. He, therefore, introduced the Indian element in the executive councils of the Governors and of the Governor-General and also appointed two Indians to the Council of India. The Decentralization Commission practically left the administrative machinery as it was and the Minto-Morley reforms have, in practice, proved futile. The bureaucracy has in framing regulations efficiently reduced the usefulness of the councils as exponents of public opinion. The Councils are at present merely ventilating chambers without any power whatever. In formulating the Minto-Morley reforms the Government of India claimed that their proposals "will really and effectively associate the people of India with the work not only of occasional legislation but of actual every-day administration." Referring to this statement, Lord Morley said that "the claim was abundantly justified, yet the scheme was not, and hardly pretends to be, a complete presentation of the entire body of changes and improvements in

the existing system that are evidently present to the minds of some of those whom the Government of India have consulted and, to the best of their judgment, are now demanded by the situation described in the despatch of the Government of India." It is evident, therefore, on the high authority of this eminent statesman that the reforms of 1909 fell short alike of popular expectations and of the needs of the hour. They nevertheless marked a decisive step and a great step in advance in associating, however ineffectively, the people of India with the administrative and legislative functions of the Government. In initiating the reforms, Lord Morley did not in any way interfere with the structure of the Government of India as settled under the Act of 1858 and the reforms associated with his name never contemplated the transfer of any real power to the Legislatures. The constitutional position of the Provincial and the Imperial Governments remained the same as before and the reforms did not surrender any essential principle and the ultimate control of the Government was maintained in its entirety.

Lord Morley stated that in framing the reforms he had three classes of people in view. In the first group he placed the extremists. He divided this group into "academic" extremists and "physical force" extremists. He was of opinion that they were negligible in numbers and had no real influence in the country. The second group included those who nourished hopes for autonomy or self-government of the Colonial pattern, and the third section asked for

no more than to be admitted to co-operation with the administration and to find a free and effective voice in expressing the interests and needs of the people. Lord Morley was of opinion that the effect of his reforms has been, and will be, to draw the second class, who hopes for colonial autonomy, into the third class, who will be content with being admitted to a fair and full co-operation with the Government. It is only eight years ago that this political prophecy was made, and to-day there is not a single Indian belonging to any political party who merely desires association or co-operation with the Government. In the words of Sir S. P. Sinha, it is "not mere influence that the people desire ; what they now demand is real controlling power." At the present day, the articulate populations stand united in a demand for national autonomy and a partnership in the Empire on terms of perfect equality. Every public man in every Indian province stands pledged to-day to the speedy realisation of this demand.

#### INDIAN RECONSTRUCTION.

The Minto-Morley reforms mainly related to the machinery of Government in India. The question of parliamentary responsibility for Indian affairs and the curtailment of the powers of the Secretary of State in Council over the Government of India and the Local Governments did not then form the subject of consideration. The constitutional relations of the authorities in England with the Indian Governments has, therefore, remained the

same as before. The problem of Indian reconstruction depends not merely upon the development of self-governing functions in the existing machinery in India but also on a re-adjustment of the functions and powers of all the authorities created by the statutes relating to the Government of India. If self-government is to become a reality in India, a thorough overhauling of the spheres of activity of the various authorities from the top to the bottom has to be undertaken with a view to confer immediately on the people of this country substantial powers to manage their own affairs and leading to the development of a system of full responsible government as rapidly as the conditions of the country justify. There is a French saying about small reforms being the worst enemies of great reforms. That great political philosopher, Lord Morley, stated that this statement is in a sense profoundly true. A small and temporary improvement may really be the worst enemy of a great and permanent improvement, unless the first is made on the lines and in the direction of the second. There are instances in the legislation of Great Britain and India where the small reform "if it be not made with reference to some large progressive principle and with a view to the further extension of its scope makes it all the more difficult to return to the right line and direction when improvement is again demanded." It is from this standpoint that we shall have to examine all proposals for constitutional changes in the government of this country. The great progressive principle for which we are contending is the attainment of self-government for India.

The scheme of reforms now put forward should be such as to lead to the attainment of full responsible government in this country, but not to retard its growth. Any reforms, therefore, which might be immediately acceptable and beneficial will, in the long run, be disastrous to our national aspirations if they do not tend to the ultimate attainment of that form of government for which our National assemblies have been agitating for a long time. A consideration of the present administrative mechanism and how it has worked in practice and of the proposals of the Indian National Congress and the Muslim League for reconstruction and reform is therefore necessary. The questions that arise are the following :—

(1) Has Parliament discharged its duty of control of Indian affairs since 1858 ?

(2) If democratic control over the affairs of India is to be established in India what are the changes required in the existing mechanism of government? This question raises the present position of the Indian Government in its executive and legislative sides.

(3) On the executive side it involves an examination of the constitution and functions of the Secretary of State's Council, the Government of India and the Local Governments and of the proposals for a re-arrangement of their spheres of activity. On the legislative side the development of self-governing institutions in India necessarily involves the transfer of the control of Parliament over the domestic administration of India to the councils

in India. The problem has, therefore, to be considered by an examination of the existing popular control in (1) the Secretary of State's Council, (2) the Indian Legislative Council (3) the Local Legislatures, (4) District administration. The proposals for dealing with the strength and composition of the Legislatures and enlarging their functions and for the improvement of District administration come under this category.

(4) What is the effect of the establishment of self-governing institutions on the present organisation of the public services in India? What are the changes that are necessary?

(5) What is the position of the Native States in a complete scheme of self-government for India?

These are the problems that arise for consideration. The development of Indian Polity on a self-governing basis can only be secured by a radical re-adjustment of the mechanism of government all through from the top to the bottom.

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## CHAPTER IV.

### PARLIAMENTARY CONTROL.

"We have got an overweighted Parliament; and if Ireland or any other portion of the country is desirous and able so to arrange its affairs by taking the local part, or some local parts, of its transactions off the hands of Parliament, it can liberate and strengthen Parliament for Imperial concerns."—MR. W. E. GLADSTONE, (*in the House of Commons, 1879.*)

Under the present Indian constitution the ultimate responsibility for the Government of India is unquestionably with the Imperial Government and therefore in the last resort with the people of the United Kingdom represented by Parliament. In the words of Lord Morley, "the cabinet through a Secretary of State have an unexpungable right, subject to law, to dictate policy, to initiate instructions, to reject proposals, to have the last word on every question that arises, and the first word on every question that in their view ought to arise. On no other terms could our Indian system come within the sphere of Parliamentary Government." This description of the position of Parliament in relation to the Government of India really resolves itself into a discussion of the relative authority of the Secretary of State who is the mouth-piece of the cabinet and the Governor-General-in-Council and of the ability of the British democracy to govern the Indian Empire. In a very interesting article in the *Nineteenth Century and After* in 1911

on "the British democracy and the Indian Government" Lord Morley explained that self-government in India means two things. "In one sense," he said, "it touches the relations of the indigenous population to the European authorities whether central and paramount or provincial and local. In another sense, it concerns the relation between both the people and the organs of European authority in India on the one side and the organs of Home Government on the other. The distinction is in the highest degree important. The popular claim under the first head though not easy to adjust, is easy to understand; it founds itself on democratic principles borrowed from ourselves both at home and in the self-governing Dominions. The second is different. It has not yet taken formidable shape, but it may soon. The ruling authority in India is sure to find itself fortified from pressure from the new councils in forcing the Indian interests, and what is more, the Indian view of such interests, against any tendency in England to postpone them to home interests." We have, therefore, two problems. On the one side we have a bureaucracy in India without the control of representative institutions in the country. On the other, we have the problem of releasing the Government of India from the control of the British democracy. British Indian administration cannot be between two fires, and the establishment of self-governing institutions in this country with real and effective control over the administration must lead to the withdrawal of Parliamentary control over the domestic affairs of India.



This is sufficiently clear from the Parliamentary enquiry that preceded the consideration of the Bill which became the Government of India Act in 1853. The extension and improvement of the then existing governmental mechanism relating to India came up for a good deal of consideration. One of the subjects which came up for discussion was the constitution of the Home Government which then consisted of the Crown, the Board of Control and the Court of Directors. The organisation and functions of each of these bodies was very much considered and John Stuart Mill, whose long and intimate acquaintance with the India Office made him a considerable authority on questions relating to the machinery of the Government of India, was examined at length on these subjects before a Committee of the House of Lords. At the time of his examination the movement for the grant of self-government for the Colonies had already taken shape and Mr. Mill was asked why the machinery in England for the Government of India should be differently constituted from that of the Colonies and the other dependencies of Great Britain. Mr. Mill explained that in the Colonies there were local popular bodies which were of themselves very great check over local administration, independent of any check afforded by Parliament. If there was a possibility then of establishing a similar check in India by any form of representative government he was of opinion that the constitution of the organ of Government in England much less important. Mr. Mill stated that the public opinion

of one country was scarcely any security for the good government of another. The great security for the good government of any country was an enlightened public opinion. Mr. Mill asserted that the people of England were very ill-acquainted with the people and circumstances of India and felt so little interest in them that he apprehended that the influence of public opinion in England on the Government of India was of very little value and whenever that opinion asserted itself, it was usually from impulses derived from Europeans connected with India rather than from the people of India itself.

The scheme of reforms formulated by the Indian National Congress and the Muslim League touches both aspects of the question referred by Mr. Mill and Lord Morley. There is a demand that the organ of Indian Government established in England should be reformed, that the Council of India which controls the Indian administration should be abolished and that the Secretary of State should occupy the same position in relation to the Government of India as the Secretary of State for the Colonies does in relation to the Governments of the self-governing Dominions. In other words, the control of the India Office over the domestic administration of India should be removed and, that in its place the control of the legislative councils in India over the executive government should be substituted except in certain specified departments of governmental activity. These are the broad principles of Indian political reconstruction. Their application in the limited form in which they are presented in the

Congress-League Scheme does not constitute responsible government in any sense whatever. They constitute a further extension, and a more effective one, of the principle of representative government which was extended to India in 1892.

## LORD PALMERSTON IN 1858.

Before proceeding further, I must refer a little more in detail to the machinery for Indian administration created in England by the Government of India Act, 1858, which in all essential respects, has remained the same to the present day. In introducing the Government of India Bill in 1858, Lord Palmerston fully explained the object of the measure and stated that the essence of the British political system consisted in the fact that all administrative functions should be accompanied by ministerial responsibility—responsibility to Parliament, responsibility to public opinion, responsibility to the Crown but in the case of India these functions were till then committed to a body of persons not responsible to Parliament, not appointed by the Crown but elected by persons who had no more connection with India, than that consisting in the simple possession of so much India stock. He pointed out that the then existing system of double government, through the medium of the Court of Directors and the Board of Control, was cumbrous in the extreme, and the division of the functions of Government then in force was no longer suitable to the altered condition of things.

The functions of Indian Government had been till then divided between the Court of Directors, the Board of Control and the Governor-General in India,

The Board of Control established by Mr. Pitt's India Act in 1784 represented the Government of the day and was responsible to Parliament, and was appointed by the Crown and exercised functions delegated to it. The Court of Directors represented the holders of India stock and the Directors chosen by them were men of Indian experience. The Governor-General was invested with great and independent powers and the co-ordination of the functions of each of these three authorities was, Lord Palmerston stated, always a matter of constant concern and anxiety. He flouted the notion that the Government of India was a great mystery and that the House of Commons should keep aloof from any interference in Indian affairs and ridiculed the plea that if Indian affairs were placed under Parliamentary control, they would be the subject and plaything of party passions in the House of Commons. The management of India, Lord Palmerston pointed out was dependent on the same general principles of statesmanship which men, in the public life of Great Britain, acquired and made guidance of their conduct. He said that if things had not gone on so fast in India as they might have done, if progress and improvement was somewhat slower than might have been expected, that was due to the circumstance that the public of England were wholly ignorant of Indian affairs and has turned away from them and because Parliament had never come, face to face, with men personally and entirely responsible for the administration of Indian affairs. He expressed the opinion that "as regards the executive functions of the Indian Government in

Great Britain it was of the greatest importance to vest complete authority where the public have a right to think that responsibility should rest, and that whereas in this country there can be but one governing body responsible to the Crown, to Parliament, and to public opinion, consisting of the constitutional advisers of the Crown for the time being, so it is in accordance with the best interests of the nation, that India, with all its vast and important interests, should be placed under the direct authority of the Crown, to be governed in the name of the Crown by the responsible Ministers of the Crown sitting in Parliament, and responsible to Parliament, and the public for every part of their public conduct: instead of being as now mainly administered by a set of gentlemen who, however responsible, however competent for the discharge of the functions entrusted to them, are yet a totally irresponsible body." These were the admirable sentiments which actuated the statesmen of the day in undertaking legislation for placing India directly under the Crown. Parliament thus made itself responsible for the good government of India and other the authority of the British democracy over the internal administration of India was thus established.

#### THE SECRETARY OF STATE'S COUNCIL.

In addition to this democratic control over Indian affairs, the establishment of a Council to assist the Secretary of State for India was another great constitutional change introduced in 1858. The Government of India Act, then enacted was an emergency measure undertaken immediately after the

Mutiny. The Government of the day were therefore, anxious, to provide for India a mechanism of government, as near as possible, the one that was superseded. A Council was established which took the place of the Board of Control and the Court of Directors till then existing. The Act of 1858 conferred on the Secretary of State and the Council of India enormous powers of control over Indian administration. In fact the Secretary of State in Council of India is the pivot of the whole system that came into existence then. The power of the Secretary of State except in finance, is supreme and final; where he and his Council differ his voice prevails over the whole Council; and where he and the Indian Government differ the voice of the Secretary of State prevails over the Government of India and the Viceroy.

The Council of India is mainly a consultative and advisory body. The present position is that Parliament has no power to control Indian expenditure except in cases where it is incurred beyond the frontiers of the country. Parliament has an undoubted right to legislate for India but that legislation is, as a matter of fact, in practice only confined to cases where, on account of financial transactions carried on in the United Kingdom on behalf of India such as the Public Debt, a charge has to be imposed on the revenues of India. The legislation relating to India is undertaken in India by the Indian Legislative Councils created under Parliamentary statutes. But in the matter of Indian expenditure the vote of the Council of India is decisive. In fact it has been urged that the establishment

of the Council of India independent of Parliamentary control, is a departure from the general principles of the British Constitution.

From this statement of the constitutional position it will be evident that the Secretary of State enjoys extensive powers of patronage and financial manipulation and enjoys, besides practical immunity from Parliamentary control. His salary is not placed on the Estimates of the United Kingdom and therefore his conduct and activities cannot be discussed in the ordinary course by the House of Commons.

The democratic control in the Indian constitution at present is, therefore, the control of the Parliament of the United Kingdom. The whole field of Indian administration is open for criticism and discussion in Parliament practically in the same manner and to the same extent as the domestic concerns of the United Kingdom. A member of Parliament has the same right of interpellation, or moving resolutions and of financial criticism in regard to Indian affairs as he has in the affairs of his constituency or in those of the British Empire. Parliament has however practically deprived itself of some power of control by the constitution of the Council of India in whom financial administration is solely vested under the terms of the Act.

#### INDIA AND PARTY POLITICS

It has often been asserted that questions connected with India are not and must not be treated as party questions in Parliament. This statement is by no means accurate. It implies that

party questions are subjected to considerations of a type from which Indian questions are rightly kept free. There is an assumption here that the former are apt to be judged not exclusively upon their intrinsic merits but to some extent also by a reference to party loyalties and that the perpetual competition of the 'inns' and 'outs.' Sir Charles Metcalfe expressed the same sentiment at the beginning of the last century in another way by stating that India would be lost on the floor of the House of Commons. Anglo-administrators, members of Indian Civil Service and Governors of Provinces, dislike Parliamentary interference in Indian affairs. Even Viceroys are not free from this feeling. On the eve of his departure to India after an extension of his term of office Lord Curzon appealed to an English audience not to trouble him "with an excessive display of Parliamentary affection." It is impossible, however, under the present party system in the United Kingdom to eliminate Indian questions from the sphere of party politics and to refrain from subjecting them to a party vote. There is a desire on the part of the ministerial majority to keep their leaders in office and whenever a question of British Indian policy is pressed in the House against the views of the Secretary of State and the opposition is likely to become effective, the ministerial majority respond to the ministerial whips in order to save the Government from defeat. A Secretary of State whose policy is challenged knows perfectly well that if the question is taken to a division he can count



with confidence upon the fear of the defeat of the Government to secure the support of a sufficient number of men of his own party. The only hope, therefore, for an effective discussion of Indian questions against the view of the Cabinet as represented by the Secretary of State is in His Majesty's opposition and when a Secretary of State appeals to the House of Commons to keep India out of the contentions of British politics he really makes a request to the members of the party in opposition not to controvert his views. The Secretary of State, whether a liberal or conservative, is under the advice of the Council of India and his policy cannot be successfully attacked in the House of Commons so long as the Government has a majority in the House. This is the true position of India in British politics. The party in opposition to the Government has not the same incentive to examine Indian questions as it has in regard to questions in which the British constituencies are interested. India is, therefore, practically administered by the India office and several Secretaries of State bent on reform and progress have been successfully thwarted in their endeavours by the members of the India Council and the permanent staff at the India office.

#### A PLEASANT FICTION

Another statement that has been made now and then is that all the members of the House of Commons are "members for India." India is not directly represented in the House of Commons and every member of that House can in a sense regard himself

as a member for India. He has however, no constituency behind him which can charge him with neglect of duty and which can press him persistently to urge any particular aspect of Indian administration on the attention of Parliament. English Parliamentary elections have been seldom fought on an Indian question and the ignorance of India and her teeming populations and of the broad points of Indian policy in the United Kingdom is incredible. To some Indian policy may mean North-Western Frontier or Persia and to others it may mean cotton manufactured goods or cutlery. The broad points of Indian administration and policy is a sealed book to most members of the House of Commons. If, therefore, any member of Parliament turns his attention to a consideration of Indian questions, it is either from those highly patriotic motives which have always actuated English public men from the days of Edmund Burke or due to Indian connections in the European services. Pitt and Fox, Burke and Sheridan, Macaulay and Sir Henry Maine, Bright and Fawcett, Bradlaugh and Caine, Sir Henry Cotton and Sir William Wedderburn and many others of the same type belong to the former class. They have advocated the extension to this country of the same liberal principles of Government which are the keynote of the British system and their names are enshrined in the hearts of the people of this country. The other class which represents, or to be more accurate, misrepresents India in Parliament are the retired Anglo-Indians, who, with honourable exceptions, have tried to belittle Indian aspirations; to magnify

the difficulties of Indian administration, and to take every opportunity to ventilate their obsolete knowledge of Indian polity. India, moreover, does not kindle the fire of party which is the most attractive element in securing crowded houses and long speeches. It is unnatural that the generality of the representatives of democratic constituencies of the United Kingdom intent on rectifying local abuses and on the solution of Imperial problems should trouble themselves with the domestic affairs of this country. For, the British Congress Committee organised an Indian Parliamentary Committee to educate the members of Parliament on questions relating to India, but the attempt did not meet with much success though there were as many as 150 members at one time on the Committee. Every expedient has been tried to get a better hearing for Indian questions in the United Kingdom but, on the whole, if we have not succeeded it is entirely due to the inherent impossibility of the situation. An analysis of the Parliamentary discussions relating to India during the last half a century leaves a general impression that the attention of Parliament was directed more towards the rectification of the grievances of the European services in India and the promotion of the general welfare of the commercial classes in Great Britain. Measures relating to the social welfare of the people of this country, their material and moral progress attracted comparatively little attention from Parliament. It would, indeed, have been surprising if Parliament took more interest in Indian affairs than it did or than it does.

## CONGESTION OF BUSINESS.

The gradual congestion of business in the Imperial Parliament since the Reform Act of 1832 has already been referred to. The movement for the establishment of subordinate Legislatures has been advocated not merely to enable Parliament to discharge its Imperial responsibilities but also its duty to India. This argument was actually put forward in Parliament in 1902 on a motion for the establishment of self-government for the various nationalities forming the United Kingdom. The mover stated that the affairs of the largest and the most important dependency in the Empire are disposed of in the House of Commons year after year in one short afternoon and that this was not creditable to the British Nation.

## THE INDIAN BUDGET

This brings me to the subject of the Indian Budget in Parliament. The annual Parliamentary discussion of Indian affairs is looked to with breathless interest throughout India and a report of these proceedings is the one political event of the year which is eagerly awaited in the country. This is the only opportunity in the year on which the Indian administration can be brought under discussion. The annual debate in Parliament may be likened in many ways to similar performances in the Indian Legislative Councils at the present day. Parliament has no power to vote upon the Budget; having under the terms of the Government of India Act, 1858, constituted the Secretary of State in Council the final authority on questions relating to Indian

revenues and expenditure. The Secretary of State is only required to lay the Financial Statement before both the Houses of Parliament and the resolution that is actually adopted every year in Parliament is in these terms:—"That it appears from the accounts presented to Parliament that in 1913-14 the revenue of India amounted to £88,434,950; the expenditure charged to revenue to £85,355,560 and the capital expenditure not charged to revenue to £3,150,560." The resolution does not express approval or disapproval of anything. It neither adopts nor suggests any policy. It merely registers an arithmetical fact that certain totals are to be found in certain closed accounts. The character of this resolution gives us the measure of the control which Parliament is able to exercise over Indian finance. In India, the taxpayers are helpless as they have no voice in the administration. In the United Kingdom, the Parliament which might be helpful has allowed itself to be gagged. The result is that the actual power is vested wholly in a handful of officials at the India Office who enjoy complete irresponsibility and deprecate any interference with their despotic authority. When the financial statement is usually presented in Parliament in August, it has already been brought into force in the preceding March. As I have already pointed out, the Budget debate is however useful as the one certain opportunity in the year for a random discussion on Indian questions.

Even this formal annual function has always been performed at the fag end of the Parliamentary

session and no serious attention has been paid by anybody to this or other Indian questions. The invariable complaint ever since 1858 has been that the Indian Budget is put off to the very latest date in the session when most members had left for their homes. The attendance on these occasions has been very meagre.

#### NEGLECT OF INDIA.

This systematic and deliberate neglect of Indian affairs by Parliament has always been the subject of protest by members interested in India. The debates show that almost every year during the last half a century complaints have been made about the way in which the Indian Financial Statement has been made in Parliament. I will only refer to three motions made in the House of Commons at three different periods which throw a great deal of light on the conditions under which the debate takes place in Parliament. The dates and facts mentioned in support of these motions contain a comprehensive view of the whole position.

#### MR. FOWLER'S MOTION IN 1873.

The first was a motion in 1873 by Mr. R. N. Fowler in these terms: "That in the opinion of this House it is desirable that the statement of the financial affairs of India should be made at a period of the sessions when it can be fully discussed." After referring to the statements of the leaders of both parties in 1858 to the effect that if the Government of India were transferred to the Crown, India would receive a greater amount of attention at the hands of Parliament, Mr. Fowler said "How had that pledge given by the then leaders and endorsed by an enormous majority of the House, been redeemed? It had previously been the practice to put off the Indian Budget to the end of the session and after the power was transferred to the Crown it might well have been expected that a new system

would be adopted ; but judging from the dates on which the Indian Budget was introduced between 1856 and 1870, the practice still continued of bringing it forward at the close of the session. It was brought forward by Sir Charles Wood, on August 1, 1859, the prorogation occurring on August 13, a period of 12 days ; again on August 13, 1860, the prorogation occurring on August 28 a period of 15 days ; again on July 25, 1861, the prorogation occurring on August 6, a period of 12 days ; again on July 17, 1862, the prorogation occurring on August 7, a period of 21 days ; again on July 23, 1863, the prorogation occurring on July 28, a period of 5 days ; again on July 21, 1864, the prorogation occurring on July 29, a period of 8 days ; again on July 29, 1865, the prorogation occurring on August 6, a period of 8 days, on July 19, 1866, the prorogation, occurring on July 31 ; a period of 12 days, on August 12, 1867, the prorogation occurring on August 21, a period of 9 days, again on July 27, 1869, the prorogation occurring on July 31, a period of 4 days ; on August 3, 1869, the prorogation occurring on August 11, a period of 8 days ; and again on August 5, 1870, when Mr. Fawcett moved an amendment : " That this House regrets that the Indian Budget is introduced at so late a period of the session, and is of opinion, considering the present position of Indian Finance, that it is expedient to appoint a Select Committee early next session to inquire into the administration of the finance of India." This amendment was withdrawn and the House agreed to the resolutions, the prorogation occurring on August 10, a period of 5 days. After reviewing the introduction of the Budget in the past, Mr. Fowler stated that to postpone so important a debate until the " dog days " is not creditable to the conduct of business in the House of Commons and that the members on the House are trustees of the people of India, and it is on that account the duty of England to see that the interests of India are properly looked after. It seemed to him to be a discredit and a reproach to Parliament that the affairs of India should be discussed by a jaded and exhausted house in the last days of an expiring session. Mr. Fowler complained that the Indian Budget that year was taken at the fag end of the session at a time specially selected for its inconvenience and the Indian people were of opinion that more respect was shown to

the most trumpety question that was debated in Parliament than is vouchsafed to questions vitally affecting their welfare and that they will only come to the conclusion that the Government was bent on pursuing the suicidal course of treating the affairs of India with continuous neglect.

#### MR. FOWLER'S MOTION IN 1883.

For ten years afterwards there having been no improvement, Mr. Fowler again brought forward a motion in the House of Commons in identically the same terms, and his speech on the occasion is noteworthy as a review of the position from 1873 to 1883:—He said that he wished to point out that it had been the habit of successive Governments, for a long course of years the occurrence of some particular urgent circumstances, to put off the introduction of the Indian Budget until the Appropriation Bill was brought forward just before the close of the session, when it was impossible to afford any adequate opportunity for its discussion. He had made the same motion in 1873, when he was supported Sir Stafford Northcote and the Postmaster-General (Mr. Fawcett). At that time he stated to the House that the Budget had been constantly brought forward in the dog days. He then quoted from Hansard between 1858, when the company was abolished, and 1873, the date of his last motion. Since then, there had been no improvement. In 1873, the Budget was brought in July 31, the prorogation being on August 5; in 1874 August 3, the prorogation being August 7; in 1875, August 9, the prorogation being the 13th; in 1876, August 10, the prorogation being the 15th; in 1877 was an improvement, as it was brought in on June 21, but in 1878, it was on August 13, the prorogation being on the 16th; 1879 was again an improvement, as it came on May 22, and was twice adjourned; in 1880 there was the Dissolution, and it was brought in on August 17, three weeks before the end of the Session; but in 1881 it was August 21, the prorogation being on the 27th; and in 1882, August 14, the prorogation being on the 17th; and in 1882, August 14, the prorogation being on that 18th. Against the system, protests had been made over and again, without effect by Mr. Fawcett, and



by other eminent authorities who were deeply interested in the affairs of India; and he therefore appealed earnestly to Her Majesty's Government to seriously consider whether something could not be done to remedy what appeared to him to be a scandal. The existing system not only prevented the House from taking that interest which it ought to take in the affairs of India, but it was a direct violation of the pledges given by many eminent men, when the Government of India was transferred from the East India Company to the Crown. Great as was the importance of the business pressed upon the House of Commons, he could not help feeling that it owed almost as great a duty to the people of India.

## MR. CLADWELL'S MOTION IN 1899.

There was no improvement whatever and 15 years afterwards a similar motion was again brought forward, in 1899. Mr. Cladwell's motion was in these terms:—

“That under the existing procedure the superintending authority of Parliament over Indian affairs is not effectively exercised;

(b) that the salary of the Secretary of State for India should be placed on the estimates;

(c) that the debate on the Indian Budget should be appointed for an earlier day in the session; and

(d) that with a view to the more effectual discharge by this House of its existing duty to the unrepresented Indian tax-payers, the East India Accounts should each year be referred to a Select Committee with instructions to report on any special features deserving the attention of the House.”

In the course of his speech he pointed out that there was no effective discussion of Indian affairs in the House and very little interest was taken in Indian affairs by the ordinary members of the House.

## SIR WILLIAM WEDDERBURN.

The speech delivered on the occasion by Sir William Wedderburn is so full of interest and so well applicable

to the conditions of the present day that no apology is necessary to quote it at length :—" The Right Honourable Member for East Wolverhampton (Sir Henry Fowler) when he was Secretary of State for India declared that all the members in this House were members for India. The sentiment was received with great enthusiasm and I rejoiced that this was so as showing that they recognised their responsibility to India. At the same time looking to-night at the empty benches it must be confessed that the attendance is not what it would have been if the vital interests of British constituents had been in question. The machinery of this House fails to secure the object of superintending Indian affairs and redressing Indian grievances. I speak from sad personal experience for, during the last six years, I have striven to get a hearing for the Indian view of Indian affairs, but in no case, have I been able to obtain independent enquiry into any complaint, nor the redress of any Indian grievance, whether that grievance is suffered by an individual, by a class, or by the whole Indian people. The theory, of course, is that the Secretary of State is responsible to Parliament. When dealing with Indian complaints he is supposed to occupy a position of judicial impartiality. But this is altogether a delusion. The Secretary of State for India, being backed by the Ministerial majority, is, in Indian matters, practically the master, not the servant of the House of Commons, and so far from being an impartial judge, ready to hear complaints and eager to afford redress, he is in reality the mouthpiece and champion of the official hierarchy against whom the complaints are made; deriving his views and information solely from the India Office, he becomes naturally the apologist of all official acts and resents every complaint as a reflection upon the administration of which he is the head. Accordingly the regular routine is to refuse all independent enquiry, to refer complaints for report to the officials complained against and when that official pleads not guilty to assure the House that no grievance exists. As a general rule, the press seems to find some curious satisfaction and amusement in recording how the House empties itself when Indian questions are discussed, and instead of rebuking this neglect of duty, it calls

the speakers on behalf of India, bores and faddists, as if the ancient tale of woe of the Indian cultivator was a topic suitable for light and humorous treatment."

## MR. HARWOOD.

Another member, Mr. Harwood, asked the House of Commons whether it is right and wise to hand over a quarter of the population of the globe to a bureaucratic Government and referred to the lessons and political experience of contemporary history of other countries as to the dangers of the bureaucracy. However good or however capable that Government may be, it was not wise policy, he said, for an enlightened country like Great Britain to adopt that attitude of neglect in regard to a vast Empire such as the Indian Empire. He questioned the accuracy of the description of the newspapers that the Indian debate is a solemn farce. He thought it was not dignified enough to be solemn and certainly it was not humorous enough to be called a farce. It was not farce, it was a tragedy which made him ashamed of their pretensions about the Empire, when they cared so little for India and paid so little attention to it. Mr. Harwood concluded by saying that there was a deliberate attempt to do away with representative Government of India as far as Parliament was concerned and that there was also a deliberate attempt to do away with representative Government in India so far its local affairs were concerned.

Sir Henry Fowler who was then the Secretary of State for India made the orthodox defence and contended that India was not a self-governing Colony and that the Government in India is a Government unique in itself regulated by Acts of Parliament and that Parliament alone had the power to alter or modify that Government. These periodical reviews of events and dates give us a connected account of the way in which the Indian Financial Statement has been dealt with in Parliament ever since the assumption of direct sovereignty by the Crown.

## THE SECRETARY OF STATE'S SALARY.

The motion for placing the salary of the Secretary of State in Council on the British Estimates has also been brought forward many times in the House of Commons. The Secretary of State's pay and the annual cost of the maintenance of the India Office are debited to the Indian revenues and are placed on the Indian Budget. The proposal to place the Secretary of State's salary on the British Estimates is one of the oldest political reforms advocated in India. It was suggested by the Indian National Congress several times. The Minority Report of the Royal Commission on Indian Expenditure in 1895 suggested this change. The object is to maintain the controlling authority of the House of Commons over Indian expenditure and to secure opportunities to members for a criticism of the whole field of Indian administration. The last time the motion was brought forward in Parliament was in 1906 when Mr. Keir Hardie moved a resolution that "in view of the responsibility of Parliament in reference to the Government of India and in order to provide a more effective control over Indian administration it is expedient to place the salary of the Secretary of State for India on the estimates." Lord Morley, replied that all sections of the House were agreed that it is best and wisest to exclude India from the field of "ordinary party operations in Parliament." "The debate on the Secretary of State's salary must be subjected to a party vote and all supporters of the ministry or nearly all would go into the lobby to give the Secretary of State his salary and all those who

are in opposition might, in spite of their desire to keep India out of party politics, support a reduction of salary." Lord Morley was of opinion that the supervision and the criticism of the details of Indian administration in the House of Commons would do no good but considerable harm to the Indian Government. The motion was eventually defeated by 153 against 89 votes. The salary of the Secretary of State for India is paid by India because at present India has no power to resist such a demand. If the Secretary of State has to be paid by the Indian Government and is a public servant of that Government, what is his position in the House of Commons? If he is a servant of the Government of the United Kingdom why does not that Government pay his salary? These questions have always been evaded and no satisfactory answer has ever been given.

#### DIRECT REPRESENTATION.

Indian public opinion has always deplored that the British democracy has failed to discharge its trust to India. The subject of direct representation of India in the British Parliament was discussed many times by the Indian National Congress. The analogy of the Portuguese Legislature which made provision for representatives from Goa and that of the Chamber of Deputies in France on which there are representatives from India have been often pressed. Indian representation in a Parliament six thousand miles away for the discussion of its internal affairs which ought to be discussed in the country itself is an incongruity. The proceedings of the East India Association, London, show that Indian political reformers

have, almost since the transfer of India under the direct sovereignty of the Crown have urged the establishment of representative institutions in this country. The scheme of Imperial reconstruction so much discussed now, namely, the separation of the Imperial functions of Parliament from its domestic responsibilities to the people of Great Britain was actually put forward in 1868 in the discussion of a proposal for the representation of India in the Imperial assembly. A more effective control of the British democracy over British Indian administration is impossible of attainment but what is now desired is not effective control of the British people over the internal affairs of India but the control of the people of the country. Under the existing system Parliamentary responsibility for the Indian affairs is a potential power which can be invoked only very rarely but with the establishment of self-governing institutions in India, a much more effective control on the spot will be established. The ideal party in the United Kingdom for India is, therefore, neither the Liberal nor the Conservative, Labour nor Radical, but the party that recognises the value of India as an organic self-governing unit in the Imperial system.

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## CHAPTER V.

### HOME GOVERNMENT.

"I tell this House that the statutory organisation of the India Office produces an apotheosis of circumlocution and red tape beyond the dreams of any ordinary citizen."—THE RIGHT HON'BLE MR. MONTAGU (*in the House of Commons, 1917.*)

The group of authorities known as the Home Government which, under the Indian Constitution, control the affairs of this country in England consist of the Crown, the Secretary of State and the Council of India. The functions and powers of each of these authorities and their relation to the Government of India and the Local Governments were laid down by the Government of India Act in 1858 and are substantially the same to-day as they were then settled.

The Act of 1858 provided the Secretary of State with a Council whose composition and functions were mainly founded on the analogy of what the Government of India under the East India Company had been. At that time there was a marked dread of the Government under a single minister having uncontrolled power spending the revenues of India and there was also a deep mistrust of the patronage of India being handed over to a single individual. The responsibility of the Secretary of State was maintained and safeguarded and the functions of the Council were in the main advisory, except in the matter of Indian expenditure. The responsibility for the administration of Indian Revenues is vested by the

Act of Parliament in the Secretary of State in Council and the Secretary of State is answerable to Parliament for the exercise of that responsibility. A limited discretion has been delegated to the Government of India, but apart from that discretion no new expenditure can be incurred without his sanction. The annual estimates are reviewed by the Secretary of State and such directions as he may consider necessary are also given by him to the Government of India. A committee of the Council and the department of the India Office under the Financial Secretary are charged with the examination and consideration of all proposals involving expenditure whether initiated in England or in India. Large questions affecting the revenues such as revision of settlements and rates of taxation are considered by another committee of the Council and by the revenue department of the India Office. The expenditure on stores is under the control of another committee of the Council and of the stores department. The powers of the Secretary of State in respect of the Government of India and his relations to that Government are also determined by that Act, and form the legal foundation for the control exercised by him and the Council over the whole field of Indian finance and consequently of Indian administration. The extent and character of this control extends to all acts of the Government in India. Sir Thomas Holderness, K. C. S. I., Under-Secretary of State for India, summarised the present position in 1913 before the Royal Commission on Indian Finance and Currency in the following words :—



"The extent of this control is unlimited, except in so far as by general or special orders he has delegated powers of sanction to Indian authorities. Large powers have been so delegated. They are collected together in various codes, such as the Civil Service Regulations, the India Army Regulations, the State Railway Code, and in what is called the audit resolution of the Government of India. Expenditure proposals that are not covered by these delegated powers have to be submitted by the Government of India to the Secretary of State in Council for his sanction and questions inevitably arise from time to time as to the exact extent and limits of the delegated powers. Every important administrative project, it may be said, involves expenditure beyond the sanctioning authority of the Government of India, and has to be considered by the Secretary of State in Council in its financial as well as in its administrative bearings. The proposals of the Military, Public Works and Railway Departments in particular affect large sums of money. The budget estimates of the Government of India and the 'ways and means' provision of the year also raise large questions of financial policy. Thus in one way or another a large amount of intricate and important financial work necessarily comes from the Indian Government to the Secretary of State in Council."

The Council is, in the main, a consultative body, without any power of initiation and with a limited power of veto. Even on question of expenditure, where they arise out of previous discussions of the Cabinet, as would usually be the case in matters relating to peace or war, or foreign relations, it would be very difficult for the Council to withhold their concurrence from the Secretary of State when he acts as representative and mouthpiece of the Cabinet. Now in virtue of these powers the whole fiscal, financial and currency policy of the Government of India is in the hands of the Secretary of State in

Council who either initiates all measures or sanctions them at the instance of the authorities in India. These statutory responsibilities of the Secretary of State for India in Council now cover the whole range of financial transactions of every description, including the control of legislation relating to Indian taxations arising out of the annual budget in India. The public never know whether any particular policy emanates from the Secretary of State in Council or the Government of India. The Council of India is neither responsible to Parliament nor to the Minister in charge nor to the public opinion of India and its proceedings are not made available to the public or even to Parliament.

If, therefore, India is to attain self-government within the Empire in a measurable distance of time, the first, and, I believe, the most important step, is to cut down the dominant position assigned to the Secretary of State and his Council in the scheme of the Government of India Act and to vest, as far as possible, the administration of the country in the Government of India and the Local Governments. This financial and administrative dominance of the Secretary of State in Council over the affairs of India can be removed only by an amendment of the law which now vests in him the control of the expenditure of the Indian Revenues. So long as these powers are vested in the Secretary of State in Council the development of self-government in India cannot become a reality. The establishment of self-government necessarily involves financial and administrative independence in the Government of India and the Local

Governments which they do not now possess except as a delegated authority. The abolition of the Secretary of State's Council as a step of political reform as preliminary to all other reforms was suggested at the first Session of the Indian National Congress in 1885. It finds a place in the scheme of political reform adopted by the Indian National Congress and the Muslim League in December 1916. The proposal of the Congress and the Muslim League has been denounced by Lord Sydenham on the ground that the abolition of the Council would deprive the India Office of all personal knowledge of Indian affairs and that this would be disastrous to the interests of the Indian peoples. The criticism would be well founded if the functions of the Home Government in regard to Indian administration are to remain as they are. His Lordship has ignored the essential feature of the scheme which seeks to substitute local public opinion in India as a check over the executive administration of the country. It may be pointed out that under the proposal of the Congress the controlling functions of Home Government in this respect are to be discharged, as far as possible, by local representative bodies.

#### CONSTITUTIONAL FUNCTIONS.

The exact constitutional position of the Secretary of State in Council in relation to the Government of India is not also free from dispute. The principal function of the Home Government is "not to direct the details of administration but to scrutinise and revise the past acts of the Indian Government, to lay down principles and to issue general directions for

their guidance and to give or refuse sanction to great political events which are referred home for approval." These were the terms in which John Stuart Mill explained the constitutional position of the group of authorities known as the Home Government. In effect it was intended that the Government of India was to have the initiative, the Secretary of State and the Council of India should, subject to the ultimate judgment of the House of Commons, have the right of review. But in actual practice a different construction has been placed, now and then, upon the statutes in regard to the position of the Home Government in relation to the Government of India. In 1870, the Duke of Argyll, as Secretary of State for India, laid down in the course of a controversy with Lord Mayo, the Viceroy at the time, the doctrine that the Government of India have no independent power and are completely subordinate to the Secretary of State. In a despatch dated 24th November 1870, he stated, "the Government of India are merely executive officers of the Home Government who hold the ultimate power of requiring the Governor-General to introduce a measure and of requiring also all the official members of the Legislative Council to vote for it." Mr. Montagu, as Under-Secretary of State for India, again asserted in 1910 the doctrine of agency in the House of Commons in the course of a discussion on the subject of Minto-Morley reforms. The ultimate responsibility for Indian Government now rests unquestionably with the Imperial Government represented by the Secretary of State of India and therefore in the last

resort on the people of Great Britain. But if the aim and endeavour of British policy in India is to develop a strong and self-reliant Government of India in close association with the representatives of the people the Home Government must gradually disappear and its functions of control in regard to internal administration of India must be transferred to other agencies in India. The solution of the problem of self-government in India depends therefore on strengthening the position, functions and powers of the governing authorities in India and reducing *pro tanto* the dominant position of the organ of Indian Government in England. In presenting the Indian Budget in the House of Commons in 1913 Mr. Montagu referred to this aspect of the matter and to the whole chain of interdependent Indian authorities to whom a further devolution of functions and powers was necessary. He said: "How can a district officer entrust details of his work to voluntary assistance if the Local Government is always asking him detailed questions on matters for which he ought to be responsible? How can the Local Government forbear worrying each district officer if the Imperial Government at Delhi is for ever interfering and worrying the Local Governments for reports? How can the Imperial Government at Delhi refuse to interfere with the local Governments if it is always being worried for reports or details by the Secretary of State, and how can the Secretary of State forbear to worry the Imperial Government at Delhi if the House of Commons and the House of Lords are always asking for information? The

tightness of control of each step in the machine is an excuse for the step below." Mr. Montagu concluded by stating that every step taken in India to bring the Government more and more face to face with the people ought to lessen the control of the Home Government. The most recent views of Mr. Montagu on the Home Government, the India Office and the executive Government of India have been expressed in the debate on the Mesopotamia Commission and are too fresh in the public mind to need recapitulation.

#### THE CONGRESS SCHEME.

The proposal for the abolition of the Council of the Secretary of State for India is a constitutional reform which is not intended, however, to be pressed for adoption by itself independently of the other important changes advocated in the Congress and Muslim League Scheme. Under this scheme, the Government of India, it is proposed, should, in all legislative, administrative and financial matters, be as far as possible, be independent of the Secretary of State and that the Secretary of State should, as far as possible, occupy the same position in relation to the Government of India as the Secretary of State for the Colonies, in relation to the affairs of the self-governing Dominions. Under the Indian constitution the Council of India is intended to discharge certain controlling functions in relation to the Government of India and is an important organ in the machinery of the Home Government constituted by the Government of India Act, 1858.

The modification of its functions or the total abolition of this body can only be effected by a re-arrangement of the functions and powers of the whole Governmental mechanism both in India and in England. The Council of India along with the authorities constituting the Home Government is the check provided by the Government of India Act over the administration of India and its existence in its present form depends very much upon the question whether its controlling functions and powers should continue to vest in it or be transferred to other agencies in India. Mr. Mill pointed out in 1853 that the constitution of the organ of Government in England must become less and less important with the establishment and development in India of any form of local representative government. The Home Government is responsible to the people of the British Isles for the government of this country and owes no responsibility to the Indian people. Local representative bodies competent to exercise that antagonistic discussion and criticism which are essential to all good Government were not in existence in India in 1858 and the means for this discussion had therefore to be provided in the governing body itself by means of a Council in England. The Congress and the Muslim League Scheme, therefore, contemplates the substitution of the control of the Legislative Councils over the Executive Government of India for that of the Home Government, to the extent to which it is possible and expedient in the existing circumstances to do so at once. The whole scheme of reforms has to be taken together and

critics like Lord Sydenham and others of his way of thinking lose sight of the important fact that the aim of the reforms is to readjust the functions of all the authorities and agencies engaged in the administration of India from top to bottom. It is not intended that after the abolition of the Council the Secretary of State should continue by himself—the detailed and the excessive control now exercised by him over the Indian administration, Lord Sydenham says that “the tendencies of recent years has been in the direction of reducing the powers of the India Council and of conferring too much influence upon officials who know India only on paper.” It is not understood who officials referred to by Lord Sydenham are. Is it the officials at the India office, or the officials in India? In popular estimation both are really in the same position. Indian public opinion has asked for a transference of powers to popular bodies in the country and not to the official classes either in England or in India. He admits, however, that the India Office is not sufficiently in close touch with the needs and conditions of the country, and in his opinion the reorganisation of this department of state is one of the principal reforms now urgently required. A constitutional change in this direction is, therefore, admittedly required and the modification of its present functions and the ultimate abolition of the Council, therefore, depends upon the development of fully representative institutions in the Indian constitution.



## PRACTICAL POLITICS.

The proposal for the abolition of the Council of India is by no means new. The Constitution of a Council was strongly objected to when the Government of India Bill became law in 1858 and ever since the question has been raised several times. The Marquis of Crewe admitted these facts in 1914 in the course of the discussions on the India Council Bill, dealing with the reorganisation of the India Office. There is no ground, therefore, to treat the proposal as revolutionary. It has been discussed now for half a century and yet the Marquis of Crewe informed the House of Lords that it was still not within "the range of practical politics." It is our experience that even after half a century of discussion Indian questions do not advance a step further, but the recent declaration of His Majesty's Government that the establishment of self-governing institutions leading to responsible Government is the aim of their policy, makes it imperative that this question should be considered in all its bearings. Bureaucratic control at the India Office with its enormous financial and administrative powers is inconsistent with the existence of self-governing institutions in India. It is unthinkable that the Government in India can have the Council of India at one end and the Legislative Councils at the other. Even with the present Councils which are purely advisory the position is becoming untenable, and I shall revert to this subject more fully in a later chapter.

The main reasons for the existence of the Council of India have already been referred. Mr. Mill

explained them at length in 1853, and it is perhaps better to recall to our minds the circumstances of India then and at the present day.

Mr. Mill stated that the absence of effective public opinion in India at the time and also of representative bodies which could focus that opinion were important factors which contributed at the time for giving the final shape to the proposals for the constitution, functions, and powers of the Home Government in England. The desire to provide a means for insuring the necessary discussion and collision of opinion on Indian questions within the governing body itself in the absence of constitutional safeguards for the public discussion in India was responsible for the constitution of a Council to assist and advise the Secretary of State. This was the fundamental reason for the creation and existence of the Council of India. Without such a council, Mr. Mill explained, the Government of India by means of a Secretary of State would be the most complete despotism that could possibly exist, because there could be no provision for any discussion except that which might take place between the Secretary of State and his own subordinates in office whose advice and opinion he would not be bound to listen to and who even, if he were, would not be responsible for the advice or opinion that they might give. The local representative bodies that then existed in the Colonies afforded all opportunities for the exercise of that antagonistic discussion which formed an essential element of good government everywhere. In the case of India it was not then possible to have any

local body which could produce that result. The discussions between the Government of India and the authorities in England were, according to Mr. Mill, not a sufficient security for good government where there is nothing else to trust to, where there is no body representing the people of this country and no body except persons *ex-officio* conversant with their interests. The constitution of a Council to assist the Secretary of State for India was, therefore, intended to provide him with a body of persons conversant with Indian affairs. The position to-day in this respect is entirely different. The growth of public opinion in this country during the last 60 years, the influence of the press, the progress of education, the establishment of representative institutions, such as legislative councils and their successful working, are all factors which have materially altered the condition of things since 1858. The political spirit and the common feeling of nationality and the readiness and anxiety of Indians throughout the country to share the responsibility of the government of their country are all new features which did not then exist.

#### PARLIAMENTARY OPINION IN 1858.

The discussions in Parliament in 1858 on the subject of the constitution of the Council also revealed very serious differences of opinion and the soundness of some of the views then expressed has been tested by the experience of half a century. Many eminent men took part in the debates in both Houses of Parliament which were centred on the question

as to the need for a Council, its functions and composition.

A good many members dreaded the creation of a bureaucracy at the India Office and their fears were fully justified by the experience of bureaucratic methods at the Colonial office. The mismanagement of colonial affairs was then fresh in the public mind. In his famous report on the affairs of British North America, Lord Durham complained that owing to the repeated changes in the political chiefs in the Colonial Office, the real management of the colonies fell into the hands of the permanent officials and that this was felt by the Colonists themselves as a great grievance. The group of English political reformers, with whom Lord Durham was associated, held the same opinion. Gibbon Wakefield, another contemporary writer on the Colonial problems of the day, who pleaded for self-government, expressed the opinion that "the great bulk of the Legislative and Executive functions of the office of Colonial Secretary was performed by the permanent Under-Secretary and the superior clerks" and the Colonial system of government of that day was the bureaucracy spoiled by being grafted on to free institutions." In his monumental work on the government of England, Mr. A. Lawrence Lowell refers at length to the critics of Colonial administration of the day and to the autobiography of Colonial Office officials and arrives at a similar conclusion. He refers to a statement of the Chief Justice of Victoria, who once remarked in the assembly of the Colony as follows:—"It might be said with perfect truth that the million and a half Englishmen who inhabit these Colonies and who, during the last 15 years, believed that they possessed Self-Government, have been really governed during the whole of that time by a person named Rogers." The person referred to here was Sir Frederick Rogers (afterwards Lord Blanchford) the permanent Under-Secretary at the Colonial Office from 1850 to 1871.

#### MR. WILLOUGHBY.

In the House of Commons, it was only natural that Mr. Willoughby should refer to the mismanagement of the Colonies

and he called attention to Canada, the Cape of Good Hope and Australia, where improvement in Colonial administration was only effected by the discovery of the Colonial Secretary that the best method of governing the colonies was to cease to govern them, to leave them alone and to permit them to govern themselves. He pointed out that unfortunately the materials for self-government in India did not then exist and could not suddenly be created.

The strongest opponent to the creation of a Council was Mr. John Bright. He was of opinion that the 15 gentlemen who composed the Council were provided with handsome salaries, fair retiring allowances and a good deal of patronage. Their work would be so easy that nobody would be able to say why they were appointed. They would be the last persons to complain of the Act, under which they were appointed, and they would find that their friends in Parliament and out of it and in the Press would say that nothing was so admirable as the Act passed in 1858. Mr. Bright said that the result would be that little or no concern would be felt in the affairs of India, and its interests would be, to a great extent, neglected and that though complaints would be made of such neglect, these fifteen gentlemen would still assert, with unblushing countenances, that nothing could be better than their administration of India.

The opinion of another prominent member of the House of Commons, Mr. Monckton Milnes, was equally opposed to the creation of a Council. He said that, if the Council was to be a mere shield for the ignorance of the ministers, he would prefer to have no Council at all; it would be far less dangerous that the Secretary of State should act on his own responsibility simply because there would be less probability in that case of his acting and more probability of his allowing the affairs of the Indian Government to be managed by the Governor-General and his Council.

Mr. Roebuck was also of opinion that a single Secretary of State responsible for all his acts, relying upon himself alone and bringing his own mind to be his guide or Counsellor is the best method of securing good government in India. He also

joined in the condemnation of "old Indians" who, under the scheme, would assist and advise the minister of the Crown. He relied upon a number of Anglo-Indian authorities and stated that the mere fact of having gone to India gives a man no greater power of governing that country than he could have acquired by study and reflection at Home and in fact, not so much so as regards knowledge of the feelings and habits of the people. To connect the minister to whom the Government of India may be entrusted with such a Council would be like putting wine into water, an operation by which both the wine and the water are spoilt.

Sir James Graham was of opinion that the actual Government of India has hitherto been mainly conducted in all its great features, of course subject to the occasional control of the minister of the day, by gentlemen who were never in India. He mentioned the names of Sir James Melvil, Mr. Phillip Melvil, Mr. James Mill and Mr. John Stuart Mill, Mr. K. Dickinson who have been most successful in conducting the Government of India. He was by no means certain that it would not be better to have a single responsible minister receiving the assistance of able Secretaries and clerks than to establish a Council which will exercise no moral control, and he did not want to see a sham or an inefficient Council.

#### HOUSE OF LORDS. •

Similar opinions were also expressed in the House of Lords. The Duke of Somerset stated that, if the Council were given up, the Bill would be worked much more efficiently. The Secretary of State would be fit to originate measures and to carry them out on his own initiative. The Earl of Abercorn objected to the Council on the ground that the members of the Council would consist of those very "old Indians" (Anglo-Indians) that had always declared the Indian system of Government to be the embodiment of perfection, though it had recently ended in a great rebellion in India. He asked whether this class of men would be best suited to carry out a new system of Government in India. The Board of Directors did not select "old Indians" as their servants, but employed

men like Mr. John Stuart Mill, Mr. John Mill and Mr. Macaulagh who carried on the Government of India, but who never set foot in India. "An old Indian" possessed a great knowledge of a small locality, but did not know anything of India itself and was in utter ignorance of English statesmanship. What was wanted in the Bill, the Earl of Abercorn affirmed, was more of the European element. Lord Monteagle stated he did not think that even the combination of the highest endowments in persons whose experience had been exclusively occupied in the Civil Service would be all that is necessary for the future Government of India. They must have a direction of a different kind to bring that Government into complete harmony with English institutions. He was for a Council, effective and consultative, exercising moral control and did not deny that the Secretary of State for India should be supreme and empowered to act alone when circumstances demanded and justified such an exercise of authority.

Lord Woodhouse was of opinion that the Bill was neither more nor less than a compromise—a compromise between the principle of having a responsible minister and the principle of establishing a controlling Council. There seemed to be in the Bill a desire to create a balance of power. There were, in the Bill, one set of clauses which gave the Council great power and another set which took this power away altogether. An Indian minister would be, of course, responsible to public opinion, but the Council they proposed would be responsible neither to the Minister nor to public opinion. These and other opinions were freely expressed.

#### LORD BROUGHTON

The whole position was hit off in a most telling speech by Lord Broughton in the House of Lords. He said, "He should rejoice at the abolition of the East India Company if a better scheme for the Government of India were substituted for it; but he did not think that this bill would effect such a substitution. He thought that the substitution for the present system of governing India, of the Secretary of State, or a single Minister, to whom should be entrusted the administration of

the whole Government of India would have been a better scheme than that proposed by that Bill. He had arrived at that opinion after much deliberation and conversation with men of the highest authority on Indian affairs. This Council was part of the very essence and principle of the Bill. Since the introduction of the Bill, a great change had taken place in the minds of the members of both Houses of Parliament as to the expediency of allowing a Council to interfere in the administration of Indian affairs. He collected from the speech last night of the leader of that House under the Palmerston Administration, that his views as to the expediency of appointing any such Council had considerably changed since the introduction of Lord Palmerston's Bill. The present form of Home government for India was no doubt liable to objections of which every man must be aware, on the ground of delay and difference of opinion between authorities of Cannon Row and Leadenhall Street. The shots they fired at each other, however, were fired from a distance, and were cooled by time. But when this new Council was formed, what would be the degree of antagonism—and antagonism there must be, if the Council was to be of any good, when they met under the same roof and at the same board, and had to fire across the table? Unless some means could be devised for making this Council, he would not say a little more peaceable, but at all events a little more practical, their Lordships should not pass this clause. He was opposed to any Council at all; but if he were for a Council, it would not be for this Council, which was constructed in a manner that was calculated to ensure the greatest quantity of strife and difference of opinion. Some of the members were to be East Indian servants, some were to be chosen by the Crown, and some not. He did not see how the objection of the noble Earl opposite (the Earl of Ellenborough) was to be got rid of, when it pleased God to remove any of the members, and the Council had to be refreshed. The Secretary of State would probably be a person who entertained some general principles of government, such principles as were likely to be entertained by a person reared among the free institutions of this country. But when he proposed some scheme to the Council for the



Government of India, the member of the Council acquainted with Bengal would say: "This wont do at all for Bengal; I know more about Bengal than you." The members who were acquainted with Madras and Bombay would say the same; and there would be the Secretary of State alone in the midst of these gentlemen, every one of whom would be better acquainted with India than himself. Then the Bombay gentlemen would help the Bengal gentlemen one day, and the Bengal gentlemen would help the Bombay man the next; and the consequence would be that the responsible Secretary would be liable to be thwarted at every turn. Nor was this the only annoyance or difficulty that would set in. Those who were acquainted with the system of Indian Government must be aware that the great vice of Indian servants was that of making what were called minutes—minutes sometimes on subjects of no more importance than the water bottle before him—which it took hours to read and days to write. Suppose a Member of the Council to be in a minority, he would record his objection in a minute. He would not be satisfied, and would proceed thus. He would seek out some member of Parliament and say: "I am in a minority in the Council on such a question, most good men are; the case is a good one; I can help" "you if you like to make a speech. I wrote a minute of my objection; Mr. So and So says it is one of the cleverest he ever read." The member was ambitious—most members used to be; he did not know if they were now and he would reply, "will you let me have it." The Member of Council would say, "No, I cannot; but it is a clever document, take my word for it, ask in your place for a copy." The Government of the day would be obliged to say, "We cannot refuse this minute. Under a Parliamentary Government, the opinions of the minority should be known at least, if not acted upon." The document was produced; it was read, it was clever; it was submitted to Sir James Graham, or some of those clever fellows in the House, and he was asked what was to be done, for the case was a hard one. He said, "make a motion, and we will see what we can do." A meeting of some twenty members took place in some house or other—it might be the Crown and Anchor; the posts were

assigned to each—he to bring forward this point, you this, and so on. “Do not abuse the Governor-General for he is my friend; but abuse the Secretary of State; he is an unfair man, and he is not of our party; abuse him.” Lord Broughton could assure their Lordships he was not exaggerating what was a very possible case. He agreed with the noble Lord opposite that this might not occur in the first Council. The first members would probably meet with general approbation, and things would go on smoothly for a time; but that would not continue—it could not continue. “Did anyone ever find fifteen men in a room, even at a party of pleasure, who agreed altogether? If out of the fifteen there was one disagreeable man he would spoil the whole party. That happened in matters of amusement. But what might be the consequence if, when matters of Government, when the best interests of the country were depending on the result, what was vulgarly but well called an “ill-conditioned fellow” got amongst the party? The consequence would probably be this. One member of the Council would say, “you cannot agree with me, I cannot agree with you; no one can agree with that fellow; let us hand over the decision to the Secretary of State.” That must be the only mode of settlement, or nothing would be done. These inconveniences were so entirely felt by the framers of the Bill that they had most judiciously deprived the Council of a great part of its powers, for they gave the Secretary of State power to act without the Council in some cases, and by the twenty-fifth clause they empowered him to act against the Council. That was wise and proper if there was to be a Council at all. The effects of a bad plan and a bad project might be got rid of by having no project or plan at all. The great objection made to the existing system was what was called the double Government. Now, there was no double Government in the present system, unless a man riding on horseback, with an old woman behind him, might be called a double Government.

Earl of Derby: Which is the old woman?

Lord Broughton: Not the noble Earl, certainly. This so-called double Government was no double Government. But the

double Government was brought back by this Bill. One of the great inconveniences of the present system was said to be this, that Parliament could not interfere as much in the Government of India as it could, if there was a single responsible Minister. Now, he thought that one of the great advantages of the present system was, that it prevented the perpetual introduction of Indian questions into Parliament. That was his decided opinion. They could not govern India on these terms, especially with the increased facilities of communication which now existed between this country and India. He would, therefore, keep the Government of India out of Parliament as far as possible. But this measure would really diminish the responsibility of the Indian Minister, because he would be fettered by the existence and by the control of his Council. If the Secretary of State was outvoted in the Council on some question or plan of Indian Government, he would, in stating the plan in the House of Commons, indicate to his friends that though he was moving the plan, it was not his—that he was over-ruled in the Council. The Council might object to the Secretary of State taking matters out of their cognizance. That had been said to him when at the Board of Control very frequently; and what was his answer. "I don't think so; you are quite wrong." There was civility on both sides. And there was an end of it. But that would not be the case now with the gentlemen, who had their friends in Parliament, in the City, and everywhere. If this Bill passed, it would create that form of government which had been condemned by all authorities on Government—"an Imperium in Imperio."

#### EARL OF DERBY.

The Earl of Derby defended the position taken up by the Government in regard to the constitution of a Council to the Secretary of State for India. He pointed out that there had been a universal agreement in both Houses that it was expedient that the Minister for India should be assisted by such a Council to a certain degree. The Bill of the late Government proposed a Council of eight members, to serve for ten years. By the Bill introduced when Lord

Ellenborough was at the Board of Control, the Council was to consist of eighteen members; they would, of course, have divided their duties. But that the Secretary of State for India should have the means of resorting, not unofficially but officially, to persons of great experience and knowledge on all subjects connected with India was a principle that he had been called upon to discuss. He wholly denied that this Council was a recurrence, or anything like a recurrence, to the double Government which had existed under the former system. The evil of that double Government was this: that there were two separate and entirely distinct authorities, each of which expressed an independent opinion, that these authorities were frequently brought into conflict or collision and that it required voluminous correspondence and a great deal of time to settle their differences and obtain their entire concurrence and consent.

Here there was no such double government, no such conflict of authorities; the Council was not an authority adverse to or competing with the Secretary of State; its duties were precise and limited; they were limited except in particular cases; giving advice and opinion to the Secretary of State; and that advice and opinion he was at liberty to adopt or reject as he thought fit. There was nothing to fetter or diminish in the slightest degree the responsibility which he owed to Parliament. He agreed with Lord Broughton that it was desirable in practice that the affairs of India should, as far as possible, be withdrawn from weekly and daily discussion in Parliament; and the most probable way of doing that was to surround the Secretary of State with a body of persons of eminence and distinction, of knowledge and experience, to whom with regard to every question he had it in his power to apply, not for authority, but for advice and opinion.

#### THE COMPOSITION OF THE COUNCIL.

These were the views that were expressed in 1858. Till the introduction of the Indian element by Lord Morley in 1909, the Council of India was mainly composed of distinguished Anglo-Indian officials, and

the important permanent officials at the India Office are also drawn from the same ranks. Most of them came from the Indian Civil Service and had been, before their retirement, either Lieutenant-Governors of Provinces or Members of the Viceroy's Council and, under the provisions of the Government of India Act, the majority of the Council must be persons who have served or resided in India for at least ten years and who have not left India more than 10 years before their appointment. This period was subsequently reduced to five in order to compel the Secretary of State to select men who were not hopelessly out of touch with the conditions in India at the time of their appointment. It was, therefore, inevitable that the very men who, during the whole of their life-time, were brought up in the traditions of the Indian bureaucratic system came to sit on the Council of India as responsible advisers of the Secretary of State. They vigorously defend the acts of the members of their own service and have been effective instruments for the continuance and perpetuation of their policy as advisers of the Secretary of State. The Indian progressive party have always had a legitimate dread of the great bureaucratic machine. One of the members of the Indian Civil Service has recently said that the Government of a country by a bureaucracy amounts "to the setting of a course and the direction of a policy by men who, though admirably versed in the details of Government, find it difficult for that very reason to take generous and far sighted views of a nation's destiny. Their traditions distort their vision of a

more distant horizon. They suffer, in short, from an incurable political myopia. Nations advance, people become great not through docility and submissiveness, but by the free play of aspirations and thought, the liberty to advance along all lines of legitimate progress in a self-respecting independence of spirit. That is a very antithesis of a bureaucratic ideal. Efficiency of the machine, not the organic growth of a people; the progress, if such there be, on the initiative of the Government, not progress on the initiative of the people—such are its watchwords. It is true that the bureaucracy holds out, on some distant horizon, the vision of a more automatous nation with free institutions. But this vision is so nebulous, and distant—to borrow the metaphor of a typical bureaucrat, it is like some far-off peak of the Himalayas whilst we are yet traversing the plains—that really does not enter into practical politics. It is merely a pious aspiration which may or may not hereafter materialize. If the people of India are at school, it is a perpetual school, where greybeards will ever sit at the feet of youthful foreigners, where the syllabus never alters.”

SIR WILLIAM WEDDERBURN.

Another distinguished member of the Civil Service, Sir William Wedderburn, expressed himself in the same emphatic way. In a recent article in the *Contemporary Review*, he said that the Indian claim for an advance towards self-government necessarily clashes with powerful class interests. The reforms now proposed in the Government of India by the Indian National Congress and the Muslim

League will not be welcomed by those who now enjoy a practical monopoly of official power and emoluments. The permanent Civil Service in India and England dominates the Councils of the Secretary of State in England and the Government of India in Simla. Sir William has characterised this service "as a privileged foreign body with professional interests adverse to Indian aspirations and dominating the administration. It intervenes as a non-conducting medium between the good-will of the British democracy and the reasonable claims of the Indian people." In asking for the abolition of the Secretary of State's Council the Indian people are therefore anxious to put an end to this bureaucratic dominance in the controlling organ of Government in England.

#### HOME CHARGES.

A subject of perennial discussion almost since the Indian National Congress came into existence remains to be noticed. The expenditure incurred out of Indian revenues in England is paid on the authority of the Secretary of State in Council. It includes (1) the management of debt and interest and annuities payable to Railway Companies. (2) Payments due on account of Civil Administration of India; (3) Postal subsidy and Telegraph charges; (4) Payments to the Admiralty for naval services in India; (5) Charges for the Persian mission and Diplomatic and Consular establishments in China and payments to the families of Maharajah Duleep Singh, and of the Nawab Nazim of Bengal, etc.; (6) Charges of the India Office; (7) Payments to the War Office

on account of the home charges of British troops serving or having served in India; (8) Payments for the transport of troops to and from India; (9) Payments for stores for India; (10) Furlough pay to officers on leave from India; (11) Pensions of retired officers and their families. The India Office makes in addition large payments on account (1) of capital expenditure for railways and irrigation works, (2) of stores for railway companies, provincial and local funds and Native States, (3) of remittances of various kinds. The home charges were very much smaller in 1860 but now they amount to about 20 million pounds per annum. Some of this no doubt represents interest on debt incurred in England for capital expenditure in this country. The apportionment of expenditure between the United Kingdom and India has been the subject of acrimonious controversy almost ever since the Mutiny. The late Dadabhai Naoroji spent a great deal of his time and trouble in ventilating the injustice done by the Government of Great Britain in saddling this country with many items of military and civil expenditure with which we have no connection at all or have only a very remote one and also for securing an equitable distribution of the expenditure involved in the maintenance of British troops in India. In regard to the claims of the British War Office against Indian revenues on account of Army services, the Government of India observed in 1890 that "millions of money have been spent on increasing the army of India, on armaments and fortifications, to provide for the security of India, not



against domestic enemies or to prevent the incursions of the warlike people of adjoining countries, but to maintain the supremacy of British power in the East. The scope of all these great and costly measures reaches far beyond Indian limits and the policy which dictates them is an Imperial policy. We claim, therefore, that in the maintenance of the British forces in this country a just and even liberal view should be taken of the charges which should legitimately be made against Indian revenues. The people of India, who have no voice in the matter, should not be able to complain that an excessive military tribute is demanded from the revenues of this country, while, on the other side, England, with whom rests the final decision, should be able to show that this settlement has been effected in a spirit of justice and consideration." The Royal Commission on Indian expenditure was the direct result of the activity of Mr. Dadabhai Naoroji and the friends of India in England, but the recommendations of Lord Welby's Commission have not materially improved the financial position of this country. The constitution of a tribunal of arbitration to determine questions of this sort was proposed in 1896; but taking things as they are, the Government of India have no voice in the determination of expenditure debited to India in which the Secretary of State and his Council are practically the sole judges at present.

#### INDIA OFFICE REFORMS.

The abolition of the India Council is a measure of reform which is bound to come. Its continued

existence is a menace to the development of responsibility of the Government to the people of this country. Lord Morley liberalised its present constitution by the introduction of the Indian element, and a meed of praise has been accorded by him and his successors in office to the usefulness of the Indian members. The point, however, is whether this organ of Government in the United Kingdom is necessary any longer. It is no longer possible to delay this reform. Lord Crewe's Bill in 1914 aimed at a reform of the India Office procedure and also to accord statutory sanction to the election of the Indian members of the Council of India by the members of the Legislative Councils in India. The introduction of Indian members has been advocated with a view to give the Secretary of State a political outlook in regard to the affairs of India.

The procedure of the India Office has been described by many Secretaries of State as "intolerably cumbrous and dilatory." The Council is not really an administrative Board such as those at the Board of Admiralty and the Army Council. The work of the Council of India is done by the Committees, and the Marquis of Crewe gave a description of the long and intricate method by which a file of papers travels forwards and backwards within the walls of the India office—"a rolling stone which, on its way, gathers sometimes a vast amount of mass causing inordinate delays even in minor matters." He, therefore, proposed to readjust the machinery by having a council of eight answering, as far as possible, both in number and in the character of the work done, to the

different members of the Viceroy's Council in India, each member being attached to a particular department and the Indian members being probably regarded as "unattached members." The proposal for the abolition of the present system of transacting business at the India office and the introduction of the portfolio system may still further accentuate the departmentalism that now prevails and would practically deprive the Council of such collective responsibility that it has for governing India. Added to this, there is the further question relating to the powers of the Secretary of State acting in his individual capacity, and Lord Cr ve's proposals would substantially increase these powers. The real question is, however, not whether the Secretary of State should have more power or the Council of India should have less, and *vice versa*, but whether the time has not come for a further devolution of functions from the Home Government to the Government of India. The India Council Bill is a glaring instance of the way in which an important Indian question is treated in Parliament. The main reason for the rejection of the measure is the statutory obligation, which the Bill sought to impose, for appointing two Indians to the Council and the recognition of elective principle, though in a qualified form, in the making of these appointments. These provisions were disagreeable to those members of the House of Lords, who, with Lord Sydenham, are staunch advocates of the bureaucratic system, Lord Morley defended the measure with warmth and stated that its rejection would be a "disaster and a great blunder." The defects and limitations of the

Bill were patent and it was a small measure of reform. A more thorough-going measure is certainly required. The whole question hinges round the point as to whether the Government of India should occupy the same position as in 1858 in relation to the Secretary of State and the Council which was created to control the Government of India or whether there should be a further devolution of power to the authorities in India.

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## CHAPTER VI.

### THE GOVERNMENT OF INDIA.

"But I am positive of this, that your great claim to continue the illogical system of Government by which you have governed India in the past is that it was efficient. It has been proved to be not efficient. It has been proved to be not sufficiently elastic to express the will of the Indian people; to make them into a warring nation as they wanted to be. The history of this war shows that you can rely upon the loyalty of the Indian people to the British Empire, if you ever before doubted it. If you want to use that loyalty, you must take advantage of that love of country which is a religion in India, and you must give them that bigger opportunity of controlling their own destinies, not merely by councils which cannot act, but by control, by growing control, of the executive itself. Then in your next war—if we ever have war—in your next crisis, through times of peace, you will have a contented India, and India equipped to help. Believe me, Mr Speaker, it is not a question of expediency, it is not a question of desirability, unless you are prepared to re-model, in the light of modern experience, this century-old and cumbrous machine, then I believe, I verily believe, that you will lose your right to control the destinies of the Indian Empire."—THE RIGHT HON'BLE MR. MONTAGU (*in the House of Commons, 1917.*)

The Empire is divided into the categories of the self-governing dominions and dependencies and India is the greatest dependency of Great Britain. In the self-governing Dominions, the ultimate power in domestic administration is in the Dominions themselves, but in the case of the dependencies the ultimate power is in Great Britain. The solution of the problem of self-government in India is, therefore, dependent on the ultimate surrender of this power of control by the House of Commons and the other component parts of the Home Government and the transfer of this power "as rapidly as possible" to the governing

authorities and the Legislatures in India. In the case of India, this power is exercised by the Crown, the British Parliament with the Secretary of State as the mouthpiece of the Cabinet of the day and also by the Council of India. I have attempted to show in the preceding chapter that the exercise of this power by the Home Government has been in some cases, detrimental to the true interests of this country and very indifferently discharged in others. The Government of India is essentially a bureaucratic system and the democratic control of Parliament over Indian administration has been a failure and, in the nature of things, can never be satisfactory. The remedy is, therefore, to provide for this control by the establishment of self-governing institutions in this country and to reorganise the functions of government between the different authorities on a sound basis.

The gradual growth and consolidation of British power led to the establishment of a Central Government in India in 1833. By the Charter Act of that year the independent power of legislation and administration enjoyed by the Governments of Madras and Bombay were withdrawn and the Governor-General in Council was made the supreme authority for the whole of India. There were many advocates among the administrators of the time for a strong central government in this country. At the Parliamentary enquiry held in 1853, Sir Charles Trevelyan was one of the important witnesses, and it is necessary to make a brief reference to his evidence.

## A STRONG CENTRAL GOVERNMENT IN INDIA.

He advocated a supreme government for the whole of India entirely separated from local administrative responsibility and suggested that the functions of the Government so constituted should be the legislation of the whole of India, the diplomacy of the whole of India, the finance of the whole of India, the post office of the whole of India and the external customs of the whole of India. In all these, he advocated that the functions of the supreme government should be direct and immediate but carried on through subordinate governments.

Sir Charles Trevelyan was also of opinion that there was a great call at the then stage of Indian progress for increasing the centralization of the Government of India not in the sense of diminishing the discretion of the Local Governments but in the sense of bringing the influence of the supreme Government to bear upon the administration of Local Governments on those points which properly belong to the controlling functions of the supreme Government. He also pleaded for uniformity in administrative methods and contended that a strong central government would be able to bring the experience gained in the different provinces to bear upon the improvement of each. The advantage of a supreme Government for the purpose of collecting the experience of the whole of India and applying it to the different parts were so obvious to him that he was a strenuous advocate of a strong central government for India. There were probably some

grounds at the time for this view. The acquisition of new territories and their consolidation under the British power required no doubt the strong direction of a central authority. Coorg was acquired in 1834, the North-Western Provinces were constituted in 1836, Sindh was annexed in 1843, the Punjab became a British Province in 1849, Lower Burma was acquired in 1852, the Berars were taken under British management in 1853, Nagpur and Oudh were annexed in 1854 and 1856 respectively. The period between 1833 and 1857 was therefore one of large territorial expansion and internal development. The control of the Home Government over the affairs of India through the Board of Control became fuller and closer and the Government of India, which became the central authority in India, had to take possession of these territories and establish a well-ordered Government in the various Provinces and direct the internal administration. The plea for strengthening the control of the Central Government and of the Home Government was, therefore, natural in 1853. The mechanism of Government constituted in 1858 was in accord with these sentiments. Under the terms of the Government of India Act, the superintendence, direction and control of the Civil and Military Government of India is vested in the Governor-General in Council, who is requested to pay due obedience to all such orders as he may receive from the Secretary of State. Every Local Government is similarly required to obey the orders of the Governor-General in Council and is under his superintendence, direction and control, in all matters relating to the



Government of its province. The Central Government of India is, therefore, directed by the Governor-General and his executive council, which consist of himself and 6 ordinary members with the Commander-in-chief added as an extraordinary member. The internal administration is carried on by Provincial Governments under the general supervision of the Governor-General in Council and these Provincial Governments are invested with various degrees of authority but in the control of financial administration they do not differ greatly. The Presidencies of Madras, Bombay and Bengal have certain privileges, which other provincial administrations do not enjoy and they come in the first rank. In the second rank come the United Provinces, Eastern Bengal and Orissa, the Punjab and Burma each governed by a Lieutenant-Governor with a Legislative Council. In the third rank come the Central Provinces and Assam each under a Chief Commissioner and also with a Legislative Council. There are also other minor administrations without any legislative functions. Under the present system of Indian administration, there is no statutory differentiation of functions or division of the revenues between the Central and Local Governments. The Central Government is the supreme authority under the Government of India Act and the Local Governments are its subordinate agents bound to carry out its behests. But, as a matter of convenience, the Central Government keeps in its hands the collection of certain revenues such as those of the salt in Northern India, Post, Telegraphs and Customs while it

leaves to the Povincial Governments the collection of the rest of the revenues. The income and expenditure of the Local Governments are incorporated into and form part of the income and expenditure of the Indian Empire and appear as such in the annual accounts of the Central Government. The Central Government keeps in its hands the expenditure of the Army, the Indian Marine, Railways and Telegraphs, Post Office and the Mint and expenditure relating to foreign affairs and the bulk of the expenditure on other branches of Civil Administration is incurred through the Provincial Governments. The Government of India is, therefore, a unitary system where the governing authority is a single unit which is supreme throughout the Indian continent, in all matters, local, provincial or imperial. The Local Governments are merely the agents of the Government of India. All administrative and governing functions are, therefore, centralized in the Government of India which in its turn is subject to the control of His Majesty's Government as exercised through the Secretary of State for India. Practically, no fresh legislation can be undertaken by the Governor-General in Council without the sanction of the Secretary of State and any new or important departure in policy, whether financial or administrative, can only be initiated with the consent of the Secretary of State. I have already referred to the close financial control exercised by the Secretary of State in Council. The centralization of functions in the Secretary of State and the Government of India has been condemned for years in the strongest terms and Lord Islington has very recently

declared that decentralization can no longer be delayed without serious danger. If control of the Legislative Councils is not conceded, further decentralization will constitute the Provincial Governments into a number of petty despotisms.

#### THE POSITION OF LOCAL GOVERNMENTS.

The reasons for a strong centralized administration which existed in 1858 do not now exist. The foundations of sound administration have been already laid in most provinces and half a century of peace, contentment and progress has made the introduction of systematized and uniform methods of administration possible. Even in 1858 the older Provinces raised a protest against the subordinate position to which they were reduced by the Government of India Act of 1833. Some of the witnesses called before the Parliamentary Committee in 1853 connected with local administration in the capacity of Governors and Members of Councils affirmed that the relations that subsisted between the supreme and the subordinate governments in India previous to the Government of India Act of 1833 should be restored, and that in consequence of the legislation of 1833, the dignity of the subordinate governments was lowered and weakened and that the business of the subordinate governments had been in a great measure taken away from those who were preferably competent to discharge it and lodged very much in the hands of the Secretary to the Government of India who had never given his mind to the subject and who had no qualification to decide upon these questions.

Mr. J. Sullivan, a former member of the Madras Council, also quoted the opinions of Sir Thomas Munro, Mr. Elphinstone and Sir Richard Jenkins, three very high authorities, who were of opinion that each Presidency should pursue the course best calculated to promote improvement in its own territory and that, by such means, a spirit of emulation will be kept alive and each may borrow from the other every improvement which may be suited to the circumstances of its own province. Mr. Sullivan added that the interference of the Central Government has sometimes brought ridicule upon it in the Madras Presidency and quoted instances in support of his position. This was the position so early as 1858.

Writing a few months ago on the subject, Lord Sydenham stated that a centralized administration which was probably necessary in 1853 has now become an administrative evil of very great dimensions. "The control of the Central Government over the Provincial Governments has become more meticulous and embarrassing and the Government of India is now a huge machine encumbered with details of every kind and ill adapted to fulfil the present requirements of India." For a parallel to the existing position Lord Sydenham asks us to imagine the Government of Europe excluding Russia, directed from Righi Kulm with a winter change of habitation to Rome. A radical change in the present organisation of Government is, therefore, necessary. The Royal Commission gave their adherence to the

continuance of the present constitution of the Indian Government and the remedies suggested by them by way of further devolution to Local Governments of a larger administrative financial control were not of any great value and are not certainly a permanent remedy for centralization. Notwithstanding every effort at decentralization, the controlling authorities are slow to part with their power if they have an option in the matter. The tendency of strong Secretariats to absorb the functions of subordinate authorities is the most cogent reason against the efficiency of devolution by administrative order. No Indian publicist will, therefore, differ from the severe condemnation of Lord Sydenham of the work of the Royal Commission. It was pointed out by him "that the Commission ignored the many federal systems now in operation which might have served as guides to statesmanlike recommendations." The Commission was unable to arrive at any conclusion on the main question. "The idea of authority wobbling from side to side in accordance with temporary expediency or the caprices of individuals is fatal to all sound administration". Fifty years of peaceful and orderly development of administrative methods have placed local administrations on a stable foundation and there is no longer any necessity for the Government of India to intervene in provincial administration. The Commissioners entirely failed to recognize the great administrative and political progress which had been made in India since 1858 when the present constitution of the Indian Government was settled by statute. This method of decen-

tralization can no longer serve as a potent instrument for releasing Local Governments from the control of the Central Government in matters of purely provincial concern and a statutory re-arrangement of functions between the two governing authorities is the only remedy. A statutory distribution of functions will give a new life to the activities of Provincial Governments and will result in a healthy rivalry for progressive administrative methods in the Provinces suited to their educational, political and social development. Provincial Governments will also gain in dignity as well as efficiency and they will be released from the present centralized control to develop on their own lines and to devote themselves to those subjects which intimately concern the well being of the people of the provinces. It is only in this manner that the ultimate independence of the Provinces can be secured. Such a devolution, while avoiding matters of Imperial concern, would relieve the Government of India of a great portion of its present activities and enable it to give its time and energy steadily to the wider concerns of the great continent committed to its care.

#### A FEDERAL SYSTEM FOR INDIA.

Great and momentous changes of constitution and government are now under discussion in the British Empire, and India is not behind the other portions of the Empire in her hopes and aspirations for a united Indian Nationality. Autonomy is the keynote of England's relations with her great Colonies and India wishes for a national government to work out

its own destiny as an integral part of the British Empire. It is not small administrative changes that are now called for. It is the duty of British statesmen to formulate a large and comprehensive scheme of constitutional reform and evolve a good constitution for Indian Government containing the elements of stability and flexibility, so very essential to national life. A constitution creates the political machinery through which the community controls its life, and where it is out of date and not in harmony with public sentiment, it is certain to create unrest and bitterness. Lord Islington pointed out recently that India's political future should be in consonance with the ideals of the British Empire. The two dominant ideals which have profoundly affected the growth of political organisations in the British Empire are federalism and nationalism. Both these ideals have exercised a great influence over the administrative and legislative arrangements of the component parts of the British Empire and Lord Islington's recent speech shows the influence of these ideals on the Indian constitutional reforms now under consideration. He said that he looked forward to the reorganisation of the Government of India more on the lines of the federal constitution of Australia and to the creation of self-governing provinces in India and the elimination of the bureaucratic system of administration. The Government of India now holds the dominant position of a controlling authority over Local Governments. The separation of the true functions of the Central Government from those which legitimately

fall within the sphere of provincial administrations has been effected elsewhere by the adoption of the federal system. Such a statutory differentiation of functions has long been overdue in India. Lord Islington is not, however, the first authority who has suggested a federal constitution for India. The suggestion for a federal system from an administrative standpoint is not new to those familiar with the growth and development of British Indian administration since the assumption of direct sovereignty by the Crown.

It has had ample support from very experienced Anglo-Indian administrators of three or four generations.

#### ANGLO INDIAN OPINION.

Sir George Chesney was one of the earliest Indian administrators who recognized the value of the political development of India as a federation of States under the general controlling authority of the Government of India with local autonomous administrations possessing considerable financial and administrative powers. He was greatly responsible for the policy of decentralization inaugurated by Lord Mayo in 1870. He urged that India could be governed far better by a series of presidential governments than by one central authority and in support of his views used arguments of a more far-reaching character. "When the time came, when the power of England would be withdrawn from India, it was the duty of Englishman to this country," he pointed out, "to endeavour, if possible, to build up a series of nationalities so that when the all controlling and



dominant power of Great Britain should be withdrawn, there should remain in each Presidency a distinct organized nationality which should be able to sustain for itself a Government and to perpetuate order." Sir George Chesney discussed the possibilities of a federal system in India under the rule of Indian states and under British rule. In speaking of the former, he thought that it would involve the entire recasting of the existing political and administrative arrangements and he therefore thought that the existing provincial administrations should undergo a course of development from their present subordinate condition to a state of independence or to a state almost independent of any central authority. He also discussed in detail the limitations necessary to provincial independence and came to the conclusion that for the control of military and diplomatic operations, for the management of the customs and the maintenance of Imperial establishments of Posts and Telegraphs, and for the superintendence of Indian railways, a unity of administration or some central authority was necessary. He recognized that a system of federal military contingents was not practicable and was also of opinion that a purely federal system of revenue would not be fair to the provinces in India especially as some of them were not self-supporting, but he conceded the possibility of a federation of the Governments to settle the affairs common to all and to determine the share of the burdens to be borne by each province. But the objection he saw to this course was that a body so constituted would consist of delegates from a congeries of paid officials, there being in his time no

elements of representative Government in provincial administrations.

Twenty years later, Sir John Strachey expressed the opinion that a time must come when in regard to many ordinary matters of internal administration each province of India would be virtually almost a separate state. Such a step, he said, was necessary to secure a largely increased measure of political security without the sacrifice of any part of that supreme authority of a central government which it was essential to maintain.

Referring to the tendency towards decentralization in Indian administration which he thought was firmly established, another Anglo-Indian administrator of eminence, Sir Henry Cotton, expressed his views in 1904 on political reconstruction in India which are of great interest to us at the present day. He was of opinion that India was eventually bound to resolve itself into a federation such as that prevailing in the Commonwealth of Australia and in the Dominion of Canada. Provincial representative Government, he said, would gradually lead to the development and definition of the peculiar idiosyncrasy of each federated state and he appealed to his countrymen to guide and facilitate this transition. Sir Henry Cotton's ideal of political reconstruction of India is a federation of states under the supremacy of England.

These were the opinions of thoughtful Indian administrators in favour of a federal system of government in India. At a time when the divergent factors of Indian civilization appeared to make the

possibilities of corporate life and united action somewhat remote and before modern conceptions of nationalism were as yet recognized, John Bright had held the view that India must consist of independent and autonomous provinces each directly dealing with the authorities in England. In relation to modern conceptions such a view would merely amount to the recommendation of a federal system of government.

Sir Walter Lawrence put forward sometime ago a proposal that British India should be constituted into a number of autonomous Native States under hereditary monarchs and thus form a federated union within the Empire. This plan is not altogether without charms of its own but the scheme is conceived apart from practical politics. Even if it were not wholly visionary, a monotonous casting of all the states in a uniform mould would remove those elements of variety which make possible a spirit of healthy and mutual emulation. The democratic spirit engendered by western ideals will have to be counted with at the present day and no form of government which will not ultimately lead to the establishment of democratic rule will now be acceptable.

#### THE GOVERNMENT OF BOMBAY.

The strongest indictment against the present system was really made by the Government of Bombay presided over by Lord Sydenham in a memorandum submitted a few years ago by that Government to the Royal Commission on Decentralization. The Government of Bombay made many

constructive and valuable suggestions on the functions of the Central and the Local Governments:—

They pointed out that a central Government of India was not competent to deal with the multifarious conditions of different provinces and that all the modern schemes of government contemplated the governing of large masses of people as far as possible in harmony with the ideas of their leaders and representatives. The executive control exercised by the central government has resulted in a uniformity of system in all branches of administration irrespective of the varying degrees of progress of the different provinces. The new forces which have arisen in India make elasticity essential to a sound system of administration. The Government of Bombay, therefore, were of opinion that the time had arrived for a better differentiation of the functions of administration between the central and the local Governments and for relieving the local Government, in all matters that related to Provincial administration, of a centralized control that frequently tended to run counter to local opinions and requirements. It was pointed out that continents such as America and Australia had solved the problem by a definite allocation to a central Government of all functions that could not be localised and that India more heterogeneous than either and containing a population many times more numerous, was in greater need of a similar organisation of Government in this country. The Government of Bombay stated that modern tendencies were evidently moving in the direction of forms of Government which placed the fullest powers as low down in the administrative scale as could safely be arranged, such powers alone being centralized as could not be efficiently exercised otherwise. Local Governments cannot efficiently arrange for defence, for negotiations with foreign powers, or for any branch of the administration in which uniformity is the chief essential, *e.g.*, currency, postal arrangements, customs, tariffs, merchant shipping, laws and rules. On the other hand, where uniformity or central control is not clearly essential, or is impracticable, all centralization involves, and must necessarily

involve, a serious sacrifice of elasticity. Further by centralization all progress tends to be retarded, all initiative is liable to be checked, and the sense of responsibility of the local authorities is greatly impaired. Above all, centralization in a country so large and so populous as India, unless greatly circumscribed must lead to inefficiency and to the wielding of undue power by subordinates. The Government of India at a great distance from the Provinces possessing no representative character and frequently not containing a single member with any real personal knowledge of great territories such as Bombay or Madras, must inevitably be out of touch with local public opinion in those areas. In so far as it lays down principles and adopts measures not already formulated by the Local Governments or refuses to sanction measures deliberately recommended, the Government of India incurs a grave risk of running counter to local feeling. The dependence of local Governments on such a distant central authority in matters of chiefly local concern tends to become an unmixed evil.

The Bombay Government, therefore, urged that the time has arrived for relieving the local Governments in all matters, that relate to provincial administration of a centralized control.

The Bombay Government, therefore, proposed the allocation of the functions between the Central and local Governments, respectively, as follows:—

#### THE CENTRAL GOVERNMENT.

- (1) Army and navy, armaments and equipments,
- (2) Banking and Bankruptcy, (3) Civil works (Imperial), (4), Coinage, (5) Currency, (6) Customs,
- (7) Defence, (8) Ecclesiastical, (9) Foreign relations, including relations with Native States outside the Province, (10) Immigration and Emigration,
- (11) Merchant shipping, (12) Meteorology, (13) Opium External, (14) Patents and Copyright, (15) Post and

telegraphs, (16) Penal laws of the country, (17) Rail ways, (18) Salt and other monopolies, (19) Stamps, (20) Statistics including census and bureaux for the collection and dissemination of information, (21) Imperial Services, Superannuation and other Home Charges, (22) Imperial taxation, (23) Trade marks.

#### FUNCTIONS OF THE LOCAL GOVERNMENTS.

All functions not centralized, including full control of the following :—

(1) Assessed Taxes, (2) Civil Works, (3) Courts of Law, (4) Education, (5) Excise, (6) Forests, (7) Irrigation, (8) Jails, (9) Land Revenue, (10) Marine (local), (11) Medical, (12) Municipalities and District Boards, (13) Police, (14) Political relations with States in the Presidency, (15) Registration, (16) Scientific and Minor departments excluding Meteorology (17) Stationery and Printing, (18) Superannuation Provincial Services and any other matters not assigned to the Central Government.

#### THE ROYAL COMMISSION

These views of the Bombay Government on one of the most vital problems of administrative reform received very little consideration from the Royal Commission on Decentralization. It is true, as pointed out by the Commissioners, that the powers of the two Presidency Governments of Bombay and Madras, were materially reduced since 1833, but those of the other major provinces are decidedly larger than they were fifty years ago. But they came to the conclusion that it was of paramount importance that the relations between the Government of India and the

Provincial Governments should be readily adaptable to new and changing conditions and should not be stereotyped by anything in the nature of a rigid constitution. They contended "that the mutual relations of Indian Governments were not those of States or Colonies voluntarily associated in a federal system where a written constitution was necessary to preserve original rights of the contracting parties" and that "in India, the Provincial Governments should remain subject to the general control of the Government of India in all respects and their functions and powers should be variable by the Central Government or by the Secretary of State as circumstances require." These recommendations of the Decentralization Commission were not justified even when they were made; much less so now. The development of a federal system has proceeded not only from communities which were previously independent, but also under the influence of a sentiment of nationality in States which were previously of the unitary type, but without any interference with local liberties. The Royal Commission appear to have taken the view that their proposals for decentralization should fit in with the existing Indian constitution and that it was not within their sphere to enquire into the system of control exercised by the Secretary of State over the Indian Governments and that their duties mainly related to an enquiry into the financial and administrative relations of the Government of India and the Provincial Governments. The disabilities of Provincial Governments relate equally to financial, administrative and legisla-

tive matters. They cannot levy taxes and they are not the masters of their revenues. They have no powers of borrowing or lending and have to expend the grants made to them under the strict supervision and guidance of their masters. In a word, they are merely the executive agents of the Government of India. In matters administrative also, their disabilities are equally characteristic. In the field of legislation, the Government of India possess concurrent powers to make laws for the provinces. Every measure of legislation, however local and limited in scope, has to be submitted beforehand to the Government of India for its administrative sanction before it is introduced into the local legislatures. The evils resulting from the existing conditions of centralized authority have been referred to at length already. The remedy, in short, is the establishment of a system of federal Government in which all these functions that could be localized should be assigned to the Provincial Governments and all those that could not should be assigned to the Central Government.

#### THE NATIONAL MOVEMENT.

The adoption of a federal system for India is very much more easy in the present political condition of this country than it was in the case of other federal unions in the British Empire. A federal form of polity has been rendered necessary elsewhere by the need of strength in external relations, where there are adjacent communities anxious to preserve a real independence, but afraid of proving too weak in isolation to hold their own with powerful States in



their neighbourhood. A well balanced and stable constitutional division of governmental functions between the common government of the whole and the separate government of the parts is much more easy of development under the present Indian constitution where the existing Provincial Governments have no independent position and cannot assert any pre-existing rights. The unity of India in external relations has already been established, and it is the development of independence of each part in its internal affairs that is now so much needed. It is unnecessary to go into the history of ancient polity. The ancient kingdoms were independent political organisations but nevertheless common historical traditions rather than a biological descent, a substantial unity of culture in life, a community of sympathies and ideals have always prevailed in India. The establishment of British power in India has led to the development of a homogeneous political organisation which has never existed before in this country. The whole thought and spirit of the Indian mind has been changed by the development of a single government throughout India and the great national movement which began with the establishment of the Indian National Congress in 1885 is the greatest achievement of British rule in India. Sir Henry Cotton, as President of the Indian National Congress in 1904, referred to the growth of political ideas in this country and has truly observed that "the ideal of an Indian patriot is the establishment of a federation of free and separate states of India on a paternal footing with the self-governing colonies

each with its own local autonomy connected together under the ægis of Great Britain. That is a forecast of the future, dim and distant though it be, the gradual realisation of which it is the privilege of Government to regulate and the aim and hope and aspiration of the Indian people to attain." A federal system by which the independence of the Provincial Governments in their internal affairs is established will, therefore, be welcomed by political reformers of all shades of opinion in this country.

#### A SUB-NATIONAL MOVEMENT.

India is a vast sub-continent with a congeries of separate nationalities, having different religions, languages, sentiments and idiosyncracies. In area India is greater, by 12,000 square miles, than the whole of Europe excluding Russia. Of this area 61.5 per cent. is under British administration and 38.5 per cent. under the Native States. The moral, social, industrial and political development of the various Indian races is a task of the greatest magnitude. The establishment of autonomous administrations with a back-ground of national feeling and sentiment has also been advocated by Indian reformers. It has been proposed that the habitat of each race or each large linguistic area should be a separate self-governing unit in a federated India. The formation of linguistic and ethnological provinces has distinct advantages for the purpose of education and government and a political reconstruction of India on a linguistic and ethnological basis is necessary. A redistribution on these lines has been advocated for several years by Anglo-Indian administrators. So early in 1878, Sir George Chesney

recommended the constitution of Orissa as a separate province and Sir Francis Younghusband urged before the Royal Commission on Decentralization the formation of Sind as a distinct Administration. Sir Thomas Holderness, the permanent Under Secretary at the India Office, writing before the partition of Bengal observed, "that, with the exception of Burma no province represents a natural unit; that is to say that the provinces do not stand for differences of race or language or geographical distribution and entity. They are purely administrative divisions of territory. An Indian province is not what we mean by a nation though it tends to create a provincial spirit which is not far removed from the beginning of national life." These ideas were also put forward by non-official public men before the Royal Commission on Decentralization not only as a very desirable measure of administrative reform but as a stimulus to the growth of national sentiment. The present territorial limits of Provincial Governments in India are by no means satisfactory and are due to many historical accidents.

There is now a movement to secure a redistribution of Provincial areas on more natural lines by grouping the populations speaking the same language and having the same traditions, manners and customs under the same administration. The case for such a redistribution has been set out in a note presented to the Indian National Congress by the standing committee of the Andhra Conference which will be found in one of the appendices. The problem of a federation of the Indian people can only be fully achieved

by a rearrangement of administrative areas more in accord with racial and linguistic affinities.

#### THE CONGRESS SCHEME.

The scheme of reforms framed by the Indian National Congress and the Muslim League has asked for changes which must eventually lead to the establishment of the federal system. It is suggested in that scheme that the Government of India should, as constituted under this scheme, be, as far as possible, independent of the Secretary of State in legislative and administrative matters and it should not ordinarily interfere with the internal affairs of a province. Under the Congress Scheme the Government of India should be the repository of all residuary power as Provincial Governments are to exercise only such powers as are specifically assigned to them under the proposed constitution. The functions exclusively assigned to the Government of India and the Imperial Legislative Council are: (a) matters in regard to which uniform legislation for the whole of India is desirable such as the penal and property laws of the country, the post, the telegraphs and railways; (b) legislation in so far as it may affect inter-provincial fiscal relations: (c) questions affecting purely imperial revenue and expenditure, (d) matters relating to Indian tariffs and customs duties, currency and banking, in fact, the whole group of questions relating to the fiscal, industrial and currency policy of the Government. The Congress Scheme makes provision, as far as possible, for the existing spheres of activity of the Government of India and seeks to obtain a clearer

demarcation of the functions of the Government of India and the Provincial Governments.

THE IMPERIAL SERVICES.

The last point that remains to be noticed is the Constitution of the Imperial services.

The abolition of the Secretary of State's Council which has been proposed by Mr. Gokhale and which has been also advocated by the Congress and the Muslim League is bound to raise important questions relating to the recruitment of the public services. One of the objects which the framers of the Government of India Act had in creating the Secretary of State's Council in 1858 was the disposal of patronage relating to the various public services in India. The appointments to the various civil services had always been a matter of great trouble and anxiety to the Court of Directors and the Board of Control and under the provisions of the Government of India Act relating to the constitution of the Indian Civil Service the Secretary of State in Council is empowered, with the advice and assistance of the Civil Service Commissioners, to make rules for the Indian Civil Service examination and to make appointments to the Indian Civil Service. In regard to the other Imperial services also such as Education, Police, Agriculture, Forest, Civil Veterinary, Geological, Survey, the Military, Finance and the Indian Medical Service, the Secretary of State in Council makes appointments in London and hardly any appointments are made to these Imperial services in this country. Notwithstanding statutory and royal declarations and Parliamentary pledges from 1833 the wider employment of Indians in the

higher administrative posts has not been achieved to any great extent and the position will be fully set out in dealing with the question of public services. If the proposal for the abolition of the India Council is carried out the statutory power of making appointments must be vested in the authorities in India and the Governor-General in Council is naturally the authority to whom this power should be transferred. The Congress and Muslim League have, therefore, proposed that this power should be vested in the Governor-General in Council and the appointment to the Imperial Civil Services should be made subject to laws that may be passed by the Indian Legislative Council. The Indian view has been recently set out by Mr. Justice Abdur Rahim in his dissenting minute to the report on the Royal Commission on the Public Services. That view is "that the importation of officials from Europe should be limited to cases of clear necessity and that the question for consideration is in which services and to what extent should appointments be made from England." Mr. Justice Abdur Rahim says: "The suggestion involved in the majority's point of view is that special measures are necessary for finding employment for Indians in the administration, and that the practical question, therefore, is how many or how few posts are to be handed over to them. On the other hand, the view which, upon a review of situation, has forced itself on my conviction, is that, if Indians have not established a footing in the higher ranks of administration, it is not through their own fault; it is due to barriers of many sorts that have been raised in their way. It will be sufficient if

the disabilities be removed and the doctrine of equal opportunity and fair dealing be established as a practical measure. No special protection or favour will be necessary if the need for the protection is guarded against." This view can successfully prevail only where the appointing authority is located in India as proposed in the Congress scheme. This does not mean that European agency would not be employed in the various public services in this country by the Government of India to the extent that may be required in the interests of this country. If, however, the Governor-General in Council is the authority in this matter, he will be forced by insistent public opinion to examine year after year, the Indianising of the services as far as possible and to give effect to the recommendations of the Royal Commission and to the past declarations much more faithfully than has been done in the past. The Secretary of State in whom the power of appointment is now vested is practically beyond the pale of public criticism of this country and any number of Royal Commissions are not likely to do justice to Indian claims so long as this power is vested in him. On the other hand, the Government of India is continually in touch with the public sentiment in this country and is more likely to respond to Indian aspirations and to gradually lessen the employment of the European agency and to expand the necessary educational agencies for the recruitment locally of competent indigenous talent in these services. The Civil Service organisation is an integral part of the present Indian administrative agency and it must be

within the competence of the central government to take care of its efficiency. This arrangement would enable the Government of India to employ such European agency as may be necessary in the administration of this country and to afford the solution for a number of complicated problems.



## CHAPTER VII.

### THE CENTRAL LEGISLATURE.

"The Government of India is too wooden, too iron, too inelastic, too ante-diluvian, to be of any use for the modern purposes we have in view. I do not believe that any body could ever support the Government of India from the point of view of modern requirements."

You cannot reorganise the Executive Government of India, remodel the Viceroyalty, and give the Executive Government more freedom from the House of Commons and the Secretary of State unless you make it more responsible to the people of India."—THE RIGHT HON'BLE MR. MONTAGU *in the House of Commons, 1907.*

I now come to the group of questions relating to the central legislature. They are:—(1) The relations of the central legislature to the executive government, (2) the scope of its authority and (3) its composition. At the outset it is necessary to point out the nature and scope of the Congress scheme in regard to the maintenance of the supremacy of the British Government in India.

The Congress scheme has been very much criticised on the ground that it involves catastrophic changes in the administration of this country and that the similar proposals of the 19 members are iconoclastic in their nature and are inconsistent with the maintenance of British supremacy. If our critics had looked carefully into the scheme, they would have noticed that the changes proposed will not confer responsible government nor do they involve material changes in the position of the Governor-General in Council. The Government of India's direction of the military affairs and the foreign and

political relations of India including the declaration of war, the making of peace and entering into treaties are all excluded under the scheme from the purview of the Indian Legislative Council ; these supreme functions of the central government are left entirely to the executive governments and are placed outside the sphere of popular control and the Indian Legislative Council cannot bring these matters under discussion now nor under the proposals of the Congress. In these matters, the Government of India would continue to act under the directions of the Secretary of State as the mouthpiece of His Majesty's Government. The supreme direction of affairs in regard to the external relations of the country and the military organisation which is necessary for the maintenance of peace and order are thus safeguarded. There is, therefore, no proposal to deviate from existing constitutional conditions for the maintenance of British supremacy. In regard to other matters of general legislation and administration falling within the scope of the functions of the central government such as immigration, emigration, railways, post and telegraphs and customs and excise, the Congress and Muslim League proposals aim at placing the central executive under the control of the central legislature. These are essentially matters which affect internal progress and administration, and there is no reason why, in these spheres of activity, the voice of the representatives of the people should not prevail. Even in 1907, the Government of India expressed the opinion that "they had every hope that the confidence they are willing to place in the intelligence

and public spirit of the non-official members will be justified and that the increased responsibility will bring with it the requisite forbearance. We (the Governor-General-in-Council) believe that on all ordinary occasions the Government may reckon with practical certainty upon securing sufficient non-official support to enable them to carry on the work of legislation with a council containing less than the full quota of official members and we are willing to give the system a fair trial. Our specification of the council has been framed accordingly. The provision that, of the nominated members not more than fifteen shall be officials, will enable us to dispense with the official majority for ordinary purposes and we anticipate that it will hardly even be necessary to appoint so large a number of officials as would secure an absolute official majority. In short, we propose to work normally with a minority but to secure power, in the last resort, to transform it into a majority."

## LORD MORLEY.

Lord Morley was of opinion that it was essential that the Governor-General's Council in its legislative and executive character, should continue to be so constituted as to assure its constant and un-interrupted power to fulfil the constitutional obligations that it owes and must always owe to His Majesty's Government and the Imperial Parliament. He, therefore, decided that there should be a permanent official majority. This view is evidently based upon the assumption that His Majesty's Government in England should continue, through the Secretary of State, to

exercise the same close control on the domestic affairs of this country. At the time of the Minto-Morley Reforms, there were no proposals for lessening the control of the Home Government and for increasing the powers of the Government of India, and Lord Morley was naturally anxious that the Government of India should have the power, by means of an official majority, to carry out in the Legislative Council any policy that may be dictated by the Secretary of State. The supremacy of the Home Government is still maintained in the vital matters of peace and war and the military organization of the country. But barring these matters, the proposals of the Congress aim at securing to the Government of India and the central legislature complete freedom, as far as possible, in the domestic administration of the country and the abolition of the Secretary of State's Council has been, therefore, advocated by the Congress and also by Mr. Gokhale.

#### MR. GOKHALE'S SCHEME.

Under Mr. Gokhale's scheme which has just been published, the Indian Legislative Council will still have an official majority, but he proposes that the legislative assembly should have opportunities of that discussion of questions connected with the army and navy. These questions are now outside the scope of discussion of that body. There is thus an essential difference between the Congress scheme and Mr. Gokhale's. The Congress proposals safeguard the present supremacy of the executive government in matters relating to army, navy and foreign relations but in regard to other matters of general or federal adminis-

tration relating to the whole of India such as the customs, excise, post and telegraphs, railways, irrigation and other imperial services, the central government should bend to Indian public opinion as expressed in the Indian Legislative Council. The decision in these matters relating essentially to Indian affairs as a whole by the Indian Legislative Council will not in any way jeopardise Imperial interests. To this extent Mr. Gokhale's scheme is at variance with the present Indian public opinion as expressed in the scheme of the Indian National Congress and the Muslim League. The abolition of the Secretary of State's Council or a material reduction of his powers must automatically increase the powers of the governing authorities in India and unless they are subject to the control of the legislature, the Government of India will become an autocracy in matters which are essentially within its own sphere as a central government.

It will be seen, therefore, that the Congress scheme does not interfere with the Government of India's direction of military affairs, the foreign and political relations of India including the declaration of war, the making of peace and entering into treaties with foreign powers. Even under the present law and regulations, the Indian Legislative Council cannot make any law affecting any act of Parliament or any act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India or to make any law affecting the sovereignty or dominion of the Crown over any part of British India.

The Indian Legislative Council cannot discuss any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any foreign state or any native state in India. These provisions are not in any way affected by the Congress scheme of reforms and the position of the paramount power in these vital points is fully maintained.

#### OTHER QUESTIONS.

The question is whether in the other spheres of general Indian administration such as the customs, the fiscal, the financial and the economic policy of the Government of India, the voice of the Indian Legislative Council should not prevail. If a beginning is to be made in establishing self-government in India, the Secretary of State should no longer be in a position to dictate the fiscal, the financial and the currency policy of this country. These are essentially domestic questions which each self-governing unit in the Empire must decide for itself. In these matters, India must be placed exactly in the same footing as other self-governing dominions within the Empire. This is the essence of any scheme of self-government and if this is to be conceded, the Indian Legislative Council must, in these essential matters, decide the policy of the country and they cannot certainly be decided by the executive government. Even as it is, these questions have, since the Minto-Morley reforms, been continually coming up for discussion in the Indian Legislative Council and an organized public opinion on these broad questions affecting the well-being of the country has established

itself. Sir Vitaldas Thackersey, Sir Dinshaw Wacha, Sir Ibrahim Rahimtulla and other leading commercial men and the late Mr. Gokhale have repeatedly claimed, in the Indian Legislative Council and elsewhere, that India must decide her own fiscal and economic policy from her own standpoint. Since the Minto-Morley Reforms, the present dominant position of the Home Government is becoming more and more untenable. The Government of India has now become responsible for Indian public opinion but it still remains absolutely under the domination of the Secretary of State. The Government of India is often forced to defend, at the bidding of the Secretary of State, a policy in the Legislative Council with which it is not in agreement. It is powerless especially in financial matters to meet on its own responsibility, the insistent public opinion of this country. After hearing the first Budget debate of the enlarged Imperial Legislative Council, Sir Valentine Chirol expressed the opinion that "when Lord Morley introduced his Indian reform scheme, a section at least of the party to which he belonged supported it not only on general grounds, but more especially in the belief that it would strengthen the hands of the Imperial Government in dealing with the hide-bound officialism of which the Government of India is, in the eyes of some British radicals, the visible embodiment. None of them, probably, anticipated that the boot would be on the other leg. If the Government of India have sometimes sacrificed Indian interests to British interests, it has been almost exclusively in connection with the financial

and fiscal relations between the two countries, and often against the better judgment and sense of justice of Anglo-Indian officials. In this respect the enlarged Indian councils will lend far greater weight than in the past to any representations which the Government of India may make at Whitehall." It is not so easy to a Secretary of State at the present day, as it was to the Duke of Argyll in 1870, to ask the Governor-General to introduce any measure desired by the Home Government and to carry it in the council by the votes of the official members. The new council is the forum in which the Indian representatives discuss their country's affairs and their informed criticism has come to be recognised by the Government as a great force to be counted with. The dictation of any policy adverse to the interests of India will no longer be accepted without public protest in the council.

The Government of India, assisted by the Indian Legislative Council, will hereafter speak with growing authority as the exponent of the best Indian opinion within the limits compatible with the maintenance of British rule and its voice will not, therefore, ultimately carry less weight in England than the voice of the self-governing dominions in all questions concerning their internal development. Sir Valentile Chirol came to the conclusion that: "The future of India lies in the greatest possible decentralization in India subject to the general but unmeddlesome control of the Governor-General in Council, and in the greatest possible freedom of the Government of India from all interference from the authorities in the United Kingdom except in regard to those broad principles of policy which it must always rest with the Imperial Government, represented by the Secretary of State in Council, to determine."



## LORD HARDINGE'S VIEWS.

In fact, since the introduction of the Minto-Morley reforms, signs of this change in the position of the Government of India in relation to the Home Government are already visible. On more than one occasion, Lord Hardinge faithfully reflected the public opinion of this country on questions in which it differed widely from the views of the authorities in England and he took up an attitude scarcely consistent with that of a docile and submissive agent of the Home Government. His speech in Madras on the South African question and his pronouncement on the subject of the constitution of an executive council for the United Provinces after the rejection of the proposals by the House of Lords are instances on the point and showed that he was speaking with the whole country at his back. His protest against the action of a small body of Peers in the House of Lords in throwing out the proposal for the constitution of an executive council for the United Provinces has now become historic and his plea for a modification of the law which enabled the House of Lords to veto a proposal accepted by the Government of India and public opinion in this country shows the strength of Indian political conditions at the present day.

The Government of India cannot, therefore afford hereafter to ignore the growing and insistent public opinion in this country in the many matters of internal administration which are continually under discussion and the interference of the Home Government is certain to bring the Government of India and the people into conflict more often than hitherto. The Secretary of State, it is true, as the spokesman of the British Cabinet and of Parliament, has still the right to enforce his decision on the Indian Legislative Council at any time when he likes and to call upon the official majority to carry out his wishes in the council. The

exercise of this right in opposition to public opinion in India is certain to lead to very undesirable results and also to discredit the Government of India.

#### FISCAL POLICY

One of the questions which has been discussed during the last 40 years is the fiscal policy of the country. This policy is now determined by the House of Commons. The Secretary of State, as the mouthpiece of the Government of the day, has had occasion to force the fiscal policy of Great Britain on the government of this country. India has demanded for a long time a new fiscal and economic policy and complete freedom in dealing with her own fiscal requirements. The Indian National Congress adopted a resolution in 1915 in favour of fiscal autonomy being conceded to the Government of India. The self-governing Colonies have enjoyed this right, but the fiscal policy of India is determined more by the interests of Lancashire and Manchester than by those of India. The future industrial possibilities of India depend very much upon liberating her from the economic domination of other countries, who are now able to force their manufactured goods on this country. The imposition of the cotton duties in 1895 had been regarded by the people of India as a telling example of the way in which the Home Government had subordinated the interests of India to those who have votes in the House of Commons. The removal of these duties by the Government of India this year was only possible on account of the peculiar conditions created by the war. Mr. Chamberlain had to rely upon Lord Hardinge's exposition of the strength of the public feeling in this country on the subject and was obliged to make a stirring appeal for the redress of this grievance, which has ranked in India for nearly 40 years and which has left the British Government under the aspersions that where the interests of Great Britain clashed with

the interests and aspirations of the people of India the English statesmen are ready to sacrifice India, to save their electoral fortune. Mr. Asquith's motion for a reconsideration of the subject at the end of the war when the economic relations of all the component parts of the Empire would come under review is really a temporary truce. The question may be revived at any time but a proper solution of the problem is to put matters like this, by a suitable amendment of the Government of India Act, beyond the pale of discussion in Parliament. The Secretary of State should no longer be in a position to dictate to the Government of India what the fiscal and industrial policy of this country should be. This must be decided by the Government of India, who, it must be gratefully acknowledged, has raised its voice now and then against the unjust treatment meted out by the Home Government to India. England's financial and fiscal relations with India are dominated by the exigencies of English political life and India has been often brought within the cockpit of parliamentary politics very much to the detriment of this country. The interference of the Secretary of State has also practically brought to a standstill the activities of the Local Governments in pursuing an active policy in the development of Indian industries. The Ootacamund Industrial Conference summoned by the Madras Government in 1908 framed a definite programme of industrial education and development in that Province. The proposals were supported by the Government of India, but the Secretary of State vetoed the whole scheme on grounds more or less academical. This decision upset the programme of the Local Governments in India in regard to industrial expansion.

## INDIAN CURRENCY POLICY

The present position may be further illustrated by a reference to the group of questions relating to Indian finance and currency in which there has been a wide divergence of opinion between those who look at these subjects from the Indian standpoint and between the Secretary of State and his financial advisers. The history of the Indian financial and currency system since 1893 has been the subject of continuous discussion between the Government of India and the Secretary of State in Council and Indian publicmen and businessmen had expounded views of their own, which have not found acceptance with the authorities. The closing of the mints to the unrestricted coinage of silver to remedy the fall of the gold value of the rupee, the agitation for the reopening of the Indian mints to the coinage of silver, the steps taken for giving fixity to the exchange and for the effective establishment of a gold standard in India have all formed the subject of acrimonious discussion by students of Indian economics. In these matters and also in regard to the maintenance of a gold standard reserve and its investment in securities in London, the final authority is now the Secretary of State in Council. Similarly the investment of the balances in the hands of the Secretary of State in London and the purchase of silver by the Secretary of State in London have been attacked in India as prejudicial to Indian commercial interests. The position of India is now being vigorously stated in the Indian Legislative Council and it will no longer be easy to resist the authority of the Government of India to settle these important questions in the light of Indian public opinion and in consultation with businessmen and experts. The requirements of trade, commerce, currency and finance are so inter-related that a decision come to

by the authorities in India on a consideration of her position and wants will be much more acceptable to the public at large than the decision of an authority six thousand miles away from the spot.

The retention of large powers over the administration of Indian finance with the Secretary of State in Council is no longer compatible with the growing public opinion in India and with the setting up of a legislative council of a representative character thereby making the Government of India more susceptible to organised criticism and attack.

## SIR STANLEY REID.

In his evidence before the Royal Commission on Indian finance and currency, Sir Stanley Reid, the present Editor of the *Times of India*, pointedly referred to the connection between Indian finance and Indian politics. Sir Stanley Reid stated that India had undergone a profound revolution during the last 15 years and that he referred to a writer in the "Times" who said that "the recent constitutional changes in India make it most dangerous to adhere to the old methods of secret bureaucratic administration. During the past few years, the leaders of the educated classes in India have been invited to assist the administration with their criticism and advice and every effort is made to furnish them with information and aid which they require for the effective performance of these responsibilities. But when the question relates to the Secretary of State's financial transactions, they find themselves in a different atmosphere. "The Secretary of State reserves entire discretion," "the India Office will not agree to that;" "the matter rests with the Secretary of State;" they have to be content with such phrases as these. Sir Stanley Reid was also of opinion that the administration

of a large part of Indian finance by the Secretary of State is undesirable as being opposed to the true principles of parliamentary control over India. The finance committee of the council, the organisation and the function of which recently came under consideration by the Royal Commission on Indian finance and currency, is the body which transacts most of this business now. Here again the question is how much of the financial business now transacted by the finance committee in London should be left to the Government of India. The Secretary of State's financial control should be limited to the extent to which it may be necessary to enable him to discharge, in England, the obligations of this country. There is no longer any need for maintaining the excessive financial control over the administrative departments of the Government in India and over the growth of capital expenditure in this country. The Government of India must be the final authority in deciding all matters of financial policy and taxation and the objects of capital expenditure, the Indian revenues being, however, made available to the Secretary of State for discharging the debts incurred and to be incurred by him for India.

It is for these reasons that the Indian National Congress and the Muslim League claim that with regard to these important *i.e.*, questions of the fiscal, financial and currency policies, India should work out her own salvation. That policy should be decided by the Government of India and the Indian Legislative Council should have a controlling voice in these and other questions arising within the sphere of the functions assigned to the central government. The conceding of these powers to the Indian Legislative Council will be an act of bare justice to the people of India.

## THE EXECUTIVE AND THE LEGISLATURES

The most important objection urged against the Congress-League scheme refers to the relation of the legislatures to the executive government. Under the reform proposals of the Indian National Congress and the Muslim League, the European members of the executive councils and of the Local Governments and of the Government of India will continue to be appointed by the Crown. A proposal has been put forward that the Indian element of the executive councils should be elected by the elected members of the legislative councils. The reason for the introduction of this novel principle in the selection of the executive officers of the Crown is that some of the Indian appointments made after the Minto-Morely reforms did not command public confidence. With representative institutions in this country, it is no longer possible for the executive government to go on in the old way. The Government has to be fully alive to public opinion and public sentiment and unless the Indian members are in the public life of the country and sympathise with the political aims and aspirations of the people, it is certain that there will be no harmony between the Government and the legislative councils. Much of the discontent with the executive government in India at the present day is due to the fact that it is merely an administrative body without any political outlook. It is for these reasons and with a view to make the task of the Government smoother than it is at present that this proposal has been made. The suggestion for an elected executive has been adversely criticised in many quarters and it may be admitted that it is open to obvious objections. An elected executive is not, it has been urged, in accordance with British practice and Lord Islington laid a good deal of stress on this aspect of the case. But British ideals in this respect appear to be changing.

In the South African colonies, the executive is elected by the Legislatures and a proposal for an elected executive has also been recently put forward in the United Kingdom. In an article in the "Edinburgh Review" on political reconstruction in December 1915, the Editor suggested a more efficient control of Parliament over the executive government and the main plank of that scheme is the election of an executive council by the direct vote of Parliament. British political ideals of the past have been rudely shaken since the beginning of the war. The fact has, however, to be recognised that the appointment of men who are not in harmony with the progressive political thought of the country on the ground that they are 'safe,' and the selection of persons, whose sole claim to preferment is that they are pliant and without any definite views of their own, will not hereafter conduce to a smooth working of the machinery of government in India. Lord Islington seems to be thoroughly alive to the reasonable criticisms on these points, for, in his Oxford address, he has distinctly admitted that "if the Indian members of the Governor's Council were properly chosen, it cannot be doubted that the Government policy would be formulated with due regard to the views of the Indian elected members of the legislative Council." Lord Islington has put the case for the proposal in a nutshell.

This brings me to the more important question of the relations of the executive government to the legislatures. The aim of the Congress-League scheme is to place the executive government both central and provincial, under the control of the legislatures. Under this scheme, the executive officers of the Government are appointed by the Crown and are not the nominees of the legislatures. In the self-governing dominions, the administration of the day represents the views and sentiments of the dominant majority in the legislatures and there is accordingly no



chance of conflict between the executive government and the legislatures. It has been, therefore, pointed out, and justly, that on the one hand when the executive government is appointed direct by the Crown without any reference to the legislature, the latter will be totally unable to secure the adoption of a policy in general harmony with its desires and aims. On the other hand, the executive government, placed under the control of the Legislature and dependent upon it to sanction its financial proposals, will not, it is suggested, be in a position to initiate a policy of its own and to carry on the general administration with vigour. There is, therefore, a possibility of conflict between the executive Government and the Legislature. The remedy suggested by the Indian National Congress and the Muslim League is the power of veto to be exercised by the head of the administration whenever, in his opinion, the will of the Legislature should not prevail. In referring to this portion of the scheme, Lord Islington said: "Without, therefore, other radical changes, the effect of the proposals, so far as the legislative councils are concerned, would be to place the Government in a constant risk of seeing measures and resolutions carried to which it objected and the responsibility for their execution and the consequence of these measures could never, as in this and other constitutional countries, be placed upon those responsible for their introduction. It is idle to think that the Governor-General's or the Governor's veto would be a sufficient check in such circumstances, because if it is to be of value, such a veto must be used sparingly and in respect of matters of high importance. The weapon would be dulled by constant use, and the position of a Governor who exercised it freely and not only in matters of high moment would become impossible. The effect of the changes taken as a whole would thus be to accentuate the evil to

which I have previously referred. The power of the critics would be increased without their receiving any real additional responsibility, and there can be no sound government which does not combine these two functions, namely, criticism and responsibility." With reference to these views, it is necessary to point out that the system of administration indicated in the Congress League scheme finds many parallels in the past history of colonial government in the British Empire. As a rule, progress has been from a representative form of government to that of full responsible government. In some of the Colonies which afterwards became fully self-governing, the first stage of evolution was an executive appointed directly by the Crown with representative institutions with the power of the purse. The experience of representative government in the Colonies shows that in some cases it developed into full self-government and in other cases it fell back into a form of government under which the Legislature as well as the executive is controlled by the Crown. Mr. A. B. Keith, author of "Responsible Government in the Dominions" says "that it would be premature to pronounce that the system of representative government is fundamentally unsound as a permanent solution of the relations of the executive and the Legislature; it has existed and still exists in certain parts of the world and has worked with some success." There is, therefore no reason to condemn the present proposals without giving them a trial. The relation of the executive with the Legislatures is one of the most important points for consideration. Lord Islington proposes to interpose a committee or committees of the Council between the executive government and the Legislative council for the consideration of all broad questions of policy. The constitution of these committees may, in all likelihood, bring about a better

understanding between the Legislative Council and the executive government but the adoption of his proposal does not in any way affect the merits of the Congress scheme. On the other hand, it may make the scheme much more acceptable. The committees so constituted will be able to undertake a preliminary examination of the policy of the Government.

## SECOND CHAMBER

One of the safeguards devised elsewhere for the revision of the hasty and ill-conceived action of a popular assembly is the adoption of the bi-cameral system in the legislature. In the discussion of the subject, the adoption of the bi-cameral system in India has been referred to by the *Times of India* and also by some others as a remedy for the many possible difficulties. The function of a second chamber has been described to be "without claiming co-ordinate authority, that of acting as a court of legislative revision or the sober second thought of the country". The Indian legislatures have been constituted on a uni-cameral basis essentially because the official and non-official elements, or to use a different phraseology, the conservative and the progressive elements in the legislative organ have been included in a single chamber in India. This mixed composition of the Indian legislatures has not been productive of sound criticism. The official element in the legislatures have not contributed any fruitful criticism independent of Government and its value in the Indian constitution at the present day is negligible. When self-government was conceded to the Australian Colonies in 1847 provision was made for the constitution of the Legislature into two houses so as to provide two separate assemblies, for the separation of the representatives of the people and the nominees of the Crown; but at the request of the people a single House of legislature was eventually adopted of which one-third

of the members was nominated by the Crown and two-thirds elected by the people; a provision was also made that the Australian legislatures should have the power of amending their own constitutions by resolving, if they thought fit, the single house of legislature into two houses and by making any other alterations which time and experience might show to be requisite. As was anticipated, a few years after the establishment of responsible government, the Colonies expressed a desire to avail themselves of these further powers and the two chamber system was accordingly introduced. For the present, there is no need for a second chamber in the provinces in India. On the other hand, such a step may, in the present circumstances, retard the growth of political experience and the need for co-ordinated action and a better understanding amongst all classes of people. As has been already explained, the main function of the second chamber is that legislative measures may receive a second consideration by a body different in character from the primary representative assembly and if possible, superior or supplementary in intellectual qualifications. There is need, at the present stage of Indian political evolution, for the conservative and progressive elements of Indian society to work together for some considerable time in the same assembly for the better understanding of the political ideals of India. But if a federal system is adopted in India, there may arise the necessity to consider the advisability of a second chamber in the central legislature. The native states at present have no place in the British Indian legislature. The relations of these states with the British Indian Government is now regulated entirely by treaties. There are many questions common to British India and native states in the discussion of which the States would welcome a more defined constitutional position than they now have. As has been recently

pointed out by Lord Islington, the native states will have to become members of the federal constitution voluntarily. In such a case it will be necessary to provide for the representation of the states in a second chamber. The matter is dealt with more fully in a subsequent chapter. The formation of a suitable upper-house is one of the most difficult problems of practical politics in any country. The history of recent events in the United Kingdom in regard to the House of Lords shows the difficulties of the problem.

#### STRENGTH AND COMPOSITION.

I now come to the strength and composition of the Central Legislature. The present strength of the Indian Legislative Council is 60, of whom 27 members are elected by various constituencies. The statutory limit of officials is 28 and the nominated element is 5, of whom 3 should be non-official persons selected from the Indian commercial community, the Mohammadan community of the Punjab and the landholders of the Punjab. The non-official members of the councils of Madras, Bombay, Bengal and United Provinces each elect two representatives and the non-official members of the councils of the Punjab, the Burma, Behar and Orissa, Assam, Central Provinces each send one representative. There are six representatives of the landholders of Madras, Bombay, Bengal, United Provinces, Behar and Orissa and the Central Provinces. There are five representatives of the Mohammadan communities of Madras, Bombay, Bengal, United Provinces and Behar and Orissa. The Chambers of Commerce of Bengal and Bombay each elect one. There is an additional member for Bengal landholders and Mohammadans who elect a member in alternate years. It will, therefore, be seen that the Indian Empire with a population of 315 millions has a central legislature of twenty-seven elected

members and five nominated members making a total of thirty-two non-official representatives. The official members do not count as they are there merely to act under the mandate of the Government. Now, one of the points very much discussed in 1907 was the strength of the Imperial Legislative Council and of the provincial councils. The present limitations on the numerical strength of the Indian and the Provincial Legislative Councils were, to a great extent, dictated by the necessity of finding a sufficient number of officials to sit on these councils to vote with the Government and to outvote the popular representatives.

This is clear from the discussions in 1907, when the principle of a standing official majority was regarded as an entirely legitimate and necessary consequence of the nature of the paramount power in India. The question then arose as to what number of official members of the requisite standing and experience can, without detriment to the public service, be spared from their regular duties for attendance in the legislative councils and the Government of India were of opinion that "the necessity of maintaining an official majority implied the necessity of limiting the number of non-official members." It is clear, therefore, that the size of the councils was determined not with reference to the needs of popular representation in them and the exercise of the rights of citizenship, but with reference to the convenience of the public service and with the view of securing the physical presence of a certain number of officials to outvote the representatives of the people. In the course of the discussions in Parliament in 1909 one of the novel proposals made by Lord Ronaldshay, the present Governor of Bengal, was to count each official vote as equivalent to two non-official votes. This illuminating suggestion was made in order to reduce the

attendance of official members on the councils. Another proposal by Lord Courtney was that the gentleman who may form the Government majority should not be required to leave their posts but should be allowed to vote by proxy, the proxies being in the pocket of a member of the Government. If it is necessary to retain an official element, the Council would not suffer in any way if either of these suggestions had been adopted. But they show the ridiculous lengths to which the proposal leads us. The essential point for consideration is, however, whether the constitution of a proper legislative organ should be crippled in this way. If real self-governing institutions are to be developed in this country the elimination of the official member is a logical conclusion of the present situation. If this position is once conceded, there would be no difficulty in the constitution of a suitable Central Legislature which will give a fair measure of representation to each Province and to the large and varied interests of this great country.

It will be of interest to note that Canada, with a population of a fifth or sixth of that of the province of Madras or Bengal, has nine provincial legislatures, the number of the members of each of which varies between 24 and 81 and has a Dominion Parliament consisting of two houses with 300 members in the aggregate. The Commonwealth of Australia with a population of 5 millions has a federal Parliament consisting of two houses with 100 members and six state legislatures. The Union of South Africa with a population of 6 millions has a Union Parliament of 200 members and four local legislatures. If, therefore, self-governing institutions are to be developed in this country leading up to the progressive realisation of responsible government in India we should have a satisfactory legislative organ where as many people as are fit to exercise

political power have opportunities of doing so. Mr. Lionel Curtis has truly observed that

"the exercising of responsibility tends to increase fitness for exercising it. As every one finds in his own experience, it is in having to do things that a man learns how to do them and develop a sense of duty with regard to them. And that is why political power is and ought to be extended to whole classes of citizens, even when their knowledge and sense of responsibility is still imperfectly developed. The principle is that of harnessing colts when still half broken with others who are fully trained. The extent to which this educative process can be used with safety depends upon the number and steadiness of the older horses. And so with the members of a commonwealth. The larger the number of voters who can be trusted to consider the public interest before their own, the more freely can political power be extended to citizens whose patriotism is still short of that point and needs to be developed by exercise. Hence it is easier and safer to exercise a backward race in the practice of self-government in a country like New Zealand than in one like South Africa."

The present constitution of the Legislatures in India does not afford adequate opportunities to the many thousands in each province who, by their education, standing in life and position in society, are competent to take part in the affairs of their provinces.

Mr. Gokhale proposed the strength of the Legislative Assembly at one hundred and the Congress scheme of reform suggests one hundred and fifty of whom four-fifths are to be elected and one-fifth is to be nominated by the Government. If the Congress proposals are accepted, each of the major provinces will have representation of about ten each in the Central Legislature and the large commercial interests of the country will also find suitable representation. As it is, the large economic, commercial, and fiscal questions of India have not as yet received any sustained and serious attention in the Indian Legislative Council for want of suitable representation.

I do not wish now to deal at any length with the principles of representation in the Indian Legislative Council.



The present scheme will have to be thoroughly revised for a number of reasons. If the Government of India is to be placed on a federal basis and its activities confined to the federal functions assigned to it, the present scheme will be altogether unsuitable. On the last occasion, Lord Morley first decided the principles of representation and applied the same principles in the constitution of the Imperial Legislative Council and of the provincial councils. Indian Legislative Council is to deal only with federal questions such as tariffs, posts, telegraphs and other matters of general application throughout the continent of India. We may have to follow a different plan in the constitution of the Central Legislature.

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## CHAPTER VIII.

### LOCAL GOVERNMENTS.

#### FINANCIAL AUTONOMY.

"The only possible solution of the difficulty would appear to be to gradually give the provinces a larger measure of self-government, until at last India would consist of a number of administrations, autonomous in all provincial affairs, with the Government of India above them all, and possessing power to interfere in cases of misgovernment, but ordinarily restricting their functions to matters of Imperial concern."—LORD HARDINGE'S DELHI DESPATCH, 1911.

The vital principle of the scheme of reform of the Indian National Congress and the Muslim League is the control of the purse by the Legislatures in India. This is the essence of any scheme of self-government and our national assemblies have made this demand for a change in the present administrative machinery. The Minto-Morley reforms have afforded only opportunities for financial criticism but the Local Governments and the Government of India now retain the control over financial policy and administration. If self-government is to be conferred on India, the control of the Legislatures must become a reality. The discussions of the subject in certain quarters suggest that the demand has now been suddenly put forward by Indian politicians for the first time and that it is not within the range of practical politics. The principle of our demand has been under discussion for over thirty years by Indian administrators and public men, by committees and commissions of enquiry. It is by no means revolutionary; on the other hand, there is considerable official support already for it and the change is the next natural step in the evolution of the financial administration of India.

## THE CENTRALIZED FINANCIAL SYSTEM.

People seldom realize the enormous period of time which each change in men's ideas requires for its accomplishment. "The revenues of India are the revenues of the Government of India—a constitutional possession. The Government of India is a body created by Act of Parliament, and if a reference is made to that Act of Parliament it will be seen that the revenues of India are the revenues of the Government of India and of that Government alone. Every action that the Provincial Governments take in respect of them must be justified by a specific order of the Government of India and apart from that Government they exercise no financial powers whatever." These are the words in which Sir James Westland, a former Finance Minister, asserted the claim of the Government of India for financial control over every branch of financial administration in India. The constitutional position is the same to-day. The Government of India is the keeper of the purse and the constitutional guardian of the finances of the country.

The revenues of India are dealt with as a whole; they are collected as such and paid into treasuries all over the country to the credit of the Imperial Government. The money so collected is eventually distributed by financial settlements and grants among the different Provincial Governments for various services detailed in the annual estimates submitted by them to the Government of India. Writing on the subject in 1870, Sir George Chesney pointed out that "so long as the Indian purse is kept by the Supreme Government we may have provincial administrations with high sounding names and complete equipment of Governors and Councils; but these functionaries do not constitute Governments in the ordinary sense of the word; they are merely the executive agencies whom the dispersing

authority employs to carry out its behests." This description of the statutory position of Provincial Governments in India is as true to-day as it was when it was written in 1870. Sir George Chesney also pointed out on the same occasion that "of all the evils of centralization, the worst is surely to be found in the practice which, it seems always to be taken for granted, is the only possible one—under which the Financial Member of Government announced from his seat in the Supreme Council, that on a given day a certain impost shall be levied throughout the length and breadth of the land. Nothing of the kind has been seen before, since the time when there went out a decree from Cæsar Augustus, that all the world should be taxed." The people of India, he observed, serve under a despotism, and their bond of union of service under the same Government is, so far as they are concerned, a political accident.

The Governor-General's Executive Council is composed of a number of officials, the majority of whom have had no opportunities of giving much attention to the Indian financial system. They are occupied with their own particular departments and their interests lie in the direction of the efficiency of the particular services that they manage and their tendency is therefore towards expenditure. A complete discussion of the financial aspect of measures from the popular standpoint is not now possible in the Executive Council of the Governor-General. The gravity of financial questions in India, the difficulty and dangers attending new or increased taxation are matters of anxiety to the Finance Minister, who does not at present possess in the inner counsels of the Government opportunities of free discussion or criticism, in regard to his financial proposals from the point of view of the people. The position of popular representatives in the Legislative

Councils is, no doubt, now better than when Sir George Chesney denounced the centralized system of financial control. There is, however, at the present day no independent body in India which possesses the power of checking or sanctioning the expenditure of the Imperial and Local Governments. The detailed outside control now exercised in financial matters by the Government of India over Local Governments and by the Secretary of State over the Government of India itself takes the place, in some measure, of the control which in other countries or in the larger colonies vests in a Parliament. The difference, however, is that in the one case the controlling authority is a body that represents and draws its authority from the people of the country while on the other hand the Government of India is merely an executive body forming the Executive government of the country without any statutory responsibility to the tax-payers.

#### POSITION OF THE LOCAL GOVERNMENTS.

The position, therefore, is that, so long as the Government of India is responsible for the finances of the country and is also responsible for the imposition of the taxes, the constitutional position of the Indian Provinces is one of complete subordination. Provincial Governments have to spend what is given to them and also have to spend it in accordance with the directions of the central authority. Not only this, they have to give an account of the manner in which the funds have been expended. The present system of financial settlements with the Provinces and the methods of financial control over provincial expenditure are due to the dominant position occupied by the Government of India under the present constitution. A definite policy towards administrative decentralization in provincial finance began with Lord Mayo's scheme of 1870, and it is unnecessary to describe, at any length,

the history and the evolution of this system up to the present day. The principles of that scheme were applied in 1870 in a limited and tentative manner only. Certain heads of expenditure were handed over to the more unfettered control of the Local Governments, together with the means of providing for them, consisting partly of the receipts under the same head, and partly of a fixed consolidated allotment from the Imperial revenues. The Provincial Governments were empowered to use, as they pleased, any surplus, but they must make good any deficit resulting from their administration. In 1877, an important advance was made by handing over to certain Governments heads of revenue, and by introducing the principle of provincial responsibility for mere local and provincial purposes. In 1882, the quinquennial settlements were introduced, under which the receipts from forests, excise, income-tax, stamps and registration were divided equally between the Government of India and the Provinces, and the expenditure in these departments was also equally divided between the Local and the Imperial Governments. By these settlements, the financial powers of Provincial Governments in regard to expenditure under divided heads were increased. The next stage was the introduction of the system of 'quasi' permanent settlements in 1904 and afterwards the Government of India introduced in 1912 what they called permanent financial settlements with the Provinces. Two important resolutions on provincial finance were published by the Government of India in 1912 and 1916, and in these resolutions, the position of the Provincial Governments, their powers and responsibilities in the sphere of provincial finance were reviewed in the light of the criticisms and recommendations of the Royal Commission on Decentralization.

## FINANCIAL SETTLEMENTS.

The financial settlements with the Provinces have thus no statutory basis whatever in the sense that the Local Governments can claim to enforce them against the Government of India, nor are they in any sense permanent. When this change was announced by Sir Guy Fleetwood Wilson, the late Mr. Gokhale pointed out that these settlements will not be any more permanent than the 'quasi' permanent settlements and the quinquennial settlements which preceded them. One reason is that the Government of India has expressly reserved the right of revising these settlements with the Provinces. The distribution of revenues between the Provinces and the Central Government is made on a consideration of the outlay which each Province might reasonably claim for the services which it administered. In concluding a settlement, therefore, the Government of India ascertains the needs of the province at the time on the existing standard of expenditure and assigns revenues to meet them. The residue of the income of each province goes into the imperial exchequer to meet the needs of the administrative services under the control of the Government of India and the share so available for imperial purposes was taken in the shape of a fixed fractional portion in a few of the main heads of revenues which are known as the divided heads. In addition to this, the Government of India also retain the entire profits of the commercial departments, as well as all the revenue whose locale is no guide to its true incidence such as the net receipts from customs, salt and opium. The provincial settlements, therefore, represent the methods of distribution of the revenue between the Local Governments and the Central Government to meet the charges of provincial administrations and any surplus revenues in the hands of the Imperial Government are again distributed to them every year by doles.

The present system of provincial finance was subjected to a great deal of criticism and a more definite separation between Imperial and Provincial finance was suggested to the Royal Commission on Decentralization. It was pointed out that the financial settlements were not based on any intelligible principle, that the Provinces did not receive equality of treatment at the settlements, that some of the previous settlements had been framed on generous and others upon less liberal lines, that the standard of expenditure was in consequence unequal and that certain Provinces had been placed at a definite disadvantage for all time. Sir Herbert Risley practically admitted these facts on behalf of the Government of India before the Royal Commission.

The Government of India have attempted to meet some of these objections and are even prepared to admit the extreme difficulty of giving a conclusive reply to them. They believe that it is impossible to devise a satisfactory test of equality of treatment and that the supposed inequality, if it existed at all, is historical and inevitable rather than the outcome of administrative partiality.

The so-called provincial settlements are thus really one-sided arrangements practically forced on the weak Provincial Governments by the Government of India which is all powerful in the matter. The contracting parties not being on a footing of equality, the Government of India virtually gives Provincial Governments such terms as would secure the maximum advantages to itself and the Provincial Governments are left in a state of helplessness and insecurity prejudicial to the interests of the internal administration of the country. There is no fixed or intelligible principle on which these settlements are based and no uniformity in their plan, no equality in the burdens which they impose on the different Provinces. The share of imperial expenditure which the different Provinces have



to bear is not determined by any tests of population or revenue. The proportion and percentages of revenue surrendered by each Province to the Government of India differed very widely. The present inequalities in the scale of expenditure by the different Provinces are a legacy of the pre-decentralization period, when the expenditure of the different provinces was determined not by the resources or requirements of those Provinces but by the attention that their governments succeeded in securing from the central government, or in other words by the clamour that they made.

#### METHODS OF FINANCIAL CONTROL.

I must now refer to the methods of financial control imposed by the Government of India on the Provincial Governments. A financial settlement of a Province merely indicates the amount of public revenues assigned to it for expenditure on the public services and other objects which come within the sphere of its responsibility. A settlement does not give the Local Government a free hand in the expenditure of public funds placed at its disposal. The Government of India controls this expenditure in various ways by laying down general rules defining the financial powers of Provincial Governments. Their position is that of agents. The financial powers of Provincial Governments are thus subject to the supervision and control of the Government of India and the Provincial Governments are bound to observe any general or specific instructions which the Supreme Government may issue from time to time in the exercise of its powers of supervision and control. The Governor-General in Council has expressly reserved to himself the right of issuing instructions to Local Governments on general and particular matters affecting provincial estimates, revenues and services when such action seems to him expedient. The Provincial Govern-

ments, being agents of the Government of India, all the financial powers of sanction and control which are exercised at present over the revenues of India or the expenditure therefrom are exercised by them as such agents. A large number of financial rules and restrictions are imposed upon Provincial Governments both by the Secretary of State and by the Government of India, and in addition to these, further financial restrictions on Provincial Governments are also contained in imperial departmental codes, public works and forest codes and Army Regulations. It is unnecessary to refer to all these restrictions in detail. No additional taxation can be imposed, no fundamental change may be made in any existing system of revenue management and no new general departure can be made in the procedure of public accounts, and no delegation of financial powers may be made to any authority subordinate to the Provincial Governments except in cases where such delegation is expressly provided for in authorized codes or by any orders of the Secretary of State in Council or of the Government of India. The powers of Local Governments for the creation of appointments, whether permanent or temporary and the deputation of officers are similarly limited by financial rules.

#### BUDGET RESTRICTIONS.

In addition to all these rules, the Government of India have also laid down a large number of Budget rules restricting the spending powers of Provincial Governments. The annual Budgets of Provincial Governments are subject to the approval of the Government of India and they cannot draw on their accumulated provincial balances without their permission and the maintenance of a minimum balance is also prescribed. Nor can they sanction any expenditure during the course of a year which will involve an excess over the Budget grant for the year under any

head of account unless by way of re-appropriation. The Budget may be modified by the Government of India to any extent and the Local Governments are bound to recast the financial provision of the year in each department according to the figures received from the Government of India. These and other restrictions were so irritating that the Government of Bombay took the opportunity of entering a very emphatic protest against the existing system of financial and administrative control.

## A PROTEST.

After a comprehensive review of the existing financial limitations and powers and its relations with the Government of India, the Government of Bombay stated to the Royal Commission that its position in financial matters compares unfavourably with the Bombay Corporation or the Improvement or Harbour Trust, which are subject to far less interference at the hands of the Bombay Government than is imposed upon that Government by the Government of India. The Corporation of Bombay frames its own Budget, regulates its own taxation, creates its appointments and reorganises its departments to any extent without control within the limits prescribed by law. The Government of Bombay therefore stated that in all these matters it cannot move without the approval of the Government of India whose administrative control was co-extensive with the whole sphere of the operations of the Provincial Governments. There is no act of a Provincial Government nor any branch of administration for which a Local Government can feel finally responsible in view of the control at present asserted by the Government of India. The excessive control exercised by the Central Government has increased the labour of the Provincial Governments, and the Bombay Government pointed out that there is a tendency to shrink

from the labour, the worry and annoyance involved in making proposals for reform and improvement which may or may not eventually be accepted by the Central Government. They proceeded to state "that administrations and officers subjected to a long course of this treatment must be reduced to the condition of oxen in an oil mill which tread their little circle unconsciously with blinded eyes. All sense of responsibility must disappear; since those who have no definite power can feel no responsibility. Already it is difficult to say where the responsibility for any particular action or decision lies. The effect on the people of the country is pernicious. They go to the local officers about a certain business, and find that it rests with the Local Government. If they get as far as the Local Government, they find that it is the affair of the Government of India. The Government of India is far off; and no one can tell who, in any particular matter, is for the moment the Government of India." This protest was made 10 years ago and there has been no material improvement since in the position of Local Governments.

#### POWERS OF TAXATION.

There are three other topics of importance, *viz.*, the powers of Provincial Governments to impose taxes, their powers of borrowing and their powers to grant loans. The present position of Provincial administration in these three matters of vital importance is enough to show the evils of the present system of centralised administration unknown in any other portion of the world of comparable area and diversity. The Provinces have no powers of taxation whatever. The Central Government is the only authority that possesses this power and the system of uniform taxation applicable to the whole peninsula is peculiar to this country. The Provincial Governments have no responsibilities whatever in devising methods of taxation suitable to the

diverse conditions of the different people of India. They are no doubt keen for administrative efficiency without a corresponding responsibility to find the funds necessary for the purpose. The Royal Commission on Decentralization considered the question and came to the conclusion that in the present circumstances, Local Governments should not have the power to impose additional taxation. Their chief objection is that under the present constitution they lack that responsibility to the tax-payers and their representatives, which acts as a check in other countries. They however recommended that if a more effective control over provincial finances by Legislative Councils representing the tax-payers is conceded, it would be practicable and probably necessary to allow Local Governments to levy additional provincial taxation.

## POWERS OF BORROWING.

On the subject of borrowing, the Royal Commission on Decentralization also considered that the existing prohibition against the Local Governments should be maintained. Their chief ground is that, if provincial administrations are permitted to raise loans, they may compete with the Imperial loans. Provincial loans would either have to be held back until the Government of India had completed their own borrowings, a course which would certainly affect their prospects or they would be floated simultaneously with the Imperial loans with depressing effect on both. Another objection is that Provincial Governments, if permitted to borrow, would undoubtedly increase their non-productive debt. The Government of India believes that the existence of a provincial public debt would afford an inducement for lavish outlay upon public works and might thus lead to a type of financial embarrassment which cannot be viewed without grave concern. It was, therefore, of opinion that the grant of independent borrowing powers to Local

Governments should be deferred until a more distinct separation has taken place between the finances of the provincial and the central authorities and till some form of popular control over the provincial administrations is conceded.

#### LOANS TO LOCAL BODIES.

The Provincial Governments have no resources which they can call their own and their power to grant loans is necessarily very limited. Local bodies in this country, like Municipal and District Boards, cannot raise loans in the open market without the sanction of the Local Governments and the Government of India. They have, therefore, necessarily to fall back upon the Government of India to meet their financial necessities. The progress of many remunerative works now depends on the extent to which the Government of India is able to finance their schemes. Under the present financial system, the local Governments cannot borrow the funds required on behalf of the Local Boards because they have no power. Local bodies cannot raise funds, because they cannot obtain them without the assistance of the Local Governments. The Government of India has centralized the power in its own hands and has denied access to the money market, both to the Local Governments and to local bodies and the Local authorities have now to depend mainly upon the Government for the expansion of their work. In recent years, the matter has attracted a great deal of attention in connection with the financing of district board railways. At one time, the funds required by the district boards were placed by Local Governments on the provincial loan account and the funds thus required by local bodies were found by the Government of India and the Secretary of State out of their annual borrowings. The Secretary of State, however, ruled in 1909 that the funds required for the construction

of District Board lines should not be placed on the provincial loan account, with the result that the construction of District Board lines in the Madras Presidency has been practically stopped. There are also other classes of loans which, under existing circumstances, Local Governments have to make such as advances to cultivators under the Land Improvement Loans Act, the Agriculturists Loans Act and other Acts. To meet all these advances, allotments are made to Local Governments every year by the Government of India and the amount of loans granted in any year by the Local Governments should not exceed the amount so allotted. Even in the matter of loans, the existing system imposes great many restrictions on local Governments; but having no independent assistance and resources of their own they have entirely to depend upon the Government of India. The scope of the usefulness of local bodies in this country and the work of social improvement in the provinces has been considerably hindered by the present system of financial administration.

#### A FEDERAL FINANCE.

The remedy for this state of things is the adoption of a scheme which will effectually secure the financial independence of provincial administrations, while making ample provision for the necessities of the Central Government. It is not possible nor is it necessary to discuss in detail the spheres of Imperial and Provincial finance. This will depend very greatly on the division of functions between the Government of India and Provincial administrations and must generally follow the lines on which the financial system of federal administrations elsewhere is arranged. For over a quarter of a century, Mr. Gokhal's advocated the assignment to Provincial Governments of independent sources of revenue in the place of the grants which they receive from the Government of India and

suggested a definite scheme of allocation of provincial and imperial revenues as also a contribution from Provincial Governments to the Supreme Government to make up any deficit in its expenditure. He advocated a system which was in direct reversal of the present financial policy and contended that his proposals would bring the financial system of this country more in a line with the federal systems of finance in countries such as Germany, Switzerland, Canada and the United States. In these countries, the central and the constituent Governments have their separate resources, but the latter are called upon in Germany and Switzerland to make special contributions to the Central Government on extraordinary occasions and he contended that the Provincial Governments in India would welcome such a settlement of the question. It has been suggested that the divided heads of revenue should become wholly Provincial, the Government of India being placed in possession of funds for the purposes of the duties falling upon it by contributions from each province which might take the shape of (1) a fixed sum revisable every five years, (2) a lump percentage on the Provincial revenue, (3) or a fluctuating contribution imposed by the Government of India calculated upon the population or wealth or proportion of the revenues of the different provinces. The Royal Commission considered that the periodical revision of the fixed assignments of the Government of India to meet the necessarily growing needs of that Government would provoke recurring controversies with the Provinces and that the subsidy on a population basis would be unfair to relatively poor and undeveloped provinces, while there is no method of assigning the comparative wealth of each province which would not cause infinite trouble and give rise to infinite criticism. None of the suggestions were agreeable to the Commission but they recognize that the grant to the local Legislative Councils of material control over provincial finance may



make it necessary to do away, as far as possible, with the present divided heads and to place some of those heads entirely within the purview of the Provincial, and others within that of the Imperial Government. Two of the Commissioners, Sir Steyning Edgerley and Mr. Hutchins were not satisfied with the recommendations of the majority of the Commissioners and recorded their views in a separate minute on the subject. They thought that the ultimate aim should be to give Provincial Governments independent sources of revenue and some separate powers of taxation subject to the general control of the Government of India and the Secretary of State and in view of the wider powers which it was then proposed to confer upon provincial legislatures, the time had come for a more definite move in the direction of Provincial financial autonomy than is implied in the report of the Commission. They, therefore, urged that Provincial Governments should have some separate powers of taxation, and that it was desirable that they should have more real financial responsibility than they possessed. The position at the present day is that the Provincial Governments are responsible for economical administration, but they are dependent for their resources on the Government of India. The greatest safeguard for economical expenditure is that the authority which is responsible for it shall also be responsible to the public for raising the necessary funds. Provincial Governments have no such responsibility for adjusting their expenditure to the capacity of the public for bearing the burdens, and the dissenting Commissioners were, therefore, of opinion that one of the most important attributes of the Government is now withheld from provincial administrations and that the fiscal system of the country has tended to become unduly uniform and inelastic.

#### THE CONGRESS SCHEME.

A complete financial autonomy of the provincial administrations, including borrowing powers and the

power to raise and to revise local taxation, is therefore essential for a sound development of Indian administration. The basic principle of Provincial autonomy is financial independence. The proposals of the Indian National Congress and the Muslim League embodied in their scheme of reforms adopted in December 1916 in regard to financial autonomy for the provinces are substantially in accordance with the views expressed by responsible public men before the Welby Commission and the Royal Commission on Decentralization and with the general trend of the discussion of the subject also by official witnesses. These proposals are that except customs, post and telegraph, mint, salt and opium, railways and tributes from Native States all other sources of revenue should be provincial and that there should be no divided heads of revenue; that the government of India should be provided with fixed contributions from the Provincial Governments, such contributions being liable to revision when extraordinary and unforeseen contingencies render such revision necessary. They are sound in principle and constitute a legitimate advance from the present position of the provincial finance. Sir Charles Elliot, a former Lieutenant Governor of Bengal, twenty years ago urged the identical changes now demanded. As the head of a provincial administration, he realized the injustice of the present financial system and urged for a radical change, the leading principle of which was that all the revenues of the provinces should be provincial, the Government of India receiving a certain percentage of the entire sum which should be the

entire contribution of the province to Imperial Government and defence. Under the present centralized administration, the Government of India manages the financial administration of a whole continent from a single headquarter. This has been fitly compared to an attempt to govern Europe in detail from a single capital. The vastness of the country, the diversity of its populations and the different provincial systems make a radical alteration of the system imperative. The present system has starved provincial administrations and has retarded the growth and development of various measures for the amelioration of the people in the Provinces. A change of the system would no doubt affect the position of the Central Government on whose spending propensities there are at present no satisfactory checks. Sir David Barbour, a strong advocate of the provincial system, took up the position that if it came to a question whether the central administration should be embarrassed or the provincial administration starved, he would rather see the central administration embarrassed. This view is based on a long and intimate acquaintance with the working of the machinery of the Central Government.

#### THE LEGISLATIVE COUNCILS.

Popular control over the financial administration of the country does not now exist in any effective form either in the Indian Legislative Council or in the Provincial Legislative Councils. Up to the passing of the Indian Councils Act 1892, it was possible for the Imperial Legislative Council to discuss financial questions only when new taxes were proposed.

During the thirty years prior to the Act of 1892 that elapsed, there were 16 occasions when new legislation had given scope for such a discussion. During the whole time except on these 16 occasions when only new taxation came under discussion, there was no machinery for the consideration of the taxation of the year and the Finance Member and the Executive Government were the uncontrolled financial authorities in the country. By the Indian Councils Act of 1892, the right of financial discussion was conceded for the first time in the Imperial and Provincial Legislative Councils. This right practically amounted to a liberty to offer some general observations on the budget. The right of moving resolutions relating to the financial statement was introduced in 1909 and it is optional with the Local Governments to accept or reject any resolution so carried. Lord Morley intended that the Councils should have an effective voice in the financial administration of the provinces but the regulations do not confer this power. The ultimate control over the financial policy is still with the executive Government of the Provinces but this must be vested in the Legislatures under appropriate safeguards.

#### DECENTRALIZED FINANCE.

The question of financial autonomy, therefore, largely depends upon the development of an effective popular control over the financial administration in the Provinces. One of the justifications for the present centralized administration and the control of the Government of India is the absence of this form of control. The Royal Commission

on Decentralization conceded that if the provincial legislatures are given an "effective share" in the control of provincial finance, it would be necessary to give the provinces distinct sources of revenue and concomitantly more financial powers over their budgets. They also recommended that, if the control over provincial finances by the Legislative Councils was such as to give some measure of representation to the tax-payers, it would become practicable and probably necessary to allow Local Governments to levy special provincial taxation and also to give them a larger latitude in regard to the somewhat close control now exercised over the expenditure of public revenues. These very guarded recommendations of the Royal Commission indicate the direction in which the problem of centralized administration must be solved. They were, however, framed before the Minto-Morley Reforms. It was the object of those reforms that the Councils should have a reasonable share in the financial administration of the country and to give the non-official members a substantial share in the preparation of the budgets. The extension of their function was stated to be the widest, most far-reaching and most substantial feature of the scheme. These anticipations have not been realized. Clearly, therefore, the problem of provincial autonomy can only be solved by an extension of the powers of the Councils over the whole field of provincial administrations in such a manner as to form an effective check over the executive administration. The objections raised by the Government of India and the

Secretary of State to granting to Local Governments powers of independent taxation and borrowing can only be satisfactorily met by the creation of the control of the Provincial legislatures contemplated by the Royal Commission. Only if such a power is conceded, will it be possible to withdraw the financial control now exercised by the Government of India and not till then. This is the great fundamental change which has been so often discussed and which responsible administrators and public men in India have been asking for over a generation. In making a demand for effective popular control over the financial administration of the Provinces, the Indian National Congress and the Muslim League have only put forward a proposal often discussed in the past to secure a decentralised administration to the provinces and also a real and effective voice to the people in provincial administration. The division of revenue and powers between the Central and Local Governments is a matter of some complexity and labour, but, if the problem of Self-Government in India is ever to be solved, it can only be by the adoption of a federal system of finance. The centralization of the financial administration of a continent of the size of India in a single authority is not compatible with the growth of independent self-governing provincial administrations. There are many useful analogies in the federal unions of the British Empire itself for the statutory assignment of revenues to local Governments and to the central authority and also for statutory annual adjustments from the one to the other and

'vice versa' of the surplus revenues. The acts of federation in the British Empire have made elastic provision for the necessary legal machinery and for making the necessary adjustments of revenue between the local and the central Governments. Provincial administrations are now faced with a strong popular element in the Councils intent on progress and reform. Whatever may have been the state of things before, Local Governments cannot stand any longer the pressure of insistent popular representations for expenditure in the directions desired by the people. - In his article in the "Nineteenth Century," Lord Sydenham has rightly laid a great deal of stress on provincial autonomy in a scheme of political reconstruction in India. But the problem of financial autonomy hinges on the provision of effective popular control in the Indian constitution.

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## CHAPTER IX.

### LOCAL GOVERNMENTS.

#### ADMINISTRATIVE AUTONOMY.

In the preceding chapter, I drew attention to the present financial arrangements with the Provinces. The position of Local Governments in regard to others spheres of administrative activity is a natural corollary of their financial dependence. The Provincial Governments are in charge of the internal administration of the country and departments like the land revenue, forests, agriculture and veterinary, education, police, medical and sanitary and Local Self-Government are matters of purely provincial concern. The Central Government is not competent to deal with the multifarious conditions of different Provinces in these departments of activity. The prescription of generally uniform systems of administration and policy and even of the recruitment, pay and allowances of the administrative services on a uniform scale has necessarily led to inefficiency. Freedom and elasticity are wanting in many branches of provincial administration. It must, however, be admitted that a great deal has been done during the last 30 or 40 years towards administrative decentralization and local Governments have attained a certain amount of stability. But the present method of administrative devolution cannot prevent the interference of the Central Government and the tendencies to centralization that now exist. The



extent of this interference and of the tendency to centralization must depend on the individuality of the officers, for the time being, constituting the Government of India and of its administrative departments and also of the *personnel* of the Local Governments.

At the outset, it is necessary to make a brief reference to the methods by which the Government of India control the Local Governments at the present time. In the first place, it must be remembered that even in the spheres of administration primarily assigned to the Provincial Governments, their present constitutional position is that of agents of the Government of India. This and the present financial system affords justification for the very full and constant check, which is exercised by the Government of India over the proceedings of the Local Governments. The Government of India lay down the lines of general policy in all departments of administrative activity and no new departure in provincial administration can be undertaken without the sanction of the Government of India and the Secretary of State. In addition to this, the Central Government tests the application of their policy in the provinces by the prescription of a large number of reports and annual returns and by financial limitations imposed by rules and departmental codes. Finally they have their own officers, Inspectors-General and Directors-General, who visit the provinces, and keep the Government of India informed of the state of things in the Provincial Departments.

It is not possible to discuss at length the limits of the control exercised at present by the Government of India over local Governments, but I shall briefly indicate the position in regard to the most important branches of Provincial administration.

#### LAND REVENUE.

There is no branch of administration in which greater latitude is more seriously and consistently required than in that connected with the administration of land revenue. Referring to this branch of work, the Lieutenant-Governor of the United Provinces, who had experience of the revenue system of three Presidencies, complained to the Royal Commission on decentralization that the revenue policy of the Government of India had been too much directed to drive all Local Governments to framing their revenue administration in the same mould, and that the Government of India had been too ready to set aside local experience and local opinion upon matters of revenue administration with the object of securing uniformity. The assessment of land revenue and the numerous subsidiary questions in regard to land in a country whose main industry is agriculture naturally occupy a predominant position in the work of Local Governments. The nature of land tenures differs not only from province to province, but differs in different parts of the same province according to local circumstances and traditions. Each Province has its own land revenue system, its own land revenue code, its own standing orders issued by the Board of Revenue or Financial

Commissioner or by the Provincial Government itself. In this branch of administration, the Government of India have laid down the general lines of policy and also specific restrictions in particular matters. The general principles in regard to settlements and their duration are subject to the approval of the Government of India. The Government of India, with the concurrence of the Secretary of State, have, from time to time, laid down the general principles in regard to such questions as the duration of settlements, matters which should be taken into account in fixing assessments and the limits of the Government demand. The Central Government regards these as matters of political importance, as affecting the general well-being of the agricultural population and they have reserved them for their own decision. Madras and Bombay have enjoyed, no doubt, greater freedom in settlements and cognate matters than the other Provinces, but nevertheless there are general resolutions of the Government of India and the Secretary of State in regard to such essentially local matters like the suspensions and remissions of land revenue, assessment of landholder's improvements, the alienation of the proprietary rights of Government in land and mining concessions. In all these matters, which require local knowledge and experience and a constant adjustment to local conditions and variations, the Government of India and the Secretary of State have laid down instructions in a series of resolutions which are binding upon the Local Governments.

## FAMINE POLICY.

Under the present financial system, the Government of India are responsible for extraordinary expenditure incurred in connection with periodical famines. The provinces have no independent financial responsibility. The financial settlements only provide for meeting the normal current administrative needs. The famine Insurance scheme is a device for distributing the expenditure on famine in its earlier stages between the Government of India and the Local Governments. The present position, then, is that a really widespread calamity in any province upsets the so-called financial settlements. While the actual administration of famine relief is in the hands of the Provincial Government, the principles and system of relief are prescribed by the Government of India, whose approval is also required to the Provincial Famine Codes. The Government of India and the Secretary of State have to be kept fully informed of agricultural prospects in the various provinces, of impending scarcity, of the action which the Local Government propose to take to meet it, of the progress of relief measures and of the conditions of the people. The present system of control makes it obligatory on the Government of India to be satisfied that the Local Governments are doing their duty as agents and are carrying out the policy prescribed for them. This entails the submission and compilation of weekly season reports by the Taluk and Divisional Officers to the Board of Revenue and the Local Government and by them to the Government of India and also the preparation of a number of cognate returns,

## FOREST ADMINISTRATION.

From the very beginning, it was laid down that Local Governments should have very full administrative powers in regard to forests. The varying conditions in respect of land tenures, local customs and prejudices in the Provinces, made it essential that Local Governments should have very full liberty in regard to forest administration and the futility of imposing any uniform system has always been admitted. The resolution of the Government of India appointing an Inspector-General of Forests laid down that forest administration in the major provinces should be entirely under the orders of the Provincial Governments. Nevertheless, in consequence of the appointment of this officer the control of the Government of India became closer and the Royal Commission on Decentralization animadverted on this fact. The Government of India are now responsible for the general forest policy of the country and are naturally entitled to know how this policy is being carried out. This policy is laid down by them in a number of general resolutions and the further control of the Provincial Governments in forest matters is secured by general financial rules and through an Imperial Forest Code, which restricts the liberty of the Provincial Governments. After examining the whole question, the Royal Commission on Decentralization expressed the opinion that there are many points of similarity between Forest and Land Revenue administrations and the Local Governments are as much interested, financially and administratively, in the sympathetic man-

agement of the one as of the other, and they recommended that, as a settled forest policy has been laid down and the provinces have been provided with a well trained staff, the necessity for any centralization has ceased to exist. The general control of the Government of India, administrative and financial, has not, however, come to an end.

#### AGRICULTURAL ORGANISATION.

In the matter of agricultural organisation, provincial agricultural departments have been organized in all the major provinces. Even here, the question arises as to whether Local Governments have adequate scope for developing their agricultural policy in accordance with local requirements. On the question of agricultural education and research, the imperial department of agriculture gives the guidance to the provincial agricultural departments, which are all organized on lines of general similarity. The proceedings of the recent conference on agricultural education furnish an illustration of the futility of the attempt to evolve a general policy for a whole continent and the discussions show that Local Governments cannot find much guidance from their conclusions which had to be so framed to suit the varying conditions of all the Provinces. Even in the field of civil veterinary work, an Imperial Inspector-General was appointed in 1892 and that officer now offers advice and suggestions to local Governments in regard to the work of his department.

#### EDUCATIONAL POLICY.

In the field of educational policy, there is the same desire of laying down, for the guidance of

Provincial administrations, general instructions on educational development for the whole continent of India. In 1901, Lord Curzon convened a conference of the Provincial Directors of Public Instruction and other educational experts over which he presided. One of the results of this conference was the appointment of an Imperial Inspector-General of Education, whose functions were to advise the Government of India on all educational matters that come before them. This office has, however, been abolished and an Education Commissioner has now taken his place. Whether he is called a Director-General or an Education Commissioner, this officer undertakes periodical tours in the Provinces, inspects educational institutions and confers with Local Governments and their educational officers on matters pertaining to this Department. The Government of India have issued two resolutions on the development of education in this country in 1904 and in 1913, in which they attempted a comprehensive review of every grade of education from the Primary up to the University and the conditions and progress of educational system in India are periodically reviewed and such general instructions as appear to be desirable are issued to the Local Governments. From these periodical reports, it is clear that the educational level of the Provinces differs very widely in almost every grade of educational advancement but the Government of India lay down the general policy for the whole country in regard to free and compulsory elementary education, secondary and university education, technical and industrial education,

The Local Governments enjoy a certain amount of freedom in these matters but each Local Government is, nevertheless, very much under the general control of the Government of India. All this control is justified under the present financial system and the Government of India claim to be responsible for the due financial administration of educational expenditure.

#### IMPERIAL INSPECTORS-GENERAL.

In addition to laying down general lines of policy, the Government of India have also appointed Imperial Inspectors-General or Directors-General in the following departments:—(1) Agriculture, (2) Archeology, (3) Cantonment Magistrates, (4), Criminal intelligence, (5) Commercial intelligence, (6) Education, (7) Excise and Salt, (8) Explosives, (9) Forests, (10) Geology, (11) Irrigation, (12) Medical, (13) Printing and Stationary, (14) Sanitation. Six of these posts came into existence after 1901. The appointment of these officers has increased, to a great extent, the control which the Government of India exercised in matters pertaining to provincial administration and tended to destroy the responsibilities of Provincial officers. The Government of Bombay have pointed out that the most important result of these and similar appointments has been to “substitute for the Local Governments, as a responsible authority in the departments concerned, the Government of India in one of its departments, acting on such information and advice as the Inspector-General can tender after a hasty cold weather tour. This is specially the case in sanitation, education, commercial



intelligence and criminal intelligence." It is true, in regard to many of these appointments, that the Government of India have laid down that they have no intention of relieving Local Governments of the direct control and responsibility which they are expected to exercise. But the appointment of these Inspectors-General has tended to destroy the small measure of autonomy previously enjoyed by the Local Governments and to substitute technical and to a certain extent administrative control, by officers located "for more than half the year in a distant part of India". In the departments of education, sanitation, commercial matters, salt and excise, medical questions, printing and stationary, the utility of general experts was not apparent and any special assistance rendered by the Inspectors and Directors of these branches of general administration was not of much value. "Ignorant of the language and bound on a tour which allows only a few days for visiting the whole territory of the local Government, these officials can do little more than collect hasty scraps of information from subordinates in the departments which they are supposed to "inspect" or "direct."

#### THE VIEWS OF A LOCAL GOVERNMENT.

In protesting against the present control exercised by the Government of India over the various branches of provincial administration, the Government of Bombay made the following statement to the Royal Commission:—"It must be obvious that a Central Government for all India cannot possess knowledge and experience of all the various conditions prevail-

ing in all the Provinces of India; and it must, therefore, be an authority less competent to deal with matters of provincial administration than the Provincial Governments, the members of which cannot be markedly inferior, and must generally be equal in ability, to those of the Central Government, while necessarily superior as a body in point of knowledge. The first consequence, therefore, of the excessive control exercised by the Central Government even in the smallest details is an immense increase in the labour of the provincial Governments and their officers. For the purpose of correspondence, it cannot be assumed that the central Government knows anything of local affairs. Everything has to be explained at full length and on paper to a distant official. Time which should be spent in direct administrative work and in studying local problems has to be employed in explaining facts well-known to the local authorities, and in attempting to persuade the Central Government to accept proposals or to refrain from taking measures ill-adapted to local conditions. The length to which the process has been carried is almost incredible."

The exercise of the general control and the employment of these Inspectors-General is justified on the ground that the Government of India are responsible, under the Statute, to the Secretary of State for the good Government of the Province, that it is essential that they should have some machinery for keeping them continuously informed of what is going on in the different Provinces and that the employment of these Inspectors-General

is intended for the exercise of their legitimate functions of control over local Governments. The existence of these Imperial Inspectors-General has tended towards a greater degree of centralization in the Government of India. The Local Governments regard this result with great apprehension. On the other hand, the Government of India seem to think that the employment of special officers must also necessarily involve a certain amount of centralization. They take the view that specialisation is a necessary development of modern administration and the employment of the Inspectors-General has tended to improve the technical efficiency of the administrative departments of the Government of India and the Local Governments. The Royal Commission have found that a tendency in the direction of centralization has been established by the employment of Inspectors-General and that this tendency should be checked by a more detailed definition of the functions of the Imperial Inspectors-General. They expressed the opinion that such matters as Police, Irrigation, Sanitation, Excise, Education, Agriculture and Forests are essentially within the domain of Provincial administrations and that special care was necessary to guard against the danger of making use of Inspectors-General as fresh administrative agencies and that the administrative interference by Inspectors-General was, in their opinion, the "greatest danger" of the present system. They went on to lay down an elaborate procedure to guard against these dangers and tendencies but whatever the checks and safeguards, the inherent defects

of the existing system of centralization cannot be avoided.

#### IRRIGATION.

I must now refer to two other departments of activity—irrigation and railways. In regard to both these matters the position of Local Governments has been very unsatisfactory. The general organization of the departments of public works under the Provincial Governments is prescribed by the Government of India. The pay of the different grades of the officers, the general condition of their service and spheres of action are laid down by the same authority. The Government of India hold themselves responsible for the allocation of funds for irrigation and other public works projects which are defrayed from current imperial revenues or borrowed funds. At present there is some amount of difficulty in the financing of irrigation schemes. The major productive works have all been financed by the Government of India and the irrigation programme of each province very much depends on the financial limitations of the Central Government. One of the points that was very much discussed by the Irrigation Commission was the provincialization of irrigation works. It was suggested to the Commission that if irrigation works were all provincIALIZED and the Provincial Governments were allowed or required to devote the profits that might accrue to them under the irrigation settlements to the construction of new or to the improvement of old works, there would be a great incentive to careful and economical management followed by considerable extension of irrigation

works. The advantages of provincializing the management of irrigation works was admitted by the Irrigation Commission. There are, of course, advantages as well as disadvantages in the present irrigation policy of the Government of India but provincial administrations feel that the progress of irrigation in the provinces is necessarily slow as a single authority has to approve of all the projects and find the money. The proposals made by the Irrigation Commission to provincialize new irrigation works and also to enlarge the sphere of provincial responsibility, have not been given effect to. It was the passion of that great Irrigation Engineer, Sir Arthur Cotton, to secure the establishment in each province of a Navigation and Irrigation Board to give continuous attention to the development of navigation and irrigation. He was of opinion that the Executive Council of each province was not competent to deal with these questions and that there should be a separate board in each province consisting of two or three persons, besides an engineer, who should constitute themselves as a board of works for the province, and that they should have nothing else to do whatever but to look after irrigation and communications. It was his idea that this board should be charged with all works of this nature and that its whole thought, time and energies should be concentrated upon this one duty.

Sir Arthur Cotton admirably summarised the keynote of the Indian system in the following words.

“The curse of the Indian system is the continual effort, on the part of the superior authorities, to do everything themselves, and to meddle with matters of detail, for which they have neither time nor experience.

Not only is an individual not allowed to do anything, but not even to speak; he is courteously told that his remarks are quite uncalled for and if not thus silenced, other more effectual means are taken to prevent his making known the results of his experience and local knowledge.

“Great objections have been made to Boards as being a machinery very slow in their operation; but matters must be discussed, and there need be no delay connected with a Board beyond what is really necessary from the nature of the subject under consideration, unless the Board be composed of inefficient men, or have executive duties in detail imposed on them, foreign to their proper functions. Undoubtedly, a Board composed of *ex-officio* men, that is, of men having other duties to attend to, and who were not selected for the specific purpose on account of their qualifications, is an utter abomination. The members of the Board should be selected for the peculiar duties of the Irrigation and Public Works Department, and then, if the arrangement does not work well, the remedy is to turn the Members out and put better men in their place. It is not to be supposed by that that a man is to be put into an office of such importance, and then to be considered immovable. While he holds the office he should be treated as a gentleman, and a man of sense, honesty and capacity; but if he be found not to be so, then he should be at once replaced by one who is. The system of keeping a man throughout thick and thin in such a situation, and then gagging him and treating him at every step as a fool, as a man not fit to be trusted with five rupees, (10s), will never do for a Board of Public Works, such as is now required in India. The Board must be left, in a great measure, to manage things in their own way, a large portion of the outlay being left entirely at their own disposal, and the Government only requiring constant reports of proceedings and results, every source of delay being avoided as far as possible and especially the greatest of all sources of delay viz., superannuated members.

#### THE PHILOSOPHY OF DOING NOTHING.

“When we consider the magnitude of the field, and the trifling sum yet spent as compared with the outlay required, we are surely warranted in asserting that Public Works have been almost entirely neglected throughout India. The work that ought to have been spread over the last hundred years must therefore, if we wish to redeem our character, be done in the next ten, and to accomplish this will call for the utmost energies of men in full possession of all their faculties. Hitherto, the only mistake of any consequence that has not been guarded against, is that of doing nothing, The Board of Public Works ought to have written on the paper-stand in front of each Member and Secretary, in large letters. “Do it, Do it, Do it.” The motto hitherto has been. “Do nothing, have nothing done, let no body do anything. Bear any loss, let the people die of famine, let hundreds of laos be lost in Revenue for want of water, or roads rather than do anything.” It is not the loss of money that we mind, that is nothing, we can afford to

lose millions every year for want of Hydraulic works, and therefore to spend a few lacs of rupees on such works would of course be nothing: but nothing must be done. Before anything is done, a matter must be brought before the Collector who has charge of the welfare, and, in a great measure, the lives of millions of people, and of a Revenue of thirty or forty lacs (£3,000,000 or £4,000,000) a year; but he is still not permitted, to spend £100 without superior sanction. He hands it on therefore, to the Board of Revenue; but they have no power to sanction an expenditure of £100. It then travels soon from the Board of Revenue to the Local Council: but the hands of that council are also tied, if the project involves an expenditure beyond £1,000, so it must be passed on to the Supreme Council, who dead to the wants and interests of those extensive kingdoms called "minor presidencies" are glad enough to avoid the inconveniences and responsibilities of expenditure, by referring the project to the authorities at home; and after its arrival there, it has to undergo the ordeal of two more Boards, the consequence of which is, that nothing, or next to nothing, has been done in comparison with what is needed."

It is now 30 or 40 years since Sir Arthur Cotton expressed these views. The powers of Local Governments in the matter of according financial sanction to irrigation works have, it is true, been considerably enhanced under the scheme of decentralization but the system which he has so strongly condemned still continues to exist. Provincial Governments are not at liberty to have their own irrigation policy or to work out any large schemes or programme for the expansion of irrigation without the concurrence of the Government of India.

#### PROVINCIAL RAILWAY POLICY.

The position in regard to railways is still worse. The present policy of centralization in regard to the administration of railways, however necessary and beneficial, has also crippled the influence of provincial administrations and has given a great deal of public dissatisfaction. By the constitution of the Railway Board in India, the Government of India have merely transferred their duties to this new body and, in effect, the Railway Board is now a new imperial secretariat under a new name for the management of railways. The railway branch

of the Public Works Department of the Government of India was abolished and the control of the railway system in India was entrusted to this board consisting of three persons, a Chairman and two members. The Board has been entrusted with some of the functions of the Governor-General in Council under the Indian Railways Act. The Indian railways are virtually State undertakings carried out with the money raised by the State. Many of the railways do not bear a provincial character and a central superintendence is, no doubt, necessary. But, under the policy of the Government of India, as in other branches of administration, Local Governments had, till the establishment of the Railway Board, exercised some of the controlling and administrative functions of the Government of India as delegated authorities. Simultaneously with the establishment of the Railway Board, the control of the Local Governments, such as it was, over the railway administrations in their provinces was withdrawn and their powers were transferred to the Board and the secretariat and administrative control in the provinces over the railway administrations has ceased. The result of these changes is that local Governments are absolutely powerless in the many matters pertaining to the administration of railways, which affect the convenience of the travelling public in the provinces and a highly centralized form of control has been substituted. Neither the public nor the provincial administrations are satisfied with the present arrangements and some of the Local Governments have raised their protest against the evils of the system but without any effect. In recent years, some of the provincial governments have had occasion to develop a provincial railway policy for the construction of District Board railways. The Government of India gave the stimulus to these local undertakings but there are many questions, relating to



finance, construction and working of these lines in which the boards are now under considerable disadvantage by reasons of the position to which Local Governments have been at present reduced. The legitimate sphere of influence of local Governments in this important branch of administration has entirely disappeared.

#### STATUTORY DEVOLUTION.

I have thus referred very briefly to the extent and nature of the control now exercised by the Central Government over Provincial administrations in the spheres of activity assigned to them. I am not oblivious of the great progress made in the methods of administrative and financial decentralisation in recent years and the arguments urged in favour of the existing system. Even as it is, decentralization of a much more thorough-going character is an urgent administrative necessity. But the situation must become still worse in the future as the sphere of governmental activity in this country is approximated more and more to the Western standard. The large expansion of our educational and industrial organization, and the great volume of work in the sphere of social improvement must add considerably to the burdens of the Government in the future. Many problems for the development of the country are awaiting solution and provincial administrations must have a great deal of latitude in the discharge of their functions to fulfil their responsibilities. All these departments of activity are now in the process of rapid development. The organization of Local Governments on a statutory basis which was contemplated in 1858, is a very necessary measure of reform which cannot be delayed any longer, if a better rate of moral and material progress is to be secured to the Provinces. This can only be obtained by a definite statutory devolution of the functions of local Governments in the departments assigned to provincial

administrations and the removal of the responsibilities of the Government of India and the Secretary of State for the internal administration of the Province. Provincial administrations should be set free to exercise their powers within the limits fixed by law, unhampered by the present restrictions. Such a measure of statutory devolution, financial and administrative, is an essential feature of any scheme of provincial autonomy consistent with the present day administrative conditions. The organization of provincial administrations and the respective spheres of action of the provincial Governments and the Central Government should be settled from the bottom end, by statute, on the principle urged by the Government of Bombay. As it is, the responsibilities for the Government of this country are now vested in the Secretary of State and the Government of India and by a process of administrative devolution, some of their powers are passed on by the latter to local Governments who exercised them as agents. This process must be reversed. Only such functions of Government as cannot be localized must be centralized.

#### EFFECTIVE POPULAR CONTROL.

In thus pleading for provincial freedom, I have already made my position clear. The Provincial Governments in India are now entirely in the hands of officials uncontrolled by the Provincial Legislatures. As pointed out by me already, Local Governments in India are not now subject to the safeguards and restraints which operate on a ministry which is responsible to a legislature containing the representatives of the people and whose existence depends ultimately on the verdict of the tax-payers. The Provincial Governments spend the proceeds of their taxes and they are not responsible to those who pay the taxes. The Government of India is now the only effective critic of

provincial administrations and a statutory devolution of functions to Local Governments must take away the existing checks and safeguards. Provincial administrations should have freedom of action but our object is not to increase the powers of the official classes who now control the administration. If the present control and supervision of the Government of India is to be relaxed or removed, the only effective substitute is the control of a popular assembly over the Provincial executive. Sir James Meston, a great authority on Indian financial questions, pointed out to the Royal Commission on Decentralization that until a popular element has been introduced in the Indian constitution and has been invested with effective control over at least some part of the fiscal system, there are grave objections to increasing in any way the existing facilities for imposing provincial taxation. The late Mr. Gokhale took the same view and pointed out that if the seat of final authority in provincial matters is to be brought down to the provincial headquarters it can only be on the footing that popular representatives are to be placed in a position, where they may exercise a real and growing influence over the course of provincial administration. If Provincial Governments are to be relieved of a large part of the control, financial and administrative, at present exercised over them by the Government of India, Mr. Gokhale postulated three conditions. First, the form of Government in all important provinces should be a Governor, appointed from England, with an Executive Council. A fresh mind, trained in the free atmosphere of English public life, is needed for the solution of the problem of Indian administration from time to time. He was of opinion that the higher responsibilities of Government in this country can be better discharged by a Council of three or four persons than by single individuals. Secondly, Provincial budgets should be submitted to the vote of the

Provincial Legislative Councils. And thirdly, whenever a certain proportion of the elected members of a Legislative Council send a requisition to the President of the Council asking that a specific matter concerning the Provincial administration should be brought up for discussion before a meeting of the Council, the Council should be summoned to discuss the matter. The second and third conditions aim at providing as a substitute for a portion of the present control of the Government of India in financial and administrative matters, control of the tax-payers in the provinces itself. These views of an experienced official and the foremost public man of his time in India were no doubt expressed before the expansion of the Legislative Council in 1909. The position has not materially altered in consequence of the Minto-Morley Reforms. The Provincial Legislative Councils have completely failed to exercise any influence over the financial and administrative policy of the Local Governments. The proceedings of the various Provincial Councils are evidence of the great disappointment caused to the popular representatives and of the imperiousness of Local Governments to non-official criticism especially in financial matters. If, therefore, Provincial autonomy is to be conceded, the Legislative Councils should have a real and effective voice in the administration of the Provinces. This is the essence of the proposals of the Indian National Congress and the Muslim League regarding the organisation of Provincial Governments.

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## CHAPTER X.

### LOCAL GOVERNMENTS.

#### LEGISLATIVE AUTONOMY.

Up to the year 1833, the Local Governments in India enjoyed independent powers of legislation. These powers were withdrawn by an act of Parliament in that year and vested exclusively in the Governor-General in Council, who had been re-inforced by the addition of a fourth legislative member. The Provincial Governments were merely authorised to submit to the Governor-General in Council drafts or projects of any laws or regulations, which they might think expedient, and the Governor-General in Council was required to communicate their resolutions thereon to the Governments proposing them. The Governor-General in Council was expressly empowered to make laws for all persons whether British or Native, foreigners or others and for all Courts of Justice and for all places and things within His Majesty's Indian territories. The power of legislation, which was taken away from the Governments of Madras and Bombay by the Charter Act of 1833, was restored to them by the Indian Councils Act of 1861. The provisions of this Act and the subsequent amending Acts have been incorporated in the Government of India Act of 1915 under which the local legislatures and the Indian Legislative Council have concurrent powers of legislation. But the previous sanction of the Governor-General was made requisite for legislation by the local legislature in certain specified classes of legislation of several applications. These are the public debt of India, legislation affecting current coin and paper currency, post and telegraphs, legislation affecting the discipline and maintenance of any part of His Majesty's naval and military

forces or affecting the religious rights and usages of any class of His Majesty's subjects in India. Similarly the laws relating to patents and copy-rights or affecting the relations of Government with foreign princes and states cannot be dealt with in a local legislature without the previous sanction of the Governor-General. These limitations on the powers of the local legislatures generally follow the lines of the distribution of powers between the central legislature and the local legislatures in some of the federal constitutions of the British Empire. The demarcation of functions and powers however is much more definite there, and the cases where a concurrent power of legislation is reserved have been reduced to a minimum under the federal systems. This concurrent power has its own uses and even now it is a useful legislative power in reserve when the provincial legislatures refuse to undertake legislation on any subject of local importance. For a long time, there were no local legislatures in the Provinces except in Madras and Bombay and the Indian Legislative Council has had to legislate for the territories administered by the Lieutenant-Governors and Chief Commissioners. With the establishment of local legislatures in the various provinces the position has materially improved and there is no longer any necessity to look to the Indian Legislative Council for legislation of a local character. There is, therefore, a greater likelihood hereafter for the development of Indian legislation on accepted federal lines than has hitherto been the case and the exercise of a full measure of liberty by the provinces must be developed. The concurrent power of legislation now possessed has never been used in the provinces. A reclassification of powers between the central and the local legislatures is necessary. Besides these, there are other restrictions on the legislative powers of local governments. One of these is that the formal assent of the Governor-

General is required to an act passed in the local legislature. The second is that the repeal and amendments of the acts of other legislatures is forbidden except with the previous sanction of the Governor-General. A third is that the regulations for the election and appointment of the additional members are made by the Governor-General. In addition to these three, there is a most important restriction that the rules for legislative business are partly and the rules for discussion of matters of general public interest, the financial statement and the budget are wholly subject to the Governor-General's sanction. I shall refer to these restrictions in the appropriate place.

#### ADMINISTRATIVE CONTROL.

The present position, however, is that, while under the statute, the powers of the Indian Legislative Councils and the Local Legislatures are concurrent, the local Governments are, in all measures of legislation, now subject to a great deal of administrative control by the Government of India much to the detriment of provincial independence and progress. The initiation and the subsequent conduct of legislation is fettered by a continual reference to the Government of India under a series of despatches, letters and Government resolutions. The Government of India have framed definite instructions to local Governments regarding legislation in the local councils, which they are bound to carry out. Where the legislation proposed involves substantial questions of principle, a motion for leave to introduce a Bill cannot now be made until such questions have been settled in communication with the executive departments of the Government of India to which the subject belongs. The draft bills have, before introduction, to be transmitted with a despatch to the Secretary of State in the case of a Madras or a Bombay bill and in all other cases to the Government of India, who, in their turn, have to obtain the sanction of the

former authority. Where a draft bill contains penal clauses also, the previous sanction of the Government of India has to be expressly applied for when the draft is reported to the legislative department of the Government of India. If the administrative sanction of the higher authority to the contemplated legislation is withheld, the local Government cannot initiate the measure in the Legislative Council. Where, amendments are proposed, which a local Government is prepared to accept to a bill but which are outside the principle of the bill as introduced in the Council, the local Governments are directed to take the requisite steps to delay the progress of the Bill and obtain the sanction of the Government of India or the Secretary of State for the acceptance of the amendments. These and other restrictions on the initiative of the local Governments in legislation of a local and domestic character and relating to departments of provincial activity are not only unnecessary at the present day but have considerably retarded the growth of provincial legislation and the development of the self-governing spirit in the provinces. The present state of legislation in Madras is a case in point. In consequence of the recommendations of the Royal Commission on Decentralization, there are a large number of legislative proposals under consideration for the last ten years. The bills relate to the city Corporation, District Municipalities and local boards, town planning, food and drugs, judicial panchayats, and so on. All these measures are essentially local in their character and have to be examined more in the light of such legislative and public opinion as exists in the province itself. They have nothing to do with the Imperial responsibility of the central Government and their elaborate examination, co-ordination and criticism by the secretariat of the Government of India really amounts to doing over again the work done in the province and is a waste of power. The delays incidental to such a



system are detrimental to all good governments and there is absolutely no reason why a provincial legislature should not deal finally with all classes of domestic legislation without any outside control. The Government of India have sometimes refused sanction for the introduction of legislation of a purely provincial character on the ground that it did not conform with the legislative policy laid down by them for the provinces.

#### LEGISLATION AND PUBLIC OPINION.

Legislation in British India is the work of a body of English specialists who follow the current of English opinion. It was Mr. A. V. Dicey, the great authority on the law of the constitution, who said that Anglo-Indian officials, though they may not obey the transitory feelings of the English public, certainly do not represent Indian public opinion. In India, law is essentially based on custom, which has kept the society for ages within the limits of traditional action. Legislative opinion and public opinion in England are dominant factors in the development of legislative changes. With the establishment of the High Courts and the spread of English education, the volume of judicial opinion has been continuously increasing in the provinces and the establishment of provincial legislatures has given further opportunity for fostering what is known as law-making opinion. The Government of India had been hitherto particularly careful in the initiation of legislative measures affecting the religious and social usages of the people. This was a necessary caution when the provincial Governments in India, constituted as they are, had to act on their own initiative without the guidance of a strong public opinion. It seems to be therefore necessary, that provincial public opinion should be the most important factor in deciding the scope and necessity of provincial legislation and that the very stringent control exercised by the Govern-

ment of India is no longer necessary, when there is an elected element in the legislatures. It is detrimental to the growth of social changes so urgently necessary to modify the rigour of the customary law in consonance with the public sentiment of the province.

One of the many obstacles to the growth of provincial legislation is the tendency of the Government of India to take into its own hands legislation affecting more than one province and all social legislation of general Indian application. The level of public opinion in all the provinces on any legislative measure is not the same and provincial opinion on important measures of legislation differs widely. A measure of reform which may not be agreeable at the time to the public opinion of one province may nevertheless be found acceptable in another, unhesitatingly accepted and passed into law. The legislation in one province will be an impulse to systematic thought not only in that province but also in the provinces where the same development has not been reached. The law accepted in one province will gain more and more on the convictions of the backward province. So early as in 1892, the Madras Law Journal which was then under the editorship of Sir C. Sankaran Nair, the present Indian member of the Viceroy's Council, urged greater freedom for local Legislative Councils. In referring to the subject of the codification of Hindu Law, the journal said :

"Though it may be impossible for the Viceroy's Council to codify any branch of Hindu law so as to apply to all India from the Himalayas to Cape Comorin, yet the legislative Councils in the various Presidencies of India, may be in a position to legislate."

"Such a body is, in fact, in a better position to legislate than the Imperial Council. In our own Presidency, the various sections or classes are much better represented in the Local Legislative Council than in the Viceroy's Council. Whether, for instance, a particular legislation ought to be undertaken or not, can be more satisfactorily determined by our Local Council than by the Calcutta Council. It is true the representation in the Council of

the various classes in the Presidency is not satisfactory but it is immensely superior to such representation in the Viceroy's Council where the Madras Presidency is now represented, so far as non-officials are concerned, by one gentleman and was not represented for a long time by any. Speaking of Hindus alone we have two gentlemen, one Tamil, and one Telugu and another Gentleman from the West Coast. Though an addition to the number would be a great advance, we can scarcely hope in the Viceroy's Council for even such a representation. These Local Councils are, therefore, in a better position to take note of the rapid changes going on in our social relation, and to appreciate the extent to which such changes are due or are affected by our laws. In fact, so far as their own Presidency is concerned, they are more in touch with the classes for whom they legislate, than the Viceroy's Council can ever hope to be with the whole of India. Any Bill introduced into the Local Council will be probably subjected to a more searching criticism by the people of this Presidency than a Bill introduced at Calcutta and the Council is more under the influence of local public opinion. For these reasons, we believe that the advantages that would attend legislation by the Imperial Council will not be felt here in the same degree."

"And we are of opinion that codification, subject to the limitation to be hereafter mentioned, proceed in one part of India though the other provinces may not be ready for the same. The Empire is so vast, the conditions of social life are so different, that one province or class of people ought not to suffer because another province is not prepared to advance: on the other hand, the experience of one province would be a guide to the other provinces and to India as a whole, the backward provinces would be put in possession of the fruits of the experience of the more advanced and would be enabled to advance possibly by whole generations towards the progress necessary for codification based on principles common to the whole country."

#### THE GROWTH OF PROVINCIAL CODES.

The spheres of the legislative activity of the Government of India and of the local Governments should, therefore, generally follow the demarcation of the functions of the two Governments. Legislation dealing with the imperial functions of the Central Government should alone be undertaken by the Indian Legislative Council and all other legislation of a provincial character must be left to the provincial Legislatures. This is the gist of the proposals made by the Government of Bombay, who, in 1908, strongly pleaded for Legislative autonomy. They stated that provincial Legislatures should be invested with full power to legislate within the limits of autho-

riety exercised or to be conferred on the Local Governments and that prior sanction or consent should only be required in cases where the proposed legislation will affect some branch of administration allocated to the Central Government. This proposal is essentially sound and is justified by the growth of provincial public opinion and the representative character which is sought to be given to the provincial Legislative Councils. The growth of provincial Codes has been discouraged with a view to the production of a uniform system of codified law in India. This view has been pressed too far. The case of Mr. Bhupendranath Basu's Civil Marriage Bill is in point. Though a very desirable measure of legislation, it met with a great deal of opposition in the Indian Legislative Council. But if the Bill had been introduced in the legislature of the province, where public opinion was ready for the change, it would probably have been carried. The Government of India have recently accorded sanction to the introduction of a private bill in the Bombay Legislative Council in regard to free and compulsory education in municipal areas. Some years ago, Mr. Gokhale's passionate and courageous advocacy of the measure in the Indian Legislative Council did not produce any result. The step taken by the Government of India to permit provincial legislation in a matter of that kind is, if I may say so, the right one.

#### LEGISLATIVE AUTONOMY.

But legislative autonomy by itself, without financial and administrative autonomy, will not do any good. The question of free and compulsory education is again in point. It was the accepted belief till a few months ago that the Government of India have made themselves responsible for financing free and compulsory education throughout the country. It was an essential feature of Mr. Gokhale's

bill that the Government and the local bodies should share the expenditure in the proportion of two thirds and one third. Now, if a measure relating to free and compulsory education is introduced in a Local Legislative Council, the local Government must commit itself to this expenditure which they have no right to do under the present financial system. A bill for free and compulsory education in municipal areas without a guarantee of some kind from the Government for financing the scheme will leave undecided the vital problem on which the success of the measure depends. The question of provincial autonomy is, therefore, a many sided one and has to be dealt with as a whole.

#### CONSTITUTIONAL CHANGES.

I have thus briefly indicated the present position of the Local Governments in India in the sphere of provincial finance and administration and also in the sphere of provincial legislation. Reference may be made to the two important documents which are always referred to as showing the limitations of Local Governments. Sir Herbert Risley, who gave evidence on behalf of the Government of India before the Royal Commission on Decentralization, referred to them and said, that they contained the principles applied at the present day by the Government of India in their relations with the local Governments. The despatches of the Court of the Directors in 1834 and 1838 lay down the character of this control and are material in an understanding of the exact position of the local Governments. Addressing the Government of India on the subject of the Charter Act 1833, the Court of Directors stated as follows:—

Invested as you are with all the powers of the Government over all parts of India, and responsible for good government in them all, you are to consider to what extent, and in what particulars, the powers of government can be best exercised by the local authorities, and to what extent, and in

what particulars, they are likely to be best exercised when retained in your own hands. With respect to that portion of the business of the Government which you fully confide to the local authorities and with which a minute interference on your part would not be beneficial it will be your duty to have always before you evidence sufficiently to enable you to judge if the course of things in general is good, and to pay such vigilant attention to that evidence as will ensure your prompt interposition whenever anything occurs which demands it.

“In general it is to be recollected that in all cases where there are gradations of authority the right working of the system must very much depend on the wisdom and moderation of the supreme authority and also of the subordinate authorities. This is especially true of a system so peculiar as that of our Indian Empire. It was impossible for the Legislatures, and it is equally so for us in our instructions, to define the exact limits between a just control and a petty, vexatious, meddling interference. We rely on the practical good sense of our Governor-General in Council, and of the Governors for carrying the law into effect in a manner consonant with its spirit, and we see no reason to doubt the possibility of preserving to every subordinate Government its due rank and power, without impairing or neutralizing that of the highest.

“The subordinate Governments will correspond directly with us as formerly, but we think that you should immediately receive copies of all their more important letters to us, both as part of the evidence of their proceedings which you should have before you, and that we may have the benefit of the observations which you have to make, and which we desire that you will always despatch to us with the smallest possible delay.”

“It will be for you to determine what part of their records, or what other documents, it will be necessary for you regularly to receive as evidence of the general proceedings of the subordinate Governments, and as an index to the other documents which you will have occasion to call for when anything occurs which you desire to investigate.

In the later despatch on the subject in 1838 the Court of Directors again pointed out to the Government of India that

By the 85th clause of the Acts 3 and 4 Wm. IV., Chap. 85, the Governor-General in Council is invested with full powers to superintend and control the subordinate Governments in all points relating to the Civil and Military Administration of their respective Presidencies, and that these Governments are required to obey the orders and instructions of the Governor-General in Council in all cases whatever, and, in order to enable him to exercise, with effect, the control and superintendence thus devolved on him, the subordinate Governments are required by the 68th section to transmit regularly to the Governor-General in Council true and exact copies of all the Orders and Acts

of their respective Governments, and to give intelligence of all transactions which they may deem material to be communicated, or as the Governor-General in Council shall from time to time require."

Although a minute interference on the part of the Governor-General in Council in the details of the local administration of the subordinate Presidencies is neither desirable nor practicable, the Court of Directors expressed the opinion that they hold him but ill acquitted towards those whose interests are committed to his charge, if he should allow to pass without comment and, if necessary, without effective interference, any measure having, in his opinion, an injurious tendency either to the Presidency or to the Empire at large. These pronouncements contain authoritative statements of the general principles by which the Government of India are guided at present in their relation to Provincial Governments. The Government of India are therefore responsible for everything done in the Provinces and it is for them to discriminate between matters which would be primarily within the scope of the local governments where their interference would be of a very exceptional character and matters in regard to which their control would be more detailed and constant. The present distribution of functions between the central and the Local Governments in India is in accordance with these statutory provisions and despatches.

#### THE VIEWS OF THE ROYAL COMMISSION.

The position of absolute subordination of the local administrations might have been necessary in 1833, or 1834 when British power was in the process of consolidation. The present system is completely out of date. The position in relation to Local Governments has been summarised by the Royal Commission on Decentralization.

They stated that the Government of India "had been too much dominated in the past by considerations of efficiency and that they paid too little regard to the importance of developing a strong sense of responsibility

amongst their subordinate agents and of giving sufficient weight to local sentiments and traditions. They condemned the undoubted evils of the existing system and expressed the opinion that the burden of work could be materially diminished if the Indian Governments were to refrain from interfering in unnecessary detail with the actions of the authorities subordinate to them and from interference, which results in a large measure, in every administrative authority in India having to do over again work already accomplished at a stage below. They recommended that the future policy should be directed to enlarge steadily the spheres of detailed administration entrusted to Provincial Governments and the authorities subordinate to them and to the recognition that they must definitely dispose of an increasing share of the ordinary work of Government."

The desired reforms for securing the independence of Local Governments can only be secured, as I have indicated more than once, by a statutory re-arrangement of functions and powers.

#### THE REGULATING ACT, 1773.

Prior to the Regulating Act of 1773, the three Presidencies of Bengal, Bombay and Madras were virtually independent of each other, the Government of each being absolute within their own limits and responsible only to the East India Company in England. By the Regulating Act of 1773, the supremacy of Bengal over the other Presidencies was definitely declared and the President and Council of the two other Presidencies were, especially in the matter of commencing hostilities or negotiating or concluding any treaties of peace, subject to the control of the Governor-General at Fort William. By a later Act in 1793, this power of control over the Civil and Military Governments of the two other Presidencies was made more stringent. The accession of new territories, the direction of military operations in various parts of the country and the consolidation of British power in India made it still more necessary to strengthen the hands of the Central Government and by the Charter Act of 1833 it was finally declared that "the superintendance, direction and control of the whole Civil and Military Government of



all the said territories and revenues in India shall be and is hereby vested in a Governor-General and Councillors, to, be styled 'The Governor-General of India, in Council.' Secs. 65 and 67 of the same Act laid down even in wider language the provisions as to control over the Presidencies contained in the Act of 1793.

THE CHARTER ACT OF 1833.

The subordinate position to which Local Governments were reduced by the Charter Act of 1833 both in the sphere of administration and legislation attracted a certain amount of attention when the Bill, which subsequently became the Government of India Act of 1858, was under consideration. Mr. Gladstone quoted the opinion of Mr. Halliday that it was the mission of Great Britain to qualify natives for governing themselves and he strongly pressed the view that any legislative arrangements for the Government and administration of India should be well adapted to bring them forward in proportion to their powers in the work of governing themselves. A full consideration of this point of view, he contended, should enter into the measure which purported to dispose conclusively of Indian Government and must form part of it, if it is to be of any value. He, however, proceeded to point out that a considerable portion of the people were then still in arms against the Government established by law in India, and that in the then unsettled state of the country this aspect of the measures could not receive any adequate attention.

MR. GLADSTONE'S VIEWS IN 1858.

In speaking of the constitution of the Provincial Governments as foreshadowed in the Government measure, Mr. Gladstone made equally weighty observations which are of interest to us at the present moment. He said:—

"We seem to think that we have got a machine that moves like clock-work, and that in legislating for India there is no occasion to touch on the question of the local Governments of India. Such, however, was not the

opinion of Parliament in former times, and I do not believe it is the opinion of those best acquainted with India that we have arrived at such a solution of the leading questions connected with the local Government of India as to justify us in throwing them behind us and passing to other matters. It has been a question much debated whether you should constitute the local Government in each Presidency on a footing of independence, or whether, on the contrary, you should centralize the Government, and place it entirely under the Governor-General at Calcutta. At former periods, the local Governments enjoyed a great amount of independence, because, in the early history of the connection of England with India, Calcutta was not the headquarters of the British power. But that independence was greatly weakened in 1833, and at present there is a mixture of two systems in operation with regard to the local Governments, which are somewhat incongruous. The government of each Presidency is complete. The Governor has councilors to assist him, just as though he had to conduct independently the affairs of that portion of the empire over which he presides while, on the other hand, his independent powers have been reduced within the very narrowest limits. Generally speaking, he is a Sub-Governor, holding his powers at the discretion of the Governor-General at Calcutta, while at the same time, he has a council placed around him, which seems to imply that he exercises an independent control. When we are revising the whole Government of India, surely we ought to consider whether the Indian Government ought to be centralized or how far the government of the several Presidencies ought to be independent. If you think that the Government ought to be centralized, then arises the question whether the local Governors of the inferior Presidencies ought to be surrounded by councils, which seems to imply that they are independent, or whether they ought not to be represented in the Council at Calcutta, where the matters of the greatest importance to them are, in the last resort, to be determined. These are questions of the greatest gravity, strictly relevant to the question of Indian Government and with which you have dealt in former years in renewing the East India Companies' charter; and yet upon them neither the present nor the late Government have given any definite opinion."

MR. JOHN BRIGHT.

Mr. John Bright also laid great stress on decentralized local administrations. He said: "The point which I wish to bring before the Committee and the Government is this, because it is on this that I rely mainly. I think I may say that almost entirely, for, any improvement that may be made, and by a general process will dislocate nothing. What you want is to decentralize your government. You will not

make a single step towards the improvement of India unless you give to each presidency a Governor who knew only the language of the Fiji Islands, and the subordinates were like himself, only more intelligent than the inhabitants of the Fiji Islands are supposed to be? How long does England propose to govern India? Nobody answers that question, and nobody can answer it. Be it 50 or 100 years, does any man with the smallest glimmering of common sense believe that a great country, with its twenty different nations and its twenty languages, can ever be bound up and consolidated into one compact and enduring empire? I believe such a thing to be utterly impossible. We must fail in the attempt if ever we make it, and we are bound to look into the future with reference to that point." Mr. Bright was of opinion that the union of the various countries of India into a single state was impossible, and went on to propose that each of the five great provinces should have a separate and almost independent government of its own directly subject to the British Crown and that the Central Government of India under the Governor-General in Council should be abolished. Neither in the three bills nor in the resolutions brought forward was inserted a motion that the exceptional situation created by the Indian Mutiny should be got over by the constitution, temporarily for a year, of the Court of Directors into a Council for administering, in the name of the Queen, the Government of India under the guidance of a responsible Minister of the Crown. If this course was adopted, Mr. Gladstone stated that Parliament would be in a better position to examine the problems of Indian Government and constitution in a much more satisfactory and thorough manner than was then possible.

LORD STANLEY.

Lord Stanley, went on to point out on behalf of the Government, that there were two problems before Parliament,

which were essentially different, namely, the administration of Indian affairs in India and the composition of that body, which, in England, was to exercise a general direction and control over the Indian Government. They were then primarily concerned with the latter problem. He fully concurred with Mr. Gladstone's observations as regards the necessity of elevating the natives of India in the social scale and of conferring on them political power. But he was of opinion that that was not the time to deal with those very questions when feelings of hostility existed against the British Government on the part of the Indian population. He was, therefore, of opinion that a hurried consideration of the very large issue raised by Mr. Gladstone was undesirable and it would be open to any future minister or Parliament to undertake to deal with the whole subject in a comprehensive manner. The Government of India Act, therefore, passed through Parliament practically as an emergency measure in 1858 but it is evident, nevertheless, that the ideal of Self-Government for India and of autonomy for the Provinces were present in the minds of those, who took part in the Parliamentary discussions in 1858.

#### SUBSEQUENT LEGISLATION.

We are therefore practically in the same position fifty years afterwards and neither the Parliament nor any British Minister have troubled themselves to examine the constitutional position of provincial administrations. The amending Acts, subsequently passed, mostly dealt with the Secretary of States's Council and the constitutional position of Provincial Governments remains to-day as it was settled by the Act of 1858. That position is one of complete subordination to the Government of India and the Secretary of State. The Government of India Act, 1915, which was essentially a consolidating measure, defines the position of the Provincial Governments in exactly the same terms. Sec-

tions 33 and 45 of that Act clearly lay down that "the superintendence, direction and control of the Civil and Military Government of India is vested in the Governor-General in Council, who is required to obey all such orders as he may receive for the Secretary of State and that every Local Government shall obey the orders of the Governor-General in Council and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him or as to which he requires information and is under his superintendence, direction and control in all matters relating to the Government of its Provinces." These statutory provisions indicate the present position of Local Governments in relation to the Secretary of State and the Governor-General in Council.

It is now more than fifty years since Gladstone and Bright had the prevision to urge for a proper constitution of the Local Governments in India. If the foundations of self-government are to be laid in this country it can only be by the immediate establishment of autonomous provincial administrations with the strengthening of the popular element in the Indian constitution. It has been said that it is only in exceptional cases and under the pressure of some crisis that English legislators are induced to carry out a broad principle, at one stroke, to its logical and necessary consequences. The principle for which we are now fighting has been laid down fifty years ago by the eminent parliamentarians, who took part in discussions on the Government of India Bill in 1858.

## CHAPTER XI.

### LOCAL LEGISLATURES.

#### COMPOSITION AND STRENGTH.

"The noble Lord said last night that after all there was no great  
"hardship in being in a perpetual minority and he pointed to those benches  
"as illustrating the possibility of being in that position and yet surviving.  
"Well my Lord, appearances are, sometimes deceptive; we may maintain  
"a calm jövility, but the Noble Lord will guess, if he does not know, the  
"effect on our general character, our tempers and our minds, of living in  
"a state of being perpetually outvoted. I am speaking quite seriously when  
"I say that if the Noble Lord opposite had shared our fate, during the ten  
"years before we came into office, he would know the truth of what I am say-  
"ing. Most of us towards the end of those ten years were beginning to lose  
"interest in public life, and began to think it might be well to turn our  
"attention to the cultivation of our gardens, and had it not been for this  
"emergence of the fiscal question, which gave new life to proceedings in  
"your Lordship's house, I am not sure but some of us would have done  
"so."

(The Earl of Crews, in the *Debate on the Indian Councils Bill-1909.*)

The problem of Self-Government for India with a view to realise full responsible Government in time involves the substitution of popular control over the executive government of the country for the present official control of a superior bureaucracy. As has been pointed out in the memorandum of the elected members, the Government of India from 1833 up to 1909 has been conducted by a bureaucracy almost entirely non-Indian in its composition and not responsible to the people of this country. As a definite step towards the realisation of such a momentous change, it is necessary to reconstitute the Legislative assemblies by increasing their strength and enlarging their functions in a manner that may be deemed worthy of the great transition that is ahead.

## NUMERICAL STRENGTH.

One of the first points for consideration is the numerical strength of the Provincial Legislatures. As has been pointed out already, the present maximum strength of the Councils of Madras, Bombay, Bengal, United Provinces, Behar and Orissa is fifty; of Punjab, Central provinces Assam and Burma thirty. The present actual strength in the minor provinces is slightly less. The joint scheme of the Indian National Congress and the Muslim League recommends a strength of 125 for the major provinces, and for the minor provinces, the number fixed is fifty to seventy-five. It may also be mentioned that, under Mr. Gokhale's scheme, the strength of the provincial legislature is fixed between seventy-five and one-hundred. Looking at the size and the population of the various provinces, the Congress-League proposals for the numerical strength of the legislative councils err on the side of moderation, and practically amount to doubling their present strength.

The areas and population of the provinces, which now have legislatures, are as follows:—

Provinces.	Area in square miles.	Population.
Madras	141,726	41,405,404
Bombay	123,064	19,672,642
Bengal	78,412	45,483,077
United Provinces	107,164	47,182,044
Behar and Orissa	83,205	34,490,084
Punjab	97,209	19,974,950
Central Provinces and Behar	100,345	13,916,308
Assam	52,959	6,713,635
Burma	230,738	12,115,217

It will be seen from the above that Madras, Bombay and Burma are larger in size than the United Kingdom. In the matter of population also, Bengal, United Provinces and

Madras are very nearly equal to that of the United Kingdom. The present proposal would give, on the average, a representation of 2 members for each million of population as against 15 per million in the United Kingdom.

#### PRINCIPLE OF REPRESENTATION.

The Congress-League Scheme desires that the members of the Provincial Legislative Councils should be elected directly by the people on as broad a basis as possible. The success of democratic institutions everywhere depends upon the breadth of representation and, in consequence, on the composition of the constituencies and exercise of the franchise by as many as possible. In a consideration of this subject, at the present day, we must not, however, forget the past or ignore the present electoral arrangements. In the discussions preliminary to the Indian Councils Act, 1892, and afterwards, the method of representation that should be adopted frequently came up for consideration and the principles then formulated substantially form the basis of the electoral arrangements up to the present day. In 1886 or thereabouts, Lord Dufferin's Government began to discuss the enlargement of the Legislative Councils and it was the official opinion, then, that "the process of modifying the existing constitution of the Councils should proceed on a clear recognition and a firm grasp of the fact that India is a congeries of races, nationalities and creeds widely differing *inter se* in a variety of ways." Sir Charles Aitchison observed that the division of the people into creeds and castes and sects with varying and conflicting interests rendered representation in the European sense an obvious impossibility." Similar opinions were expressed in the debates in Parliament on the India Council Bill which became law in 1892. Lord Kimberly thought that the notion of Parliamentary representation of so vast a country almost as large as Europe,



containing so large a number of different races is one of the wildest imaginations that every entered the minds of men. Lord Northbrook was of opinion that provision should be made for the representation of the different classes of people—people of different races and different religions.” He was particularly anxious that the interests of the minorities should be effectively protected and referred to the Muhammadans, who were frequently in a minority in the various parts of the country. The general trend of opinion was that, in fixing the number of members, the interests to be represented and the classes which constitute the bulk of the people ought to be the determining factors rather than the population. In framing the regulations under the Indian Councils Act of 1892, Lord Lansdowne’s government substantially gave effect to these views. The scheme of representation then adopted accordingly made provision for the representatives of agriculture, commerce and industries and the professional middle classes and the representatives of the various communities, who are in a minority. We have, therefore, electorates of Zamindars and minor landholders, the planting community, the trades and commerce, and of minorities like Muhammadans and also of representative District Boards and Municipal Councils, which then formed the only electorates readily available, and of the Universities. In the discussion of the proposals, which ultimately became the Indian Councils Act of 1909, these principles of class representation which were accepted in 1892, were again affirmed and the present constitution of provincial councils and the Imperial council is, therefore, based upon the principles laid down since 1892.

#### THE MINTO-MORLEY REFORMS.

The Act, which embodied the Minto-Morley Reforms, gave us the appearance of the beginnings of representative government in India. This is not so in any sense. The

Act does not purport to give representative institutions to India on the general principles universally accepted in Western countries. On the other hand, too much importance was attached to statements that the Indians are not a homogeneous community, in the same sense as the inhabitants of Great Britain are, or of the self-governing colonies or those countries on the continent, which have adopted representative institutions and too little weight has been given to the forces of unification that have been at work ever since the establishment of British rule in India. Lord Morley agreed with the Government of India that, in the then circumstances in India, "representation of classes and interests was the only practicable method of embodying the electoral principle in the constitution of the Legislative Councils, and that the principle to be borne in mind is that election by the wishes of the people is the ultimate object to be secured whatever may be the actual machinery adopted for giving effect to it." The number of members was increased, but the constituencies that returned them are substantially the same in their character and composition and represented very nearly the same interests as in 1892.

I have referred to these matters because, in devising a scheme of popular representation, we cannot entirely ignore the existing scheme. It has been pointed out by more than one Local Government that a privilege of representation once conceded cannot be easily withdrawn, without creating a great deal of bitterness and discontent. Are these existing constituencies to be abolished? If so, what is the scheme of representation that should take its place? These details have not been worked out as yet, and though it is not necessary to do so at the present stage, the acceptance of the principle would be made much easier by an examination of the general lines of advance. The withdrawal of the

franchise from the classes and interests, who now enjoy it would raise a storm of opposition, and it seems to me that the best solution of the problem would be to retain the existing constituencies as far as possible for the present and to allot the number of new seats on a territorial basis.

#### THE NON-OFFICIAL MAJORITY.

I must, at the outset, refer to the non-official majorities in the Provincial Legislative Councils and how they have worked in practice. The Prime Minister, Mr. Asquith, declared that it was most desirable, in the circumstances, to give the people of India the feeling that these Legislative Councils are not mere automatons, the wires of which are pulled by the official hierarchy, and that it is of very great importance from this point of view that the non-official element should be in the ascendant. The official majority was, therefore, dispensed with in the provincial councils and a non-official majority, altogether illusory in its nature, was created. In fact, the true nature of the constitution and the probable working of the non-official majorities in the provincial councils was foreseen in 1909, in the course of the Parliamentary discussions on the Reform proposals. Mr. Asquith himself pointed out that "the practice of creating a non-official majority is not at all the same thing as creating an elective majority; they are not representatives at all. The non-official element is largely composed of nominated members. Therefore, it is not at all the same thing as if you are giving the elected representatives of particular classes or communities a voting majority in the council to which they belong. The distinction must be carefully observed and whatever danger may be apprehended, they are very shadowy." Earl Percy thought that the government responsible for the Indian Council Bill of 1909 would never have agreed to allow an un-official majority at all, were it not

for the fact that they count upon the probability that the nominated members would very often vote with the Government against elected members. In his opinion, "the un-official majority was nothing but a sham." Lord Ampthill stated in the House of Lords that "he could hardly imagine circumstances in which there would be a hard and sharp division between officials and non-officials. It was no doubt possible, but in circumstances similar to those which he could recall to mind, the officials would be supported by such class representatives as the planters or the landholders or the representatives of the Chambers of Commerce, and that, in practice, the non-official majority will not be an actual one and that it would only be a seeming one." Truer and more prophetic words were never uttered. Lord Morley himself doubted whether the non-official representatives would unite. He said that with a council representing divergent interests and realising, together with its increased powers, its greater responsibility, a combination of all the non-official members to resist a measure proposed by the government would be unlikely and that some non-officials at least would, probably, cast their votes on the side of the government.

#### A COMPLETE FAILURE.

These prophecies have been amply fulfilled. The European non-official element in the councils, whether elected or nominated, has, in most cases, identified itself with the Government and the nominated Indian non-officials have, with a few honourable exceptions, generally cast their votes with the Government. If the constitution of the Provincial Councils were examined, it will be seen that the officials, the European and nominated non-official Indians taken together, are greater in numbers than the elected representatives of the people. The number of officials in the provincial councils, excluding the Heads of Provinces, is 19, 17, 17,

28, 17, 10, 6 and 12 respectively in Madras, Bombay, Bengal, United Provinces, Behar and Orissa, the Punjab and Burma and the Central Provinces. The number of Europeans is 7, 4, 8, 3, 4, 2, 3 and nil respectively. The nominated non-official Indians are 4, 13, 5, 8, 3, 5, 7 and 4 respectively. Under these circumstances, is it any wonder that the Minto-Morley reforms, while providing opportunities for the discussion of the affairs of a province, failed entirely to carry out the wishes of the people. The eight years' toil in the Provincial Councils is a depressing story of weary waste of effort on the part of the elected Indian members to divert the expenditure of public funds in the directions desired by them. The proceedings of the Provincial Councils will be interesting reading to anybody who wishes to get further confirmation of the futility of these Councils as they now exist.

#### THE OFFICIAL ELEMENT IN THE COUNCILS.

The point however is, "Is it necessary to have an official element in the Provincial Legislatures to support the Government?" The present constitutional position does not make this expedient necessary or desirable. The whole body of official and non-official members constitute the Government for legislative purposes and the introduction of a non-official majority or a numerical official majority is meaningless. Sir Bashyam Ayyangar asserted emphatically that the notion of an official majority in the legislative councils or the notion that the additional official members should vote with the ordinary members of the council or that the ordinary members of the Council and the president should vote alike is opposed to the fundamental principles of the present Indian constitution. In his opinion, "so far as legislation is concerned the Government consists of the Governor, his ordinary members and the additional members whether nominated by him or elect-

ed and all form but one component and indivisible part of the Government for the purpose of making laws and regulations and there is no warrant for the division of this body into the Executive Government supported by the official members as against the non-official members." He went further and stated that nothing can be a greater condemnation of the Indian Councils Act than that it should publicly declare that the Legislative function of the Government cannot be safely and satisfactorily discharged unless there is always a standing majority of official and nominated non-official votes. There is an implied understanding that no official member can take a line of action or argument independent of that indicated by the ordinary member in charge of the subject concerned even though the former's experience and opinions may be quite opposed to those of the latter. The official members do not, therefore, ordinarily take part in the discussions in the councils and they now exist merely for the purpose of recording their vote for the Government whenever there is a division. They are thus a useless appendage in the councils and should no longer sit there unless they are of the class, whose experience and advice is necessary in the active work of the council. The composition of the present councils does not afford opportunities for political training for the very large number of capable men who take part in the progressive life of the country and it is of the utmost importance that the Provincial Councils should be adequate in size and numbers and should afford a living representation to the many millions included in each provincial area.

The true ideal, therefore, is a fully elected Legislature. The Congress Scheme, however, provides that a portion of the Councils *viz.*, one-fifth should be nominated, for the present, so as to secure the representation of important minorities and of official experts, who may be necessary to

deal with legislation of a technical character. The provision of a nominated element in an elected assembly is no doubt, an anachronism. But this provision is a temporary expedient and has been made to secure adequate representation of all classes so necessary for the smooth working of these institutions.

## COMMUNAL REPRESENTATION.

At the present moment, a new and somewhat minor cause of discord is created by the non-brahmin movement in the Madras Presidency. It is unnecessary to go into the genesis of the movement. It is rooted in a genuine desire to create increased opportunities for better education, better training in civic duties and responsibilities and better enjoyment of the loaves and fishes of office. These are genuine and legitimate ambitions, which the Indian Communities are demanding but which are as far off as ever. How, then, can any demands based upon the national aspirations of India be denied to the non-brahmin population of Southern India. All reasonable facilities should be granted for the development of education among them. Any self-reliant efforts put forth by them *en masse* or by individual communities command the sympathy and support of all right thinking men. The Government cannot be accused of indifference to their demands for special treatment in the public services or in the matter of providing facilities for education. There is little doubt that they enjoy a fair share of official preferment and much more will be secured, as the number of educated men amongst them increased day by day. In regard to civic duties and privileges, their co-operation and service are eagerly sought and welcomed by all patriotic citizens of the country. The power of nomination vested in the Government has all along been utilised to make up any inequalities of representation.

## AIMS AND OBJECTS.

There has been a great deal of indefiniteness and misapprehension about the aims and objects of the movement and its energies have found vent sometimes in a very undesirable antagonism to other communities. The political programme of the new movement now appears to have been crystallised and the resolutions adopted at one of the conferences reveal the identity of political aims of the leaders of this movement with the views of the progressive political party in the country as represented by the Indian National Congress.

One of the demands formulated by them is that the legislative councils both imperial and provincial should be enlarged so as to contain a substantial majority of elected members, provision being made for the due representation of all communities and interests and that, in the combination of electoral areas, provision should be made for the representation of each district by at least one member. It is also suggested that half the number of members of the executive councils should be Indians and that these members should be nominated in such a way that the requirements of several communities are represented in the councils and that the non-official members of the legislative councils should have the final voice in the departments of local self-government, education, sanitation, co-operation, agriculture and registration. They also formulate a specific demand that, in any scheme of imperial reconstruction after the war, India should be accepted as an equal partner with self-governing colonies and they ask for a declaration that the goal of British responsibility is the establishment of self government in India. In all essential particulars, therefore, the political ambitions of the leaders of this new movement are exactly identical with those formulated by the Indian National Congress. The scheme of representation put



forward definitely ask for territorial representatives for each district. I do not believe that the framers of the proposals intended that in addition to those territorial representatives in a province, each community or caste of the Hindu society should have further separate representation of the communities. It is quite possible that what was intended was the due representation of the communities who are regarded as minorities. This is a perfectly legitimate proposal,

## OPINIONS IN 1908.

If, however, the demand is a step in furtherance of the principle of caste representation adumbrated by the Government of India in 1907, the proposal was universally condemned on the above occasion by the non-brahmin leaders of thought and culture in the Madras Presidency and throughout India, whose outlook and statesmanship can hardly be questioned. I will only refer to the opinions of a few representative men who come within the category of the classes on whose behalf the demand for communal representation is now being made. Dewan Bahadur P. Rajarathna Mudaliar, Retired Inspector General of Registration, Madras, informed the Madras Government that "he does not consider it right in principle to form an electorate based on distinctions of caste and creed, but at the same time he was decidedly of opinion that provision should be made for the proper representation of different interests or occupations, such as landed interests, the interests of trade and commerce and the like."

The President, Madras Landholders Association stated that his association wished to point out that "the principle of representation of castes and creeds which stood out as one of the prominent features of the proposed scheme was open to grave objections in that it is calculated to accentuate differences which were losing their impor-

tance in "secular affairs and interfere with the growth of a sentiment of unity among the people which is a necessary condition of progress. Further, the principles will be attended with great many difficulties in its application in practice." The Maharajah of Bobbili, later a member of the Madras executive council, expressed his condemnation of the new principle, pointing out that, while substantial interests have necessarily to be cared for in the apportionment of representation, mere sentimental considerations are likely to run counter to the unifying influences now at work in the country which ought rather to be welcomed and fostered. The distinction made between brahmins and non-brahmins seems to go further in this obnoxious respect." The Hon'ble Rajah Vasudeva Raja, Valia Nambidi of Kollengode expressed his disapproval in no uncertain terms.

"In regard to the method suggested for the filling up of the seats, I fear that the proposals made by the Government are not quite practicable. The cry has already been raised that the government, for political reasons, are attempting to accentuate caste difference at a time when, on account of the spread of Western Education, such differences are becoming every day of less importance.

By far the most unmitigated condemnation came from the pen of the Hon'ble Mr. M. Krishnan Nair, now Dewan of Travancore. He said :

"It is respectfully submitted that the division of people by castes and creeds for the purpose of representation in the Legislative Council is highly objectionable in principle. There are no caste and religious interests in the Legislative council. The whole trend of education imparted in English Schools and Colleges and the general policy that has hitherto been pursued by the government has been to ignore distinctions of caste and creed and to teach the people to ignore them. There are no separate schools and colleges for brahmins and non-brahmins, Hindus, Mahommedans and Christians. The laws of the land are the same whatever may be the caste to which a man may belong. It is neither possible nor desirable now to

“revive and enforce the laws of Manu. It is too late in the day now to ask the people to go back to their caste organisations or to reconstruct them for the purpose of electing members to the Legislative Council? The most potent force that has been working in the country for several generations past, against caste and other disintegrating forces has been the healthy unifying influence of the policy, that has been followed by the British Government. That policy has apparently been reversed in the memorandum under consideration. Sectional schism and division which are kept under control under the wise policy of the British administration till now will appear with renewed vigour under the conditions laid down in the scheme. Caste is already a rigid institution in the country. Anything calculated to afford further rigidity to the caste system must be carefully eschewed by all and specially by the Government. To make caste system the basis of political franchise is, I submit, a grave blunder. The principle underlying the grouping of all non-brahmin elements in the presidency, which are divided and sub-divided into numerous sects under one head is not clear. These sects and sub-sects are as widely apart from one another as the brahmin and the Mohammadan or Christian. According to the reasoning adopted in the scheme, each caste of non-brahmin community is entitled to separate representation. In fact, the principle adopted in the scheme for separate representation of castes and creeds is highly unsound, and leads to all sorts of untenable positions. There is also considerable practical difficulty in the working out of the scheme. To group all members of a caste throughout the presidency in one electorate will be highly unsatisfactory.”

Be it not for limitations of space, it would be easy to quote by the score opinions of other leading non-brahmin gentlemen of eminence and authority communicated to the Government of Madras at the time when the Minto-Morley Reforms were under discussion.

#### THE BOARD OF REVENUE.

The Madras Government, having ascertained the views of the public, condemned the scheme outright and before quoting its views it may be just as well to refer to the views of the Board of Revenue, Madras, as coming from four experienced members of the Indian Civil Service of their province.

“They say the suggestion under immediate consideration certainly does not seem likely to be accepted with gratitude by those whom it was intended to placate. On the contrary it is already viewed with intense and universal

suspicion as a Machiavellian device intended to widen existing lines of cleavages, to check the supposed growing sense of nationality and to secure the position of the British Government by the application of the maxim *divide and rule*."

"The Board cannot say that these suspicions are altogether unnatural. It recognizes that, in the case of Muhammadans, there are reasons for taking special steps to secure adequate representation of a special class, though rather on racial than on religious grounds; for the Muhammadans, whatever they may be historically, are practically a race. In regard to other castes or religions whom it is proposed to represent separately, the same necessity does not seem to exist.

"Apart from this and apart from the odium which Government will incur by seeming to set caste against caste, and to foster for selfish motives, difference which they have always professed to be anxious to obliterate there seem to the Board to be insuperable difficulties in the working of the proposed scheme. Any body which is to elect a representative must be to some extent, homogeneous with a more or less defined identity of interest, which the representative is to safeguard. It cannot be that the brahmins of the Presidency or the Christians of the Presidency or the Muhammadans of the Presidency constitute such bodies. It is inconceivable that such widely different communities as the Brahmins of Kumbakonam, the Uriya Brahmins of Ganjam and the Nambudries of Malabar would ever agree on a single representative. The same is true of Christians, including as they do numerous protestant sects, the Roman Catholics and the Syrian Christians of Malabar and it is true to some extent of the Muhammadans of Malabar, the Labbais and Rowthars of the South and the very distinct Muhammadans of the other parts of the Presidency."

#### THE MADRAS GOVERNMENT.

The Government of Madras summarized the public opinion and their own in the following terms.

"No part of the Government of India's proposal has been received with general and decided disapprobation than this last suggestion. Apart from the very great practical difficulty of forming class electorates, the proposal to introduce the principle of race, caste and religious representation has been almost universally condemned."

The fatal defect of any scheme of class representation that may be devised appears to Government to be the practical difficulty of arranging for a class vote all over the Presidency or other large area and of canvassing over such large areas. The proposals relating to class electorates did not, therefore, prove acceptable to the Madras Government

in 1908. This part of the subject may be closed with the wise words of Mr. R. C. Dutt, C. I. E., an outsider to this Presidency, who said,

"The new proposal is attended with danger. It will foment jealousies and hatreds, accentuate differences in daily life, and will be fruitful of disturbance in future. It will create aspirations among separate communities which can never be satisfied and spread discontent and foster unfavourable impressions about the fairness and justice of the ruling power. European Governments do not accentuate religious differences in these days by creating separate electorates for Protestants and Roman Catholics. The same wise impartiality can be pursued in India."

The idea of communal representation was also denounced on the last occasion elsewhere as vigorously as in Madras. Clearly, therefore, the provision of the representation of the various communities of the Hindu Society which form the bulk of the population in several of the Provinces is out of the question and would be a most retrograde measure and would result in the disintegration of the unity of National sentiment, which has established itself throughout India and which has obliterated the distinctions between the Hindu and the Mohommadan, the Parsee and the Sikh, the Punjabee and the Madrassee. A scheme of representation once introduced is very difficult to alter and any proposals now made should be consistent with the ultimate development of true democratic ideals. As far as possible, therefore, our attempt should be to develop a scheme of territorial representation, where all the electors would be brought on one register and where men of all castes, and creeds would have ample opportunities of developing their political talent and to serve their country to the best of their ability.

#### THE MUHAMMADANS.

The present demand for communal representation is supported by the example of the Muhammadan Community to whom separate representation has been conceded. This

matter received a great deal of attention when the Minto-Morley proposals were under discussion in Parliament. It must, however, be pointed out that one of the determining factors in the discussion was the promises made by Lord Minto, who committed himself in various ways at an early stage of the discussion in regard to Muhammadan representation and the Secretary of State had to stand by him to carry out the pledges made by the Viceroy. Lord Morley recognized that the Muhammadans are an important minority and should receive separate treatment; but he disliked religious discrimination and his political instincts were greatly averse to a sectarian vote in politics. He therefore, proposed his scheme for electoral colleges by which proportional representation could be secured to the Muhammadans. He stated in the House of Lords that "to the best of his belief the plan of the Hindus and Muhammadans voting together in a mixed and composite electorate would have secured to a Muhammadan electorate, wherever they were to be so minded, the chances of returning their own representatives in due proportion." He also went on to say that the political idea at the bottom of his proposal was the promotion of harmony and co-ordinated political action and that these views were entertained by men of very high Indian authority and experience at the time. The Government of India doubted, however, whether this plan would work and Lord Morley accordingly gave it up with great regret. Separate representation to an important minority is an accepted political principle for the present. But will this justify us in extending this principle to Hindu Communities merely because the composition of Hindu Society has still in it disintegrating tendencies which are rapidly disappearing under the influence of western education? The ideal to which the leaders of the non-brahmin movement along with all other

progressive men in the country look to is the fusion of all communities into a homogenous whole. Let us not politically perpetuate the already existing social differences. This view has found very strong expression on the last occasion. I may refer to only one opinion among the many. It is that of one of the important and liberal minded Zamindars of this Presidency. The Raja of Pittapuram said :

“ Successive social and religious reformers have decried caste as clogging the wheels of progress and it is very strange that, in a country whose watchword is forward, an enlightened government should think of not only accentuating sectarian differences but of perpetuating them.”

“ A Hindu like the late Mr. Prakasa Mudaliar, a Muhammadan like the Hon'ble Nawab Syed Muhammad Bahadur, a Sudra like the late Mr. Jambulingam Mudaliar have been elected by all classes of people alike and won their esteem and gratitude.”

The Raja condemned the separate representation even to minorities like the Muhammadans. I am not in favour of special representation being granted to minorities for the simple reason that they have no special interests of their own apart from those of the people in general requiring separate legislation.” However, the step having been taken, the Congress does not want to reopen the question and has simply ratified what has already been done. This does not mean that this principle should be extended. In adopting a scheme of electoral machinery at the present time, we have to remember that we are on the eve of great changes in the constitution of the Government of this country. Our aim is to develop a homogeneous electorate in time.

#### TERRITORIAL ELECTORATES.

We must, therefore, adopt a scheme of representation which, while providing ample opportunities for men of all castes and creeds for being returned to the councils should not destroy the basic principle of

united political action. Now, the Indian District is the unit of administration well known to the people and local patriotism is bound up very largely with the activities and political life of the district. Including Madras, the Madras Presidency has 25 Districts, Bengal has 28, Bombay and Sind 32, Bihar and Orissa 21. There is a community of sentiment generally amongst all classes of people in a district and the candidates are better known in a smaller local area than under existing conditions. In the discussions in connection with the Minto-Morley scheme, the Madras Government suggested territorial representation in some of their earlier proposals. The scheme adopted in 1909 was too much a representation of interests rather than a representation of the people themselves. If self-governing institutions are to be developed in this country with controlling functions over finance and administration, we must make a beginning in the introduction of some system of real representation of the people and not of interests; territorial district representation is the only way in which this can be attempted at the present day. During the debates in Parliament, Sir Henry Cotton moved an amendment that the regulations governing elections should, after making provision for important minorities and special constituencies, make a provision for adequate representation of the general population by means of territorial electorates based on the village communal system. The village Communal System was dead long ago and artificial organisations like the village panchayats and unions are of no value whatever in finding a basis for representation to the



Legislative Councils. The area of a District will be a suitable electorate and will bring in all the elements of sound progress on a single register. There are happy indications on the part of the leading men of all the communities of mutual goodwill and forbearance. I believe a satisfactory solution of this problem in Southern India will be reached very soon.

## EXTENSION OF FRANCHISE.

Finally the extension of franchise to as many as possible, on a sound democratic basis is necessary. The extent to which the franchise is now exercised and the directions in which it may be extended may be illustrated by examining the conditions of one Province. I shall, therefore, refer to Madras. The non-official members of Municipal Councils and District Boards in nine different groups of Districts return nine members. The total strength of the electorates of these 9 groups is 3369. The Presidency is divided into two electorates for the Zamindars and the total number that are entitled to vote in these two groups is 277. The minor land-holders, other than Zamindars, in the Presidency return two members and the number on the electoral rolls of these two groups is 2313. A special electorate for the landholders in the Districts of Malabar and South Canara has been provided, in which there are 444 voters. The separate constituencies of the two Muhammadan electorates consist of 1368 electors. The Madras University is represented by one member, who is elected by the ordinary and honorary fellows numbering about 180. Now coming to the representatives of Trades Association, the

Madras Chamber of Commerce and the Planting community, the first is composed of twenty-two firms, who record their votes through their representatives. The membership of the Chamber of Commerce is 40 and the planting community, who exercise franchise for the return of their membership, consists of thirteen affiliated associations whose individual membership is not large. The member for the Madras Corporation is returned by 36 Commissioners. It will be seen, therefore, that the whole body of 21 elected members of the Madras Council are returned by less than 10,000 voters out of a total population of 41 millions. This is a state of things which cannot be allowed to continue with equanimity. If political responsibility is to be acquired by the exercise of political power, the present electoral arrangements are not conducive to the same. The figures given above relate only to Madras, where the system of direct election prevails, much more than in the other Provinces. Under the existing system in all Provinces, the largest number of elected members are returned by the Municipalities and District Boards and in Provinces like Bombay and the United Provinces, the rules provide that the members should be elected by the votes of the delegates to be appointed by each municipality or district local board in each group. The delegates have unlimited discretion to choose anybody they like from among the nominated candidates and are not bound by any instructions. The number of voting delegates which each municipality can appoint depends upon its population. A municipality with a population rang-

ing between 5 and 10 thousand can appoint one voting delegate and a municipality, between 10 and 20 thousand can appoint two voting delegates and for every ten thousand or part thereof in excess of 20 thousand, a municipality can appoint an additional voting delegate. In regard to the District Boards also, where the population of the district does not exceed 1,00,000 it can appoint one voting delegate and where it exceeds 1,00,000 but is below 2,00,000 it can appoint 2 voting delegates and so on. It will thus be seen that the 8 members of Local Boards and municipalities in the Bombay Presidency are elected by voting delegates, who cannot exceed under any circumstances four or five hundred men. In the United Provinces, at the last elections one of the members was returned by 16 voting delegates selected by the municipalities of one of the electoral divisions. A radical alteration of the whole system of election is, therefore, required in order to make it as direct as possible. In each province, there are a very large number of literate and competent men who have no voice under the present arrangements in the election of candidates. If a vigorous practical comprehension of the political affairs of this country and a general grasp of the principles and practice of self-government is to be attained by the communities in India, it should be on a generous extension of the electoral principle. As has been already pointed out, the true line of advance is a constitution of territorial district electorates in which all persons holding land and paying an assessment not less than 50 rupees and persons paying a certain amount

of income tax are brought on the electoral rolls. Mr. Gokhale has also proposed that the two members for each district should be elected on a territorial basis and if this suggestion is adopted, we shall have in Madras, out of 100 members 50 returned by districts. The number that can be brought on these territorial electorates would be fairly numerous under the qualifications indicated above. According to the latest returns, there are 1,92,300 who are qualified by the payment of land revenue alone and besides, there are a large number who pay income-tax. This will be a fairly large electorate. The remaining seats may, for the present, be added to the existing electorates which will have to be reconstituted: In regard to each of these electorates, the franchise will have to be further extended. A proposal was made some years ago that the representative of the Madras Corporation should be elected not merely by the Commissioners but by all those who are eligible to be Commissioners, of which there are several hundreds in the city. The Madras Corporation did not agree to this proposal and this was only natural. The acceptance of this proposal would take away the power of election from the 36 members of the Corporation who now enjoy the privilege. A proposal to abolish the present system will not, therefore, find favour. I would, therefore, suggest that the Madras City Corporation may continue to return its present member in its corporate capacity but 2 additional members may be returned by the rate payers. The existing arrangements for the return of 9 members by 9 groups of municipalities and district boards may continue and in addition the first

and second class municipalities in this presidency with a population of over 50,000, of which there are nine, should each be entitled to send one representative. I do not suggest that all those who are on the electoral lists of these municipalities should take part in the Legislative Council elections. This class of electors do not understand the wider politics of the country and a special electorate with higher qualifications similar to those proposed for rural areas will have to be thought of. The electorates must, however, be sufficiently large as to enable as many as are capable in taking part in the election, and not merely of the Commissioners or Councillors. In this way the effective representation of rural and urban areas may be secured. In other provinces also, there are large cities and towns which may be given the right of representation. In making this suggestion for the representation of cities and towns, I have in mind the experience of the extension of the electoral franchise in Great Britain and elsewhere where the rise of manufacturing towns and the growth of urban population forced the hands of conservative Parliamentary statesmen to undertake a radical revision of the electorates. It will also be necessary to make a statutory provision for a periodical revision of electoral arrangements after each decennial census. This will be specially necessary in the case of municipalities who would come within the category of cities with a population of 50,000 and over. There are similar provisions in the Acts regulating electoral methods and procedure in some of the self-governing colonies. The University Senate may return its

present member and also an additional one and the graduates may be permitted to return two members, one for the northern and the other for the southern group of districts. The Muhammadans are entitled to 15 per cent of the seats under the Congress—League scheme. The Indian Christians being an important minority should be conceded the right of election and I would suggest that they should return 3 members—one for the Madras city, one for the northern group of districts and another for the southern group of districts. As regards Trade and Commerce, the right of election has not as yet been conceded to the Indian Commercial Community. I would suggest that the Indian trading communities in Madras city should return two members and the commercial community in the Northern and Southern groups of districts should each return one. European trade and commerce is now represented by three members and I would give them two more. The present separate electorates for Zemindars may continue to exist but their membership may be increased to four. It would be unnecessary to retain the constituency of minor landlords as the territorial electorates would be mainly composed of land owning classes. A scheme such as the one suggested here will, I venture to think, promote solidarity of political sentiment amongst all classes and interests. The cultivator is the backbone of Indian Society and his interests have always been safeguarded hitherto by the members, who sit for the existing electorates. Nevertheless, the territorial representatives will be largely drawn from this class,

The educated classes too will have a fair field for giving their stimulating guidance in the discussion of public questions. I believe the adoption of a scheme such as this would secure the objects, which those who are now asking for special representation have in view.

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## CHAPTER XII.

### LOCAL LEGISLATURES.

#### ELECTORAL MACHINERY, PROCEDURE AND POWERS

The limitations of Parliamentary legislation in regard to Indian affairs is fully illustrated by the Indian Councils Act, 1909. The Act embodying the Reforms did not contain any provisions relating to the constitution of the electorates and to the qualifications of persons to be elected—matters of great importance in an enactment, which sought to extend the representative principle to India. Parliament authorized the Governor-General in Council to make rules “as to the conditions under which and manner in which persons resident in India may be nominated or elected as additional members of any of those Legislative Councils, and as to the qualifications for being nominated or elected an additional member of any of these Councils, and as to any other matter for which rules are authorised to be made under this section and also as to the manner in which those rules are to be carried into effect.” Parliament is no doubt not competent to devise a satisfactory scheme of representation for India. We have to consider not merely the number of voters but the value of their votes and this depends upon the distribution of political power among the various classes and constituencies. Parliament does not possess the necessary local knowledge. A system of electoral representation which will do for Madras may not do for Bombay or Bengal. It is, therefore, obvious that the electoral



machinery should be settled in India. Parliament, therefore, left it to be dealt with by rules to be framed by the Governor-General in Council, subject to the special approval of the Secretary of State. Under the power thus conferred, the composition of Provincial legislatures, the development of the whole electoral machinery in India and the extension of franchise are all left to the discussion of the Executive Government in India. The Indian Legislative Council is expressly debarred from repealing or altering these rules and the provincial Legislatures have also no voice in the framing of their own constitutions. The position, therefore, is that the composition of the Legislatures is determined by an outside executive authority on the recommendation of the Government of the Province. The Indian Councils Act, 1909, therefore, has given the Government of India, as it then existed and as it will exist hereafter for all time, a blank cheque to do what it likes with the composition of the Legislative Councils. Mr. Balfour very rightly pointed out that the Government has "elaborately and carefully taken precautions that there shall be nothing in the measure which shall prevent any future Government of India doing exactly what they like with representation. The then Government of India pledged themselves to give undue representation to the Muhammadans. Nothing in the world would prevent some other Government from giving undue representation to some other community."

The Government controls, therefore, not only the executive Government but also determines the com-

position of the Legislatures. The main reason for vesting this power in the Executive Government is that the present legislatures are not representative of the people. On the other hand, there is an underlying assumption that the Executive Government looks after the interests of all communities and that the Government of India, as an outside authority, is in a better position to decide these questions. If an electoral system truly representative of the people is to be developed in India, this power should be transferred from the Executive Government to the Legislatures themselves, imperfect as they may be. It is only then that the evolution of representative institutions would really begin. Provincial Legislatures would then vie with each other in perfecting their electoral system and to secure the real representation of all classes of people. This power of the executive Government in India to determine the scope and composition of the legislatures must at once be removed. It is repugnant to a free development of self-governing institutions. A government essentially bureaucratic in its nature, should no longer be entrusted with the nursing into full growth of the representative bodies in the country. There are many complicated questions both in relation to the extension of franchise and the composition of constituencies, which can only be settled by appropriate measures in the Legislatures of the country. The whole basis of representation is now settled by the Government of India in correspondence with Provincial administrations.

## RULES OF PROCEDURE.

Another matter equally important in which the Legislatures have no voice, is in regard to the rules for the conduct of their own proceedings. The Minto-Morley Reforms have empowered the Legislative Councils for the first time to discuss the annual Financial Statement and have also conferred the power of moving resolutions on matters of general public interest and of asking questions and supplementary questions. The Local Governments have been authorised, with the sanction of the Governor-General in Council, to make rules for the observance of the Councils in regard to these important constitutional privileges. It was expressly provided in the amending legislation that the rules so framed should not be subject to repeal or alteration by the Indian Legislative Council or by the Local Legislatures. The rules were accordingly framed in 1909 by the Local Governments in consultation with the Governor-General in Council without any reference to, or discussion in, the Legislative Councils. The position, therefore, is that the Councils have no power to determine their own procedure and are governed by the rules which are made for them by the Governor or the Lieutenant-Governor and the Councils themselves have no opportunity of free debate and discussion on them or to amend or alter them. The whole authority for framing the rules of procedure is now vested in the Governor, and the Councils have no voice in determining the breadth of their own debates and discussions. The rules framed by the Local Governments and the Governor-General in Council

have considerably cut down the discussional powers of the Councils. The scope of these irritating restrictions was pointed out at the time in Parliament and an amendment proposed by Mr. Donald Smeaton at the committee stage of the Bill, that the Councils should have some voice in settling their own procedure was negatived. It will be an interesting study to make a list, in the various provinces, of the disallowed resolutions, and the grounds of disallowance, of the resolutions which were not allowed to be moved on the ground of the subject-matter being under correspondence with the Secretary of State or the Government of India, of the resolutions which were not brought up on the ground that a discussion of them was opposed to public interest, and of the various other instances in which restrictions were imposed on debates in the Legislative Councils. All self-governing institutions have their procedure in their own hands but the Legislatures in India are an exception. Municipal Councils and District Boards have the power to settle their own rules for the conduct of business and the Bombay Government very properly observed that the Provincial Governments were in a worse position than the Corporation of Bombay. Sir Dinshaw Eduljee Wacha complained a few months ago about the restrictions on free and healthy discussion in the Indian Legislative Council, which, in his opinion, was not at all a self-governing body. He advocated an urgent reform of the present rules of procedure. The same feeling exists in most of the Local Legislative Councils. The Councils must be immediately freed

from these very serious restrictions, which have cramped their activities and cut down their usefulness.

## THE PRESIDENT.

A third point relating to the conduct of the proceedings of the Councils remains to be stated. The Viceroy is the President of the Indian Legislative Council and the Governors and the Lieutenant-Governors of the Local Legislatures. They have the power to summon and adjourn the meetings of the Councils, whenever they like. The Viceroy and the Heads of Provincial Administrations are responsible for the executive administration of the country and for the general policy of administration in various spheres of activity. This policy is the subject of frequent criticisms in the Legislatures and is vigorously defended on behalf of the Government. The Viceroy, the Governors and the Lieutenant-Governors are the heads of the executive administration and are parties to the acts of the executive Government which are very often challenged in the Councils. Now in these discussions, the head of the administration, who is a party to the act challenged, is also the President of the Council and occupies the position of the Speaker in the House of Commons. The difference is that in the one case, the President is a member of the Government, whereas in the other, he is a non-party man in whom all sections of the house have confidence and whose impartiality is above question. The experience of the working of the Council regulations during the last 8 years make it extremely desirable to place the action of the Governor of a Province and the Governor-General in the Legislative Councils beyond cavil and criticism. It is only human nature that the Governor of a Province should, when the action of the Government of which he is the head is challenged, go out of his way, when sitting as President to throw the weight of his influence on the side of the official view. It

is, therefore, undesirable to place the Governor and the Viceroy in a position where his impartiality may even be suspected. The cleavage between the official and the non-official in the Legislative Councils is fairly well established, and there are many points in the conduct of the business of the Councils in which one party or the other frequently appeals to the President. Before the Indian Councils Act, 1892, the official and the non-official voted as they liked on any measure brought before the Councils, but after that it has become the rule for the officials to vote together and the non-officials, in a majority of cases, do the same though not under a mandate. In the House of Commons, the obligation of impartiality is imposed on the Speaker in the shape of a legally formulated provision that the Speaker is only entitled to vote in case the members on a division are equal, and that in such a case he is bound to vote. The Speaker is, by Parliamentary usage, debarred from the exercise of his rights as a member especially that of speaking in debate. Such intervention is supposed to clash with the exalted conception of a Speaker's impartiality and the Parliamentary historian says that for the last two generations there had been no instance of such interference. The Speaker is also enjoined to keep aloof from all political controversy both outside as well as inside the House and even in his own constituency. The position of the Speaker has been described in the following terms:—"The Speaker's constituents not only do not go to the poll; they cannot, according to present day usages, call on their representative to vote either for or against any measure which may be before Parliament. As the speaker never meets his constituents to discuss politics, one of the chief means of present-day political education is lost to them. Political organisation is suspended in a Speaker's constituency; for a present-day Speaker has no

need of any local party organisation to secure his return, even if he deemed it proper to contribute to party funds. The newspapers in the constituency have necessarily to refrain from criticism or comment on the Parliamentary conduct of its representative; and in nearly all the essentials which go to make representation, the constituency is unrepresented. In the constituency represented by the Speaker of to-day, political life is dormant; for all its outward activities, concerning both political education and local political organisation, are suspended. But no constituency complains or frets under its temporary and peculiar political disabilities. It is honoured in the honor done by the House of Commons and the country to its representative." The President of the Legislative Council in India should occupy as far as possible a similar position. The present position is quite the reverse. At the very first meeting of the Madras Legislative Council, which I attended on the 29th November 1910, a proposal was brought forward that the Local Government should give up its annual move to the Hills. Sir Arthur Lawley wound up the discussion with a speech which fully occupied half an hour in which he advanced every argument that could be urged against the proposal. There are numerous instances in the proceedings of the Councils where the votes were influenced by the speeches of the Presidents. A reform in this direction is necessary especially when a portion of the House is nominated by the Governor.

#### THE MEETINGS.

In regard to the summoning of the Legislative Councils also, there have been considerable complaints that they are summoned at long intervals and that sufficient opportunities are not given for the discussion of the affairs of the country. Resolutions have been moved both in the Indian Legislative Council and the Madras Legislative Council

to the effect that meetings should be more frequent, but they have been negatived mostly by the votes of the official and the nominated members. The Hon'ble Pandit Madan Mohan Malaviya urged that more meetings were required for the discussion of the country's affairs, for an examination of its financial system, for a criticism of public expenditure and for thinking out the problems of national welfare. Mr. Bhupendra Nath Basu was emphatically of opinion that the present arrangements for the summoning of the Indian Legislative Council were altogether inadequate. "They had to deal with questions affecting many Provincial administrations, many nationalities, many communities, many classes, many different and divergent interests." All these arguments were of no avail. Speaking of the work in the Madras Legislative Council, the Hon'ble Mr. Lionel Davidson, the official representative of Madras, stated, in the Indian Legislative Council, that on account of continuous sittings in Madras some of the resolutions are dropped from conditions of exhaustion, and he suggested that if there are more meetings there would be more resolutions and more interpellations. He took up the position that if the request for more meetings of the Indian Legislative Council were acceded to, Provinces would soon seek to follow the same course, and it might come to be said of the proceedings of these councils that "of the moving of the many resolutions there is no end and much answering of questions is a weariness of the flesh." Mr. Davidson was reminded by one of the members that the officials are after all the servants of the public and not their masters, and if public interests demand that they should give more time to matters brought forward in the Councils, the officials must submit to the task. In the Madras Legislative Council, Sir Alexander Cardew, the senior member of the Executive



Council, raised a constitutional point. He urged that the request for more meetings is an interference with the discretion of the Governor. The Governor has now complete discretion to summon meetings of the Legislative Council at such times and places as he thinks fit." It is within the experience of many members of the Legislative Councils that meetings of the Council for the discussion of important questions engaging public attention at the time could not be arranged, though it would have been in public interests to do so, the Governor cannot be compelled to convene a meeting and there is no constitutional means at present of forcing his hands. In convoking, proroguing and dissolving Parliament in countries which have self-governing institutions, the Governor acts on the advice of Ministers and in some cases the Governor of a self-governing colony had to bring pressure to bear on the ministers to meet Parliament early for some reason or other. But in India, the Governor is the master of the situation and is advised by members of the Government who have no ties of responsibility to the Legislative Councils or the wider public who watch their proceedings. So long ago as in 1895, Mr. Gokhale suggested that the present procedure should be amended so as to compel the Governor to summon a meeting on the requisition of one-third of the members of the Council. No change in this direction has been made hitherto. Another ground that has been urged in Madras under the present constitutional law is that a meeting of the Legislative Council cannot be convened unless there is some Legislative business to transact. Too rigid an interpretation has been placed on the wording of section 80 of the Government of India Act, 1915. The Legislative Councils in India since 1909 are no longer confined to purely Legislative work. Any member can bring under discussion any branch of administration and the new constitutional changes were expressly made to give the

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members an opportunity of associating themselves with the day to-day administration of the Provinces.

In regard to all these matters, therefore, the constitutional position of the Councils requires strengthening. The electoral arrangements and rules of procedure should be in the hands of the Councils. They should also have the power of electing a President and the Governor, while continuing to be the Head of the Executive Government, should occupy the same position in relation to the legislature as in the self-governing Colonies. There must also be some provision compelling the Governor to summon a meeting of the Legislative Councils, should there be a necessity for it.

### THE CONTROL OF EXPENDITURE AND OF GENERAL POLICY.

The control of the Provincial Legislatures over the Executive Government has already been referred to in a general way in the preceding chapters. There cannot be any provincial autonomy without financial and administrative independence and power of taxation. The constitution of autonomous provinces was suggested in Lord Hardinge's Delhi Despatch, and under Mr. Gokhale's scheme the immediate constitution of autonomous provinces in India is also advocated. There can be no autonomy unless the control of the Central Government in purely local administration is withdrawn and until popular control is established in its place. What we want is real power in the administration of our affairs. As pointed out by Sir Satyendra Sinha, "to give the Indian Government more power without making it responsible to Indians would be to make the Government still more despotic." Further power should not be given to the administration unless accompanied by Legislative concessions to the people. On the other side, we have Lord Sydenham who feels that the effect of the immediate trial of a scheme of Provincial autonomy

as sketched out by Mr. Gokhale would be "not only to disturb British rule but to deprive it of all real power" but he expresses the hope that a time will come when a scheme of Provincial autonomy can be adopted almost in its entirety. Even in this country some curious ideas are still prevalent about Provincial autonomy. In connection with the release of Mrs. Besant, the Pioneer charged Mr. Montagu with the violation of his principle of Provincial Autonomy. This organ of European opinion seems to think that Provincial autonomy consists in increasing the powers of Provincial Governments and constituting them into uncontrolled petty despotisms. Neither Mr. Montagu nor anybody else has ever said so. On the other hand the trend of political thought in this country for over a quarter of a century has been in the direction of increasing popular control over the Executive Administration.

This being the essential condition of the change, the point has been raised as to whether the control of the Councils should extend to the whole sphere of Provincial Administration or be limited to certain departments of activity. In his Oxford address, Lord Islington referred to the control of the Legislative Councils in the following terms: "The Government would act, as stated, in certain departments with the assistance of the Legislative Council or of one of its committees to whom they would refer their policy before its execution. It would then be open to the Legislative Council to criticise and suggest improvements, which the Government would adopt unless they could convince the Legislative Council that there were sufficient reasons for acting otherwise. If the Indian members of the Executive were properly chosen, it cannot be doubted that the Government's policy would be formulated with due regard for the views of the Indian elected members of the Legislative Council. The debates would be invested with a reality which does not exist at present; for

Indian speakers would not, as now, always be found on the side of the opposition, and it is to be remembered that if in deference to the Legislative Council, the Government modified their policy, the Council would have to shoulder the responsibility for the results. This is the essence of responsible Government as we understand it."

There is an echo, here and there, of these sentiments in the Anglo-Indian Press and the Anglo-Indian officialdom. The underlying suggestion is that a few departments of provincial administration should be selected in which the Legislative Councils should have complete control and that the control of other spheres of activity should be left exactly where it is at present until the experiment of the transferred departments has been tried over a fairly long period. It is stated that the departments so transferred should not be those on the efficiency of which public peace depends or departments of a highly technical character. Under these proposals, the Legislatures will have two distinct sets of functions the separation of which will be necessary. The Madras Mail expounds this view as follows: "In respect of the departments transferred from time to time to the virtually complete control of the councils, these bodies will act authoritatively. In respect of departments left as at present, the Councils would be advisory. In these circumstances, it is to be expected that the non-official members of the Councils will naturally take more interest in the former than in the latter, and it seems probable that they will urge special increases of expenditure on them. Now it is essential, if their new authority is to be real, that such increase of expenditure should be allowed with reason. But if it is to be allowed, then the Councils should be made thoroughly responsible for it. It should not be open to them to ask for a transfer of money from departments left as at present to those newly

brought under their control. If they desire more expenditure on their special concerns, they should be invited to frame taxation proposals for the purpose, and to experience, what may be disagreeable but is certainly educative, a reference to the electorate on the issue. For political training, it would be useless to give the Councils power to increase expenditure in respect of particular departments unless the members were obliged to face the electors with the promise of boons on the one hand and a demand for money on the other. What ought to happen in practice is that, the department being transferred, a percentage of the general revenues, corresponding to that expended on the department before the change, would also be transferred to the Council, and if an higher outlay were urged, recourse would be had to special cesses, the members taking the popularity resulting from any good results and the disfavour incurred by special demands on the tax-payer." The scheme herein sketched out aims at whittling down, as far as possible, the control of the Councils and at maintaining the supremacy of the Executive Administration intact. It is proposed that there should be two budgets, two sets of accounts and two different-categories of activity. In the one, the officials of the executive government are to be at liberty to spend the people's money as they like and in the other, any deficit is to be made by a special provincial taxation, to be proposed by the non-official members.

It is generally suggested that the departments to be so transferred to the control of the Legislative Councils should be those relating to Local Self-Government, Education and one or two others. The practical effect of the acceptance of these proposals would be that the Legislative Councils will not have any effective voice in the administration. There is no reason to distrust the capacity of the Councils. The proceedings of the Councils of the Viceroy and of the major Provinces show that the Viceroy and the heads of the

administrations have spoken in the highest terms of the work of the Legislative Councils. In his budget speech in 1915-16 just before his departure, Lord Hardinge stated, "that from experience gained in different parts of the world he was able to say that the Imperial Legislative Council was second to none in the dignity of its proceedings and the good feelings that animated its members." In the Provincial Councils similar acknowledgments also have been made. The reasonableness of the proposals brought forward, the readiness and the desire to co-operate with the Government have all been referred to with commendation. Impartial observers of the proceedings of the Councils have also made reference to the dignity and the sobriety of their proceedings and the ability of the members. There seems to be, therefore, no justification for any fear that the control of the Legislative Councils over the whole field of Provincial administration would jeopardise public interests. Much of the expenditure in any year is of a recurring character and cannot form the subject of contention. Moreover, the fundamental principles of financial discussion in popular assemblies cannot be forgotten. Under the law as now laid down, any legislation affecting the revenues of the province can be introduced only with the permission of the Governor. In the United Kingdom, permanent expenditure charged upon the Consolidated Fund does not usually come up for annual discussion, which appears to be usually confined to the Army and the Navy Estimates and the Civil Services and any supplementary and exceptional grants. The proposals of expenditure are also usually initiated by the Government and the House of Commons exercises its power over the management of money matters "upon a field narrowed down in advance by previous enactment." In the Legislative Councils in India the usual recurring expenditure on the establishment has not formed the subject of much contention, the discussion being practi-

cally confined to new proposals and for better allotments for sanitation, education and medical relief. There is no reason, therefore, for any fear that, if the control of the Councils is extended to all departments of Provincial activity, the machinery would be dislocated and the members of the Councils would disturb the stability of the administration. With the settlement of a proper finance procedure in the Councils, no difficulty can arise when the control of the Councils is asserted over all departments of Provincial administration.

## CHAPTER XIII.

### DISTRICT ADMINISTRATION.

"A scheme of Provincial Autonomy will be incomplete unless it is accompanied by (a) liberalising of the present form of District administration, (b) a great extension of Local Self-Government." MR. GOKHALE'S POLITICAL TESTAMENT.

In the preceding chapters, I have drawn attention to the need for changes in the constitution of the Local Governments and the Central Government in India and also to the provision of effective popular control of the executive administration. I shall now refer to the changes so necessary in the administrative machinery of the District for meeting the altered conditions of the present day. The success or failure of British Administration depends not only on the constitutional reforms discussed in the previous chapters but also on the quality of the District Administration. To the great mass of the population of India, who are in daily touch with the officers in charge of districts, it is a matter of supreme importance that the District officials should be responsive to local sentiment. Mr. H. L. Hitchens, one of the members of the Royal Commission on Decentralisation, rightly laid a great deal of emphasis on this aspect of British Rule. If autonomy is conceded to the Provinces, popular control will be established in the machinery of the Provincial administration at the centre. Lord Morley's Reforms attempted to liberalise the administration at the centre and the top by securing the association of the people with the administration. But in regard to District Administration no changes have been made. The chain of Governmental machinery consists of the present fabric of Indian Administration for its base, the Provincial Governments and administrations for the centre and the Government of India with its Executive and



Legislative Councils for the top, the Secretary of State with his Council standing behind all and above all, representing Parliamentary sanction, parliamentary initiation and Parliamentary control. The reform of the administrative machinery, at the centre and top without a suitable readjustment at the bottom, must necessarily throw the machinery out of gear. We must, therefore, make a beginning by laying a solid foundation for Self-Government by a change in the present bureaucratic administration of the District. The District, in India, is the principal unit of administration. There are more than 250 districts at present in the country and they vary both in size and in population. The average area of a District is about 4,430 square miles or, to quote a comparison made by the Royal Commission on Decentralization for the benefit of the Englishmen in the United Kingdom, three-fourths of the size of Yorkshire. The average population of a District is about a million. The immediate responsibility of the day-to-day administration rests with the District Officers, the chief of whom is the District Collector, who is also the Chief Magistrate of the District. He is the local representative of the Government in the District and is the pivot of the whole administration. He controls the activities of the special departments such as the Public Works, the Forest, the Excise, the Police, the Survey and the Land Records. Besides holding this dominant position in relation to other departments, his responsibility for the well being of the agricultural classes and the general revenue administration of the District is unquestioned.

#### THE COLLECTOR'S FUNCTIONS.

The Royal Commission on Decentralisation compendiously described the numerous functions of the Collectors in the following terms:—

“ As Collector, he is not merely responsible for the collection of most branches of the revenue, but is concerned with the manifold relations

existing between the Government and the agricultural classes, who represent two-thirds of the total population of British India. Thus, he is concerned with questions relating to the registration, alteration, relinquishment or partition of land-holdings, which pay revenue direct to Government and in the greater part of India, has to deal, in these respects, with an immense number of petty peasant proprietors. He is likewise, in most Provinces, concerned with the adjudication of disputes between landlords and tenants, and also with the administration of estates taken under the management of the Court of Wards. He has to keep a careful watch over the general circumstances of his district, and in times of famine or severe agricultural distress, he is responsible for the administration of relief and other remedial measures. He also deals with the grant of loans to agriculturists, and with the preparation of agricultural and other statistics; and he has a general control over the working of the Forest Department in his district, in so far as this touches on matters affecting the economic or other interests of the people.

"It is his duty to guide and control the working of Municipalities, and he is often the actual Chairman or Presiding Officer, of one or more of these. He usually also presides over the District Board, which, with the aid of the subordinate Local Boards where such exist, maintain roads, schools and dispensaries, and deals with vaccination and Sanitary Improvements in rural areas. Finally, he has to furnish information on all important occurrences in the district and he is called upon to advise on any general schemes affecting it which may be under consideration.

"As District Magistrate, he is responsible for all matters affecting the peace of the District and exercises a general supervision over the local Police Officers, while he controls the working of subordinate Criminal Courts, and has himself a certain amount of original and appellate Magisterial work".

In the discharge of all these duties, the Collector acts alone and on his own individual responsibility. Leaving aside the small measure of Local Self-Government initiated by Lord Ripon, we are in the same position to-day as we were at the beginning of the last century. In making this statement, I am looking at the question entirely from the point of view of the people. Popular control has not been developed during all these years in any other branch of District Administration. On the other hand, official control has been established in a variety of ways. In all the Major Provinces except Bombay, either a Board of Revenue or Financial Commissioners have been constituted and

appointed as a subordinate agent of the Provincial Government to whom the superintendence of the details of the Revenue Administration of the Province has been assigned. Besides these controlling authorities, there are also in some of the Provinces, territorial Commissioners in charge of groups of Districts, who are the immediate controlling authorities over the Collectors. These territorial Commissioners, who occupy a position of subordination to the Board of Revenue, are the appellate authorities from the Collectors and are invested with a certain amount of financial and administrative power. The official immediately over the Collector is therefore the territorial Commissioner and over him, there is the Board of Revenue and the Government. This system of official control over District Administration, which has been developed during the last century is similar in its nature and scope to the official control exercised over Provincial Governments by the Government of India and the Secretary of State. No attempt has, however, been made in developing a system of popular control over the administrative machinery of the District except to the small extent already referred to, namely, in the sphere of local self-government.

#### POSITION OF THE COLLECTOR.

The rapid growth of the administrative machinery during the last century has, however, affected the position of the Collector in a variety of ways. As I have already stated, the first great change is the control of territorial Commissioner and the Board of Revenue. It was originally the intention to vest the Commissioner and the Board of Revenue with large powers in revenue matters, but this has not been done chiefly owing to the centralisation of the Secretariats of the Local Governments. The financial and administrative powers of these two authorities at the present day are comparatively insignificant. The establishment of the Commissioner and also of special

departments has adversely affected the position of the Collector. They have robbed him of his powers of initiative and have deprived him of his influence. Uniform methods of administration and Secretariat control have also considerably contributed to centralize the power at Headquarters and have also greatly tended to limit the financial and administrative powers of the Collector. These restrictions have resulted in reducing the position of the head of the District and also in unduly prolonging the settlement of even trivial questions by numerous references to the controlling authorities. Each of these authorities has centralised as much power as possible in its own hand, with the result, that there is very little Government on the spot. This is the position on the official side.

#### NEW FACTORS.

On the side of the people, new factors have also come into existence. The spread of education has quickened the interest of the people in the administrative problems of their Districts and the old autocracy of the Collector is now impossible. The people desire a recognised association with the Government in the task of administration. It has now become necessary to admit the educated classes to share the responsibility of administration and to give them an interest in that administration. The growth of these new factors has brought into existence critics of District administration, who did not exist before and who wish to have a hand in many questions affecting the welfare of their Districts. There are many grievances which require ventilation in a responsible manner in the District itself and for which there is no statutory provision at present. The District Administration is, therefore, more and more out of touch with the people. The Royal Commission on Decentralisation was asked to enquire into the question of financial and administrative decentralisation with a view

to bring the executive power into closer touch with local conditions. The improvement of District Administration was one of the principal topics that came under the consideration of the Commission and a large part of its labour was devoted to this subject.

#### THE TWO REMEDIES.

The two schools of reformers before the Royal Commission sought for a remedy in two different directions. On the one hand, there was a large number of official witnesses, who had various suggestions for releasing the Collector as much as possible from petty and harassing control and for bestowing on him wider powers with a view to enable him to decide matters much more expeditiously on the spot and with a certain amount of finality. With this view, a number of specific suggestions were made to the Royal Commission for increasing the financial and administrative powers of the Collector. Other questions equally important also came up for consideration. One was whether the territorial Commissioners were at all necessary. Another important point was whether the Boards of Revenue should continue to exist. In regard to the Commissioner, it has been felt that he is merely a channel of communication between the District Officer and the Government and that his usefulness in the official hierarchy was not apparent. The abolition of this post was suggested by various non-official witnesses on the ground that these officers exercise neither control nor influence in District administration. The Royal Commission, however, came to the opinion that the abolition of Commissionerships was undesirable. Their main ground was that such abolition would lead inevitably to increased centralisation. They said "A well-devised system of Decentralization must necessarily include the devolution of greater powers, to those highly paid officers, who are possessed of large experience and ample opportunities of

keeping in touch with the people". They have accordingly made various recommendations for increasing the powers of the Commissioner and to improve his status. On the subject of the Board of Revenue, there was also a volume of opinion that they are really additional Secretariats doing practically the same work as the Government and that there is an unnecessary reduplication of work under the existing system. Here again, the official view was in favour of the retention of this organ of administration and the Royal Commission came to the conclusion that in some of the Provinces, where Council Governments are set up or are to be set up or where the executive councils are proposed to be strengthened, the revenue functions of the Board of Revenue should be absorbed by an expanded Local Government. In effect, the Royal Commission made no organic changes in the system of official control over District Administration and has left it practically where it was.

#### THE ADVISORY COUNCILS.

On the other hand, the main suggestion of non-official witnesses for the improvement of District Administration was not so much the increase of the powers of the Collector as a recognised association with him of the responsible leaders of the people in the task of administration. With this view, District advisory or administrative councils were suggested by almost the whole body of non-official witnesses that gave evidence before the Royal Commission. Out of the 68 officials, who gave evidence, ten were favourable to the creation of advisory councils and out of the 84 non-official Indian witnesses, 71 were in favour of this reform.

#### MR. GOKHALE'S VIEWS.

The reasons for the creation of the advisory councils have been explained at length by several of the witnesses, but it will be enough to refer to the evidence of the late Mr. Gokhale. He said :—

"The three evils of the present system of district administration are its secrecy, its purely bureaucratic character, and its departmental delays. Important questions affecting the interests of the people are considered and decided behind their backs on the mere reports of officials, only final orders being published for general information, as though the people existed simply to obey. The constant references, backwards and forwards, which an excessive multiplication of central departments has necessitated, involve long and vexatious delays even in the disposal of petty matters, and are a fruitful source of irritation and suffering to simple villagers. The Collector is the chief representative of the executive government in a district, and to prevent the evils of an uncontrolled exercise of power, he is subjected to a series of checks in his work. These checks are, however, all official; they are all exercised by the members of his own service, of which he himself, as a rule, is a fairly senior officer, and though they may serve to prevent gross abuses of power, they are not of much value in promoting efficient administration, and they certainly hamper him largely in the prompt discharge of his duties. What the situation requires is not such official checks exercised from a distance, but some control on the spot on behalf of those who are affected by the administration. For this purpose, I would have, in every district, a small council of non-officials, two-thirds of them elected by the non-official members of the District Board, and one-third nominated by the Collector. I would make it obligatory on the Collector to consult the Council in all important matters, and I would delegate to him large additional powers to be exercised in association with the Council, so that ordinary questions affecting the administration of the District should be disposed of on the spot without unnecessary reference to higher officials."

## ONE MAN RULE.

This statement of the case for the constitution of advisory Councils in the District shows the grounds on which this reform has been advocated. The Collector's administration is a one man rule. However sympathetic any individual officer may be, the Collector acts in secret on the report of subordinate officials in most of the questions affecting the welfare of the district and comes to a decision without giving any hearing to the people concerned. Rigidity, uniformity and departmentalism have firmly established themselves in district administration and have caused a great deal of discontent all round. In the eradication of the many administrative evils, such assistance as may be derived from the public opinion of the District is not

sought by the head of the district and by his subordinates, and local influence which is specially valuable in deciding questions of local importance counts for nothing. In the settlement of the many questions affecting the well being of the ryot, the district officers go without local co-operation and district administration as now conducted lacks the strength which it would otherwise derive, by the identity of local public opinion with the administration.

#### THE PEOPLE.

If Self-Governing institutions are to be established in India, the character of district administration cannot remain the same as before. There must be a transfer of power and authority to the people in an ungrudging spirit and there must be a feeling that the matters concerning public welfare must be decided with their assistance, consent and co-operation. The opinion of the people must have a recognised place in the mechanism of district administration and the mere shifting of the power and authority from one official to another will not promote co-operation between the officials and the people so necessary to a well-ordered administration. Official decentralisation is no remedy to the growing estrangement between the official classes and the people. It may confer more power on one group of officials in preference to another group. It is not merely by a transfer of power from one official to another that any improvement in district administration can be looked to. The ideal of even official witnesses before the Royal Commission on Decentralisation was that the District Collector should be the final authority in almost all matters pertaining to the affairs of the District and that the action of the Government should be confined to inspection and audit. The difference, however, is that the advocates of official control would have the Commissioner to perform these functions of inspection and audit, while



the leaders of enlightened public opinion have advocated the substitution of popular control. If the official view is accepted, it must inevitably lead to the Head of the District becoming much more of an autocrat than he is. Almost every official who appeared before the Commission pleaded for a relaxation of official control; the subordinate official should be freed from the head of the district, the Collector from the territorial Commissioner, the Commissioner and the Board of Revenue from the Local Government and the Local Governments from that of the Government of India. The people, whose money they are spending, have merely to obey the orders and need have no voice in the administration. The methods of decentralization urged before the Royal Commission mostly came under this category and there was no attempt whatever to develop the control of the people over the machinery of district administration. The composition of the Royal Commission was not also favourable to the development of popular control. There was no non-official Indian representative on it, if we exclude the late Mr. R. C. Dutt, who was himself a retired official.

#### THE ROYAL COMMISSION.

Notwithstanding the very large volume of evidence which showed the unpopularity of the present District Administration and the pressing need to popularise the Government, the Royal Commission came to the conclusion that a separate advisory Council for the Collector was not necessary. Their main ground was that the District Board, which includes the leading non-officials of the District, affords a convenient instrument for furnishing advice to the Collector upon matters which, although not included in their administrative sphere, affect the District generally or important portions of its area or people. The second ground was that the Royal Commission regarded it

as impossible in the present circumstances, that the Collector should share his executive responsibilities with an advisory Council. Mr. Dutt, however, dissented from this view and thought that an advisory Council, with some provision for its giving help to the Collector in his executive work, would make District administration more efficient and popular. He was decidedly of opinion that the isolation of the district administration which is virtually a one man rule is the real cause of much discontent in India. The only Indian representative on the Commission took a view which was in consonance with the whole body of non-official Indian opinion but this was of no avail.

#### THE DISTRICT BOARD.

The Royal Commission referred to the District Board as an existing institution which will serve the purpose of an advisory Council in matters of the general administration of the District. There is something to be said for this view. But the functions of the District Board are now solely confined to Education, Sanitation, Medical relief and Communications. Before the district board can authoritatively speak in the name of the people, its functions will have to be considerably enlarged and it will have to be constituted either as an advisory or as an administrative body in other spheres of district administration. Such a reform intended to make the District Board a useful adjunct to the general administration of the country, would be welcomed; the needs of a progressive administration are imperative and if district administration is to be reformed and brought into line with the present day conditions, an element of popular control must be introduced immediately into this branch of administrative hierarchy.

#### LEGISLATIVE COUNCILS.

The importance of this reform has become much more urgent since the enlargement of the Legis-

lative Councils in 1909. The Councils are the only statutory bodies, now in existence, where the representatives of the districts can ventilate local grievances by interpellation and by resolution. The subjects so brought up are referred by the Local Government to the local officers and the answers of the Local Government are drafted in accordance with the facts so elicited. The growth of public opinion in the Districts has increased the volume of work in the Legislative Council. There is no recognised statutory body in the Districts where these questions could be brought up and redress obtained, and therefore every petty and trivial complaint has now to be taken to the Legislative Council. The Local Governments have already begun to grumble at the growing volume of work in the Legislative Councils and I feel certain that the work before the Councils will increase very much more in the years to come. The obvious remedy is the creation of the District Advisory Councils, where purely local questions can be dealt with. The Local Governments and the Legislative Councils will then be set free for the more important problems of the Province. Unless some such step is taken, the Local Legislatures must continue to be the only chambers where a man with a grievance can seek for redress. Speaking at the Madras Legislative Council, Sir Alexander Cardew complained of the enormous volume of work.

#### VILLAGE PANCHAYATS.

So far, I have referred to the general question of the improvement of District Administration. It is not suggested that the character of this administration can be changed in a single day. Even in the sphere of Local Self-Government, where popular control has been conceded, nothing substantial has been done as yet for the restoration of the corporate life of the village which has been destroyed by the depart-

mentalism of the present day. Lord Morley had no doubt stated that the village should be the starting point of public life. This was more than ten years ago and no real attempt has yet been made by any Local Government to make the village a unit of Self-Government. Amending Legislation for the establishment of village panchayats and for investing them with definite powers to deal with village questions concerning Education, Justice, Forests, Abkari, Famine Relief, Police, Medical Relief and Sanitation has been under consideration for over a quarter of a century and nothing tangible has yet been done. The Royal Commission on Decentralisation made various recommendations for the revival of the corporate life of the village and in dealing with their recommendations, the Government of India stated that any policy of establishing panchayats should be the work of many years and would require great care and discrimination. They, however, were of opinion that any practical scheme can only be worked out in co-operation with the people concerned and have left the matter in the hands of the Local Governments and administrations. They laid down the following general principles on which advance is most likely to be successful.

- (1) The experiments should be made in selected villages or areas larger than a village, where the people in general agree.
- (2) Legislation, where necessary, should be permissive and general. The powers and duties of panchayats, whether administrative or judicial, need not and, indeed, should not be identical in every village.
- (3) In areas where it is considered desirable to confer judicial as well as administrative functions upon panchayats the same body should exercise both functions.
- (4) Existing village administrative committees, such as village sanitation and education committees, should be merged in the village panchayats where these are established.
- (5) The jurisdiction of panchayats in judicial cases should ordinarily be permissive, but in order to provide inducement to litigants, reasonable facilities might be allowed to persons wishing to have their cases decided by panchayats. For instance, Court-fees, if levied should be small; technicalities in procedure should be avoided and possibly a speedier execution of decrees permitted.
- (6) Powers of permissive taxation may be conferred on

panchayats where desired, subject to the control of the Local Government or administration, but the development of the panchayat system should not be prejudiced by an excessive association with taxation. (7) The relations of panchayats on the administrative side with other administrative bodies should be clearly defined. If they are financed by district or sub district boards, there can be no objection to some supervision by such boards.

In accordance with these views, representations were made in the various local Legislative Councils that legislation should be undertaken for the constitution of these panchayats. But the attempts have so far proved unsuccessful. In Madras, the local Government opposed all proposals for legislative action and contented themselves with the opinion that the existing provisions of the Local Boards Act should be utilised for the constitution of the larger villages into "Local Fund Unions" and for the rest, they directed the constitution, in the smaller villages, of "informal panchayats," without any legislative powers, to control village sanitation and vaccination, to look after the tanks, fisheries, cattle stands and threshing floors, to manage turns of irrigation, to enforce kudimaramat, to maintain fuel and fodder reserves and to manage village forests as well as to maintain village schools and to undertake other local public works. It was pointed out at the time that these informal panchayats entrusted with the functions assigned to them and without the legal power to enforce their decisions could never achieve anything and the Madras Government's faith nevertheless in the success of these panchayats to undertake all these functions is simply astonishing. The Government of the United Provinces have appointed a committee, who recommended that, if it is worthwhile to establish panchayats, they should have the necessary power in Civil, Criminal, Sanitary and Educational matters, and that it is important that the panchayats should have enough cases to try, enough business to transact, and enough money to spend, to keep alive the sense of reality and responsibility. They have recommended the enactment

of a general Act giving all these powers wherever it is necessary. The consideration of this measure has not been taken up by the Government of the United Provinces. In Bengal, the Local Government appointed a committee to examine the whole question of District Administration and that committee gave some attention to village organisation. It is understood that some legislative measure is under contemplation. In Bombay, nothing definite has yet been done for organising village life. In the Central Provinces, a vague promise has been made by the Government that the question will be considered. The subject of the revival of corporate life in the villages had been so long under consideration that nobody now believes that the Government will take any action in the matter. The subject will continue to be discussed between the district officers and the Local Governments and between the Local Governments and the Government of India.

#### LOCAL BOARDS AND MUNICIPALITIES.

The only institutions where there is now an element of popular control are the Local Boards and Municipalities. These were constituted in 1884 under the scheme of local Self-Government associated with the name of Lord Ripon. In the resolution on Local Self-Government issued in 1882, the Government of India stated that "it was commonly asserted that the people of India were themselves entirely indifferent to the principle of Self-Government, that they took but little interest in public matters and that they preferred to have such affairs managed for them by Government officers." The Governor-General in Council stated "that he did not attach much value to this theory" which represented the point of view of many of the officers. The Governor-General then proceeded to state "that the task of administration is yearly becoming more onerous as the country progresses in civilisation and

material prosperity. The annual reports of every Government tell of an ever-increasing burden laid upon the shoulders of the local officers. The cry is everywhere for increased establishments. The universal complaints in all departments is that of overwork. Under these circumstances, it becomes imperatively necessary to look around for some means of relief; and the Governor-General in Council has no hesitation in stating his conviction that the only reasonable plan open to the Government is to induce the people themselves to undertake, as far as may be, the management of their own affairs; and to develop, or create, if need be, a capacity for self-help in respect of all matters that have not, for imperial reasons, to be retained in the hands of the representatives of Government." Notwithstanding this definite statement of the policy of the Government, the official hierarchy is very slow to part with its powers. Out of 965 Municipalities in existence in 1915, only 273 have either elected or nominated non-official chairmen and the remaining 422 Municipalities are still under the control of either elected or nominated officials. In regard to Local Boards, the position is even worse. The District Boards are still presided over by Collectors and most of the Sub District or Taluk Boards are also still very largely presided over by Government officials. As regards the composition of Municipalities and the boards, the official element continues to be a powerful factor. The present position was summarised in 1915 by the Government of India from which it is clear that, in most of the provinces, the official element is either one-third or one-half of the maximum strength of the District Boards and sub-district Boards respectively and that there is no preponderance of elected members as yet in several provinces. The composition, therefore, of these bodies is still very largely determined by the official head of the District and the

executive functions of the boards and municipalities still continue to be discharged by the official classes.

Even where there is a non-official Chairman or President, the policy and control is still very largely in the hands of the Government and heads of departments and other officials. In this country, we are now to some extent in the same position as the Local Authorities in the United Kingdom before the Reform Act of 1832, when the administration of local affairs was carried on by the Crown or by the nominees of the Crown. The Reform Act democratised the Parliament and the Reformed Parliament at once proceeded to abolish the local corporations and to extend democratic Government to the locality and the bodies discharging the functions of the Local Government were accordingly placed upon an electoral basis by the Municipal Corporations Act of 1835. A similar change is also taking place in this country. Since the reconstitution of the Legislative Councils, proposals for expanding Local Self Government on a fully elective basis are being continuously pressed in the council. But the Government has not, as yet, seen its way to alter the constitution of the Local Bodies in this country so as to free them from official control.

#### A NEW SYSTEM OF LOCAL FINANCE.

Apart from the question of the mixed composition of the Local Bodies, there are other vital questions to which adequate attention has not, as yet, been given. The organisation of the Local Authorities in India depends not merely on liberating them from official control, but also on the improvement of their financial resources. Looking at the wide range of functions entrusted to them, and the extremely meagre character of the resources at their disposal, it cannot be a matter for surprise, that local authorities in this country are unequal to a proper performance of the functions entrusted to them. The local bodies in this country have



formulated proposals for definite financial assistance on some system of sharing of the revenues or of contributions for specified services. The whole feature of the Local Self-Government depends on better financial resources and many distinguished members of the Indian Civil Service like Sir Herbert Risley and Sir James Meston admitted before the Decentralisation Commission that the resources of the District Boards and Municipalities are not sufficient to enable them to work up to the modern standards of administration. Some of them stated that the surprise was not that they had not done better, but that they had done as well as they were doing and they pleaded for quinquennial financial settlements between District Boards and Provincial Governments so as to secure a progressive standard of administration. We want, therefore a new system of Local finance.

## CHAPTER XIV.

### THE CIVIL SERVICES.

The Indian Civil Service is the political and governing service of India. The supremacy of this service among the public services is one of the leading features of Indian administration. The members draw larger salaries and higher pensions and the whole political power is in their hands. The importance of this service is due to the fact that there are no self-governing institutions in this country controlling the permanent officials. In the United Kingdom and in the self-governing Dominions, the permanent Civil Service is under the control of Parliament and they work under the direction of Parliamentary Chiefs. The permanent Civil Service there can never forget that they are a body of servants whose work may be brought at any moment under effective criticism in Parliament. In India, the matter is entirely different. The Indian Civil Service is the Government, the control of the Parliament of the United Kingdom over Indian affairs being, for all practical purposes, non-existent. The system of Government in India is, therefore, essentially a bureaucracy. If self-governing institutions are to be established in this country, the whole problem of the services has to be looked at from an entirely different standpoint. That standpoint has already been stated by Mr. Abdur Rahim, in his minute of dissent to the report of the Royal Commission on Public Services. He said :

"The points of view from which the majority of the Commissioners and myself have approached the question of the employment of Indians are substantially different. The question they have asked themselves is: what are the means to be adopted for extending the employment of Indians? But the proper standpoint, which alone, in my opinion, furnishes a satisfactory basis to work upon, is that the importation of officials from Europe

should be limited to cases of clear necessity, and the question therefore to be asked is: in which services and to what extent should appointments be made from England? The suggestion involved in the majority's point of view is that special measures are necessary for finding employment for Indians in the administration, and that the practical question, therefore, is how many or how few posts are to be handed over to them. On the other hand, the view which, upon a review of the situation, has forced itself on my conviction, is that if Indians have not established a footing in the higher ranks of administration, it is not through their own fault: it is due to barriers of many sorts that have been raised in this way."

The whole country is thankful to Mr. Abdur Rahim for stating the Indian standpoint in clear and unequivocal terms.

#### POLITICAL TALENT.

The point has been raised many times whether the scheme of Indian Bureaucracy has provided the necessary political talent in the past or is likely to provide it in the future. The point is important and has now become still more important in view of the proposals for the establishment of Self-Government. The Indian Civil Service has produced admirable administrators, whose absolute honesty and integrity of purpose, has always been admitted. The mere fact that they habitually conduct the affairs of the Government does not, however, necessarily confer upon them a right judgment on broad questions of policy. On this subject I may again turn to Dr. Fisher, the present Education Minister of England, whose views as a member of the Royal Commission on the Public Services in India and based upon the most recent knowledge of the machinery of Indian Administration are entitled to weight. He says: "It may indeed be questioned whether a life spent in the Indian Civil Service is calculated, except in rare cases, to stimulate that part of political talent which consists in the study and guidance of political opinion or in the framing of large legislative proposals which are from time to time needed in actively thinking political communities. Until quite recently

there was little need for such forms of talent in India, for if there was active thought among the Indians, it certainly did not revolve round the theme of politics. But the immemorial tranquillity of the East has now been disturbed, perhaps only for a time, perhaps never to be resumed, and we make our account to meet an age of political discussion and criticism among men educated on the Western Model, and using the Western philosophy to obtain their Eastern ends." This aspect of the matter had attracted a great deal of attention, now and then, and Dr. Fisher puts his finger on the weakest part of the present administrative organisation in India. A great many of the political blunders and troubles of recent years in India were due to the fact that the personnel of the Executive Government has not been able to grasp the broad points of political progress in India. The European official is too secluded from the warm currents of progressive political life in the country and he has no political imagination to fall easily into line with them. The enlargement of the Legislative Councils has already revealed the great necessity for a political outlook and a knowledge of political conditions on the part of those who are responsible for the affairs of this country. Administrative ability is good but it is not merely too much knowledge of detail that is required. A broader, a more sympathetic and popular spirit is needed in the Provincial and Central administration in India. In the British Constitution, there is a happy combination of the lay element and the expert which allows the initiation of general policy by the wider outlook of public life. A foreign governing bureaucracy can no longer carry on the administration unaided by those who are in the political life of the country. Lord Morley aimed at some reform in this direction by the introduction of the Indian element in the Executive Councils but, this by itself has not had any effect on the broad lines of administrative policy. The

Indian National Congress and the Muslim League have now suggested that the highest administrative posts in the country such as the Lieutenant-Governors and Members of Council should not be reserved for the Indian Civil Service but must be filled by men drawn from the public life of the United Kingdom and India. Lord Islington has given his general support to this idea in his recent address and Sir William Wedderburn and other Anglo-Indian Administrators have also expressed similar opinions. A change in this direction is urgently needed. It may to some extent, affect the prospects of the members of the Indian Civil Service and make the Service less attractive but it is, in practice, in the interests of the political and general progress of the country.

#### NATURE OF BRITISH RESPONSIBILITY.

In making their recommendations in regard to the Indian Civil Service and the Police Service, the Commissioners laid a great deal of stress on what they called "the nature of British Responsibility for the good Government of India." Their view of British responsibility is such as practically to exclude Indians from the higher ranks of the Civil Administration and is a direct violation of Royal declarations and Parliamentary pledges which have been made since 1833. But His Majesty's Government have recently explained the nature of British responsibility in quite a different way. The Secretary of State has definitely stated that the policy of His Majesty's Government is that of increasing the association of Indians in every branch of administration without any exception and the development of self-governing institutions with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire. If this declaration is carried into effect and Self-Government is established

in this country, the employment of a preponderating number of British Officers in the Indian Civil Service and the Police Service in this country, as recommended by the majority of the Commissioners, is no longer a compelling necessity of the British connection even if it was so before. In his address on the problems of Indian Government, Lord Islington, stated that the recommendations of the Commission in regard to the Indian Civil Service and the Police Service were framed with a view to the existing conditions. He refused to prophecy what, in view of the establishment of self-governing institutions in India, the composition of these services may be or ought to be in the course of two or three generations. His Lordship was apparently conscious of the fact that, if self-government is conceded to India, the composition of the Indian Civil Service must be viewed from an entirely different standpoint. The establishment of Self-Government in India and the organisation of a Civil Service extensively recruited from outside the country are, as a permanent administrative arrangement, inconsistent and irreconcilable political ideals.

#### SIMULTANEOUS EXAMINATIONS.

I do not propose to refer to the many and intricate problems raised in the report of Lord Islington's Commission on the Public Services. The Commissioners' enquiry practically covered the whole field of Indian Civil Administration and extended to the recruitment and organisation of the 24 departments under the Government of India and the Local Governments. The majority report caused the most profound disappointment throughout the country and some of the conclusions of the Royal Commission were challenged in the Indian Legislative Council where a series of resolutions on the various points raised in the report were brought forward by non-official members for discussion. The controversy on the subject of the simultaneous

examinations for the Indian Civil Service dates almost to the period when direct sovereignty of the Crown over India was established. The demand for simultaneous examinations has been put forward for over 30 years by the Indian National Congress, and the justice of it has been admitted by the House of Commons in a resolution on the subject in 1893. In making this demand again, all the Committees in India, with the exception of the Europeans and Anglo-Indians, and all the Provinces are united and practically unanimous. And yet the Commission rejected this demand on the ground that the "nature of British responsibility" required that the composition of the Indian Civil Service should be essentially British. The obstacles devised for preventing Indians from entering this service are justified on the ground that they are all necessary for maintaining the British character of the administration. Indians have distinguished themselves in organising the administration of Native States like Hyderabad, Mysore, Baroda and Travancore and Indian Administrators such as Sir Salar Jung, Sir T. Madhava Rao, Sir Seshayya Sastry, Sir Seshadri Aiyar, Sir M. Visweswaraya and Mr. V. P. Madhava Rao have been able to win distinction only outside the British Service in India. Some of them introduced representative institutions in the Native States and had in various ways improved the indigenous systems of administration and displayed administrative capacity of the highest order. In British India, an effectual barrier has been set up by the reservation of all the higher administrative posts to the members of the Indian Civil Service and by devising a method of recruitment which effectually shut the majority of candidates from competing for the Civil Service examination. In his recent speech in the Imperial Legislative Council, His Excellency the Viceroy stated that one of the ways for accelerating

the speed of Self-Government in this country is to admit Indians in steadily increasing proportion in the higher grades of the various services and departments and to the most responsible posts in the administration generally. He declared that "If we are to get real progress in India it is vital that India should have an increasing number of men versed not only in the details of every-day administration but in the whole art of Government." The mere increase in the number of Indians in the Civil Services, will not by itself lead to the establishment of self-government in this country. It cannot change the form of Government. It remains, however, to be seen how these views will be given effect to. The system of a foreign bureaucracy hitherto deprived us of the valuable administrative experience so necessary to the public life of the country and has also proved to be an effectual barrier to the wider employment of Indians and to the development of self-governing institutions.

#### A GOVERNING OLIGARCHY.

A great deal has been said that, if self-government is conceded to India or if simultaneous examinations for the Indian Civil Service are held, an oligarchy will be established in India. This argument has been used by the members of the Indian Civil Service who are themselves one of the closest oligarchies in the world. Even in a democratic country like the United Kingdom, the existence of a governing oligarchy at the present day is admitted. There is an oligarchy in the Cabinet and there is also an oligarchy in Parliament. Even up to the present day, the British political system has preserved much of its oligarchical character and the effective power continues to be retained in the hands of a comparatively small band of persons, many of them born to politics and brought into it young. Mr. Sydney Low, author of "the Governance of



England", deals with the present limitations of democracy in the United Kingdom and says that "they have an actually large but relatively rather small governing class consisting of a few thousand representatives of the nobility, landowners, capitalists and leading professional men who make up London Society. No constitution, rule or precedent prescribes that ministers shall be appointed from this set of persons but from the circumstances of the cases they usually are so appointed." He then gives an analysis of the composition of the recent English ministries for a quarter of a century and shows how largely they still continue to be made up from this governing oligarchy. In the nature of things, whenever there is a government, there is necessarily some kind of oligarchy, and our main purpose is to see that the governing oligarchy does as little harm to the body politic as possible. The European oligarchy believe that they are more necessary to the country than an indigenous oligarchy who remain in the country with permanent interests in its welfare and progress. The members of the Indian Civil Service view with jealousy any proposals that will reduce their power, and several of them do not hesitate to put forward curious arguments for maintaining their existing position. One of these arguments is that the Western-educated classes have no sympathy whatever with the masses and that they do not reflect the views, or represent the interests of the many millions in India. Both the Indian members of the Royal Commission entered their protest against these reckless allegations, and have completely shown the hollowness of this position.

## ANGLO-INDIAN OPPOSITION.

Non-official Europeans and Anglo-Indians have also consistently opposed the wider employment of Indians on various grounds. The Hindu-Muhammadan problem did duty for a long time as an unanswerable argument against

the wider employment of Indians in the Public Services. Happily with the awakening of Indian National aspirations, Muhammadan sentiment has changed in a remarkable manner since 1886. The Muhammadans are now in complete accord with the political programme of the Indian National Congress. After a comprehensive review of the evidence of the Muhammadan witnesses before the Commission, Mr. Abdur Rahim has come to the conclusion that "the keynote of their attitude is the same as that of the others, a demand for a more definite and more extensive association of the people with the administration and a complete removal of the disabilities." Suggestions have also been made about the general unfitness and administrative incapacity of Indians to hold the superior appointments reserved for the Indian Civil Service and allegations that the Indians are wanting in initiative, driving power, resource, and the faculty of control have been recklessly made for years. These and other objections were again urged with great insistence before the Royal Commission by the generality of the European witnesses.

#### SOME NEW OBJECTIONS.

In the recent discussion in the Indian Legislative Council, Mr. Hogg, the representative of the Bombay Chamber of Commerce, took a new line. He stated that, though he was not in the full confidence of his constituency, they were all in favour of self-Government and they realised that the time had come when immediate steps should be taken with that end in view. But he claimed all the same that the British commercial interests should be adequately safeguarded and that the best way of doing it was the maintenance of the essentially British character of the administration. He, therefore, supported the recommendations of the Commission for the employment of a

preponderance of British Officers. Sir Hugh Bray, the representative of the Bengal Chamber of Commerce, claimed that the British commercial Community had given their men and money for India and that they are responsible for India's prosperity. He demanded the retention of such a measure of control as would safeguard the interests of the commercial community. He did not, however, wish for any changes and opposed the resolutions recommending various changes in the recruitment of the Services. He said that the European commercial community were prepared to pull together with the Indians but were not prepared to take a secondary place in pulling out the coach of state whenever it was in a quagmire. These criticisms show a lack of clearness in regard to the essentials of the problem. As has already been pointed out, self-Government in India and the employment of European civil servants recruited in England are, as a permanent arrangement, entirely inconsistent with each other. Then again, the maintenance of the British character of the Indian administration does not necessarily depend upon the employment of men of the British race, unless it is contended that the characteristics of the British administration cannot be acquired otherwise than by being born a Briton. British administration in India is now nearly a hundred years old and it has never been asserted that the increasingly larger employment of Indians has adversely affected the character of the administration. Mr. Hogg's contention, therefore, that the commercial interests require the employment of a preponderance of British Officers is due to the inborn unwillingness of the non-official European for the extension of Indian influence and control in the administration of the country. British commercial interests can in no way be jeopardised either by the greater employment of Indians or by the establishment of self-government in India.

## THE CONGRESS SCHEME.

The logical position, therefore, in regard to the service is that indicated in the scheme of reforms framed by the Indian National Congress and the Muslim League. The power of recruitment for the Indian Civil Service and other Imperial Services should be transferred from the Secretary of State in Council and vested in the Governor-General in Council. If the Indianisation of the Imperial Services is to become a reality in the near future, the Secretary of State should no longer have anything to do with these services. He is beyond the pale of public criticism of this country and, as has already been pointed out, the Central Government of this country is the proper authority that should make these appointments. It will still be open to the Government of India to employ such European agency as may be necessary in the interests of the administration. It is not asserted that it can dispense with the European element for a considerable time to come. If the power of recruitment is transferred to the Government of India, the question will be continuously examined in India in the light of the public opinion of the country.

## THE PRESENT POSITION.

The present position of Indians in the various public services of this country has been summarised in paragraph 34 of the majority report of the Royal Commission. It shows that, out of the existing 10,640 appointments on Rs. 200 and upwards, only 42% was held by Indians and Burmans of pure Asiatic descent on the 1st of April, 1913. Then as we ascend higher up the scale, the position grows much worse. Out of 4,900 posts carrying a salary of Rs. 500 a month and upwards, only 942 or 19% were filled by Indians as against 4,042 or 81% occupied by Europeans or Anglo-Indians. When we reach a salary of Rs. 800 a month and upwards, which to a large extent, though not entirely

indicate the level of higher appointments of supervision and control, only 242 or 10% of the appointments were held by Indians as against 2,259 or 90% filled by Europeans and Anglo-Indians. Reference has been made in paragraph 34 of the majority report to the progress made from 1887 to 1913. In the region of appointments conveying salaries of Rs. 200 and upwards, the percentage has risen from 34 to 42 since 1887, and in appointments carrying Rs. 500 and upwards from 12 to 19 per cent. and those carrying a pay of Rs. 800 and upwards from 4 to 10 per cent. This during the space of a quarter of a century.

The three essential reforms therefore are a speedy indianisation of the Services consistent with the maintenance of a high standard of administration, the establishment of the necessary educational institutions in India to afford the requisite facilities to the youth of the country to qualify themselves for service in all branches of administration and thirdly the adoption of a scale of salaries for cheapening the cost of the Civil Administration. The costliness of the European Agency is the most powerful argument for reducing it to cases of actual necessity.

#### JUDICIAL AND EXECUTIVE FUNCTIONS.

I must now refer to the subject of the separation of the Judicial and Executive functions, which has been advocated for over a century. The union of the functions of the District Magistrate and Collector is a strange combination of the functions of constable and magistrate, public prosecutor and criminal judge, revenue collector and appeal court in revenue cases. The Collector has the entire administrative control of the subordinate magistrates who are also employed under him in the discharge of revenue and general executive duties. In support of this system it has been contended that unless the District Collector is also a Magistrate, his prestige will be diminished in the eyes

of the people. These and other arguments have been examined and answered a number of times and the present system has been condemned in the strongest terms. From the earliest days of British Rule, many distinguished Anglo Indian Administrators expressed themselves in terms of strong disapprobation of the present system, but I need only refer to the modern history of the subject. In 1899, an important memorial was addressed to the Secretary of State signed by many eminent men including Lord Hobhouse, Sir Richard Garth, Sir Richard Couch, Chief Justice of the High Court of Bengal, Sir Raymond West of the Bombay Civil Service, Sir William Markby, Judge of the High Court of Calcutta and other experienced judicial Officers. Nothing came out of this memorial. Then there was a discussion in 1908 in the Imperial Legislative Council, when Sir Harvey Adamson admitted on behalf of the Government that the "criminal trials affecting the general peace of the district are not always conducted in that atmosphere of cool impartiality which should pervade a Court of Justice." He was also of opinion "that it is not enough that the administration of justice should be pure. It can never be the bed-rock of our rule unless it is also above suspicion". Sir Harvey Adamson declared that the Government of India had definitely decided to introduce the reform in a cautious and tentative way. Nothing practical having been done, the Hon'ble Babu Surendranath Banerjee again reverted to the subject in 1913 in the Imperial Legislative Council. In speaking on behalf of the Government on that occasion, Sir Reginald Craddock said that, in consequence of consultations with Local Governments, difficulties of a practical nature were elicited and correspondence upon them took place between the Local Governments and the Government of India and between the Government of India and the Secretary of

State. The discussion was still going on at that time in 1913 and has not been, I believe, finished as yet.

## THE ROYAL COMMISSION.

The Royal Commission on the Public Services has not faced the question and has scrupulously avoided a consideration of this important subject. Under these circumstances, it is impossible to resist the conclusion that, as long as possible, the Executive Government will never find the time to consider the subject or to formulate a scheme and to find the money for it. The Indian National Congress and its allied organisations have, for 30 years, year after year, urged this important administrative reform but all to no purpose. The present system is a source of weakness and embarrassment to the administration. No Government can be strong whose administration of justice is not entirely above suspicion. The combination of functions in such a condition of society is a direct weakening of the prestige of the Executive. "The fetish of prestige," Sir Harvey Adamson said, "in the larger sense has been altogether discarded, and no longer forms an operative part of the policy of the Government of India." Notwithstanding this disclaimer, prestige is still too strong to be easily shaken off. Speaking at Cambridge in 1912, the present Secretary of State referred to prestige as a principle or policy which has often controlled the actions of the Government of India. He said "Oh India! How much happier would have been your history if that word has been left out of the English vocabulary. But there you have Conservative Imperialism at its worst. We are not there, mark you, to repair evil, to amend injustice, to profit by experience. We must abide by our mistakes, continue to outrage popular opinion simply for the sake of being able to say 'I have said what I have said.' I have in other places and at other times expressed my opinion freely on prestige.

We do not hold India by invoking this well-mouthed word. We must uphold it by just institutions and more and more as time goes on by the consent of the governed." Whatever successive Secretaries and Under Secretaries of State may think and say on the subject, it is impossible to effect this or any other reform in the administrative machinery of India unless the controlling power is vested in the people. The executive Government now controls not only the executive administration in India but also determines the composition of the Legislatures and controls the Judicial system of the country. In other countries, the executive Government, the Legislatures and the Judiciary control each other in various ways but the constitutional relation of each of these authorities is so regulated as to secure the independence of each of them. They act as a check on each other; but in India the executive authority is supreme in all spheres of activity.



## CHAPTER XV.

### MILITARY SERVICES.

"There can be no true sense of Citizenship where there is no sense of responsibility for the defence of one's own country. If there is trouble, others will quiet it down. If there is riot, others will subdue it. If there is danger, others will face it. If our country is in peril, others will defend it." When a people feel like this, it indicates that they have got to a stage when all sense of civic responsibility has been crushed out of them, and the system which is responsible for this feeling is not consistent with self-respect of normal Human Beings." Sir S. P. Sinha, at the Indian National Congress, 1915.

Since the Indian Mutiny in 1857, the military policy of the Government of India had been actuated by a distrust of the people and every step taken was, therefore, in the direction of reducing the military efficiency of the people. On the eve of the Indian Mutiny, the Indian troops in India outnumbered the Europeans by nearly 8 to 1. The present proportion is two to one. Many other important changes were also introduced tending in the direction of increasing the military efficiency of the European Forces. One of the changes was that the field and other artillery should be exclusively or almost exclusively manned by Europeans. The two great principles observed since the Mutiny were the retention in the country of a large force of British troops and keeping the artillery in the hands of the Europeans. The organisation and recruitment of the Indian army was also completely changed in various ways. The Army Organisation Commission of 1879 recommended the abolition of the Presidency Army system and the constitution of four territorial Army Corps under the Supreme authority. This reform was carried out and a new scheme of military organisation was introduced by Lord Kitchener in 1905, which will be

referred to later on. In addition to all these changes in recruitment and organisation, the Government also pursued a rigorous policy of exclusion of Indians from all chances of military training. The admission of Indians to the Volunteer Corps was refused and the Indian Arms Act was worked so rigidly in all parts of the country that the people have been deprived of the means of defending themselves against dacoits, robbers and wild animals. These three subjects—the recruitment of the Army, facilities for military training and the working of the Indian Arms Act—fill a large space in the political discussions in India ever since the establishment of the Indian National Congress. Nevertheless, nothing tangible has been done hitherto to meet the wishes of the people in these three important respects.

#### INDIA'S EFFORT IN THE PRESENT WAR.

Happily, the present war has dispelled the suspicions of the Government about the loyalty of Indian people to the Empire. The Indian Army has distinguished itself on the battle-fields of Europe for the first time in the history of India and the hard solid work of the Army in all the theatres of war has received encomiums from all quarters since the commencement of the present war. The Indian soldiers fought at Ypres side by side with the Canadians; they were with the Anzacs in Gallipoli; they fought against terrible odds in East Africa before General Smuts brought over his troops from South Africa. Their magnificent work in Mesopotamia in spite of a most difficult situation has won for them great admiration from the military authorities. The heroism of Indian troops has attracted a great deal of attention in the theatres of the war in all parts of the world. The Indian States have also done their best in the conduct of this war. Many of the princes have served personally on the British Staff at

the front and their Imperial service troops have taken their place on the battle-fields of Europe and Asia.

All this was possible because Lord Hardinge trusted India. India was practically denuded of the British and Indian troops from the beginning of the war. Lord Hardinge has won the gratitude of the people of this country for the opportunities he has given to them.

#### INDIA'S POSSIBILITIES.

The inexhaustible military resources of India and their value to the Empire as a whole have also attracted certain amount of attention since the beginning of the war. In a previous chapter, I have already referred to the services rendered by India to the Empire. But the potentialities of India in meeting the military requirements of the British Empire are not fully realised as yet. A European war was necessary to convince the leading men in authority in India and the United Kingdom that India is loyal to the Empire and that there are millions of men of fighting quality and military age in this country, who will willingly adopt the military profession. There are martial races who can form the material for a most magnificent army. In referring to the part played by the Indian troops in 1914 and 1915, Mr. Winston Churchill said "that they held positions for the holding of which no other resources were, at the time, available in the allied armies in the West. They fought with the utmost heroism and effect. They acquitted themselves admirably both in defence and in attack again and again and yet again against our enemy. There were Gurkhas at Gallipoli and at the foot of Sari Beir side by side with their Australian comrades, thereby creating an impression throughout Australia which would never be forgotten. The wet wintry weather in Flanders, the pouring rain and mist, the undrained trenches,

deep in mud and water, were a heavy and cruel burden to the Indians." He then referred to the vast field for military recruitment available in India. Mr. Churchill stated that with 315 millions of people in India it was wrong to India and wrong to Europe to have only an Indian army of a hundred thousand in the line and he therefore thought, taking a cool view of the situation, that "of all chances and prospects the Government were bound to have a large Indian Army ready to bear its part in the final culminating shock." The great difficulty, however, is that the Indian Army at present is officered almost wholly by Europeans.

#### COMMISSIONS FOR INDIANS.

The wider employment of the sons of the soil in the public services has now been laid down in a series of pledges and Royal proclamations. Racial disqualifications have been abolished and merit has been laid down as the sole test of qualification for public employment. But there is always a great deal of divergence between principle and practice in regard to Indian questions. One of these is the granting of Commissions to Indians in the Army. Asiatics and Africans can obtain an honourable position in the armies of Russia and France, but after a century of British rule, Indians are not yet in a position to say that a dignified position can be secured by them in the military service of their own country.

The present war has revealed many defects in the army organisation, not the least important of which is the necessity of throwing open the commissioned ranks to Indians. The Indian regiments are all officered by European officers and the highest rank to which the Indian soldier may aspire to is a non-commissioned officer with the title of Risaldar Major or Subadar Major. Almost ever since the establishment of the Indian National Congress, the country

has demanded a better position in the military service of the country for the sons of the soil. In 1887, at the third Indian National Congress held at Madras, the resolution adopted was in these terms: "that in view of the loyalty of His Majesty's Indian subjects, this Congress considers it desirable that the Queen's proclamation should be given effect to, that the Military service in its higher grades should be practically opened to the Natives of this country and that the Government of India should establish military colleges in this country, whereat the Natives of India as defined by statute, may be educated and trained for a military career as officers of the Indian Army." It is now thirty years since this resolution was passed and every succeeding Congress has been asking for the establishment of Military Colleges in India and for organising the more warlike races on a system of military service. Educated Indians resent their emasculation as an undeserved and gratuitous stigma on their loyalty and on the national competency of Indians for a military career. Throughout the period of the mogul rule, the Army, in its higher ranks, afforded the most distinguished career to the sons of the soil, but after the establishment of the British Power no Indian, whatever his rank, social position or military worth, can hope to receive the King's Commission. The existing organisation of the Indian Army does not include any class of Indian Commissioned officers; no Indian soldier whether a Sikh, a Gurkha or a Pathan has ever become a lieutenant in the army. This grave disability is due to the mistrust caused by the events of the mutiny. The disqualification imposed by the British Government operates (not only in the case of rank and file of the Indian soldiery as a permanent bar to promotion, but has closed an honourable profession to many Indians possessing an inherited taste and talent for the military profession. It has had a most detrimental effect on the morale of the Indian

sepoys, and many military officers of high standing have expressed themselves in favour of the admission of the Indians to the Commissioned ranks of the Army. During the Viceroyalty of Lord Minto, the matter was again pressed on the Secretary of State, but it did not make any further progress than any of its predecessors. At the autumn Session of the Imperial Legislative Council, His Excellency the Viceroy stated that the discussion of the question of commissions to Indians dates back to pre-historic times, that it has been the subject of discussion by Government after Government and that years slipped by and nothing was done up to the present day. It was announced by His Excellency that a despatch on the subject from the Government of India to the Secretary of State had gone and that His Majesty's Government had accepted the proposals of the Government of India. The country awaits the publication of this despatch to see to what extent the proposals of the Government of India would meet with public approbation. The reform has long been overdue and unless a substantial step in this direction is taken, the greatest disappointment would again be caused throughout the country. India will not be satisfied with mere beginnings. We know to our cost how many reforms have been delayed and obstructed either in this country, or in the United Kingdom, and we shall have no reason to rejoice till the reform is actually carried out. His Excellency has also announced that, as a beginning, nine commissions had been conferred on Indian Military officers who have distinguished themselves in the war. This tardy and inadequate recognition of the claims of the many distinguished Indian soldiers has come after three years of service in this world-wide war. The Military correspondent of the London Times has, however, already struck a note of warning. "It is a change which, once begun, must extend and, because it must have the inevitable result of placing

eventually British officers under the command of Indians, is not one to be lightly undertaken." This great war has changed many things, and whether it has changed the views of the British Military officers in regard to the claims of Indians yet remains to be seen. The position is, however, entirely different to-day. India must take an important part in future in Imperial Defence and her position in the Empire has been established by the great part she has taken in the present war. Russia is not the only possible enemy against which India may have to contend. Moreover, if India is to become a self-governing unit in the Empire, the whole question of the military organisation needs to be looked at from an entirely different standpoint. A standing European Army in the country is a necessary concomitant of a foreign domination; but if self-governing institutions are to be established in India and the civil administration of the country is placed in the hands of the people, a military organisation of foreigners can no longer continue on anything like the same scale as now. A beginning must, therefore, be made in establishing the normal conditions of a self-governing country. The opening of the King's Commissions to Indians on equal terms along with the other subjects of the King, the establishment of Military Academies for the highest instruction in the Military Art and the throwing open of all positions of trust, power and responsibility to Indian Military men in all spheres of activity are the directions in which such a beginning must be made.

#### METHODS OF RECRUITMENT.

The scheme of Military Reorganisation which owed its inception to Lord Kitchener introduced many far-reaching changes which, I believe, must now be revised in the light of more recent experience. Lord Kitchener and the Government of his day came to the decision that the main function of the Indian Army is the defence of the North

West Frontier. Russia was then supposed to have ambitions of an Indian Empire and it was Lord Kitchener's aim to reorganise and prepare the Army for an eventual conflict with that great Power. As a result of his scheme, several military stations were abandoned. The bulk of the troops were concentrated in large cantonments and recruitment was largely made from transfrontier tribes. The principal races and castes now enlisted in the regiments are the Pathans, the Punjabees, the Muhammadans, the Sikhs, the Dogras, the Ghurkhas, the Hindustani Muhammadans, the Brahmins, the Rajputs, the Jats, Garhwallis, the Moplas, the Tamils, the Muhammadans of Deccan and Rajaputana, the Baluchis and the Mahrattas. An improvement of the conditions of enlistment and service for Indian Officers and men is necessary and the right to enlist in the regular Army, irrespective of race or province or origin but subject only to prescribed tests of physical fitness should also be conceded. Better pay, pensions, allowance and prospects, which will bear a reasonable comparison with those of the British soldiers and with those obtainable in the Civil services of the country must also be thought of. Some improvement has been made since the war, but a great deal yet remains to be done. Though her own needs may not require a large Army, India will have to supply very large reserves for the defence of the Empire, which can be mobilised and expanded indefinitely at the call of a great emergency. For these reasons, a thorough examination of all the available recruiting fields will have to be undertaken in the light of the new conditions. The weight of Indian defence should be thrown more and more on the citizens of India and less and less on the trans-frontier tribes. Apart from this, modern warfare requires the best intelligence of the country. On these grounds, it is clear that a change in Indian Military policy is bound to come at the end of the war. The conclusions of the Imperial War



conference in regard to Military equipment and material are not yet fully known but it is certain that the whole question will have to be viewed from an entirely different standpoint from that which has hitherto prevailed.

#### A CITIZEN ARMY.

I have so far dealt with the recruitment for the Regular Army. The creation of a citizen Army in India has also been suggested for a very long time. In 1887, with a prophetic vision of the coming events, the Indian National Congress adopted a resolution that "in view of the unsettled state of public affairs in Europe and the immense assistance which the people of this country, if duly prepared therefor, are capable of rendering to Great Britain in the event of any serious complications arising, this Congress do earnestly appeal to Government to authorise (under such rules and restrictions as may to it seem fitting) a system of volunteering for the Indian inhabitants of the country, such as may qualify them to support the Government effectively in any crisis." The right of military training and the formation of a National Militia in India have been urged with great vigor and enthusiasm many times from the platform of the Indian National Congress. If the people of India are allowed and trained to bear arms, there is no nation in the world whose strength will compare with that of England; nor is there any reason for any apprehension, that the formation of a National Militia would be a source of danger to Imperial supremacy or to internal peace and order. The refusal to permit Military training coupled with the rigorous working of the Arms Act has thoroughly emasculated the people. In speaking on the subject at the Indian National Congress, 1915, Sir Satyendra Sinha made one of the most scathing indictments against the present system. He said :—

"England has ruled this country for considerably over 150 years now, and surely it cannot be a matter of pride to her that, at the end of this

period, the withdrawal of her rule would mean chaos and anarchy and would leave the country an easy prey to any foreign adventurers. There are some of our critics, who never fail to remind us that if the English were to leave the country to-day, we would have to wire to them to come back before they go: as far as Aden. Some even enjoy the grim joke that, were the English to withdraw now, there would be neither a rupee nor a virgin left in some parts of the country. For my part, I can conceive of no more scathing indictment of the results of British rule. A superman might gloat over the spectacle of the conquest of might over justice, and over righteousness, but I am much mistaken if the British nation, fighting now, as ever for the cause of justice and freedom and liberty, will consider it as other than discreditable to itself, in the highest degree, that, after nearly two centuries of British rule, India has been brought to-day to the same emasculated condition as the British were in the beginning of the fifth century, when the Roman legions left the English shores in order to defend their own country against the Huns, Goths and other barbarian hordes:

“In asking, therefore, for the right of Military training, we are only seeking to remedy the results I have described. We are seeking to retain our self-respect and to strengthen our sense of civic responsibility. We are seeking to regain the right to defend our homes and hearths against possible invaders, should the strong protecting arm of England be ever withdrawn from our country. It is not sentiment that compels us to demand this inalienable right of all human beings, though sentiment has its undoubted place in the scheme of every Government. Some day or other, our right arm may be called upon to defend all that man holds most precious. For who will venture to prophecy that sooner or later there may not be another such conflict as is now convulsing the world, when there may be new alliances and fresh combinations and when England may not have the same allies and advantages as she has now.”

This is a statement of the case by one of the most respected Indian public men and represents the sentiments of the whole country.

#### STUDENTS IN THE UNITED KINGDOM.

The disability to undergo Military training has been imposed not only on Indians but also on the Indian students in the United Kingdom. In the Universities, the Indian students have, for years, been refused admission to the University Corps. After the outbreak of the war, the Indian students in Oxford and Cambridge offered their services and claimed to be admitted to the Officer's Training

Corps, but this was refused. They then passed the following resolutions in June 1915 and submitted them to the authorities.

"That we view with pain and surprise the hesitation, and, as we understand, the refusal on the part of the authorities of the University Officers' Training Corps to include Indian students as members of that body.

"That in view of the part that India has played since the outbreak of the European War and the services that are being rendered by a very considerable number of Indian students resident in the United Kingdom in various capacities, we cannot help thinking the attitude of the authorities to be inconsiderate and unfair.

"That we cannot understand why British subjects of Indian birth should be specially chosen for this disability, not even imposed upon naturalised Germans and Austrians before the war nor shared by other students of the University at present. We need hardly add that this constitutes an unfortunate distinction affecting the status of Indian students as members of the University."

We do not know what became of these resolutions. It would have been surprising if the rule was relaxed; so strong is the color bar. This racial discrimination even at the seats of learning is very galling to Indian sentiment especially after the splendid vindication of Indian gallantry and loyalty in the various theatres of war.

## CHAPTER XVI.

### THE NATIVE STATES.

“ If ever India is removed from the category of dependencies into the category of dominions, the constitutional pattern of the new state must be federation in which hereditary monarchies and principalities are included as constituent parts.”—MR. H. A. L. FISHER, EDUCATION MINISTER, UNITED KINGDOM.

I have so far dealt with the problem of Self-Government as it affects British India. No serious effort, however, has been made in the discussions, that have so far taken place, to determine, in a scheme of Self-Government, the exact place and position of the Sovereign Princes and Chiefs of the country and their constitutional relation to the Indian Government. Such an omission has been pointed out by critics, whether hostile or sympathetic, either in a spirit of cavil or in an attitude of constructive helpfulness. It is unthinkable that the six hundred and eighty Chiefships and principalities can remain untouched by any scheme of self-government for India that may be brought into effect in the near future. The Princes and people of India cannot remain isolated from each other, as they have been hitherto, during the past century and a half. They have also been touched by the spirit of the age. Representative institutions have been introduced in some of the more advanced States. Legislative Councils have also been constituted and some of the States have also organised Village Panchayats, conciliation boards, Municipal Councils, Taluk and District Boards. The Maharaja of Bikanir recently referred to the rapid progress of the Native States on constitutional lines and said, “ that many states including his own are rapidly progressing in the association of the people in the work of administration and legislation.” In a series of letters recently addressed by a ‘Mysorean’ to the

Maharaja of Bikanir, some of the problems of the Native States from the point of view of the people have been set forth for solution and the democratisation of Native States has been urged with warmth. These communications show the general trend of public opinion in the States. Every one of the reforms from the rural panchayat to the urban municipality, elected representative assemblies, the responsibility of the executive government to the people and full freedom of speech and criticism, these and other reforms have been put forward and the initiation of all these measures for widening the spheres of popular liberty have been advocated. The author makes a stirring appeal to the Maharaja and says :

“ Let the subjects of Native States, therefore, freely join their brethren in British and assist in the struggle for Home Rule. Let them be participators in all the national movements of British India like the Congress, the social conference, the National Educational schemes, the Boy Scouts organisations and other beneficent activities of the present Renaissance. For, after all, India is but one household amidst the community of nations. She has one spiritual mission which binds together the subjects of Native States and those of British India ; and besides, victory to the latter in the fight for Swaraj means an impetus to the same cause in the Native States. Leaders of National India are demanding an immediate declaration of policy from the Government of His Majesty to the effect that they recognize Home Rule to be the political goal of India. Would it not be in the highest interests of our common motherland if enlightened and patriotic Princes of your Highness's eminence, will send up a recommendation to His Majesty on behalf of India's movement towards larger freedom, and couple with it a prayer that His Imperial Majesty might also be graciously pleased to make it known to all his Indian Allies that they would deserve his approbation and esteem only by submitting themselves to constitutional principles and processes of administration, similar to those, which His Majesty has himself accepted.”

These sentiments indicate the progress of the movement for National autonomy and constitutional Government in the Native States.

Points of contact and conflict have, therefore, been and will continue to be established between that vast area which Sir William Lee Warner calls “ India under

Home Rule" and that much vaster area which is ardently awaiting its destiny of "Home Rule" yet to come. The day has passed when "the East could bow low before the storm in patient deep disdain. The legions still thunder by, but Oriental Society can never go back to what it was. To-morrow will not be as yesterday. It is certain that the present century will witness alterations in the character of British relations with the Native States." If these constitutional changes predicted by Sir William Lee-Warner long before the occurrence of conditions, which make them not merely probable but imminent, should conduce to the peaceful and permanent progress of this ancient land, and help in the establishment of sound representative institutions, it would not be enough merely to maintain the present character of British relations with the Princes and the Chiefs. The Native States must be linked with the other units of administration in India in a federal union which will give them a constitutional position in the Indian system.

## LORD ISLINGTON.

Lord Islington has also recognised the need for some organic connection between the Native States and British India. In his Oxford address, he refers to the necessity for making provision for the Native States in any final scheme of Indian Self-Government. He said:

"The Native States comprise in area and population one-third of the Indian Peninsula. Comprised within the legal definition of India, they are excluded from that of British India, and do not form part of His Majesty's Dominions. Proud to acknowledge the paramountcy of the British Crown, their rulers are so far from being British subjects that they enjoy an almost complete internal sovereignty solemnly guaranteed to them with certain limitations, by formal treaties, the scrupulous observance of which is a point of honour with the British Government. And yet, though historically and constitutionally divorced from the body politic of British India they are inextricably bound up with it by their geographical position which necessarily exposes them on all sides to influences from without; while railways, posts and telegraphs must tend more and more to level

artificial barriers and to foster the growth of common sentiment. Thus it is that, making no claim to interfere in the affairs of British India and jealous of interference in their own, they claim to take part in the defence of the British Empire, and wherever the Indian Army has fought, Imperial Service Troops have stood side by side with their British and Indian comrades. Obviously, therefore, they occupy an important place in any of our schemes."

In order, therefore, to see whether these States can be brought into a scheme of Self-Government on the basis of a federal union, it is necessary to refer briefly to their exact position in relation to the British Government. The Native States of India cover an area of 630,068 sq. miles, being inhabited by a population of about 66 millions exclusive of Baluchistan, Nepal and the Shan States, and number about 680, of which 261 are the more important ones. The Government of India directly controls 180 States, the Government of Madras has under it 5. Bombay has 354 separate Rulers, the Punjab 34, Bengal 30, United Provinces 52. Although some of these, particularly in Bombay, are small, still "the right of all the 680 States recognised by the foreign office of the Government of India, as beyond the jurisdiction of the ordinary Courts of the British Empire, to the fullest measure of protection and partnership is firmly established by usage, by the evidence of fact and by solemn guarantee." The relations of the Native States with the Sovereign power have been regulated by treaties and developed by usage and precedent. The list of duties and obligations was no doubt recorded in ancient treaties, but they have been amended and adapted to the changing conditions, and the relations of the States with the Government at the present day are, therefore, the result of an imperceptible growth of usage and precedent in addition to express engagement. The States have obligations to the Crown and also for the common defence of the Empire. They have also obligations in external affairs and also in internal affairs. The account of rights and

obligations as between the Suzerain power and the subordinate States is a running one; nevertheless, the main heads of the bill may be set forth.

For the purposes we have in view, it is necessary to examine the duties of the States in somewhat greater detail. (i) They can be considered under five heads:—(i) Obligations for the common defence, (ii) in regard to external relations, (iii) affecting internal administration; (iv) of loyalty to the Crown and (v) of certain jurisdictional engagements.

#### COMMON DEFENCE.

All States have to furnish troops according to their means at the requisition of British Government as expressed in the treaties negotiated by Lord Hastings. The system of subsidiary forces indicating, as they once did, a mistrust, if not of the fidelity, at least of the efficiency of the armies of Native States still survives in a few States. The experiment of requiring certain States to offer contingents or auxiliary forces, consisting of a body of their own troops, commanded, equipped and paid by British Officers was tried and, with a single exception (Hyderabad), abandoned. The new experiment of providing Imperial service troops marks a change in the policy of mistrust and isolation, which prevailed in the earlier periods of British intercourse, and a combined force of 21,000 men is now maintained by 27 States, while rulers of other States are anxious to contribute their contingents. While the States have to contribute to the common defence by means of subsidiary forces, contingents, local forces and Imperial service troops, their limited sovereignty entails restrictions upon the strength of their armies, and their system of recruitment so as to prohibit foreign mercenaries, and also in regard to their fortifications, equipments and armaments. In times of war, obligations are imposed upon the States to



render assistance to the full extent of their resources. Besides these, there are certain services, which the King's allies are required to render to the Imperial armies charged with the defence of their States, no less than of British territories and these comprehend the grant of rights of passage and occupation of forts, of rights of cantonment, of assistance in the matter of supplies, and of the extradition of deserters. In order that the British Government may maintain its lines of communication between its scattered forces, it requires the control over the Railway, Telegraph and telephone systems and postal communications. Its consent is required before private lines are constructed in the Native States and in regard to railways which are not isolated in a Native State but form part of the Imperial system of railways or part of a continuous line of such system; the cession of jurisdiction is invariably required in order to avoid a constant break of jurisdiction and gauge and interminable disputes regarding loss or injury to lives and goods. A free cession of the requisite strip of land and exemption from duty on materials of construction or of the goods carried by the railway constitute the cost which the Native States have to pay for the benefits of the main lines of railway constructed within the limits of their States.

#### EXTERNAL AFFAIRS.

In regard to external affairs, the States have no *locus standi* whatever, being unable to communicate with one another or with other external powers. They cannot even receive commercial agents or simply foreigners without the consent of the Suzerain power. They cannot receive titles from foreign powers or from one another and cannot submit joint petitions. It is true that only 55 out of the 680 treaties expressly prohibit negotiations with foreigners, but such prohibition applies equally to all the others. At the same time, the Native States by fore-

going their complete sovereignty in the sense that 'Sovereignty is divisible' are entitled to have their subjects protected by the British Government in foreign areas, and may be required to punish their crimes and offences at such places. The rights enjoyed by the British Indian subjects abroad are shared by those of the Native States as well, and as such, the latter, when they possess the necessary passports and credentials, receive the protection of British Consuls or their substitutes. The right of making treaties or capitulations with the protected sovereigns of India being refused to foreign nations by the British Government, the latter reserves to itself the right to try Europeans and Americans for offences committed in Native States. In the treaty of Mysore, plenary Criminal jurisdiction over European British subjects was expressly reserved, while the omission of reference to European subjects of foreign nations is made up by the requisition that Mysore should conform to the advice of the Government of India in the administration of justice. The premier state of India, Hyderabad, has assigned to the Resident, the Criminal Jurisdiction over "the many Europeans, born in India, resident in the territory of His Highness," except those employed by the "Sircar" and its dependents. Native States must surrender fugitive offenders from other States of British India or foreign countries in co-operation with the British Government. Foreign nations cannot negotiate with the Native States, but that right being in the hands of the British Government, the Native States are obliged to cooperate with it in all such matters. All interestal dealings are prohibited except through the mediation of the Government of India. Breach of these rules, understandings and obligations is sometimes visited with punishments such as suspension, reduction or withdrawal of salutes.

## INTERNAL ADMINISTRATION.

The Princes and Chiefs of India have parted with many attributes of sovereignty, by resigning their rights of peace and war, by surrendering their rights of negotiation, confederacy and legation and as partners of the British Government in the benefits of international and interstatal action. It may, then, appear unexpected and unjustifiable that the Native States which, when they surrendered their sovereignty, stipulated for non-interference in domestic affairs, should, nevertheless, owe obligations to the suzerain power in matters pertaining to their internal administration. The right to recognise and regulate successions, the right of interference to prevent dismemberment of a State, or to suppress rebellion against the lawful sovereign, the right to prevent gross misrule and check inhuman practices of offences against natural law and public morality, and the right to secure religious toleration are all rights conceived in the interests of the states and their sovereigns and have been reserved by the British Government, while obligations may be imposed on the States in the interests of the Empire to fight a common calamity, such as plague or famine and to assist in measures taken to secure jurisdiction over British subjects, to protect the coinage of British India, to maintain a uniform gauge in jurisdiction on railways and to help in the proper working of the judicial system in British India. It is laid down that Mints in Native States should be established and worked only at the capitals of the states under proper control and supervision by the ruler of the states, whose coinage must be limited to the requirements of his own territories and those of his subordinate chiefs. There is also a tendency for the unreserved adoption of free trade. The reforms in the fiscal system are affected by agreement, and not introduced by the assertion of the Imperial authority.

## JURISDICTIONAL ARRANGEMENTS.

In every State in India, the British Government exercises personal jurisdiction over British subjects as well as extra-territorial jurisdiction over all persons and things within its cantonments situated in foreign territory. In some of the protected states, the Government of India shares with the sovereign his jurisdiction over his own subjects, and in some the entire administration of justice, both civil and criminal, is conducted by the Courts of the Governor General in Council. The Political Agent sometimes hears appeals from capital sentences passed by the Courts of the Native States upon their own subjects. Sometimes, the British Government exercises jurisdiction over certain subjects of the Native States, such as the Jareja Nobles of Cutch or the Feudatory States of Kolhapur. The cantonments, while they retain their character as foreign territory, are occupied alike by the British troops, and by the laws and Courts of the Governor-General, necessary for its effective occupation so that drink, crime and insanitation may not impair the efficiency of soldiers. British jurisdiction over railways has been already referred to and it is secured either by the surrender of the whole piece of land as in Baroda or, as is more commonly the case, by ceding to the Governor-General the jurisdiction and full powers of administration in sovereignty. Sometimes jurisdiction is required in civil stations, over particular places or sites, in foreign territories, either because they form the headworks of Imperial canals or centres of trade or of the influx of the British residents; such areas are not British territory and the jurisdiction exercised is done under the Indian Foreign Jurisdiction Act XXI of 1879. British Indian Courts or Courts of foreign jurisdiction deal with offences committed by Europeans in Native States, while Indian British subjects are handed over to the Courts of Protected

Princes in whose territory they have offended. Difficult situations arise where a European British subject commits a crime in a State punishable according to the law of the land, but not according to the law to which he is amenable beyond British India. The right of demanding the extradition of fugitive criminal is not reciprocal; the British Government does not, as a rule, extradite a European offender to a Native State, while it demands the extradition of such offenders to itself. In the same way, the British Government expects the surrender of military deserters from the Imperial Army, whilst it cannot extradite to a Native State a deserter from its own army.

These are briefly the relations between the Suzerain power and the subordinate states. Sir William Lee Warner has, in his admirable treatise, dealt with the subject exhaustively from a constitutional standpoint.

#### CONSTITUTIONAL POSITION.

After a comprehensive view of the exact position of the Native States, Sir William Lee-Warner has come to some conclusions in regard to the exact position of the Native States. The tie that unites them to the British Government is not international. The restrictions placed upon their independent action and the obligations which habitually govern their external relations, and even, to some extent, their exercise of internal sovereignty must be held to have deprived them of real international life. The Government of India have expressly said, in a notification published in the Gazette of India in 1891, that "the principles of the International Law have no bearing upon the relations between the Government of India as representing the Queen Empress on the one hand and Native States under the sovereignty of Her Majesty on the other. The paramount supremacy of the former presupposes and implies the subordination of the latter." The tie is not also a

feudal tie. The Parliament and the Government of India have no power to legislate for places and persons not under British jurisdiction. Sir Lewis Tupper has taken the view that they are feudatories but the line of argument adopted by Sir Lewis Tupper would lead one to conclude that the Native States are British possessions and this view would completely nullify the solemn assurances given to their rulers to the contrary. The question has, then, been raised whether the connection between the King's authorities in India and the rulers of the Native States is a constitutional tie. The British Government alone represents to the outside world the unit India. Sir William Lee-Warner has summarised the present position. The relationship is not international, neither is it feudal. It is not constitutional either. He says "that the British Government has drawn to itself the exercise of the entire external sovereignty of the Native States and it has also gathered into its hands some of the internal sovereignty of even important states." The Indian States have, therefore, been treated as types of semi-sovereign States. This sovereignty has been maintained by treaties and by continuous usage on the part of the Indian Government.

These being the facts, the establishment of constitutional relations between British India and the Native States is beset with difficulties. If a federal Government for the whole of India is established, it must regulate measures that concern peace and war and foreign relations common to the several States and British India. It would also regulate the fiscal systems of the States themselves. The exclusive right of coining the money and regulating the value thereof will also be asserted. The law of copyright and patents in British India will have to be extended to the Native States. The Postal, Telegraph and Railway systems, both in the

ative States and in British India, will come under the same central authority. In these and other federal matters, the Native States will have to forego their existing rights. While preserving to them freedom from interference in domestic administration, it will be possible to bring the Native States into a Federal System only, with their consent. Lord Islington, laid down the following principles, which have to be kept in view in framing a federal constitution in India.

First.—The States must come into our scheme of their own free will. We can put no pressure upon them which the letter and the spirit of our treaty engagements with them do not permit.

Second.—We cannot ask them to come into any scheme which does not reserve to them all the rights, which their treaties guarantee to them. However insistent may be the demand for accommodation and give and take, their treaty rights must be scrupulously respected.

Third.—Nothing must be done to impair the personal link which binds them to the Crown.

These conditions are necessary to secure freedom of action to the States. The creation of a federal machinery in India in which the Native States are component members will be accomplished in due time.

#### A FEDERAL UNION.

There can be no doubt, therefore, that a federal union would be a source of strength to the people and would be a useful link between the rulers of the Native States on the one hand and the people of British India and the British Government on the other. The subjects of the Native States and the subjects of the British India are already held together by immemorial ties and by fundamental

unity of thought and culture, of race and civilisation, and they have the same social, political and economic problems, which will be promoted by a federal union. There is, therefore, little doubt that, in a scheme of Self-Government for India, provision must be made for incorporating the Native States with British India on a federal basis.

If such a union is effected between the Native States and the Government of India, the Native States will occupy a position similar to the British Provinces in regard to internal affairs. The British Government is already tied down by treaties and usage not to interfere with the internal administration of the States, and there is also no desire on the part of the Princes to interfere in the internal administration of British India. His Highness the Gaekwar of Baroda has expressly stated, at the Conference of the Princes and Chiefs held in 1916, that the British Government should not interfere in the internal affairs of the States and that the Princes and Chiefs have on their part no desire to interfere with those of British India. The desire for unfettered internal sovereignty has found expression several times and as a matter of fact, interference with the internal administration of the States has been reduced to a minimum for some years and specially after the Viceroyalty of Lord Hardinge. Any scheme of political reconstruction in India should, therefore, while affording all reasonable guarantees to the Native States for non-interference in internal administration, provide for adequate representation of the States in any federal machinery that may be constituted. The federal executive and the federal legislature, that may be devised, will have to take into account the claims of the Native States for suitable representation in federal assemblies and for the control of the federal affairs. It has been suggested that the Conference of Princes and Chiefs may,



in future, develop into a constitutional assembly for the settlement of the questions relating to Native States. I do not believe in the possibility of the Conference of Chiefs being developed into an organ of constitutional Government. So far as the Proceedings of the last Chiefs' Conference are concerned, one is led to think that it is more or less a ceremonial assembly. Nothing very definite has been discussed by the Council nor did the larger problems affecting the Native States and the British India ever come up for consideration. What is wanted is that the Native States should be brought in touch with the ultimate facts of political life in this country and this can only be obtained by a federal union for the whole of India in which the Native States are constituent partners sharing common obligations and rights along with British Indian Provinces. The appointment of Indian Chiefs and Princes to the Indian Legislative Councils has been suggested and statutory difficulties in the way have now been removed. The step by itself will not do any good. What is required is an organic connection and a constitutional representation of the States in a federal legislature. The Indian Legislative Council at present represents the people of British India and the appointment of a Ruling Prince to that Council will really be an anachronism. As a member of that assembly, the Indian Chief might occupy a dignified position, but he has no concern with, and no interest in, the affairs of British India, which are discussed in the Council. It may be that the Native States may have some remote connection with some subjects or other dealt with in the Legislative Council. But a Ruling Prince will not, in the Indian Legislative Council, as it is now constituted, be able to discuss any questions relating to the Native States. A new central legislature with an Upper and Lower House for the discussion of matters assigned to the Central Government is the only way in which it is

possible to provide for adequate representation of Native States in a scheme of Self-Government. It is unnecessary to discuss any such scheme of federation at present, but it may be pointed out that some of the federal constitutions elsewhere provide for the representation of the States, as States, in the Upper House, while the Lower House contains representatives of the people. The bi-cameral system furnishes many useful analogies for the composition of a federal legislature. If the Native States are willing to come into a final scheme of Self-Government, the whole basis of the existing Legislature will have to be considered. This is, however, largely a problem of the future.

#### NATIVE STATES AND THE GOVERNMENT OF INDIA.

Sir M. Visweswaraya, K. C. I. E., the Dewan of Mysore, has given expression to the desire of the Native States for a close and a more constitutional connection between the Native States and the Government of India. In addressing the Representative Assembly last month, he referred to the impending reforms as follows :—

“ Having regard to the recent announcements in Parliament and the approaching visit of the Secretary of State for India, it seems important that the point of view of Indian States should receive adequate recognition. The Indian States, as is well-known, occupy nearly two-fifths of the area of the Empire and hold a quarter of the entire population. Questions connected with currency, fiscal and commercial policy, imports, exports, salt duties, emigration army, navy, foreign affairs, all these affect the subjects of the Indian States quite as much as they do people in British India. Many of the States pay subsidies ; several contribute a substantial share of the indirect taxes of the Government of India and maintain Local as well as Imperial Service troops which add to the fighting strength of the Empire.

It has been the proud privilege of many States, including ours, to contribute, in men and money, their small share to the British cause in the present world-war. The normal yearly contribution, both direct and indirect, from the Government and the people of Mysore into the coffers of the Government of India is equivalent to one-third of the entire revenues of our State.

In the recent Imperial War Conference in London, H. H. The Maharaja of Bikanir worthily represented the Indian States, besides his two colleagues from the Government of India. We feel sure that, in any future Conferences, the chosen representatives of Indian States will find a place. It may be permitted to us to hope that the Indian States will be represented also in the future Executive Council or Cabinet of the Viceroy. In the discussions on the subject so far, the question of giving representation to Indian States does not appear to have received adequate attention. One view of the position is that representatives of Indian States should find a place in any future Legislative Assembly or Assemblies of the Indian Empire. The extent of representation from Individual States, or groups of States, may be based on their population, modified, if necessary, by other considerations such as literacy, revenues, etc. As members of the Assembly, the representatives of the Indian States may take part in the discussions and vote, but only on questions in which the States are interested along with the rest of India.

The Indian States are vitally concerned in the live issues of the forthcoming enquiry. Even as matters stand, public opinion in British India naturally exercises a certain amount of influence over the decisions of the Government of India on questions of policy which affect India as a whole, including the Indian States. The tendency of all

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future reforms will be the same, namely, to increase the influence of public opinion on Government. It is all the more necessary that a suitable machinery should be provided in the new constitution to elicit the views and safeguard the interests of the States and ensure to them their rightful place in the Councils of the Indian Empire."

Sir M. Visweswaraya is one of the best exponents of the policy of linking together the Native States, with the Imperial system and the statement on the subject may be taken as the considered opinion of those who are responsible for the administration of Native States.

## CHAPTER XVII.

### CONCLUSION.

#### A BRIEF SUMMARY.

In the preceding pages, I have referred to the existing mechanism for the Government of India, in India and in England. I have also drawn attention to the proposals put forward in the scheme of the Indian National Congress and the All-India Muslim League and tried to indicate the bearing of these proposals on the existing system of administration. Many of the reforms now suggested for the development of Indian Polity, have been discussed for years by Indian public men, Anglo-Indian Administrators and political reformers in India and in the United Kingdom. The abolition of the Council of India was advocated by the Indian National Congress so long ago as 1885. The control of the Legislative Councils over the administration was definitely put forward as a necessary measure of reform since 1886. In that year, the Congress adopted a resolution that "all Legislative measures and all financial questions including Budgets should be submitted to and dealt with by the Legislative Councils and that the Executive Government should possess the power of over-ruling the decision of a majority of the Council when the public interests would suffer by the acceptance of such a decision." The expansion of the Legislative Councils and the creation of Council Governments in Provinces where they do not exist have also been advocated year after year. The wider employment of Indians in the Civil and Military services in the country has continuously formed the subject of discussion and in fact there is not one session of the Congress in which the exclusion of Indians from the higher ranks of the public services has not been referred to. The separation

of the executive and the judicial functions, the expansion of Local Self-Government, and the reform of District administration, the appointment of Indians to the Executive Councils, these and every one of the reforms embodied in the present proposals have been advocated for so long a time without any effect, that a section of those reformers lost their faith in constitutional agitation. If the present system of bureaucratic administration in India is to be altered and self-governing institutions established in this country, as now announced by His Majesty's Government, the whole system of Indian Polity must undergo a change. We have already a fully developed Central Government and well ordered Local Governments in India which are entirely in the hands of the official hierarchy. The common controlling authority over the Indian administration is vested, however, in the British Nation and not in the people of India. Self-Government in India in a national sense, therefore, implies the transfer of this authority from the people of the United Kingdom to the people of India. The scheme of reforms put forward by the Indian National Congress is intended as a definite step towards the ultimate attainment of this end and to facilitate the transformation of the bureaucracy to a democratic form of Government.

#### POPULAR CONTROL AND LOCAL AUTONOMY.

Nor are the changes revolutionary in their character. On the other hand, the present proposals form the next natural step in the evolution of the existing administrative system in India. Lord Morley created a non-official majority in the Legislative Councils which has proved ineffective. We now claim that the Councils should contain a substantial elective element. Lord Morley intended that the non-official members should have a voice in the financial administration of the Provinces. The financial procedure, that has been devised, has made

the position of the representatives of the people untenable. They have no real voice in the shaping of the Budget or in the expenditure of public revenues. The reforms now framed are intended to secure an effective control to the people in the spending of the taxes collected from them. Lord Morley introduced an Indian element in the Executive Councils of the Governors and the Governor-General. Our aim is to strengthen this element and to associate, with the task of Government, persons drawn from the public life of the country. Again, the centralization of administrative and financial control in the hands of the Government of India has been condemned for years even by Anglo-Indian administrators. We desire that the Provinces should be set free and that autonomy should be the keynote in all branches of administrative activity. The want of touch of the officials with the people in the sphere of district administration has become a crying evil and its need for reform has been admitted by responsible officials. A large number of witnesses before the Royal Commission on Decentralization suggested the constitution of District advisory Councils or, in the alternative, the expansion of the sphere of activity of District Boards so as to enable them to deal with the topics of general administration. In regard to the Indian Legislative Council, the Government of India were prepared in 1908 to dispense with the official majority. The joint scheme, therefore, suggests an effective elected majority with the control of the purse, but without any interference in matters relating to military organisation and foreign relations. The people and even the Government of India have often pressed that India should have complete freedom in deciding her own fiscal policy. It is, therefore, urged that the voice of the representatives of the people in the Indian Legislative Council should prevail in these and other matters of purely internal administration. The Marquis of Crewe admitted

that the abolition of the Secretary of State's Council was discussed many times and he was of opinion, in 1914, that it was not then within the range of practical politics. We desire, in view of the decision in favour of the establishment of self-governing institutions in this country, that the control of the Secretary of State should be reduced to a minimum. The one radical change that has been suggested is the development of popular control in the Indian constitution and on this point, His Majesty's Government are now in agreement with the people of India. If self-governing institutions are to be established in India leading to the establishment of responsible Government in this country as an integral part of the British Empire, a beginning can only be made in the directions suggested by the Indian National Congress. The whole country is looking forward to a generous and substantial instalment of self-government and the scheme of the Indian National Congress and the All India Muslim League suggests ways and means by which the policy of His Majesty's Government can be carried out.

#### LORD MACAULAY'S PREDICTION.

In speaking on the Charter Act in 1833, Lord Macaulay, with the vision of a seer, said "It may be that the public mind of India may so expand under the existing system of administration that it has outgrown that system, that having become instructed in European knowledge, they may demand European institutions. Whether such a day will ever come, I know not. But never will I attempt to avert or to retard it. Whenever it comes, it will form the proudest day in English History," Macaulay's prediction has been amply fulfilled. A United India demands to-day representative institutions of the western type and a substantial measure of national autonomy. The statesmen of the Empire have admitted the supreme importance



of India in the Imperial system. Kingdoms rose and fell in this ancient land before the foundations of the Roman Empire were laid. The home of great religions, of science, of ethics, law and politics, India continues to maintain its place in the domain of thought and the arts of civilization. Its ancient sages taught the world the wisdom and the philosophy of the east. Western ideals and culture have now breathed a new spirit of freedom into all classes of the people. A national solidarity has been achieved and a unifying and the democratic spirit is observed in every field of activity under the stimulating effect of western education. A political and national consciousness has come into existence and a national public opinion has been created. All these new forces are now at work and Englishmen, who have fought for liberty all over the world, will not hesitate to widen the bounds of freedom in India.

#### ANGLO-INDIAN OPPOSITION.

It is urged, however, in certain quarters that India is not fit for any advance towards Self-Government. The forces of reaction are organising themselves here and in the United Kingdom against any reform of the Indian administrative system. Lord Sydenham, Sir John Hewett and others of their way of thinking are already active in the United Kingdom in offering unqualified opposition to the reforms. In India, the reforms advocated by the National Congress and the Muslim League, are opposed by the European and the Anglo-Indian community and it is inevitable that it should be so. The non-official European in India belonging, as he does, to the governing class, regards himself as a privileged person. If, by the establishment of self-governing institutions, the European bureaucracy are divested of some of these powers, the non-official European believes that he also will lose a portion of his prestige. The appointment of Mr. Montagu as Secretary of State at

this juncture has alarmed the Europeans and Anglo-Indians in this country and his speech on the Mesopotamian Commission, in which he condemned the present irresponsible system of Indian administration, was too much for them. They do not like his advocacy of the development of responsibility in the Indian administration to the people of this country and they are not content with demanding what they want to protect their own interests but also claim a right to dictate to the Government what, in their own opinion, should be the reforms that may be granted to the people. They have indulged so far, in vague sympathy without formulating definite proposals. They presume to know the views of the millions of people in India much better than the educated classes in this country and they profess to act in their interests. Sir Archy Birkmyre, the commercial magnate of Calcutta, considers that the Government in India has hauled down its colors before a noisy agitation, and that the memorandum of the nineteen elected members contained impossible and extravagant demands and that Sir Michael O'Dwyer has earned the gratitude of every European in India in his condemnation of the establishment of Self-Government in India. Mr. Jones, another commercial man of Calcutta, protests against the levity with which Lord Islington and others have handled the very grave issues raised by the reforms which he said, "they were recklessly fathering on India". He says that it is a rank imposture to believe that the nineteen elected members of the Indian Legislative Council are really and truly representative of the people and it is impossible to regard these gentlemen, who framed a brand new constitution for India on a summer's afternoon, as speaking in the name and with the authority of the people of India. The Legislative Councils, in his opinion, now consisted of landholders, lawyers and money-lenders and the millions of people in India are

cultivators who are not in good terms with their landlords and money-lenders and "that the extraordinary proposal which the British people are being asked to consider was that the millions of India should be handed over to these landlords to be treated according to their tender mercies." He also fears that the cost of provincial taxation will be imposed on "tea gardens, coal mines and jute mills and that once you come to start the game there will be no stopping of the process until we are given free tickets to embark for Europe." The Hon'ble Mr. Ironside says that if the reforms are accepted, the Government of this country will be torn-up by the roots and that, "responsible ministers in the United Kingdom, are, being made fools and that was enough to make him weep for his country." Referring to Mr. Montagu, he said "that he started in a department created for the definite purpose of helping to win the war. Had he been of use, he presumed he would have stayed there, but being one of a party of meddling muddlers he found his way to the India Office and it is a thousand pities that a young man of this type is forced upon India today." In Madras, Mr. Thonger, the President of the European Association, has expressed a fear that the visit of the Secretary of State in connection with internal politics in India will have a prejudicial effect on the fighting men at the front. He believes that political distractions have been forced upon this country by a small disloyal minority, apparently with the consent and support of the Secretary of State for India. He suggests that the Secretary of State should be left alone and the Premier of the War Council and the Premiers of the Self-governing Colonies should be approached on the subject. In taking this action, Mr. Thonger declared that the European Association wished to see that the birth-right of the people of India is not sold to "a gang of agitators." The Bombay European Association was equally

emphatic. Mr. Wardlaw Milne said that the European in India will not allow their rights to be menaced and their voice to be unheard. Nobody has ever suggested that the Europeans should be ignored and that no consideration should be paid to their views. Like the other European Associations, the Bombay Association views with grave apprehension even the consideration, at the present time, of any far reaching changes in the administration of India. It is unnecessary to refer at any greater length to the attitude of these Associations, and the European Press. Reckless and misleading statements about the scope and effect of the reforms have been made by these opponents of Indian progress. They are endeavouring to make out that a great crisis has arisen, that the whole fabric of Government is in jeopardy, and that anarchy and disorder have increased and are increasing in India. They are doing their level best to create a crisis and to increase the tension and racial antagonism between Europeans and Indians. The fact is that the angle of vision of the Europeans in this country is entirely different from that of the sons of the soil. The average European in India does not believe in an Indian Nationality nor in the possibility of reconstructing India on a national basis. He is hostile to any proposals for increasing Indian influence in the administration.

#### THE LORD BISHOP OF MADRAS.

The Lord Bishop of Madras has recently pointed out this aspect of the present situation. He said that "the danger of the present situation consists largely in the fact that, with notable exceptions, Englishmen in India are not only opposed to the feelings and sentiments of educated Indians but also to the inevitable tendency of their work and policy. We need to realise that we cannot now base the Government of India upon any other foundation than that of the will of the Indian people and not as their

masters, that a foreign bureaucracy can only be regarded as a temporary form of Government, and that our ultimate aim and object must be to enable India to become a self-governing part of the British Empire, and to develop her own civilization upon her own lines." The average European in India does not look at the question from this standpoint. The European community claim to have a monopoly of loyalty but they have never received any reform of Indian administration except with opposition. India wants the co-operation of the Europeans in all branches of her national activity and there is no reason whatever to suppose that the establishment of self-governing institutions in this country will endanger European trade and commerce. It is not possible to say whether their attitude in regard to Indian questions would undergo a change. The statesmen at the head of affairs in the United Kingdom and in India have a very graver responsibility in guiding the destinies of this country at this juncture. The political situation in this country will, it is hoped, be handled not in a spirit of "timorous faint heartedness" but with the courage, foresight and broad sympathy, which have never failed British statesmen on all great occasions in the past.

## APPENDIX I.

# GOVERNMENT OF INDIA ACT, 1915. (5 & 6 Geo. 5, Ch. 61.)

## ARRANGEMENT OF SECTIONS.

### PART I.

#### HOME GOVERNMENT.

##### *The Crown.*

#### SECTION.

1. Government of India by the Crown.

##### *The Secretary of State.*

2. The Secretary of State.

##### *The Council of India.*

3. The Council of India.
4. Seat in Council disqualification for Parliament.
5. Duties of Council.
6. Powers of Council.
7. President and Vice-President of Council.
8. Meetings of Council.
9. Procedure at meetings.
10. Committees of Council.

##### *Orders and Communications.*

11. Submission of proposed orders and communications to Council.
12. Exception as to cases of urgency.
13. Exception as to secret orders and despatches.

## SECTION.

14. Address of despatches from India.
15. Communication to Parliament as to orders for commencing hostilities.
16. Correspondence by Governor-General with Secretary of State.

*Establishment of Secretary of State.*

17. Establishment of Secretary of State.
18. Pensions and gratuities.

*Indian Appointments.*

19. Indian appointments.

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## THE REVENUES OF INDIA.

20. Application of revenues.
21. Control of Secretary of State over expenditure of revenues.
22. Application of revenues to military operations beyond the frontier.
23. Accounts of Secretary of State with Bank.
24. Powers of attorney for sale or purchase of stock and receipt of dividends.
25. Provision as to securities.
26. Accounts to be annually laid before Parliament.
27. Audit of Indian accounts in United Kingdom.

## PART III.

## PROPERTY, CONTRACTS AND LIABILITIES.

28. Power of Secretary of State to sell, mortgage and buy property.

## SECTION.

29. Contracts of Secretary of State.
30. Power to execute assurances, &c., in India.
31. Power to dispose of escheated property, &c.
32. Rights and liabilities of Secretary of State in Council.

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## THE GOVERNOR-GENERAL IN COUNCIL.

*General Powers and Duties of Governor-General in Council.*

33. General powers and duties of Governor-General in Council.

*The Governor-General.*

34. The Governor-General.

*The Governor-General's Executive Council.*

35. Constitution of Governor-General's Executive Council.
36. Ordinary members of Council.
37. Extraordinary members of Council.
38. Vice-President of Council.
39. Meetings.
40. Business of Governor-General in Council.
41. Procedure in case of difference of opinion.
42. Provision for absence of Governor-General from meetings of Council.
43. Powers of Governor-General in absence from Council.

*War and Treaties.*

44. Restriction on power of Governor-General in Council to make war or treaty.



## APPENDIX I.

## PART V.

## LOCAL GOVERNMENTS.

*General.*

## SECTION.

45. Relation of local Governments to Governor-General in Council.

*Governorships.*

46. Governments of Bengal, Madras and Bombay.  
 47. Members of Executive Councils.  
 48. Vice-President of Council.  
 49. Business of Governor in Council.  
 50. Procedure in case of difference of opinion.  
 51. Provision for absence of Governor from meetings of Council.  
 52. The province of Agra.

*Lieutenant-Governorships and other Provinces.*

53. Lieutenant-Governorships.  
 54. Lieutenant-Governors.  
 55. Power to create Executive Councils for Lieutenant-Governors.  
 56. Vice-President of Council.  
 57. Business of Lieutenant-Governor in Council.  
 58. Chief Commissioners.  
 59. Power to place territory under authority of Governor-General in Council.

*Boundaries.*

60. Power to declare and alter boundaries of provinces.  
 61. Saving as to Laws.  
 62. Power to extend boundaries of presidency-towns.
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## PART VI.

## INDIAN LEGISLATION.

*The Governor-General in Legislative Council.*

## SECTION.

63. Constitution of the Indian Legislative Council.
64. Meetings.
65. Legislative powers.
66. Laws for the Royal Indian Marine Service.
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GENERAL IN LEGISLATIVE COUNCIL.

# THE GOVERNMENT OF INDIA ACT, 1915.

*An Act to consolidate enactments relating to the Government of India. [29th July, 1915.]*

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

### HOME GOVERNMENT.

#### *The Crown.*

1. The territories for the time being vested in His Government of Majesty in India are governed by and India by the Crown. in the name of His Majesty the King Emperor of India, and all rights which if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories, may be exercised by and in the name of His Majesty as rights incidental to the Government of India.

#### *The Secretary of State.*

2. (1) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the Government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by, the East India Company, or by the Court of Directors or Court of Proprietors of that Company either alone or by the direction or with the sanction or approbation of the Commissioners for the

Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

(2) In particular the Secretary of State may, subject to the provisions of this Act superintend, direct and control all acts, operations and concerns which relate to the Government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

(3) There shall be paid out of the revenues of India to the Secretary of State and to his under-secretaries respectively the like yearly salaries as may for the time being be paid to any other Secretary of State and his under secretaries respectively.

*The Council of India.*

3. (1) The Council of India shall consist of such number of members, not less than ten and not more than fourteen, as the Secretary of State may determine.

(2) The right of filling any vacancy in the Council shall be vested in the Secretary of State.

(3) Unless at the time of an appointment to fill a vacancy in the Council nine of the then existing members of the Council are persons who have served or resided in British India for at least ten years, and have not last left British India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the Council shall hold office, except as by this section provided, for a term of seven years.



(5) The Secretary of State may, for special reasons of public advantage, re-appoint for a further term of five years any member of the Council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the Council shall not be capable of re-appointment.

(6) Any member of the Council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the Council.

(7) Any member of the Council may be removed by His Majesty from his office on an address of both Houses of Parliament.

(8) There shall be paid to each member of the Council out of the revenues of India the annual salary of one thousand pounds.

4. No member of the Council of India shall be capable of sitting or voting in Parliament.

Seat in Council disqualification for Parliament.

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India; but every order or communication sent to India, and every order made in the United Kingdom in relation to the Government of India under this Act, shall be signed by the Secretary of State.

Duties of Council.

6. (1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the Council at which not less than five members are present.

Powers of Council.

(2) The Council may act notwithstanding any vacancy in their number.

7. (1) The Secretary of State shall be the president <sup>President and</sup> of the Council of India, with power to <sup>Vice-President of</sup> Council. <sup>of</sup> vote.

(2) The Secretary of State in Council may appoint any member of the Council to be Vice-President thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the Vice-President, if present, or, in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

8. Meetings of the Council of India shall be convened <sup>Meeting of Coun-</sup> and held as and when the Secretary of <sup>cil.</sup> State directs but one such meeting at least shall be held in every week.

9. (1) At any meeting of the Council of India at <sup>Procedure at meet-</sup> which the Secretary of State is present, <sup>ings.</sup> if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(2) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be

entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting be also entered in like manner.

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those committees respectively, and generally direct the manner in which all business of the Council or committees thereof is to be transacted.

#### *Orders and Communications*

11. (1) Subject to the provisions of this Act, every order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State under this Act, shall, unless it has been submitted to a meeting of the Council of India, be deposited in the Council-room for the perusal of all members of the council during seven days before the sending or making thereof.

(2) Any members of the Council may record, in a minute book kept for that purpose, his opinion with respect to any such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

(3) If a majority of the Council so record their opinions against any act proposed to be done, the Secretary of State shall, unless he differs to the opinion of the majority, record his reasons for acting in opposition thereto.

12. (1) Where it appears to the Secretary of State that the despatch of any communication or the making of any order, not being an order for which a majority of votes at a meeting of the

Exception as to cases of urgency.

Council of India is by this Act declared to be necessary, is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the Council or deposited for the perusal of the members of the Council.

(2) In any such case the Secretary of State shall, except as by this Act provided, record the urgent reasons for sending the communication or making the order, and give notice thereof to every member of the Council.

13. (1) Where an order concerns the levying of war or the making of peace, or the treating  
Exception as to secret orders and despatches. or negotiating with any prince or state, or the policy to be observed with respect to any prince or state and is not an order for which a majority of votes at a meeting of the Council of India is by this Act declared to be necessary, and is an order which in the opinion of the Secretary of State, is of a nature to require secrecy, the Secretary of State may send the order to the Governor-General in Council or to any Governor in Council or officer or servant in India without having submitted the order to a meeting of the Council or deposited it for the perusal of the members of the Council, and without recording or giving notice of the reasons for making the order.

(2) Where any despatch to the Secretary of State from the Governor-General in Council or a Governor in Council concerns the Government of India or of any part thereof, or the levying of war, or the making of peace, or negotiations or treaties with any prince or state, and is, in the opinion of the authority sending it, of a nature to require secrecy, it may be marked "Secret" by that authority; and a despatch so marked shall not be communicated to the members of the Council of India unless the Secretary of State so directs.

14. Every despatch to the United Kingdom from the  
Address of despatches from India. Governor-General in Council or a Governor in Council shall be addressed to the Secretary of State.

15. When any order is sent to India directing the  
Communication to Parliament as to orders for commencing hostilities. actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

16. It is the duty of the Governor-General in Council  
Correspondence by Governor General with Secretary of State. to transmit to the Secretary of State constantly and diligently an exact particular of all advices or intelligence, and of all transactions and matters, coming to the knowledge of the Governor-General in Council and relating to the government, commerce, revenues or affairs of India.

*Establishment of Secretary of State.*

17. (1) No addition may be made to the establishment of the Secretary of State in Council  
Establishment of Secretary of State. nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(2) The rules made by His Majesty for Examinations, certificates, probation or other tests of fitness in relation to appointments to junior situations in the Civil Service, shall apply to such appointments on the said establishment.

(3) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Pensions and gratuities. and Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

*Indian Appointments.*

19. Except as otherwise provided by this Act, all powers of making rules in relation to appointments and admissions to service and other matters connected therewith and of altering or revoking such rules, which, if the Government of India Act 1858, had not been passed, might have been exercised by the Court of Directors of the East India Company or the Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council.

Provided that in the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

## PART II.

## THE REVENUES OF INDIA.

20. (1) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone.

(2) There shall be charged on the revenues of India alone—

- (a) all the debts of the East India Company; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act; and
- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India; and
- (d) all payments under this Act.

(3) The expression “the revenues of India”, in this Act shall include all the territorial and other revenues of or arising in British India, and in particular,—

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and
- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any

moveable or immoveable property in British India ; and

- (iii) all moveable or immoveable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(4) All property vested in, or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India.

21. The expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council ; and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India.

Control of Secretary of State over expenditure of revenues.

22. Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

Application of revenues to military operations beyond the frontier.

23. (1) Such parts of the revenues of India as are remitted to the United Kingdom, and all money arising or accruing in the United Kingdom from any property or

Accounts of Secretary of State with Bank.



rights vested in His Majesty for the purposes of the Government of India or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act.

(2) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India."

(3) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(4) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(5) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary of State in Council; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India."

(6) Every account referred to in this section shall be a public account.

24. The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretaries or his assistant under secretary, may authorise an or any of the cashiers of the Bank of England—

Powers of attorney for sale or purchase of stock and receipt of dividends.

- (a) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and
- (b) to purchase and accept stock for any such account; and
- (c) to receive dividends on any stock standing to any such account;

and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing direct to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

25. All securities held by or lodged with the Bank of England in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, and directed to the chief cashier and chief accountant of the Bank of England.

Provision as to securities.

26. (1) The Secretary of State in Council shall, within the first fourteen days during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

Accounts to be  
annually laid before  
Parliament.

- (a) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;
- (b) the latest estimate of the same for the financial year last completed.
- (c) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India, at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during that year, the rates of interest borne by those loans, debts and liabilities respectively, and the annual amount of that interest;
- (d) an account of the state of the effects and credits in each province, and in England or elsewhere, applicable to the purposes of the government of India according to latest advices which have been received thereof; and
- (e) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(2) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

27. (1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

(2) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(3) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation

thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India, such salaries as His Majesty, by warrant signed and counter-signed as aforesaid, may direct.

(10) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation a lowance, be in the same position as if they were on the establishment of the Secretary of State in Council.

## PART III.

## PROPERTY, CONTRACTS AND LIABILITIES.

28. (1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estate for the time being vested in His Majesty for the purposes of the government of India, and raise money on any such real estate by way of mortgage, and make the proper assurances for any of those purposes, and purchase and acquire any property.

*Power of Secretary of State to sell, mortgage and buy property.*

(2) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of three members of the Council of India.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

29. (1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

*Contracts of Secretary of State.*

(2) Any contract so made may be expressed to be made by the Secretary of State in Council.

(3) Any contract so made, which if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(4) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith, may be made, varied or discharged under the hands of two members of the Council of India.

(5) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(6) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

30. (1) The Governor-General in Council and any local Government may, on behalf and in the name of the Secretary of State in Council and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of the votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real estate by way of mortgage, and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for purposes of this Act.

(2) Every assurance and contract made for the purposes of this section shall be executed by such person and in

Power to execute  
assurances, &c., in  
India.

such manner as the Governor-General in Council by resolution directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the Government of India.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the Governor-General in Legislative Council, may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as *bona vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

Power to dispose of escheated property, &c.

Rights and liabilities of Secretary of State in Council.

32. (1) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

(2) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(3) The property for the time being vested in His Majesty for the purposes of the Government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(4) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the



Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

## PART IV.

### THE GOVERNOR-GENERAL IN COUNCIL.

#### *General Powers and Duties of Governor-General in Council.*

33. The superintendence, direction and control of the civil and military Government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

General powers and duties of Governor-General in Council.

#### *The Governor-General.*

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General.

#### *The Governor-General's Executive Council.*

35. The governor-general's executive council consists of the ordinary members and the extraordinary members (if any) thereof.

Constitution of governor-general's executive council.

36. (1) The ordinary members of the governor-general's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

Ordinary members of council.

(2) The number of the ordinary members of the Council shall be five, or if His Majesty thinks fit to appoint a sixth member, six.

(3) Three at least of them must be persons, who at the time of their appointment, have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, of not less than five years' standing.

(4) If any person appointed an ordinary member of the council is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

37. (1) The Secretary of State in Council may, if he thinks fit, appoint the commander-in-chief for the time being of His Majesty's forces in India to be an extraordinary member of the governor-general's executive council, and in that case the commander-in-chief shall, subject to the provisions of this Act, have rank and precedence in the council next after the governor-general.

(2) When and so long as the council assembles in any province having a governor, he shall be an extraordinary member of the council.

38. The governor-general shall appoint a member of his executive council to be vice-president thereof.

39. (1) The governor-general's executive council shall assemble at such places in India as the Governor-General in Council appoints.

(2) At any meeting of the council the governor-general or other person presiding and one ordinary member

of the council may exercise all the functions of the Governor-General in Council.

40. (1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a Secretary to the Government of India, or otherwise, as the Governor-General in Council may direct.

Business of Governor-General in Council.

(2) The governor-general may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

41. (1) If any difference of opinion arises on any question brought before a meeting of the governor-general's executive council, the Governor-General in Council shall be bounded by the opinion and decision of the majority of those present, and if they are equally divided, the governor-general or other person presiding shall have a second or casting vote.

Procedure in case of difference of opinion.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the governor-general, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor-general may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or

rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the governor-general to do anything which he could not lawfully have done with the concurrence of his council.

42. If the governor-general is obliged to absent himself from any meeting of the council, by indisposition or any other cause, and signifies his intended absence to the council, the vice-president, or, if he is absent, the senior ordinary member present at the meeting, shall preside thereat, with the like powers as the governor-general would have had if present :

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor-general, when present, dissents from the majority at a meeting of the council.

43. (1) Whenever the Governor-General in Council declares that it is expedient that the governor-general should visit any part of India unaccompanied by his executive council, the Governor-General in Council may, by order, authorize the governor-general alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

(2) The governor-general during absence from his executive council may, if he thinks it necessary, issue, on

his own authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local Government, or to any officers or servants of the Crown acting under the authority of any local Government without previously communicating the order to the local Government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local Government, with the reasons for making the order.

(3) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the governor-general under the last foregoing sub-section; and those powers shall accordingly be suspended as from the time of the receipt by the governor-general of the order of the Secretary of State in Council.

#### *War and Treaties.*

44. (1) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made against the British Government in India or against any prince or state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possessions of any such prince or state.

(2) In any such excepted case the Governor-General in Council may not declare war, or commence hostilities, or enter into any treaty for making war, against any other

prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forthwith communicate the same, with reasons therefor, to the Secretary of State.

## PART V.

### LOCAL GOVERNMENTS.

#### *General.*

45. (1) Every Local Government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.

(2) No local Government may make or issue any order for commencing hostilities or levying war, or negotiate or conclude any treaty of peace or other treaty with any Indian prince or state (except in cases of sudden emergency or imminent danger when it appears dangerous to postpone such hostilities or treaty), unless in pursuance of express orders from the Governor-General in Council or from the Secretary of State; and every such treaty shall, if possible, contain a clause subjecting the same to the ratification or rejection of the Governor-General in Council. If

Relation of local  
Governments to  
Governor-General in  
Council

any governor, lieutenant-governor or chief commissioner, or any member of a governor's or lieutenant-governor's executive council, wilfully disobeys any order received from the Governor-General in Council under this subsection, he may be suspended or removed and sent to England by the Governor-General in Council, and shall be subject to such further pains and penalties as are provided by law in that behalf.

(3) The authority of a local Government is not superseded by the presence in its province of the governor-general.

*Governorships.*

46. (1) The presidencies of Fort William in Bengal, Fort St. George and Bombay are, subject to the provisions of this Act, governed by the Governments of Bengal, Madras and Bombay, the Governors in Council of those presidencies respectively, and the two former presidencies are in this Act referred to as the presidencies of Bengal and of Madras.

(2) The Governors of Bengal, Madras and Bombay are appointed by His Majesty by warrant under the Royal Sign Manual.

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of those presidencies; and whilst any such order is in force the governor of the presidency to which the order refers shall have all the powers of the Governor thereof in Council.

47. (1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

Members of executive councils.

(2) Two at least of them must be persons who at the time of their appointment have been for at least twelve years in the service of the Crown in India.

(3) Provided that, if the commander-in-chief of His Majesty's forces in India (not being likewise governor-general) happens to be resident at Calcutta, Madras or Bombay, he shall, during his continuance there, be a member of the governor's council.

Vice-president of council.

48. Every Governor of a Presidency shall appoint a member of his executive council to be vice-president thereof.

49. (1) All orders and other proceedings of the Governor in Council of any presidency shall be expressed to be made by the Governor in Council, and shall be signed by a secretary to the Government of the presidency, or otherwise, as the Governor in Council may direct.

(2) A governor may make rules and orders for the more convenient transaction of business in his executive council and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of Governor in Council.

50. (1) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the Governor in Council shall be bound by the opinion and decision of the majority of those present, and if they are equally divided the governor or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before a Governor in Council whereby the safety, tranquillity or interests of his presidency, or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that



the measure proposed ought to be adopted and carried into execution or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(4) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause and signifies his intended absence to the council, the vice-president, or if he is absent, the senior civil member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present :

Provision for absence of governor from meetings of council.

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the Act shall require his signature ; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

52. The Secretary of State in Council may, if he thinks fit, direct that the province of Agra be constituted a presidency under a Governor in Council, and, if that direc-

The Province of Agra.

tion is given, the Presidency shall be constituted on the terms and under the conditions mentioned in section nineteen of the Government of India Act, 1853, and section four of the Government of India Act, 1854.

*Lieutenant-Governorships and other Provinces.*

53. (1) Each of the following provinces, namely, those known as Bihar and Orissa, the United Lieutenant-Governorships. Provinces of Agra and Oudh, the Punjab and Burma, is subject to the provisions of this Act, governed by a lieutenant-governor, with or without an executive council.

(2) The Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

54. (1) A lieutenant-governor is appointed by the Lieutenant-governor. Governor-General with the approval of His Majesty.

(2) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

(3) The Governor-General in Council may, with the sanction of His Majesty previously signified by the Secretary of State in Council, declare and limit the extent of the authority of any lieutenant-governor.

55. (1) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, create a council in any province under a lieutenant-governor, for the purpose of assisting the lieutenant-governor in the executive Government of the province, and by such notification—

Power to create executive councils for lieutenant-governors.

- (a) make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the Council, and
- (b) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor and his council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause :

Provided that, before any such notification is published a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time, an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(3) Every member of a lieutenant-governor's executive council shall be appointed by the governor-general, with the approval of His Majesty.

56. A lieutenant-governor who has an executive  
Vice-president of council shall appoint a member of a  
council to be vice-president thereof, and  
that vice-president shall preside at meetings of the council  
in the absence of the lieutenant-governor.

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient transaction of business in the council, and every order made, or act done, in accordance with such rules and orders shall be treated as being the order or the act of the Lieutenant-Governor in Council.

58. Each of the following provinces, namely, those known as Assam, the Central Provinces, the North-West Frontier Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration.

*Boundaries.*

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely:—

- (1) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council; and

(2) any notification under this section may be disallowed by the Secretary of State in Council.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part.

62. The Governor of Bengal in Council, the Governor of Madras in Council and the Governor of Bombay in Council may, with the approval of the Secretary of State in Council, and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any Act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended.

## PART VI.

### INDIAN LEGISLATION.

#### *The Governor-General in Legislative Council.*

63. (1) For purposes of legislation the governor-general's council shall consist of the members of his executive council with the addition of members nominated or elected in accordance with rules made under this Act. The council so constituted is in this Act referred to as the Indian Legislative Council.

(2) The number of additional members so nominated or elected, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by

reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall be such as may be prescribed by rules made under this Act :

Provided that the aggregate number of members so nominated or elected shall not exceed the number specified in that behalf in the second column of the First Schedule to this Act.

(3) At least one-half of the additional members of the council must be persons not in the civil or military service of the Crown in India ; and, if any additional member accepts office under the Crown in India, his seat as an additional member shall thereupon become vacant.

(4) When and so long as the Indian Legislative Council assembles in a province having a lieutenant-governor or chief commissioner, he shall be an additional member of the council, in excess, if necessary, of the aggregate number of nominated or elected additional members prescribed by this section.

(5) The additional members of the council are not entitled to be present at meetings of the governor-general's executive council.

(6) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected as additional members of the Indian Legislative Council, and as to the qualifications for being, and for being, nominated or elected, an additional member of that council, and as to any other matter for which rules are authorised to be made under this section, and also as to the manner in which those rules are to be carried into effect,

(7) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

64. (1) The Indian Legislative Council shall assemble at such times and places as the Governor-General in Council appoints.

Meetings.

(2) Any meeting of the council may be adjourned, under the authority of the Governor-General in Council, by the governor-general or other person presiding.

(3) In the absence of the governor-general from any meeting of the council the person to preside thereat shall be the vice-president of the council, or, in his absence, the senior ordinary member of the council present at the meeting, or during the discussion of the annual financial statement or of any matter of general public interest, the vice-president or the member appointed to preside in accordance with rules made under this Act.

(4) If any difference of opinion arises on any question brought before a meeting of the council, the person presiding shall have a second or casting vote.

65. (1) The Governor-General in Legislative Council has power to make laws—

Legislative powers.

- (a) for all persons, for all courts and for all places and things, within British India; and
- (b) for all subjects of His Majesty and servants of the Crown within other parts of India; and
- (c) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and
- (d) for the government of officers, soldiers and followers in His Majesty's Indian forces,

wherever they are serving, in so far as they are not subject to the Army Act ; and

(e) for all persons employed or serving in or belonging to the Royal Indian Marine Service ; and

(f) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the Governor-General in Legislative Council has power to make laws.

(2) Provided that the Governor-General in Legislative Council has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

(i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act and any Act amending the same) ; or

(ii) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India ; and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(3) The Governor-General in Legislative Council has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects, born in Europe, or the children of such subjects, or abolishing any high court.



66. (1) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, that is to say, the high seas between the Cape of Good Hope on the West and the Straits of Magellan on the East, and any territorial waters between those limits.

(2) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy, except that in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

67. (1) At a meeting of the Indian Legislative Council no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules.

(2) It shall not be lawful, without the previous sanction of the governor-general, to introduce at any meeting of the Council any measure affecting—

(a) the public debt or public revenues of India or imposing any charge on the revenues of India; or

(b) the religion or religious rites and usages of any class of British subjects in India; or

Laws for the  
Royal Indian  
Marine service.

Business at meet-  
ings.

(c) the discipline or maintenance of any part of His Majesty's military or naval forces; or

(d) the relations of the Government with foreign princes or states.

(3) Notwithstanding anything in the foregoing provisions of this section, the Governor-General in Council may, with the sanction of the Secretary of State in Council, make rules authorising at any meeting of the Indian Legislative Council the discussion of the annual financial statement of the Governor-General in Council and of any matter of general public interest and the asking of questions, under such conditions and restrictions as may be prescribed in the rule. Rules made under this sub-section may provide for the appointment of a member of the council to preside at any such discussion in the place of the governor-general and of vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

68. (1) When an Act has been passed at a meeting of the Indian Legislative Council, the Assent of Governor-General to Acts. governor-general, whether he was or was not present in council at the passing thereof, may declare that the assents to the Act, or that he withholds assent from the Act, or that he reserves the Act for the signification of His Majesty's pleasure thereon.

(2) An Act of the Governor-General in Legislative Council has not validity until the governor-general has declared his assent thereto, or, in the case of an Act reserved for the signification of His Majesty's pleasure, until His Majesty has signified his assent to the governor-general through the Secretary of State in Council, and that assent has been notified by the governor-general.

69. (1) When an Act of the Governor-General in Legislative Council has been assented to by the governor-general, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty to signify, through the Secretary of State in Council, his disallowance of any such Act.

(2) Where the disallowance of any such Act has been so signified, the governor-general shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. The Governor-General in Legislative Council may, subject to the assent of the governor-general, alter the rules for the conduct of legislative business in the Indian Legislative Council (including rules prescribing the mode of promulgation and authentication of Acts passed by that council); but any alteration so made may be disallowed by the Secretary of State in Council, and if so disallowed shall have no effect.

#### *Regulations and Ordinances.*

71. (1) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.

(2) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented to by the governor-general, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon

have the like force of law and be subject to the like disallowance as if it were an Act of the Governor-General in Legislative Council.

(3) The governor-general shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

72. The governor-general may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Governor-General in Legislative Council; but the power of making ordinances under this section is subject to the like restrictions as the power of the Governor-General in Legislative Council to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the Governor-General in Legislative Council, and may be controlled or superseded by any such Act.

Power to make ordinances in case of emergency.

#### *Local Legislatures.*

73. (1) For purposes of legislation, the council of a governor, or of a lieutenant-governor having an executive council, shall consist of the members of his executive council with the addition of members nominated or elected in accordance with rules made under this Act.

Local legislatures.

(2) In the case of the councils of the governors of Madras and Bombay (and, if so ordered by the governor of

Bengal, in the case of his council), the advocate-general or acting advocate-general for the time being of the presidency shall be one of the members so nominated.

(3) The legislative council of a lieutenant-governor not having an executive council, or of a chief commissioner shall consist of members nominated or elected in accordance with rules made under this Act.

(4) Councils constituted as provided by this section are in this Act referred to as local legislative councils, and Governors, Lieutenant-Governors and Chief Commissioners in Legislative Council are in this Act referred to as local legislatures.

74. (1) The number of additional members nominated or elected to the legislative council of the Governor of Bengal, Madras or Bombay the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall, in the case of each such council, be such as may be prescribed by rules made under this Act :

Constitution of legislative councils in Bengal, Madras and Bombay.

Provided that the aggregate number of members so nominated or elected shall not exceed the number specified in that behalf in the second column of the First Schedule to this act.

(2) At least one-half of the additional members nominated or elected to any of those councils must be persons not in the civil or military service of the Crown in India ; and if any such person accepts office under the Crown in India his seat as a member shall thereon become vacant.

(3) An additional member of any of those councils is not entitled to be present at meetings of the governor's executive council,

(4) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected additional members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, an additional member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and also as to the manner in which those rules are to be carried into effect.

(5) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

Meetings of legislative council of Bengal, Madras and Bombay.

75. (1) The legislative council of the Governor of Bengal, Madras or Bombay shall assemble at such times and places as the governor appoints.

(2) Any meeting of the council may be adjourned by the governor, or under his authority, by the other person presiding.

(3) In the absence of the governor from any meeting of the council the person to preside thereat shall be the vice-president of the council, or, in his absence, the senior civil member of the executive council present at the meeting, or during the discussion of the annual financial statement or of any matter of general public interest, the vice-president or the member appointed to preside in accordance with rules made under this Act.

(4) If any difference of opinion arises on any question brought before a meeting of the council, the person presiding shall have a second or casting vote.

76. (1) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise shall, in the case of each such council, be such as may be prescribed by rules made under this Act :

Constitution of legislative councils of lieutenant-governors and chief commissioners.

Provided that the aggregate number of members so nominated or elected shall not, in the case of any legislative council mentioned in the first column of the First Schedule to this Act, exceed the number specified in that behalf in the second column of that Schedule.

(2) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be persons not in the civil or military service of the Crown in India.

(3) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils and as to the qualifications for being, and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are to be carried into effect.

(4) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made and those rules shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

77. (1) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council, may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the Lieutenant-Governor in Legislative Council of the province as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the Lieutenant-Governor in Legislative Council is to exercise legislative powers.

(2) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

78. (1) Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

(2) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or during the discussion of the annual financial statement or of any matter of general public interest, the vice-president, or the member appointed to preside in accordance with rules made under this Act.

(3) If any difference of opinion arises on any question brought before a meeting of the council, the person presiding shall have a second or casting vote.



79. (1) The local legislatures of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

Powers of local legislatures.

(2) The local legislature of any province may, with the previous sanction of the governor-general, but not otherwise, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the governor-general, make or take into consideration any law—

- (a) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India ; or
- (b) regulating any of the current coin, or the issue of any bills, notes or other paper currency ; or
- (c) regulating the conveyance of letters by the post office or messages by the electric telegraph ; or
- (d) altering in any way the India Penal Code ; or
- (e) affecting the religion or religious rites and usages of any class of British subjects in India ; or
- (f) affecting the discipline or maintenance of any part of His Majesty's naval or military forces ; or
- (g) regulating patents or copyright ; or
- (h) affecting the relations of the Government with foreign princes or states.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

(5) Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the governor-general in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

80. (1) At a meeting of a local legislative council no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council and no business shall be transacted other than the consideration of those motions or the alterations of those rules.

(2) It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of the province or imposing any charge on those revenues.

(3) Notwithstanding anything in the foregoing provisions of this section, the local government may, with the sanction of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, and of any matter of general public interest, and the asking of questions under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion in the place of the governor, lieutenant-governor or chief commissioner as the case may be, and of

the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the Governor-General in Legislative Council or the local legislature.

81. (1) When an Act has been passed at a meeting of a local legislative council, the governor, lieutenant-governor or chief commissioner, whether he was or was not present in council at the passing of the Act, may declare that he assents to or withholds his assent from the Act.

Assent to Acts of local legislatures.

(2) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such Act, the Act has no effect.

(3) If the governor, lieutenant-governor or chief commissioner assents to any such Act, he shall forthwith send an authentic copy of the Act to the governor-general, and the Act shall not have validity until the governor-general has assented thereto and that assent has been signified by the governor-general to, and published by the governor, lieutenant-governor or chief commissioner.

(4) Where the governor-general withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

82. (1) When any such Act has been assented to by the governor-general, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty to signify, through the Secretary of State in Council, his disallowance of any such Act.

Power of Crown to disallow Acts of local legislatures.

(2) Where the disallowance of any such Act has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. (1) The local government of any province for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).

(2) A local legislature may, subject to the assent of the governor, lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local legislative council (including rules prescribing the mode of promulgation and authentication of law passed by the council); but any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect.

#### *Validity of Indian Laws.*

Removal of doubts as to validity of certain Indian laws.

84. A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons:—

- (a) in the case of a law made by the Governor-General in Legislative Council, because it effects the prerogative of the Crown; or
- (b) in the case of any law, because the requisite proportion of members not holding office under the Crown in India was not complete at the date of its introduction into the council or its enactment; or
- (c) in the case of a law made by a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over

European British subjects as that legislature, by Acts duly made could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

## PART VII.

### SALARIES, LEAVE OF ABSENCE, VACATION OF OFFICE, APPOINTMENTS, ETC.

85. (1) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act;

Salaries and allowances of governor-general and certain other officials in India.

(2) Provided as follows:—

(a) an order affecting salaries of members of the governor-general's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;

(b) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;

(c) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

86. (1) The Governor-General in Council may grant to any of the ordinary members of his executive council, and a Governor in Council may grant to any member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

Leave of absence to members of executive councils.

(2) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during his absence, and shall on his return and resumption of his duties be entitled to receive half his salary for the period of his absence: but if his absence exceeds six months his office shall become vacant.

87. (1) If the governor-general, or a governor, or the commander-in-chief of His Majesty's forces in India, and, subject to the foregoing provisions of this Act as to leave of absence, if any ordinary member of the executive council of the governor-general, or any member of the executive council of a governor departs from India, intending to return to Europe, his office shall thereupon become vacant.

Provisions as to absence from India or presidency.

(2) No act or declaration of the governor-general or a governor or a member of an executive council, other than as aforesaid, except a declaration in writing under hand and seal, delivered to a secretary to the Government of India or

to the chief secretary of the presidency wherein he is, in order to its being recorded, shall be deemed or held as a resignation or surrender of his office.

(3) If the governor-general, or any ordinary member of the governor-general's executive council, leaves India otherwise than in the known actual service of the Crown, and if any governor, lieutenant governor or member of a governor's executive council leaves the province to which he belongs otherwise than as aforesaid, his salary and allowances shall not be payable during his absence to any person for his use.

(4) If any such officer, not having proceeded or intended to proceed to Europe, dies during his absence and whilst intending to return to India or to his province, his salary and allowances shall, subject to any rules in that behalf made by the Secretary of State in Council, be paid to his personal representatives.

(5) If any such officer does not return to India or his province, or returns to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving India or his province.

88. (1) His Majesty may, by warrant under His Royal Conditional Sign Manual, appoint any person conditionally to succeed to any of the offices of governor-general, governor, ordinary member of the executive council of the governor-general, or member of the executive council of a governor, in the event of the office becoming vacant, or in any other event or contingency expressed in the appointment, and revoke any such conditional appointment.

(2) A person so conditionally appointed shall not be entitled to any authority, salary or emolument appertaining to the office to which he is appointed, until he is in the actual possession of the office,

89. (1) If any person entitled under a conditional appointment to succeed to the office of governor-general, or appointed absolutely to that office, is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of governor-general before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of governor-general.

(2) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(3) All acts done in the council after the date of the notification, but before the communication thereof to the council, shall be valid, subject nevertheless, to revocation or alteration by the person who has so assumed the office of governor-general.

(4) When the office of governor-general is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior ordinary member of the council then present, shall preside therein, with the same powers as the governor-general would have had if present.

90. (1) If a vacancy occurs in the office of governor-general when there is no conditional or other successor in India to supply the vacancy, the governor who was first appointed to the office of governor by His Majesty shall hold and execute the office of governor-general until a successor arrives or until some person in India is duly appointed thereto.

(2) Every such acting governor-general, while acting as such, shall have and may exercise all the rights and powers of the office of governor-general, and shall



be entitled to receive the emoluments and advantages appertaining to the office foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as governor-general, in the manner directed by this Act with respect to vacancies in the office of governor.

(3) If, on the vacancy occurring it appears to the governor, who by virtue of this section holds and executes the office of governor-general, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of governor-general, and thereupon the provisions of this Act respecting the assumption of the office by a person conditionally appointed to succeed thereto shall apply.

(4) Until such a governor has assumed the office of governor-general, if no conditional or other successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior ordinary member of the executive council, shall hold and execute the office of governor-general until the vacancy is filled in accordance with the provisions of this Act.

(5) Every vice-president or other member of council so acting as governor-general, while so acting, shall have and may exercise all the rights and powers of the office of governor-general and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

91. (1) If a vacancy occurs in the office of governor when no conditional or other successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governors'

Temporary  
vacancy in office of  
governor.

executive council, or if there is no council, the chief secretary to the local Government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

(2) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

92. (1) If a vacancy occurs in the office of an ordinary member of the executive council of the governor-general or a member of the executive council of a governor, and there is no conditional or other successor present on the spot, the Governor-General in Council, or Governor in Council as the case may be, shall supply the vacancy by appointing a temporary member of council.

(2) Until a successor arrives the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If any ordinary member of the executive council of the governor-general or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave, then, if any person has been conditionally appointed to succeed to his office is on the spot, the place of that member shall be supplied by that person, and, if no person conditionally appointed to succeed to the office is on the spot, the Governor-General in Council or Governor in Council, as the case may be, shall appoint some person to be a temporary member of council.

(4) Until the return to duty of the member so incapable or absent, the person conditionally or temporarily appointed shall hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any such office, the remaining half of such last named salary being at the disposal of the Governor-General in Council or Governor in Council, as the case may be.

(5) Provided as follows:—

(a) no person may be appointed a temporary member of council who might not have been appointed under this Act to fill the vacancy supplied by the temporary appointment; and

(b) if the Secretary of State inform the governor-general that it is not the intention of His Majesty to fill the vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the governor-general, the tenure of the person temporarily appointed shall cease from that date.

93. (1) A nominated or elected member of the Indian Legislative Council or of a local legislative council may resign his office to the governor-general or to the governor, lieutenant-governor or chief commissioner, as the case may

Vacancies in  
legislative councils.

be, and on the acceptance of the resignation the office shall become vacant.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the governor-general, governor, lieutenant-governor or chief commissioner, as the case may be, may, by notification published in the Government Gazette, declare that the seat in council of that member has become vacant.

94. Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such leave may be granted.

95. (1) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in offices under the Crown in India, and may reinstate officers and servants suspended or removed by any of those authorities.

(2) Subject to such rules, all appointments to offices and commands in India, and all promotions, which, by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India shall, subject to the qualifications, conditions and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them be disabled from holding any office under the Crown in India.

No disabilities in respect of religion, colour or place of birth.

## PART VIII.

### THE INDIAN CIVIL SERVICE.

97. (1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects desirous of becoming candidates for appointment to the Indian Civil Service.

Rules for admission to the Indian Civil Service.

(2) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

(3) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(4) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

98. Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices

Offices reserved to the Indian Civil Service.

which may be created hereafter, shall be filled from amongst the members of the Indian Civil service.

99. (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born in British India of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

100. (1) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto the authority may appoint thereto any person who has resided for at least seven years in India and who has, before his appointment, fulfilled all the tests (if any) which would be imposed in the like case on a member of that service.

(2) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made the appointment shall be cancelled.

## PART IX.

### THE INDIAN HIGH COURTS.

#### *Constitution.*

101. (1) The high courts referred to in this Act are  
 Constitution of the high courts of judicature for the time  
 high courts. being established in British India by  
 letters patent.

(2) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint: Provided as follows:—

- (i) the Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act
  - (ii) the maximum number of judges of a high court, including the chief justice and additional judges, shall be twenty.
- (3) A judge of a high court must be—
- (a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing; or

- (b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or
- (c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or
- (d) a person having been a pleader of a high court for a period of not less than ten years.

(4) Provided that not less than one-third of the judges of a high court, including the chief justice but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the court of judicature at Allahabad, and the high court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

102. (1) Every judge of a high court shall hold his office during His Majesty's pleasure.

(2) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council, and in other cases to the local Government.

103. (1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.



104. (1) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions and (where necessary) expenses for equipment and voyage, of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(3) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(4) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six month's salary.

105. (1) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the high court at Calcutta and the local Government in other cases, shall appoint one of the other judges of the same high court to perform the

Provision for  
vacancy in the office  
of chief justice or  
other judge.

duties of chief justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(2) On the occurrence of a vacancy in the office of any other judge of a High Court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local Government, as the case may be, sees cause to cancel the appointment of the acting judge.

### *Jurisdiction.*

106. (1) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(2) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

Powers of high court with respect to subordinate Court.

- (a) call for returns;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any Act for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local Government.

108. (1) Each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the high court, or of the original and appellate jurisdiction vested in the court.

Exercise of jurisdiction by single judges or division courts.

(2) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

109. (1) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of Christian subjects of His Majesty resident in any part of India outside British India.

(2) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(3) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the governor-general notifies that he has received intimation of the disallowance but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

110. (1) The governor-general, each governor, and each of the members of their respective executive councils, shall not—

Exemption from jurisdiction of high court.

(a) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor

- (b) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction ; nor
- (c) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

\*(2) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justices and other judges of the several high courts.

111. The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject ; but nothing in this section shall exempt the governor-general, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent Court in England.

Written order by governor-general, justification for act in any court in India.

*Law to be administered.*

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law, or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

Law to be administered in cases of inheritance and succession.

*Additional High Courts.*

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Power to establish additional high courts.

*Advocate General.*

114. (1) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

Appointment and powers of advocate-general.

(2) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

## PART X.

## ECCLESIASTICAL ESTABLISHMENT.

115. (1) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions, and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the Church of England therein, as His Majesty may by letters patent, direct.

Jurisdiction of Indian bishops.

(2) The Bishop of Calcutta, is the Metropolitan Bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury.

(3) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such Metropolitan, and must at the time of his appointment to his bishopric, or at the time of his consecration as bishop take an oath of obedience to the Bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(4) His Majesty may, by letters patent, vary the limits of those dioceses of Calcutta, Madras and Bombay.

(5) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of his bishop thereof.

116. (1) The Bishop of Calcutta may admit into the  
Power to admit to holy orders. holy orders of deacon or priest any person whom he, on examination, deems duly qualified specially for the purpose of taking on himself the cure of souls, or officiating in any spiritual capacity, within the limits of the diocese of Calcutta, and residing therein.

(2) The deposit with the bishop of a declaration of such a purpose, and a written engagement to perform from the same, signed by the person seeking ordination shall be a sufficient title with a view to his ordination.

(3) It must be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls within the limits of the diocese of Calcutta only.

(4) Unless a person so admitted is a British subject of or belonging to the United Kingdom, he shall not be

required to take the oaths and make the subscriptions which persons ordained in England are required to take and make.

(5) Nothing in this section shall affect any letters patent issued by His Majesty.

117. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorising and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed.

118. (1) The bishops and archdeacons of Calcutta, Madras and Bombay are appointed by His Majesty by letters patent, and there may be paid to them, or to any of them, out of the revenues of India such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

(2) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking upon himself the execution of his office, and be the whole profit or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(3) There shall be paid out of the revenues of India the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.



119. (1) If the Bishop of Calcutta dies during his voyage to India for the purpose of taking upon himself the execution of his office, or if the Bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(2) If the Bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

120. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant, out of the revenues of India, to any Bishop of Calcutta a pension not exceeding fifteen hundred pounds per annum if he has resided in India as Bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or one thousand pounds per annum if he has resided in India as Bishop of Calcutta for seven years, or seven hundred and fifty pounds per annum if he has resided in India as Bishop of Calcutta for five years, or to any Bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum, to be paid quarterly, if he has resided in British India as such bishop for fifteen years.

121. His Majesty may make such rules as to the leave of absence of the Bishops of Calcutta, Madras and Bombay on furlough or medical certificate as seem to His Majesty expedient.

122. (1) Two members of the establishment of chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies.

(2) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

123. Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

## PART XI.

### OFFENCES, PROCEDURE AND PENALTIES.

124. If any person holding office under the Crown in India does any of the following things, that is to say—

(1) If he oppresses any British subject within his jurisdiction or in the exercise of his authority; or

(2) If (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders, or instructions of the Secretary of State; or

(3) If he is guilty of any wilful breach of the trust and duty of his office; or

(4) If, being the governor-general, or a governor, lieutenant-governor or chief commissioner, or a member of the executive council of the governor-general or of a governor or lieutenant-governor, or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of, trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a share-holder in any joint stock company or trading corporation; or

(5) If he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward, pecuniary or otherwise, or any promise of the same except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer and that the whole or any part of any fine imposed

on the offender be paid or given to the prosecutor or informer, as the court may direct.

125. (1) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor General in Council or of a local Government, by himself or another,—

Loans to princes  
or chiefs.

- (a) lends any money or other valuable thing to any prince or chief in India ; or
- (b) is concerned in lending money to, or raising or procuring money for, any such prince or chief, or becomes security for the repayment of any such money ; or
- (c) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief ; or
- (d) takes holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to.

he shall be guilty of a misdemeanour.

(2) Every bond, note, or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void. !

126. (1) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State or

Carrying on Dan-  
gerous correspon-  
dence.

of the Governor-General in Council or a Governor in Council, he shall be guilty of a misdemeanour; and the governor-general or governor may issue a warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

(2) If, on examination taken on oath in writing of any credible witness before the Governor-General in Council or the Governor in Council, there appear reasonable grounds for the charge, the governor-general or governor may commit the person suspected or accused to safe custody, and shall, within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge on which he is committed.

(3) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(4) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing.

(5) If, notwithstanding the defence, there appear to the Governor-General in Council or Governor in Council reasonable grounds for the charge and for continuing the confinement, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(6) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(7) If any such person is to be sent to England, the governor-general or governor, as the case may be, shall

cause him to be so sent at the first convenient opportunity unless he is disabled by illness from undertaking the voyage, in which case he shall be so sent as soon as his state of health will safely admit thereof.

(8) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

127. (1) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the country of Middlesex.

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom, of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

## PART XII.

## SUPPLEMENTAL.

*Repeal of Acts.*

130. The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule:

Repeal.

Provided that this repeal shall not affect—

- (a) the validity of any law, charter, letters patent, Order in council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby repealed and in force at the commencement of this Act, or
- (b) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or
- (c) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

*Savings.*

131. (1) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the Government of India.

Saving as to certain rights and powers.

(2) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(3) Nothing in this Act shall affect the power of the Governor-general in Legislative Council to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

Treaties, contracts and liabilities of East India Company.

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the Affairs of India, are so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

Orders of East India Company.

*Definitions, Short Title and Commencement.*

134. In this Act, unless the context otherwise requires,—

Definitions.

- (1) "Governor-General in Council" means the Governor-General in Executive Council;
- (2) "Governor in Council" means a Governor in Executive Council;
- (3) "Lieutenant-Governor in Council" means a Lieutenant-Governor in Executive Council;



- (4) "Local Government" means a Governor in Council, Lieutenant-Governor in Council, Lieutenant-Governor or Chief Commissioner ;
- (5) "office" includes place and employment ;
- (6) "province" includes a presidency ; and
- (7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

135. This Act may be cited as the Government of India Act, 1915, and shall come into operation on the first day of January, one thousand nine hundred and sixteen.

*First Schedule.—Maximum number of Nominated or Elected Members of Legislative Councils.*

*Second Schedule.—Official Salaries, etc.)*

## SCHEDULES.

### FIRST SCHEDULE.

#### MAXIMUM NUMBER OF NOMINATED OR ELECTED MEMBERS OF LEGISLATIVE COUNCILS.

Sections 63 (2), 74 (1), 76 (1).

Legislative Council.	Maximum Number.
Indian Legislative Council	Sixty.
Local Legislative Councils—	
Bengal Legislative Council	Fifty.
Madras Legislative Council	Fifty.
Bombay Legislative Council	Fifty.
Bihar and Orissa Legislative Council	Fifty.
United Provinces Legislative Council	Fifty.
Punjab Legislative Council	Thirty.
Burma Legislative Council	Thirty.
Assam Legislative Council	Thirty.
Central Provinces Legislative Council	Thirty.
Legislative Council of the lieutenant-governor of any province hereafter constituted.	Thirty.

**SECOND SCHEDULE,  
OFFICIAL SALARIES, ETC.**

## Section 85.

Officer.	Maximum annual salary.
Governor-General of India . . .	Two hundred and fifty-six thousand rupees.
Governor . . .	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Lieutenant-Governor . . .	One hundred thousand rupees.
Ordinary member of the governor-general's executive council.	
Member of a governor's executive council	Sixty-four thousand rupees.

*(Third Schedule.—Offices reserved to the Indian Civil Service. Fourth Schedule.—Acts Repealed.)*

**THIRD SCHEDULE.**

**OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.**

*Part I.—General.*

Section 98.

1. Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to the several Governments in India, except the Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries in the Army, Marine and Public Works Departments.

2. Accountants-General.

3. Members of the Board of Revenue in the presidencies of Bengal and Madras, the United Provinces of Agra and Oudh and the Province of Bihar and Orissa.

4. Secretaries to those Boards of Revenue.

5. Commissioners of Customs, Salt, Excise and Opium.

6. Opium agent.

*Part II.—Offices in the provinces which were known in the year 1861 as "Regulation Provinces."*

7. District and Sessions Judges.

\* No statutory maximum has been fixed.

8. Additional District or Sessions Judges and Assistant Sessions Judges.

9. District Magistrates.

10. Joint Magistrates.

11. Assistant Magistrates.

12. Commissioners of Revenue.

13. Collectors of Revenue, or Chief Revenue Officers of districts.

14. Assistant Collectors.

#### FOURTH SCHEDULE.

#### ACTS REPEALED.

#### Section 130.

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47 ...	The East India Company Act, 1770.	The whole Act.
13 Geo. 3, c. 63 ...	The East India Company Act, 1772.	The whole Act, except sections forty-two, forty-three and forty-five.
21 Geo. 3, c. 70 ...	The East India Company Act, 1780.	The whole Act, except section eighteen.
26 Geo. 3, c. 57 ...	The East India Company Act, 1786.	Section thirty-eight.
33 Geo. 3, c. 52 ...	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 143 ...	The East India Act, 1797.	The whole Act, except section twelve.
39 & 40 Geo. 3, c. 79.	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155 ...	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84 ...	The Indian Presidency Towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71 ...	The Indian Bishops and Courts Act, 1823.	The whole Act.
6 Geo. 4, c. 85 ...	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56 ...	The East India Officers' Act, 1826.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Will. 4, c. 85 ...	The Government of India Act, 1833.	The whole Act, except section one hundred and twelve.
5 & 6 Will. 4, c. 52 ...	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 and 1 Vict., c. 47 ...	The India Officers' Salaries Act, 1837.	The whole Act.
5 & 6 Vict., c. 119 ...	The Indian Bishops Act, 1842.	The whole Act.
16 & 17 Vict., c. 95 ...	The Government of India Act, 1853.	The whole Act.
17 & 18 Vict., c. 77 ...	The Government of India Act, 1854.	The whole Act.
21 & 22 Vict., c. 106...	The Government of India Act, 1858.	The whole Act, except section four.
22 & 23 Vict., c. 41 ...	The Government of India Act, 1859.	The whole Act.
23 & 24 Vict., c. 100...	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102 ...	The East India Stock Act, 1860.	The whole Act, except section six.
24 & 25 Vict., c. 54 ...	The Indian Civil Service Act, 1861.	The whole Act.
24 & 25 Vict., c. 67 ...	The Indian Councils Act, 1861.	The whole Act.
24 & 25 Vict., c. 104 ...	The Indian High Courts Act, 1861.	The whole Act.
28 & 29 Vict., c. 15 ...	The Indian High Court's Act, 1865.	The whole Act.
28 & 29 Vict., c. 17 ...	The Government of India Act, 1865.	The whole Act.
32 & 33 Vict., c. 97 ...	The Government of India Act, 1869.	The whole Act.
32 & 33 Vict., c. 98 ...	The Indian Councils Act, 1869.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict., c. 3 ...	The Government of India Act, 1870.	The whole Act.
33 & 34 Vict., c. 59 ...	The East India Contracts Act, 1870.	The whole Act.
34 & 35 Vict., c. 34 ...	The Indian Councils Act, 1871.	The whole Act.
34 & 35 Vict., c. 62 ...	The Indian Bishops Act, 1871.	The whole Act.
37 & 38 Vict., c. 3 ...	The East India Loan Act, 1874.	Section fifteen.
37 & 38 Vict., c. 77 ...	The Colonial Clergy Act, 1874.	Section thirteen.
37 & 38 Vict., c. 91 ...	The Indian Councils Act, 1874.	The whole Act.
43 Vict., c. 3 ...	The Indian Salaries and Allowances Act, 1880.	The whole Act.
44 & 45 Vict., c. 63 ...	The India Office Auditor Act, 1881.	The whole Act,
47 & 48 Vict., c. 38 ...	The Indian Marine Service Act 1884	Sections two, three, four and five.
55 & 56 Vict., c. 14 ...	The Indian Councils Act, 1892,	The whole Act.
3 Edw. 7, c. 11. ...	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26. ...	The Indian Councils Act, 1904.	The whole Act.
7 Edw. 7, c. 35. ...	The Council of India Act,	The whole Act.
9 Edw. 7, c. 4. ...	The Indian Councils Act, 1909.	The whole Act.
1 & 2 Geo. 5, c. 18. ...	The Indian High Courts Act, 1911.	The whole Act.
1 & 2 Geo. 5, c. 25. ...	The Government of India (Amendment) Act, 1911.	The whole Act.
2 & 3 Geo. 5, c. 6. ...	The Government of India Act, 1912.	The whole Act

## FIFTH SCHEDULE.

PROVISIONS OF THIS ACT WHICH MAY BE REPEALED  
OR ALTERED BY THE GOVERNOR-GENERAL IN  
LEGISLATIVE COUNCIL.

## Section 131.

Section.	Subject.
16	... Transmission of information by the Governor-General in Council to the Secretary of State.
33, the last twenty words	... Obedience of Governor-General in Council to orders of Secretary of State.
40 (1)	... Form and signature of proceedings of Governor-General in Council.
41 (1), the words "the Governor-General in Council shall be bound by the opinion and decision of the majority of those present."	... Governor-General in Council to be bound by the opinion and decision of the majority of the members present at a meeting of the executive council.
41 (4)	... Restriction of powers of Governor-General in acting against the opinion of the majority present at a meeting of his executive council.
43 (2)	... Orders by Governor-General to local Governments or officers or servants during absence from his executive council.
43 (3)	... Suspension by Secretary of State in Council of the power to issue orders under section 43 (2).
44	... Restrictions on power of Governor-General in Council to make war or treaty.
45 (2)	... Restrictions on power of local Government to make war or treaty; punishment of officers disobeying orders of Governor-General in Council under this sub-section.
47 (3)	... Commander-in-Chief when to be a member of a Governor's executive council.
49 (1)	... Form and signature of proceedings of Governor-in-Council.

Section.	Subject.
50 (2)	... Power of governor to act against the opinion of the majority present at a meeting of his executive council.
50 (3)	... Written communications, and signature, in such cases.
50 (4)	... Restriction on powers of governor in acting against the opinion of the majority present at a meeting of his executive council.
51, first paragraph, the last twelve words	... Powers of member of governor's executive council presiding in absence of governor.
51, proviso	... Governor's signature to proceedings of meeting held in his absence.
62	... Power to extend limits of presidency towns.
104 (2)	... Commencement and exclusiveness of official remuneration of judges of high courts.
104 (3), (4)	... Payments to representatives of deceased judges of high courts.
106	... Jurisdiction, powers and authority of high courts.
108 (1)	... Exercise of jurisdiction of high court by single judges or division courts.
109	... Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110	Exemption from jurisdiction of high courts.
111	... Written order by Governor-General in Council a justification for act in high court.
112	... Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2)	... Powers of advocate-general.
116	... Power of Bishop of Calcutta to admit to holy orders.
118 (2)—So far as it relates to the Bishop of Calcutta and archdeacons.	... Commencement, exclusiveness and continuance of official remuneration.

Section.	Subject.
118 (3)—so far as it relates to the Bishop of Calcutta.	Expenses of visitations.
119—so far as it relates to the Bishop of Calcutta.	Payments to representatives of deceased bishop.
120—so far as it relates to residence of the Bishop of Calcutta as such bishop or as archdeacon.	Pensions.
124 (1)	Oppression.
124 (4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124 (5)—so far as it relates to persons other than the governor-general, a governor, or a member of the executive council of the governor-general or of a governor.	Receiving presents.
125	Loans to princes or chiefs.
126	Carrying on dangerous correspondence.
127	Prosecution of offences in the United Kingdom.
128	Limitation for prosecution in British India.
129	Penalties.



APPENDIX II.  
THE GOVERNMENT OF INDIA  
(AMENDMENT) ACT, 1916.

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(6 and 7 Geo. 5, Ch. 37.)

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ARRANGEMENT OF SECTIONS.

- Section.
1. Elections and nominations for legislative councils.
  2. Removal of doubts as to validity of certain Indian laws.
  3. Qualification of rulers and subjects of certain states for office.
  4. Admission to Indian Civil Service.
  5. Removal of doubts as to validity of Orders in Council under Foreign Jurisdiction Act.
  6. Transfer of India stock by deed.
  7. Minor amendments, repeals and saving.
  8. Short title, commencement, printing and construction.

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FIRST SCHEDULE.—Further amendments of the Government of India Act, 1915.

SECOND SCHEDULE.—Enactments repealed.

# THE GOVERNMENT OF INDIA (AMENDMENT) ACT, 1916.

(6 and 7 Geo. 5, Ch. 37.)

*An Act to amend certain enactments relating to the Government of India, and to remove doubts as to the validity of certain Orders in Council made for India.*

[23rd August, 1916.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) In section sixty-three of the Government of India Act, 1915 (in this Act referred to as "the principal Act"), shall be inserted the following sub-sections:—

Elections and nominations for legislative councils.

"(6A) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.

"(6B) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council."

(2) In sections seventy-four and seventy-six of the principal Act corresponding sub-sections shall be inserted, and shall be numbered (4A) and (4B) in section seventy-four and (3A) and (3B) in section seventy-six.

(3) This section shall apply to and shall validate rules and nominations made as well before as after the commencement of this Act.

Removal of doubts as to validity of certain Indian laws.

2. (1) In section seventy-one of the principal Act shall be inserted the following sub-section:—

“(3A) A regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.”

(2) In section eighty-four of the principal Act, after the words “Governor-General in Legislative Council” shall be inserted the words “or a local legislature,” and, at the end of the section, shall be inserted the following words:—

“A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.”

(3) This section shall apply to and shall validate laws made as well before as after the commencement of this Act.

Qualification of rulers and subjects of certain states for office.

3. After section ninety-six of the principal Act shall be inserted the following section:—

“96A. Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification, any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office

under the Crown to which a native of British India may be appointed, or any named subject of any state, or any named member of any independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office."

4. In section ninety-seven of the principal Act, after Admission to the words "British subjects" shall be Indian Civil Service. inserted the words "and of persons in respect of whom a declaration has been made under the last foregoing section who are," and, after sub-section (2), shall be inserted the following sub-section:—

"(2a) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules."

5. An Order of His Majesty in Council heretofore or hereafter made under the Foreign Jurisdiction Act, 1890, empowering the Governor-General of India in Council to make rules and orders in respect of courts or administrative authorities acting for any territory, shall not be invalid by reason only that it confers or delegates power to confer on Courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on Courts or administrative authorities sitting or acting outside the territory.

Removal of doubts as to validity of Orders in Council under Foreign Jurisdiction Act.

6. (1) India stock may, if registered for the time being as stock transferable by deed in manner provided by regulations made under this section, be transferred by deed.

(2) The Banks of England and Ireland respectively, with the concurrence of the Secretary of State in Council, shall provide by regulations for a separate stock register being kept for India stock which is for the time being transferable by deed, for the conditions upon which stock is to be entered in or removed from that register, for the mode in which the transfer by deed is to be carried out, and for the payment of any fees in respect of the entry or removal of stock in or from the register and the carrying out of any transfer of stock by deed.

(3) The provisions of all enactments relating to India stock which are in force at the commencement of this Act shall apply to stock transferable by deed in pursuance of this section as they apply to stock transferable in the books of the Banks of England or Ireland, or of the Secretary of State in Council, except so far as express provisions is made to the contrary by this section or by the regulations made thereunder.

(4) No stamp duty shall be payable in respect of any deed of transfer of India stock or any dividend warrant or register certificate relating to India stock.

(5) In this section the expression "India stock" means any stock created and issued, whether before or after the commencement of this Act, by the Secretary of State in Council under the authority of Parliament.

7. (1) The principal Act shall be further amended in manner appearing in the First-Schedule to this Act.

(2) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(3) Nothing in this Act shall affect any right acquired before the commencement of this Act under any judgment or order of a Court of competent jurisdiction.

8. (1) This Act may be cited as the Government of India (Amendment) Act, 1916, and the principal Act and this Act may be cited, together as the Government of India Acts, 1915 and 1916.

Short title, commencement, printing and construction.

(2) This Act shall come into operation on the first day of September, one thousand nine hundred and sixteen.

(3) Where any enactment or word is directed by this Act, or by any Act for the time being in force, whether passed before or after the commencement of this Act, to be inserted in or added to the principal Act, or to be substituted in the principal Act for any other enactment or word, or where any enactment or word in the principal Act is so directed to be repealed, then all copies of the principal Act printed by His Majesty's printers after that direction takes effect shall be printed with that enactment or word inserted in or added to the Act, or printed therein in lieu of any enactment or word for which the same is substituted, or omitted therefrom, according as the direction requires, and with the sections and sub-sections numbered in accordance with the direction; and the principal Act shall be construed as if it had, at the time at which the direction takes effect, been enacted with that addition, substitution or omission.

(4) A reference in any enactment, whether passed before or after the commencement of this Act, to the principal Act shall, unless the context otherwise requires, be construed to refer to that Act as amended by any enactment for the time being in force.

**SCHEDULES.**  
**FIRST SCHEDULE.**

*Further Amendments of the Government of India Act, 1915.*

Enactment to be amended.	Amendment.
<p>The Government of India Act, 1915 (5 &amp; 6 Geo. 5, c. 61).</p>	
<p>Section 3 (3)</p>	<p>... The word "British," where secondly occurring, shall be repealed.</p>
<p>Section 13 (1)</p>	<p>... For this sub-section shall be substituted the following sub section:—            "(1) Where an order or communication concerns the levying of war, or the making of peace, or the public safety or the defence of the realm, or the treating or negotiating with any prince or state, or the policy to be observed with respect to any prince or state, and a majority of votes therefor at a meeting of the Council of India is not required by this Act, the Secretary of State may send the order or communication to the Governor General in Council or to any Governor in Council or officer or servant in India without submitting it to a meeting of the council or depositing it for the perusal of the members of the council or sending or giving notice of the reasons for making it, if he considers that it is of a nature to require secrecy."</p>
<p>13 (2)</p>	<p>... The words "or any of the matters aforesaid" shall be substituted for the words "or the levying of war, or the making of peace, or negotiations or treaties with any prince or state."</p>
<p>Section 21</p>	<p>... At the end of this section shall be added the words "Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the council shall be deemed to be made with the concurrence of a majority of such votes."</p>

Enactment to be amended.	Amendment.
Section 26	... The words "twenty-eight days" shall be substituted for the words "fourteen days."
Section 27 (10)	... The words "or retiring" shall be inserted after the word "superannuation;" the words, "and their legal personal representatives shall, for the purposes of gratuity" shall be inserted after the word "allowance;" and the words "the auditor and his assistants" shall be substituted for the word "they"
Sections 28 (1) and 30 (1)	... The words "or personal," shall be inserted after the word "real," where secondly occurring, and the words "or otherwise" shall be inserted after the word mortgage"
Section 28 (2)	... The word "two" shall be substituted for the word "three."
Sections 63 (3) and 74 (2)	... The words "any office of profit" shall be substituted for the word "office."
Sections 64 (3), 75 (3) and 78 (2).	... The words "or when questions are asked" shall be inserted after the words "any matter of general public interest."
Sections 67 (3), and 80 (3)	... The words "or when questions are asked" shall be inserted after the words "at any such discussion."
Section 86 (1)	... The words "and a Lieutenant-Governor in Council" shall be inserted after the words "a Governor in Council"
Section 92 (3)	... The words "or special duty" shall be inserted after the words "is absent on leave."
Section 94	... The words "or special duty" shall be inserted after the words "absence on leave," and the words "absence may be permitted" shall be substituted for the words "leave may be granted."
Section 99 (1)	... The words "in British India," where secondly occurring shall be repealed.
Section 106	... In this section shall be inserted the following sub-section :-



Enactment to be amended.	Amendment.
	<p>“(1 A). The letters patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.”</p>
Section 107, proviso	<p>... The word “law” shall be substituted for the word “Act.”</p>
Section 109 (1)	<p>... The words “any British subject for the time being within” shall be substituted for the words “Christian subjects of His Majesty resident in.”</p>
Section 110 (1)	<p>... The words “lieutenant-governor and chief commissioner” shall be inserted after the words “each governor,” and the words “the executive council of the governor-general or of a governor or lieutenant-governor” shall be substituted for the words “their respective executive councils.”</p>
Section 114	<p>... At the end of this section shall be added the following sub-section:—</p> <p>“(3) On the occurrence of a vacancy in the office of advocate-general or during any absence or deputation of an advocate-general the Governor-General in Council in the case of Bengal, and the local Government in other cases, may appoint a person to act as advocate-general; and the person so appointed may exercise powers of an advocate-general until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local Government, as the case may be cancels the acting appointment.”</p>
Section 120	<p>... The words “Secretary of State” shall be substituted for the words “Chancellor of the Exchequer;” the words “Madras or Bombay” shall be inserted after the words “Bishop of Calcutta,” where thirdly and fourthly occurring; and the words “to be paid quarterly” and the word “British” shall be repealed.</p>

For the Fifth Schedule shall be substituted the following:—

“ FIFTH SCHEDULE.

*Provisions of this Act which may be repealed or altered  
by the Governor-General in Legislative Council.*

Section 131 (3).

Section.	Subject.
62	... Power to extend limits of presidency towns.
106	... Jurisdiction, powers and authority of high courts.
108 (1)	... Exercise of jurisdiction of high court by single judges or division courts.
109	... Power for Governor General in Council to alter local limits of jurisdiction of high courts, etc.
110	... Exemption from jurisdiction of high courts.
111	... Written order by Governor General in Council a justification for act in high court.
112	... Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2)	... Powers of advocate-general.
124 (1)	... Oppression.
124 (4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124 (5)—so far as it relates to persons other than the governor general, a governor, or a member of the executive council of the governor-general or of a governor.	Receiving presents.
125	... Loans to princes or chiefs.

Section.	Subject
126	... Carrying on dangerous correspondence.
128	... Limitation for prosecutions in British India.
129	... Penalties."

## SECOND SCHEDULE.

*Enactments repealed.*

Section 7 (2).

Session and Chapter.	Short Title.	Extent of Repeal.
13 Geo. 3, c. 63 ...	The East India Company Act, 1772.	Sections forty-two, forty-three and forty-five.
24 Geo. 3, sess. 2, c. 25 ...	The East India Company Act, 1784.	The whole Act.
26 Geo. 3, c. 57 ...	The East India Company Act, 1786.	The whole Act.
9 Geo. 4, c. 74 ...	The Criminal Law (India) Act, 1828.	Section fifty-six, except so far as in force in the Straits Settlements.
5 and 6 Geo. 5, c. 61...	The Government of India Act, 1915.	In section twenty-six, paragraph (d).  In section eighty-seven, sub-sections (2), (3), (4), and (5).  Section one hundred and sixteen.

## APPENDIX III.

### INDIAN REFORMS.

STATEMENT IN COMMONS.

MR. MONTAGU TO VISIT INDIA.

The policy of His Majesty's Government with which the Government of India are in complete accord is that of increasing the association of Indians in every branch of administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible, and that it is of the highest importance as a preliminary to considering what these steps should be, that there should be a free and informal exchange of opinion between those in authority at home and in India. His Majesty's Government have accordingly decided with His Majesty's approval that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and the Government of India, to consider with the Viceroy the view of local Governments and to receive with him the suggestions of representative bodies and others. I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India on whom the responsibility lies for the welfare and the advancement of the Indian peoples must be the judges of the time and the measure of each advance and they must be guided by the

co-operation received from those upon whom now opportunities of service will thus be conferred, and by the extent to which it is found that confidence could be reposed in their sense of responsibility. Ample opportunity will be afforded for the public discussion of the proposals which will be submitted in due course into the Parliament.

## APPENDIX IV.

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### THE LATE MR. GOKHALE'S SCHEME.

#### PROVINCIAL AUTONOMY.

The grant of Provincial Autonomy foreshadowed in the Delhi Despatch, would be a fitting concession to make to the people of India at the close of the war. This will involve the two-fold operation of freeing the Provincial Governments on one side from the greater part of the control which is at present exercised over them by the Government of India and the Secretary of State in connection with the internal administration of the country and substituting on the other, in place of the control so removed, the control of the representatives of tax-payers through Provincial Legislative Councils. I indicate below in brief outline the form of administration that should be set up in different Provinces to carry out this idea.

Each Province should have :—

1. A Governor appointed from England at the head of the Administration.

2. A Cabinet or Executive Council of six members, three of whom should be Englishmen and three Indians with the following portfolio :—

- (a) Home (including Law and Justice).
- (b) Finance.
- (c) Agriculture, Irrigation and Public Works.
- (d) Education.

(e) Local Self-Government (including Sanitation and Medical Relief).

(f) Industries and Commerce.

While members of the Indian Civil Service should be eligible for appointment to the Executive Council, no place in the Council, should be reserved for them, the best men available being taken both English and Indian.

3. A Legislative Council of between 75 and 100 Members of whom not less than four-fifths should be elected by different constituencies and interests. Thus in the Bombay Presidency, roughly speaking, each District should return two members, one representing Municipalities and the other District and Taluk Boards. The City of Bombay should have about ten members allotted to it. Bodies in the Mofussil like the Karachi Chamber, Ahmedabad mill-owners, Deccan Sardars should have a member each. Then there would be the special representation of Mahomedans, and here and there a member may have to be given to communities like the Lingayats, where they are strong. There should be no nominated non-official members, except as experts. A few official members may be added by the Governor as experts or to assist in representing the Executive Government.

4. The relations between the Executive Government and the Legislative Council so constituted should be roughly similar to those between the Imperial Government and the Reichstag in Germany. The Council will have to pass all Provincial legislation and its assent will be necessary to additions to or changes in Provincial taxation. The Budget too will have to come to it for discussion and its resolutions in connection with it, as also on questions of general administration will have to be given effect to, unless vetoed by the Governor. More frequent meetings or longer continuous sittings will also have to be provided for. But the

members of the Executive Government shall not depend, individually or collectively, on the support of a majority of the Council, for holding their offices.

5. The Provincial Government, so reconstituted and working under the control of the Legislative Council as outlined above, should have complete charge of the internal administration of the Province and it should have virtually independent financial powers, the present financial relations between it and the Government of India being largely revised,—and to some extent even reversed. The revenue under Salt, Customs, Tributes, Railway, Post, Telegraph and Mint should be'ong exclusively to the Government of India, the services being Imperial. While that under Land Revenue, including Irrigation, Excise, Forests, Assessed taxes, Stamps and Registration should belong to the Provincial Government, the services being Provincial. As under this division, the revenue falling to the Provincial Government will be in excess of its existing requirements and that assigned to the Government of India will fall short of its present expenditure, the Provincial Government should be required to make an annual contribution to the Government of India, fixed for periods of five years at a time. Subject to this arrangement the Imperial and the Provincial Governments should develop their separate systems of finance, the Provincial Governments being given powers of taxation and borrowing within certain limits.

Such a scheme of Provincial Autonomy will be incomplete unless it is accompanied by (a) liberalizing of the present form of District administration and (b) a great extension of Local Self-Government. For (a) it will be necessary to abolish the Commissionerships of Divisions except where special reasons may exist for their being maintained as in Sind, and to associate small District Councils, partly elected and partly nominated, with the



Collector for whom most of the present powers of the Commissioners could then be transferred,—the functions of the Councils being advisory to begin with. For (b) Village Panchayats, partly elected and partly nominated, should be created for villages and groups of villages and Municipal Boards in towns and Taluk Boards in Talukas should be made wholly elected bodies, the Provincial Government reserving to itself and exercising stringent powers of control. A portion of the excise revenue should be made over to those bodies so that they may have adequate resources at their disposal for the due performance of their duties. The District being too large an area for efficient Local Self-Government by an honorary agency, the functions of the District Boards should be strictly limited and the Collector should continue to be its ex-officio President.

#### THE GOVERNMENT OF INDIA.

1. The Provinces being thus rendered practically autonomous, the Constitution of the Executive Council or the Cabinet of the Viceroy will have to be correspondingly altered. At present there are four members in that Council with portfolios which concern the internal administration of the country—namely, Home, Agriculture, Education and Industries and Commerce. As all internal administration will now be made over to Provincial Governments and the Government of India will only retain in its hands nominal control to be exercised on very rare occasions, one member to be called member for the Interior should suffice in place of these four. It will, however, be necessary to create certain other portfolios, and I would have the Council consist of the following six members (at least two of whom shall always be Indians).

(a) Interior, (b) Finance, (c) Law, (d) Defence, (e) Communications (Railways, Post and Telegraph) and (f) Foreign.

(a) The Legislative Council of the Viceroy should be styled the Legislative Assembly of India. Its members should be raised to about one hundred to begin with and its power enlarged, but the principle of an official majority (for which perhaps it will suffice to substitute a nominated majority) should for the present be maintained, until sufficient experience has been gathered of the working of autonomous arrangements for Provinces. This will give the Government of India a reserve power in connection with Provincial administration to be exercised in emergencies. Thus if a Provincial Legislative Council persistently decline to pass legislation which the Government regard to be essential in the vital interests of the Province it could be passed by the Government of India in its Legislative Assembly over the head of the Province. Such occasions would be extremely rare, but the reserve power will give a sense of security to the authorities and will induce them to enter on the great experiment of Provincial Autonomy with greater readiness. Subject to this principle of an official or nominated majority being for the present maintained, the Assembly should have increased opportunities of influencing the policy of the Government by discussion, questions connected with the Army and Navy (to be now created) being placed on a level with other questions. In fiscal matters the Government of India so constituted should be freed from the control of the Secretary of State whose control in other matters too should be largely reduced, his Council being abolished and his position steadily approximated to that of the Secretary of State for the Colonies.

Commissions in the Army and Navy must now be given to Indians, with proper facilities for Military and Naval instruction.

German East Africa, if conquered from the Germans, should be reserved for Indian colonization and should be handed over to the Government of India.

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## APPENDIX V.

### CONGRESS AND MOSLEM LEAGUE'S SCHEME.

[The following is the scheme of Reforms as a definite step towards Self-Government passed at the 31st Session of the Indian National Congress held at Lucknow, on the 29th December 1916, and also adopted by the All-India Moslem League at its meeting held on the 31st December 1916:—]

#### I.—PROVINCIAL LEGISLATIVE COUNCILS.

1. Provincial Legislative Councils shall consist of four-fifths elected and of one-fifth nominated members.

2. Their strength shall be not less than 125 members in the Major Provinces, and from 50 to 75 in the Minor Provinces.

3. The members of Councils should be elected directly by people on as broad a franchise as possible.

4. Adequate provision should be made for the representation of important minorities by election, and that the Mahomedans should be represented through special electorates on the Provincial Legislative Councils.

*Punjab*—One-half of the elected Indian Members.

*United Provinces*—30 per cent.       "       "

*Bengal*—40 per cent.               "       "

*Behar*—25 per cent.               "       "

*Central Provinces*—15 per cent.   "       "

*Madras*—15 per cent.               "       "

*Bombay*—One-third                 "       "

Provided that Mahomedans shall not participate in any of the other elections to the Legislative Councils.

Provided further that no bill, nor any clause thereof, nor a resolution introduced by a non-official member affecting one or the other community, which question is to be determined by the members of that community in the Legislative Council concerned, shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the bill or any clause thereof or the resolution.

5. The head of the Provincial Government should not be the President of the Legislative Council but the Council should have the right of electing its President.

6. The right of asking supplementary questions should not be restricted to the member putting the original question but should be allowed to be exercised by any other member.

7. (a) Except customs, post, telegraph, mint, salt, opium, railways, army and navy and tributes from Indian States, all other sources of revenue should be provincial.

(b) There should be no divided heads of revenue. The Government of India should be provided with fixed contributions from the Provincial Governments, such fixed contributions being liable to revision when extraordinary and unforeseen contingencies render such revision necessary.

(c) The Provincial Council should have full authority to deal with all matters affecting the internal administration of the province, including the power to raise loans, to impose and alter taxation and to vote on the Budget. All items of expenditure and all proposals concerning ways and means for raising the necessary revenue should be embodied in Bills and submitted to the Provincial Council for adoption.

(d) Resolutions on all matters within the purview of the Provincial Government should be allowed for discussion

in accordance with rules made in that behalf by the Council itself.

(e) A resolution passed by the Legislative Council shall be binding on the Executive Government, unless vetoed by the Governor in Council, provided however that if the resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

(f) A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance if supported by not less than one-eighth of the members present.

8. Any special meeting of the Council may be summoned on a requisition by not less than one-eighth of the members.

9. A Bill, other than a Money Bill, may be introduced in Council in accordance with the rules made in that behalf by the Council itself, and the consent of the Government should not be required therefor.

10. All Bills passed by Provincial Legislatures shall have to receive the assent of the Governor before they become law, but may be vetoed by the Governor-General.

11. The term of office of the members shall be five years.

## II.—PROVINCIAL GOVERNMENTS.

1. The head of every Provincial Government shall be a Governor who shall not ordinarily belong to the Indian Civil Service or any of the permanent services.

2. There shall be in every Province an Executive Council which, with the Governor, shall constitute the Executive Government of the Province.

3. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Councils.

4. Not less than one-half of the members of Executive Council shall consist of Indians to be elected by the elected members of the Provincial Legislative Council.

5. The term of office of the members shall be five years.

### III.—IMPERIAL LEGISLATIVE COUNCIL.

1. The strength of the Imperial Legislative Council shall be 150.

2. Four-fifths of the members shall be elected.

3. The franchise for the Imperial Legislative Council should be widened as far as possible on the lines of the Mahomedan electorates and the elected members of the Provincial Legislative Councils should also form an electorate for the return of Members to the Imperial Legislative Council.

4. The President of the Council shall be elected by the Council itself.

5. The right of asking supplementary questions shall not be restricted to the member putting the original question but should be allowed to be exercised by any other member.

6. Any special meeting of the Council may be summoned on a requisition by not less than one-eighth of the members.

7. A Bill, other than a Money Bill, may be introduced in Council in accordance with rules made in that behalf by the Council itself, and the consent of the Executive Government should not be required therefor.

8. All Bills passed by the Council shall have to receive the assent of the Governor-General before they become law.

9. All financial proposals relating to sources of income and items of expenditure shall be embodied in Bills. Every

such Bill and the Budget as a whole shall be submitted for the vote of the Imperial Legislative Council.

10. The term of office of members shall be five years.

11. The matters mentioned hereinbelow shall be exclusively under the control of the Imperial Legislative Council :—

(a) Matters in regard to which uniform legislation for the whole of India is desirable.

(b) Provincial legislation in so far as it may affect inter-provincial fiscal relations.

(c) Questions affecting purely Imperial Revenue, excepting tributes from Indian States.

(d) Questions affecting purely Imperial expenditure except that no resolution of the Imperial Legislative Council shall be binding on the Governor-General in Council in respect of Military charges for the defence of the country.

(e) The right of revising Indian tariffs and customs-duties, of imposing, altering, or removing any tax or cess, modifying the existing system of currency and banking, and granting any aids or bounties to any or all deserving and nascent industries of the country.

(f) Resolutions on all matters relating to the administration of the country as a whole.

12. A Resolution passed by the Legislative Council should be binding on the Executive Government, unless vetoed by the Governor-General in Council: provided, however, that if the Resolution is again passed by the Council after an interval of not less than one year, it must be given effect to.

13. A motion for adjournment may be brought forward for the discussion of a definite matter of urgent public importance, if supported by not less than one-eighth of the members present.

14. The Crown may exercise its power of veto in regard to a Bill passed by a Provincial Legislative Council or by the Imperial Legislative Council within twelve months from the date on which it is passed, and the Bill shall cease to have effect as from the date on which the fact of such veto is made known to the Legislative Council concerned.

15. The Imperial Legislative Council shall have no power to interfere with the Government of India's direction of the military affairs and the foreign political relations of India, including the declaration of war, the making of peace and the entering into treaties.

#### IV.—THE GOVERNMENT OF INDIA.

1. The Governor-General of India will be the head of the Government of India.

2. He will have an Executive Council, half of whom shall be Indians.

3. The Indian members should be elected by the elected members of the Imperial Legislative Council.

4. Members of the Indian Civil Service shall not ordinarily be appointed to the Executive Council of the Governor-General.

5. The power of making all appointments in the Imperial Civil Services shall vest in the Government of India as constituted under this scheme, and subject to any laws that may be made by the Imperial Legislative Council.

6. The Government of India shall not ordinarily interfere in the local affairs of a province, and powers not specifically given to a Provincial Government shall be deemed to be vested in the former. The authority of the Government of India will ordinarily be limited to general supervision and superintendence over the Provincial Governments.



7. In legislative and administrative matters, the Government of India, as constituted under this scheme, shall, as far as possible, be independent of the Secretary of State.

8. A system of independent audit of the accounts of the Government of India should be instituted.

#### V.—THE SECRETARY OF STATE IN COUNCIL.

1. The Council of the Secretary of State for India should be abolished.

2. The salary of the Secretary of State should be placed on the British Estimates.

3. The Secretary of State should, as far as possible, occupy the same position in relation to the Government of India as the Secretary of State for the Colonies in relation to the Governments of the Self-Governing Dominions.

4. The Secretary of State for India should be assisted by two Permanent Under-Secretaries, one of whom should always be an Indian.

#### VI.—MILITARY AND OTHER MATTERS OF POLICY.

1. The military and naval services of His Majesty, both in their commissioned and non-commissioned ranks, should be thrown open to Indians and adequate provision should be made for their selection, training and instruction in India.

2. Indians should be allowed to enlist as volunteers.

3. Indians should be placed on a footing of equality in respect of status and rights of citizenship with other subjects of His Majesty the King throughout the Empire.

4. The Executive Officers in India shall have no judicial powers entrusted to them and the judiciary in every Province shall be placed under the highest Court of that Province.

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## APPENDIX VI.

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### THE MEMORANDUM OF THE NINETEEN.

The following Memorandum with regard to Post-War Reforms, signed by nineteen elected Non-Official Members of the Imperial Legislative Council, was submitted to H. E. the Viceroy in October, 1916 :—

There is no doubt that the termination of the war will see a great advance in the ideals of government all over the civilised world, and especially in the British Empire, which entered into the struggle in defence of the liberties of weak and small nationalities and is pouring forth its richest blood and treasure in upholding the cause of justice and humanity in the international relations of the world. India has borne her part in this struggle and cannot remain unaffected by the new spirit of change for a better state of things. Expectations have been raised in this country and hopes held out that after the war the problems of Indian administration will be looked at from a new angle of vision. The people of India have good reasons to be grateful to England for the great progress in her material resources and the widening of her intellectual and political outlook under British rule, and for the steady, if slow, advance up to date.

Commencing with the Charter Act of India of 1833 up to 1909, the Government of India was conducted by a

7. In legislative and administrative matters, the Government of India, as constituted under this scheme, shall, as far as possible, be independent of the Secretary of State.

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### THE MEMORANDUM OF THE NINETEEN.

The following Memorandum with regard to Post-War Reforms, signed by nineteen elected Non-Official Members of the Imperial Legislative Council, was submitted to H. E. the Viceroy in October, 1916 :—

There is no doubt that the termination of the war will see a great advance in the ideals of government all over the civilised world, and especially in the British Empire, which entered into the struggle in defence of the liberties of weak and small nationalities and is pouring forth its richest blood and treasure in upholding the cause of justice and humanity in the international relations of the world. India has borne her part in this struggle and cannot remain unaffected by the new spirit of change for a better state of things. Expectations have been raised in this country and hopes held out that after the war the problems of Indian administration will be looked at from a new angle of vision. The people of India have good reasons to be grateful to England for the great progress in her material resources and the widening of her intellectual and political outlook under British rule, and for the steady, if slow, advance up to date.

Commencing with the Charter Act of India of 1833 up to 1909, the Government of India was conducted by a

bureaucracy almost entirely non-Indian in its composition and not responsible to the people of India. The reforms of 1909 for the first time introduced an Indian element in the direction of affairs in the administration of India. This element was of a very limited character. The Indian people accepted it as an indication on the part of the Government of a desire to admit the Indians into the inner Councils of the Indian Empire so far as the Legislative Councils are concerned. The numbers of non-official members were enlarged with increased facilities for debate and interpellation. The Supreme Legislative Council retained an absolute official majority, and in the Provincial Legislative Councils, where a non-official majority was allowed, such a majority included nominated members and the European representatives in measures largely affecting the people, whether of legislation or taxation, by which Europeans were not directly affected, the Europeans would naturally support the Government, and the nominated members, being nominees of Government, would be inclined to take the same side. Past experience has shown that this has actually happened on various occasions. The non-official majorities, therefore, in the Provincial Councils have proved largely illusory and give no real power to the representatives of the people. The Legislative Councils, whether supreme or provincial, are at present, nothing but advisory bodies, without any power of effective control over the Government, Imperial or Provincial.

The people or their representatives are practically as little associated with the real government of the country as they were before the reforms, except for the introduction of the Indian members in the Executive Councils where again the nomination rests entirely with the Government, the people having no voice in the selection of the Indian

members. The subject which the Government had in view in introducing the reforms of 1909 was, as expressed by the Prime Minister in his speech in the House of Commons of the second reading of the India Councils Bill on April 1st 1909, that it was most desirable in the circumstances to give to the people of India the feeling that these Legislative Councils are not mere automatons, the wires of which were pulled by the official hierarchy. This object, it is submitted, has not been attained.

Apart from this question of the constitution of the Legislative and Executive Councils, the people labour under certain grave disabilities which not only prevent the utilisation but also lead to the wastage of what is best in them and are positively derogatory to their sense of national self-respect. The Arms Act, which excludes from its operation Europeans and Anglo-Indians and applies only to the pure natives of the country, the disqualification of Indians for forming or joining Volunteer Corps and their exclusion from the commissioned ranks of the Army, are disabilities which are looked upon with an irritating sense of racial differentiation. It would be bad enough if these were mere disabilities. Restrictions and prohibitions regarding the possession and use of arms have tended to emasculate the civil population in India and expose them to serious danger. The position of Indians in India is practically this, that they have no real part or share in the direction of the government of the country and are placed under very great and galling disabilities, from which the other members of the British Empire are exempt and which have reduced them to a state of utter helplessness.

The existence, moreover, of the system of indentured emigration give to the British Colonies and the outside world the impression that Indians as a whole are no better than indentured coolies who are looked upon as very little, if at all, above the slave. The present state of things make

the Indians feel that, though theoretically they are equal subjects of the King, they hold a very inferior position in the British Empire. Other Asiatic races also hold the same, if not a worse, view about India and her status in the Empire. Humiliating as this position of inferiority is to the Indian mind, it is almost unbearable to the youth of India whose outlook is broadened by education and travel in foreign parts, where they come in contact with other free races.

In the face of these grievances and disabilities, what has sustained the people is the hope and faith inspired by the promises and assurances of fair and equal treatment which have been held out from time to time by our Sovereigns and British statesmen of high standing. In the crisis we are now going through, the Indian people have sunk domestic differences between themselves and the Government, and have faithfully and loyally stood by the Empire. The Indian soldiers were eager to go to the battlefields of Europe, not as mercenary troops but as free citizens of the British Empire which required their services, and her civilian population was animated by one desire, namely, to stand by England in the hour of her need. Peace and tranquillity reigned throughout India when she was practically denuded of British and Indian troops. The Prime Minister of England, while voicing the sentiments of the English people in regard to India's part in this great war, spoke of Indians as the joint and equal custodians of one common interest and future. India does not claim any reward for her loyalty, but she has a right to expect that the want of confidence on the part of Government, to which she not unnaturally ascribes her present, should now be a thing of the past, and that she should no longer occupy a position of subordination, *but one of comradeship*. This would assure the people that England is ready and willing to help them to attain Self.

Government under the ægis of the British Crown and thus discharge the noble mission which she has undertaken and to which she has so often given voluntary expression through her rulers and statesmen.

What is wanted is not merely good government or efficient administration, *but government that is acceptable to the people, because it is responsible to them.* This is what, India understands, would constitute the changed angle of vision. If, after the termination of the war, the position of India practically remains what it was before and there is no material change in it, it will undoubtedly cause bitter disappointment and great discontent in the country, and the beneficent efforts of participation in common danger overcome by common effort will soon disappear, leaving no record behind save the painful memory of unrealised expectations. We feel sure that the Government is also alive to the situation and is contemplating a measure of reform in the administration of the country.

We feel that we should avail ourselves of this opportunity to offer to the Government our humble suggestions as to the lines on which these reforms should proceed. They must, in our opinion, go to the root of the matter. They must give to the people real and effective participation in the government of the country and also remove those irritating disabilities as regards the possession of arms and a military career which indicate want of confidence in the people and place them in a position of inferiority and helplessness. Under the first head we would take the liberty to suggest the following measures for consideration and adoption:—

(1) In all the Executive Councils, Provincial and Imperial, half the number of members should be Indians. The European element in the Executive Councils should, as far as possible, be nominated from the ranks of men trained



and educated in the public life of England, so that India may have the benefit of a wider outlook and larger experience of the outside world. It is not absolutely essential that the members of the Executive Councils, Indians or Europeans, should have experience of actual administration; for, as in the case of Ministers in England, the assistance of the permanent officials of the department is always available to them. As regards Indians we venture to say that a sufficient number of qualified Indians, who can worthily fill the office of members of the Executive Council and hold portfolios, is always available. Our short experience in this direction has shown how Indians like Sir S. P. Sinha, Sir Syed Ali Imam, the late Mr. Krishnaswami Iyer, Sir Shams-ul-Huda and Sir Sankaran Nair have maintained a high level of administrative ability in the discharge of their duties. Moreover, it is well-known that the Native States, where Indians have opportunities, have produced renowned administrators like Sir Salar Jung, Sir T. Madhav Rao, Sir Seshadri Iyer, Dewan Bahadur Ragnath Rao, not to mention the present administrators in the various Native States of India. The statutory obligation now existing, that three of the members of the Supreme Executive Council shall be selected from the public services in India and similar provisions with regard to Provincial Councils should be removed. The elected representatives of the people should have a voice in the selection of the Indian members of the Executive Councils and for that purpose a principle of election should be adopted.

(2) All the Legislative Councils in India should have a substantial majority of elected representatives. We feel that they will watch and safeguard the interests of the masses and the agricultural population, with whom they are in closer touch than any European officer, however sympathetic, can possibly be. The proceedings of the various Legislative Councils, the Indian National Congress

and the Moslem League bear ample testimony to the solicitude of the educated Indians for the welfare of the masses and their acquaintance with their wants and wishes. The franchise should be broadened and extended directly to the people Mahomedans or Hindus, wherever they are in a minority, being given proper and adequate representation having regard to their numerical strength and position.

(3) The total number of the members of the Supreme Council should be not less than 150, and of the Provincial Councils not less than 100 for the major provinces and not less than 60 to 75 for the minor provinces.

(4) The budget should be passed in the shape of money bills, fiscal autonomy being conceded to India.

(5) The Imperial Legislative Council should have power to legislate on all matters and to discuss and pass resolutions relating to all matters of Indian administration, and the Provincial Councils should have similar powers with regard to provincial administrations, save and except that the direction of military affairs of foreign relations, declarations of war, the making of peace and the entering into treaties other than commercial, should be vested in the Government of India. As a safeguard, the Governor-General-in-Council, or the Governor-in-Council, as the case may be, should have the right of veto, but subject to certain conditions and limitations.

(6) The Council of the Secretary of State should be abolished. The Secretary of State should, as far as possible, hold in relation to the Government of India a position similar to that which the Secretary of State for the Colonies holds in relation to the Colonies. The Secretary of State should be assisted by two permanent Under-Secretaries, one of whom should be an Indian. The salaries of the Secretary and the Under-Secretaries should be placed on the British Estimates.

(7) In any scheme of Imperial federation, India should be given, through her chosen representatives, a place similar to that of the Self-Governing Dominions.

(8) The Provincial Governments should be made autonomous as stated in the Government of India's despatch, dated August 25th, 1911.

(9) The United Provinces as well as the other major provinces should have a Governor brought from the United Kingdom with an Executive Council.

(10) A full measure of local self-government should be immediately granted.

(11) The right to carry arms should be granted to Indians on the same conditions as to Europeans.

(12) Indians should be allowed to enlist as volunteers and units of a Territorial Army established in India.

(13) Commissions in the Army should be given to Indian youths under conditions similar to those applicable to Europeans.

*Signed by*

Manindra Chandra Nandy of Kasimbazar.

D. E. Wacha.

Bhupendranath Basu.

Bishen Dutt Shukul.

Madan Mohan Malaviya.

K. V. Rangaswamiengar.

Mazhar-ul-Haque.

V. S. Srinivasan.

Tej Bahadur Sapru.

Ibrahimi Rahimtoola.

B. Narasimheswara Sarma

Mir Asad Ali.

Kamini Kumar Chandra.

Krishna Sahay.

R. N. Bhanja Deo of Kanika.

M. B. Dadabhoy.

Sita Nath Roy.

Mohamed Ali Mohamed.

M. A. Jinnah.

## APPENDIX VII.

### NOTE ON THE REORGANIZATION OF INDIAN PROVINCES.

BY THE STANDING COMMITTEE OF THE ANDHRA CONFERENCE.

The history of Indian administration under British rule reveals a steady growth in the number of provinces into which the country has been divided. This increase was not only due to the gradual expansion of territory acquired by the British from time to time, but also to the necessity of effecting suitable re-arrangements on grounds of administrative expediency. The growth of the Indian Provinces has, therefore, been more or less chronological and was not based on the operation of any logical, linguistic or ethnic considerations.

This accounts for the arbitrary divisions of the country into provinces and the heterogeneous grouping of districts into each province. The process of acquiring territory extends from the cession of Bombay (1661) as part of the dowry of Catherine of Braganza to the year 1916 when Basra has been conquered; and British India which was at the time of Warren Hastings composed of the three Regulation Provinces of Bombay, Bengal and Madras, has now grown to the dimensions of a country consisting of 15 provinces differing from one another considerably in area, population and importance, leaving alone the more vital differences of language, manners and customs. The process of multiplication of provinces reveals strange workings of mind in the administrators of the land, and it would be not a little amusing to recall what was in 1839 a common topic of conversation in the London East India circles that the Madras Province was to be abolished and apportioned between Bengal and Bombay and that the seat of the Supreme Government was to be transferred to the Bombay Presidency. If such an anomaly had happened and continued, the people of India would probably have no more thought of the incongruity of the arrangement than they have been till recently; for, on close examination, the existing arrangement would be seen to be equally incongruous. Bombay Presidency is divided between the

## NOTE ON THE REORGANIZATION OF INDIAN PROVINCES. CXXIX

Maharathi, the Guzarathi, the Sindhi and the Kanarese; Madras is likewise divided between the Uriya, the Telugu, the Tamil, the Kanarese and the Malayali; Central Provinces between the Marathi, the Telugu and the Hindi; Bengal till recently between the Bengali, the Behari and the Uriya or between the Bengali, the Behari and the Assamese. Viewed from another standpoint, the Maharathas are divided between Bombay, the Central Provinces and the Nizam's Dominions; the Telugus between the Central Provinces, Nizam's dominions, Mysore State and Madras Presidency; the Kanarese between Madras Presidency, Mysore State and Bombay; the Uriyas between Madras and Behar Provinces and till recently Central Provinces. Such an arrangement based on no principle whatever clearly indicates that the whole grouping was haphazard and that neither ideals of administrative efficiency nor those of national upbuilding have ever exercised the minds of the rulers or the ruled. This fact has indeed been well described by the Lord Bishop of Madras in an article that he recently contributed to *The Nineteenth Century and After*. His Lordship says. "We, English people are by temperament suspicious of ideals. We naturally fix our attention on present facts and deal with them as best we can; our whole interest is in the *status quo*; we live and work for the present and do not look forward to the future, and that to a large extent is the secret of the success in the building of our Empire. We did not come to India with any idea of Empire; we came as traders; we established factories because they were necessary for the security of our trade; we assumed government of the districts and states, because it seemed necessary to do so for the security of our factories, and so were led on by the practical necessities of the case, step by step, until at last there came out this Empire. We are doing much the same thing now. x x x x. But we never trouble ourselves to look ahead or seriously to think what is the inevitable goal towards which we are tending. Sufficient unto the day is the good and the evil thereof." A race of people who had thus built an Empire without plan could not develop the nation's culture and traditions and therefore not demarcate areas according to those laws that would help best in such a development.

However lacking in policy or in idealism the governance of India may have been, there have arisen individual administrators from time to time who have had the perspicacity to discover the error in the existing territorial divisions and with due forethought sketched a correct plan of distribution. It was Sir John Strachey that pointed out that "the political limits of the provinces have little connection with any physical characteristics." Sir Thomas Holderness, Permanent Under-Secretary of India office, writing before the Partition of Bengal, observes that "with the exception of Burma, no province represents a natural unit: that is to say, they (the provinces) do not stand for differences of race or language or geographical distribution. They are purely administrative divisions of territory. An Indian province is not what we mean by a nation, though

it tends to create a provincial spirit which is not far removed from the beginning of national life." Sir Bampfylde Fuller, a former Lieutenant-Governor in India, wrote. "It would have been well for the country, had its divisions into provinces for purposes of government followed the lines marked by race and language, so as to reinforce the sympathy which arises from similarity, by feelings of pride in the local government. The existing administrative divisions are so heterogeneous as to have a directly contrary effect." The same officer says that the nearest approach to national sentiment in India is that which springs from language.

In making such observations, the different writers have not looked at the problem from the same point of view, but it cannot be denied that they have made the nearest approach to the popular standpoint of the present day, which has directed attention to the urgency of reorganising the Indian provinces on the basis of language. The popular standpoint was for the first time expressed in a constructive suggestion made by Mr. Bal Gangadhar Tilak in his evidence before the Royal Commission on Decentralization. The object of such a reorganisation would, in the first place, be to develop that provincial spirit, which, in a properly constituted province, as pointed out by Sir Thomas Holderness, is not far removed from the beginning of national life. The experiences which the Indians have to face in solving the problem of their nationality are like those of a Western race in governing an Eastern country, altogether unique and have few precedents to help them in their struggles. Where there are hundreds of millions of population, seemingly divided by differences of language, but really welded together by a common home and a substantial unity of life and culture, the upbuilding of the Indian nation is only possible on a plan of federation in which each provincial factor shall occupy sub-national position. Unto this end, the provinces should be homogeneous as far as possible and be devoid of all elements that make for division jealousy of feeling, or inequality of progress so that various subordinate centres of self-consciousness may come into existence, around which national life groups itself into clear and distinct unities. And here in India, the home of diverse races and civilizations, of long unfolding thought and ancient growth of spirit, the need for a saner and sounder organization of a nation should express itself in a distinct sense of provincial autonomy, and under the stress of this new feeling should arise revived the idea of language, unity and substantial integrity. A clear sketch of contiguous territory, a common language and literature, common traditions of heroes and poets, warriors and kings, and deep down a strong similarity of temper and character—these constitute the full and just title of the different language-bound communities to be outlined each into a single race and accorded all those accessories of communal and political institutions which illustrate and feed that unity. It need hardly be mentioned that in the recognition of such a

unity, there is no fragmentation of the higher idea of Indian Nationalism. The spirit indeed may never be divided, for it concentrates in equal fulness into every fragment.

That such fragments and factors have not been brought into existence must be regarded as the first evil resulting from the existing conglomeration of peoples and provinces; and when that is said, it includes a host of minor evils, drawbacks and disadvantages which necessarily flow from the original defect. The different vernacular languages which should have properly been the vehicles of modern thought and culture, the media of instruction and administration have been greatly neglected; the indigenous sciences, both metaphysical and positive, have been altogether consigned to the limbo of the forgotten past. The English language has been confused with the Western thought and science which it enshrines in part and has come to be regarded as the one means of enlightenment and as a necessary symbol of authority and power. A chasm has, therefore, come into existence between the class of people who have worshipped at the shrine of this language and the much larger class of people who are the repositories of the ancient learning of the land. Pride in local government has not been developed in its fullest measure. Local patriotism which, in proper relationship to the larger national consciousness, ought to be "the only safe and sure incentive to right political execution, and which, in the past, has determined the course and conduct in life of all those men who have attained the most lasting and world-wide reputation as benefactors of the human race," has had little chance of operation over the minds of men differing widely in language and temperament, but huddled together within the vinculum of a common province.

It must be confessed too that in certain areas instead of developing a true sense of responsibility and a generous spirit of co-operation, the promiscuous yoking of communities has had the effect of fostering prejudices towards one another and in that measure of weakening the forces that should make for national consolidation. Judged from the lower standpoint of administration, the present arrangement has manifestly resulted in impairing efficiency by entrusting the rule of the province first to foreigners who had to learn more than one language in the same province, and next, among the Indians, to people speaking different languages who feel continually embarrassed in having to learn the particular language of the place. Then again, the location of the seat of authority and the centre of influence in one part of the province as against another has resulted in markedly diminishing the influence of one community and even denying them certain opportunities for self-development.

Some of the evils, notably those which have made administration cumbersome and inefficient, have been recognized by the authorities who, however, have not been able to perceive the standpoint of the nation-builder,



The British administrator who performs his duties with a single eye to the maintenance not only of British authority in India but to the domination of Western thought and culture over an Eastern people, does not pause to consider a scheme of reorganization directed towards the realization of the national destiny, nor does he fully sympathize with the cultivation of those vernacular languages which alone can render valuable aid in such a realization. Expressions then such as 'Indian Nationalism,' 'Provincial Autonomy,' 'the Resuscitation of the Vernaculars,' the Cultivation of Indigenous Sciences' do not convey their real significance to him. Such events, therefore, as the partition of Bengal, the addition of Assam to East Bengal at one time, the coupling of Orissa with Behar are instances which prove absence of true political insight on the part of the executive government of the country in working out changes of real moment and magnitude. They further reveal the manner in which have been baffled the high hopes inspired in the Indian public by such despatches as the one dated 3rd December 1902 in which Lord Curzon's government boastfully wrote: The question of territorial and administrative redistribution in India is indeed, in our judgment, one of the most urgent and vital of the many problems for which we are at present endeavouring to find a solution." For the first time, however, a right solution was attempted by the Government of Lord Hardinge when they repaired the wrong done by the partition of Bengal and reunited the five Bengali-speaking divisions into one province and integrated the Hindi-speaking population of Behar and Chota Nagpur into another. But that liberal spirit had given way to mere considerations of administrative expediency when Orissa was tacked on to Behar, only because the Government of the day had not the required measure of imagination to take on hand comprehensive scheme of reform affecting the whole country on the very lines and principles recognized by themselves.

We may now consider the requisite conditions which must be observed in the settlement of the boundaries of provinces, in order that they may be satisfactory and conclusive. In the Government of India Despatch dated 25th August 1911, Lord Hardinge's Government laid down that a settlement of boundaries should

- (i) Provide convenient administrative units,
- (ii) Satisfy the legitimate aspirations of the people and
- (iii) Be clearly based upon broad grounds of political and administrative expediency.

Each of these may be examined in detail.

1. Few will deny that convenient administrative units are at once furnished by contiguous tracts of country where the people speak a common

language. The evils of constituting provinces on any other basis have been pointed out in the foregoing pages. That is why Lord Hardinge has begun the annulment of the Partition with a decision to "re-unite the five Bengali-speaking divisions and form them into a presidency to be administered by a Governor-in-Council." Again, in paragraph 19, he proceeds to say: "We are satisfied that it is in the highest degree desirable to give the Hindi-speaking people, now included within the province of Bengal, a separate administration. These people have hitherto been unequally yoked with the Bengalees and have never therefore, had a fair opportunity for development." It is impossible to quote a higher and better authority than that of this despatch (of 25-8-1911) in support of the theory that language areas provide the best administrative units.

2. The legitimate aspirations of the people must be satisfied in carving out provinces. During the last few years, a new consciousness has dawned upon the people that opportunities for self-development, scope for civic discipline and political popular education, chances for the cultivation of one's own language and literature, and above all possibilities of provincial autonomy would exist only when each language area has a scheme of administration wholly unto itself. It is the recognition of this consciousness that impelled Lord Hardinge to write in paragraph 19 as follows: "There has, moreover, been a very marked awakening in Behar in recent years and a strong belief has grown up among the Beharees that Behar will never develop until it is disassociated from Bengal." If the British came into India for the first time in 1916, and met with an admixture of peoples and languages, in a random and disorderly manner, as at present, would it not strike them that a demand from the people to group them on the basis of a common language and likewise reorganize their provinces, was the most natural, the most legitimate and the most justifiable that could be made by a nation which had not been taken into confidence in the determination of such vital affairs? While the legitimacy of such aspirations may be supported by abundant proof of advantages and benefits calculated to flow from them, there is an additional factor operating, higher than the benefits and the advantages, viz., the factor of sentiment, and Lord Hardinge recognizes the place of such a factor when he writes in paragraph 12, "no doubt, sentiment has played a considerable part in the opposition offered by the Bengalees and in saying this, we, by no means, under-rate the importance which should be attached to sentiment, even if it be exaggerated." Sentiment, after all, is not a factor to be slighted, for it implies the "readiness to react against the despotism of fact." It implies not "the vulgar satisfaction of sense" but a ready susceptibility to the stimulus of emotion and excitement."

3. The last of the considerations is something higher than one of administrative convenience or the aspiration of the people. If political expediency demands a change, it shall be affected, though it may not be

wholly in conformity with the first conditions. "Political expediency" may be interpreted from the standpoint of a progressive people struggling in their march towards nationality or from that of a Government untouched by such struggles. That Lord Hardinge's Government intended the former is made clear from paragraph 12:—"As matters now stand, the Bengalees can never exercise in either province that influence to which they consider themselves entitled by reason of their numbers, wealth and culture. This is a substantial grievance which will be felt all the more keenly in the course of time as the representative character of the Legislative Council increases, and with it the influence which these assemblies exercise upon the conduct of public affairs. There is therefore only too much reason to believe that this bitterness of feeling will become more and more acute," and from another sentence in paragraph 19 in which it is said that "that belief among the Beharees (that Behar will never develop until it is dissociated from Bengal) will, unless a remedy be found, give rise to agitation in the near future and the present is an admirable opportunity to carry out, on our own initiative, a thoroughly sound and much deserved change." Of such changes only one has been effected and if other changes thoroughly sound and much deserved in equal measure should follow, the initiative should come not incidentally in the course of repairing a wrong done, but deliberately in the form of a comprehensive scheme of reform advocated by the people's congress.

It may be feared that such a scheme would necessitate too many provinces, but in this vast country where nearly hundred and forty-seven languages are spoken, those with a distinctive literature and culture of their own are not more than 15 or 16. Accordingly in our ideal scheme of "one province, one language," we may not have to provide for more than 15 or 16 provinces. The day may indeed come when the growth of population, the needs of administration, the aspirations of the people marked by local variations in manner and temperament, and political expediency may demand a further increase in the number of provinces, so that we cannot lay down the proposition of one language, one province, and just as the Hindi-speaking people being even now too numerous for one province have absorbed two provinces for themselves, other language areas may, at a remote future, comprise more than one province.

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The following table shows the existing conditions.

Provinces.	Number of Districts.	Area in square miles.	Population.
1 Ajmere-Merwara	... 2	2,711	501,395
2 Andamans and Nicobars	...	3,143	25,459
3 Assam	... 1	52,959	6,713,635
4 Baluchistan	... 6	45,804	414,412
5 Bengal	... 28	78,412	45,483,077
6 Behar, Chota-nagpur and Orissa	... 21	83,205	34,490,084
7 Bombay	... 26	123,064	19,672,642
8 Burma	... 41	236,738	12,115,217
9 Central Provinces and Berar	... 22	100,345	13,916,308
10 Coorg	... 1	1,582	174,976
11 Madras	... 24	141,726	41,405,404
12 North-West Frontier Province (Districts and administered territories)	... 5	16,466	2,196,933
13 The Punjab	... 29	97,209	19,974,956
14 United Provinces	... 48	107,164	47,182,044
15 Delhi has been made an enclave	...	557	391,828

Reorganization of Provinces on the basis of language would alter the Map of India as follows:—

Provinces.	Language.	Number of Distrs.	Area in square miles.	Population.	Relative size in relation to Belgium. (11,800 Sq. miles.)
1 Ajmere-Merwara	...Local dialects of Rajasthan and Hindi.	2	2,711	501,895	
2 Andamans and Nicobars	... ..	...	8,143	28,459	
3 Assam	...Bengali 46 per cent Assamese 22 per cent Hindi and U. Ia.	12	52,959	6,718,685	
4 Beluchistan	... ..	6	45,804	414,414	
5 Bengal	...Bengali.	28	78,412	45,483,077	
6 i Orissa (including ii Uriya tracts of Ganjam and Vizagapatam in Madras Presidency.)	Uriya.	...	i Orissa. 18,770 ii the rest 10,000	6½ millions	2 times.
7 i Behar, Chota Nagpur (excluding Orissa) ii Hindi-speaking area of Central Provinces.	(i.) Behari (ii.) Hindi (The rest.)	...	i 70,000 ii 40,000	80 millions 7½ millions	10 times.
			110,000	87½ millions	

Provinces.	Language.	Number of Dist.	Area in square miles.	Population.	Relative size in relation to Belgium. (11,800 Sq. miles.)
8 i Berars ii Marata speaking area of Central Provinces and iii of Bombay.	Marathi.	...	i Berars.	8 millions	
			17,718.		
			Bombay.	6 millions	
			ii 87,192		
		iii 20,982.	4½ millions		
			75,892	18½ millions	7 times.
9 Gujarathi speaking area of Bombay	... Gujarathi.	6	18,710	8½ millions	1 1/5 times.
10 Sindh	... Sindhi.	6	47,068	8,518,485	4 times.
11 Coorg	...	1	1,582	174,976	...
12 Andhra Province (Telugu speaking area in Madras Presidency)	... Telugu	11	78,818	14 millions	6½ times.
13 Dravida Province (Tamil speaking area in Madras Presidency).	Tamil	will become 12 dist. in a year.			
		10 including Madras.	50,000 square miles	15 millions	4½ of times.
14 Malabar Province	... Malayali.	1	5,794	8,015,119	½ of Belgium.
15 Kannada do. (Bombay & Madras)	... Kanarese.	7	29,018	8,268,919	2½ times.
16 North-West Frontier Province	...	5	16,466	2,196,933	
17 The Punjab	...	29	97,209	9,974,056	
18 United Provinces	...	48	107,164	47,182,044	
19 Delhi (Enclave)	...	1	567	791,828	

A better knowledge of the local conditions and feelings in the different parts of the country may suggest variations not contemplated in this list. There is certainly a volume of discontent in Sindh with its own present lot while some have suggested its addition to the Punjab and in the same spirit the addition of the Northern Circars in the Madras Presidency to the Central Provinces. In the altered map of India, the Central Provinces has been removed and the provinces of (Kalinga) Uriya, Andhra, Karnataka and Maharashtra have been added. Orissa is taken away from Behar; the Hindi speaking population of the Central Provinces is added to Behar and Chota Nagpur; the Maharatta-speaking population of Central Provinces and Berars along with that occupying contiguous territory in the Bombay Presidency constitute a separate administration; while the Guzarathees have a presidency exclusively to themselves. The Kanarese districts of Bombay along with the one in Madras form one entity, while the Telugus and the Tamils have each a province. The Uriyas of Orissa and those of Ganjam and Visagapatam in the Madras Presidency are grouped together under one administration. The problem of the Sindhis and of the Malayalis is considered by some to be a complicated one and whether they should be constituted into separate provinces analogous to Coorg in the existing arrangement, though distinctly larger, is a matter that may be left entirely to their wishes. In this scheme no note is taken of the complicating circumstance of the Native states sharing a portion of the Hindi, Telugu and Mahratta-speaking peoples, and until the day comes when India may enjoy genuine self-government, their problem may baffle all attempts at solution. But this theoretical imperfection need not operate as an impediment to the reorganisation of Provinces in British India.

The organisation of Indian provinces on natural and linguistic lines forms but the first step in the achievement of that provincial unity which is essential to the perfect flowering of Indian nationalism. For, the singleness of political administration, while it perhaps takes rank as the highest symbol of racial integrity, would prove of no further significance, if it did not avail itself of those vital forces which sustain and develop communal life among a people. And any government to be fruitful of these benefits for which all governments exist, must, in the daily business of administration, relate itself intimately to the life and habits of the people whom it seeks to govern. Administration, in the full interpretation of its end and aim, is really no more mechanical than education, depending for its success in a very vital measure on the inner psychology of relations between the governing and the governed. Judged by such a standard of administrative perfection, the most serious defect of British administration in India appears to be the lack of correspondence between the mind of the English rulers and the mind of the Indian people, between the demand for

## NOTE ON THE REORGANIZATION OF INDIAN PROVINCES, CXXXIX

organisation and the impulse to respond. Thus it is that, though essentially democratic in temper, the British scheme of Government has lain, on its Indian subject races with the weight of an arbitrary Bureaucracy while, on the other hand, it has found its task of administration peculiarly hard and unsatisfactory even with a people who have been for ages accustomed to democratic forms and institutions of self-government.

One important reason for such small measure of success of British institutions in India is doubtless the fact that the daily business of administration is carried on in a language not understood by the people. The increasing employment of English educated Indian interpreters has never proved any real palliative to the evil of government in a foreign language. For, where the fountain of authority is foreign in *personnel*, the more faithfully and efficiently the task of interpretation is discharged, the more completely does the administration retain its impress of an alien character. So that government by the English educated Indian has oftentimes proved itself as un-Indian in tone and temper as that by European officers uninformed of the ways of Indian life. Things seem to have been somewhat better, if not radically different, in the days when European administrators learnt the language of the land and were more intimately in touch with the habits and characteristics of the people.

The next important corollary to reorganisation of provinces on a linguistic basis is the free and universal acceptance of the vernacular as the sole medium of instruction in all the educational institutions of the land. As a general proposition it has found the acceptance of all classes of thinkers that the children of a race would be best educated in and through their own mother tongue, but the full significance of the fact would be realised only when in a rightly constituted province the full vigour of national life expresses itself in a rich and varied glorification of the vernacular. For, the evil of forcing an alien language on the children of another race is proved not only by the tremendous drain it involves on the vital energies of youth, when most they should be conserved, but extends to all their varied activities, drying up, so to speak, at their sources the very fountain-springs of national power. Thus it is that a century of European education has left the Indian mind richer by a new language but seriously impoverished on the side of initiative and originality. It was bad psychology at best to have conceived of the possibility of educating an oriental people, with a well-formed organisation of mental and moral tendencies through a scheme of culture utterly at variance with their own. The very strain of mind involved in the acquisition of a new vocabulary of ideas and words has resulted in the disappearance of many of the characteristic traits for which the Indian mind was justly famous. While the



very extent of apparent success which has attended this tremendous educational experiment, due entirely to the dominance of an administrative expediency, may really be accounted as the measure of its failure from the point of view of the evolution of a true national culture. For, the progress of English education in the land has been marked by a steadily increasing alienation and estrangement of the people from the ancient inheritance of their culture. And if it be true that the individuality of a people's culture is their greatest treasure in the eye of humanity and that nothing may rightly be permitted whether to individuals or nations to weaken or destroy the integrity of that culture, then surely the primary duty of the British Government in India would lie in the restoration to each vernacular of the land that dominance which English now holds over all. For, if a culture is to be constantly replenished and kept alive as a growing entity, the language which is its vehicle must be frankly accepted as the one medium of self-expression for all of a nation's activities. But more than elsewhere, in the Vidyalyaya of the land the vernacular of the race must form the sole medium of education, and be universally accorded that reverence of young and old which alone can make of it the store-house of national power and passion and influence.

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