THE POLITICAL SYSTEM OF BRITISH INDIA

with special reference to the

RECENT CONSTITUTIONAL CHANGES

BY

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PREFACE

THIS introduction to the political system of British India, with special reference to the recent constitutional changes, is based on lectures delivered by the author at Harvard University during the spring of 1921.

The book is intended primarily for the use of students, being designed, on the one hand, to serve as a general introduction to the subject, and on the other to supplement such standard text-books as Ilbert's *Government of India* and Strachey's *India*. Special attention is directed, in this latter connexion, to the detailed analysis of India's new constitution contained in Chapter IV.

The subject is of much more than academic interest at the present time, however. India's charter of self-government is a legacy of the world-struggle for freedom and democracy lately ended; and the terms of that charter are well worth the study of all who are interested in the after-war settlement. The attention of such readers is directed more especially to the general survey contained in Chapter I.

A year has elapsed between the delivery of these lectures and their publication in book-form. This has made it possible to add a chapter in which some account is given of the reformed constitution in operation (Chapter VI), and to deal, at the same time, with the recent manifestations of the revolutionary movement in India—manifestations which all who have followed the grave developments of the past twelve months will recognize as a very serious menace to ordered constitutional progress. This forms the subject of a second additional chapter (Chapter VII).

ST. ANDREWS,
15th April 1922.

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CONTENTS

	PAGE
CHAPTER I. A GENERAL SURVEY	7
(i) The beginnings of British rule	7
(ii) The political map of India	12
(iii) The social and economic background	18
(iv) India and the World War	27
(v) India's charter of self-government	37
Note on Responsible Government	46
CHAPTER II. POLITICAL AND CONSTITUTIONAL DEVELOPMENT, 1773–1912	49
CHAPTER III. THE GESTATION OF THE REFORMS (1914–19)	65
CHAPTER IV. THE REFORMED CONSTITUTION	
(i) The Government of India Act, 1919	86
(ii) The foundations of provincial autonomy	88
(iii) Dyarchy in the provinces	97
(iv) The constitution of the electorates	106
(v) The powers of the reformed legislatures	113
(vi) The central government	121
(vii) The Home administration	122
CHAPTER V. SOME POLITICAL PROBLEMS OF THE NEW ERA	125
CHAPTER VI. THE REFORMED CONSTITUTION IN OPERATION	138
CHAPTER VII. THE MENACE OF THE REVOLUTIONARY MOVEMENT	163
SELECT BIBLIOGRAPHY	183
MAP, showing political divisions	*at end*

CHAPTER I

A GENERAL SURVEY

I

SOME three hundred years ago the first English East India Company, chartered by Queen Elizabeth on the last day of the sixteenth century, established in India its first factories or commercial settlements. As has frequently been pointed out, the charter granted by Elizabeth to the 'Governor and Company of Merchants of London trading with the East Indies' resembled closely, in the system of self-government which it created, the colonial charters of the period, e. g., the charter granted by Charles I in 1628 to the 'Governor and Company of the Massachusetts Bay in New England'.[1] It provided for a Governor, a select executive council (the court of directors or of committees, as it was first called), and a legislative body consisting of all persons 'free of the company' (the General Court); and was a constitution adapted to the transaction of both commercial and political business, the latter being chiefly concerned with the internal government, under suitable by-laws, of the merchant marine of the Company and of its overseas settlements.

The first permanent factories of the Company were established at Masulipatam on the east coast of India in 1611 and at Surat on the west coast in 1612. These were simply trading dépôts in which, for the sake of greater security, the Company's servants lived together under what was very

[1] Cf. Ilbert, *Government of India*, p. 10. It should be observed, however, that the East India Company's charter differed very materially from the colonial charters of the period in this respect, that whereas the latter gave power to legislate, not merely for the internal government of the Company and its servants, but also for the government of the territory assigned to the Company and its inhabitants, the former charter conferred no such territorial authority.

much like military discipline and close to their offices and warehouses. The chief dépôts, which generally had a number of sub-agencies attached to them, were known as presidencies, since the management of the Company's affairs, on the model of the Home government, was in the hands of the president and an executive council consisting of the senior merchants in the Company's service attached to each presidency. India at this time was ruled by the Mughals, a Muhammadan dynasty hailing from Afghanistan and western Turkestan, whose conquest of India was begun by Babar in 1526 and consolidated by the great Akbar (1556–1605); and for many years the Company were content to prosecute their trade in India through the dépôts which they established in the Mughal dominions and under Mughal protection.

With the foundation of Madras, however, in 1640, there opens a new chapter in the Company's history, a chapter which may be appropriately entitled the colonial period, to distinguish it from the preceding period, when, as we have seen, the Company had no *pied-à-terre* of their own in India at all, and from the period which followed, when their tiny colonial possessions were swallowed up in a vast Indian empire. The land on which Fort St. George was built was the Company's first territorial acquisition; and round it grew up the city of Madras, which was made an independent presidency in 1653. The new city, though, of course, mainly populated by natives of India, was, in fact, a colonial possession. In virtue of the special authority delegated to the Company by James II for this purpose, Madras was created a municipal corporation in 1687; and was given a civic government on the English pattern, consisting of a mayor and 12 aldermen, and burgesses—the latter to include English, Portuguese, and natives of India. The mayor and aldermen were responsible for the administration of civil and criminal justice; they were to maintain a school and a gaol; and were given powers of local taxation. The city of Calcutta, which from 1774 until 1912 was the seat of the Supreme Government, was founded in 1690, under very similar circumstances, on land formerly occupied by a few derelict

villages. Calcutta was made an independent presidency, that of Fort William in Bengal, in 1707. The island on which stands the city of Bombay was ceded to the Portuguese in 1534. In 1661 it became the property of Charles II, as part of the marriage dowry which he obtained with Catharine of Braganza. He transferred it in 1668 to the East India Company, to be held, at a rent of £10 a year, 'as of the manor of East Greenwich in the County of Kent in free and common socage', to quote the curious legal phraseology of the time.[1] In Bombay the Company exercised full territorial authority under the Crown; and Bombay is actually spoken of as a 'colony' in a dispatch from India in 1671.[2] The city made rapid progress, its population increasing from 10,000 to 60,000, under the tolerant and enlightened rule of Gerald Aungier, President at Surat and first Governor of Bombay (1669–77). Aungier fortified the town and shore; he established courts of justice and a police force, a hospital and a gaol. In 1687 the western presidency was removed from Surat to Bombay.

Thus, at the beginning of the eighteenth century, the English East India Company possessed in Madras, Bombay, and Calcutta three fortified settlements (independent of each other and virtually independent of the 'country powers') which became, each within its own sphere of activity and under the local direction of a president and council, the head-quarters of the Company's trade agencies in India. These settlements are, obviously, of the colonial type; and the powers conferred by royal charters of the Restoration period (1661–87) mark, as Ilbert observes,[3] the transition of the Company from a trading association to a territorial sovereign invested with extensive civil and military authority. As yet, however, the Company had put forward no formal claim to territorial sovereignty outside Bombay, although it exercised much the same powers in the other two presidency towns. It is true that, in 1687, the always rather timid executive in London, at the powerful instigation of

[1] Cf. Roberts, *Historical Geography of India*, Part I, p. 41.
[2] Cf. Roberts, *op. cit.*, p. 76.
[3] Ilbert, *op. cit.*, p. 18.

Sir Josiah Child (four times Governor between 1681 and 1687), declared it to be the policy of the Company 'to establish such a polity of civil and military power, and create and secure such a large revenue, as may be the foundation of a large, well-grounded, sure English dominion in India for all time to come'. Indeed, in the prosecution of this ambitious policy, Child involved the Company in a petty but disastrous war (1685–90) with the Mughal emperor, Aurangzeb. Had it not been for their power at sea, the English would almost certainly have been driven out of India at this time; and scarcely was this danger past, when political complications at home, following on the Revolution of 1689, came near to wrecking England's trade relations with India, as a result of the dissensions between two rival East India Companies, ultimately (1708) amalgamated.

In 1707 Aurangzeb, the last of the great Mughal rulers, died; and the Mughal Empire began very rapidly to break up. In 1746 the French, carrying the War of the Austrian Succession into India, captured Madras (restored in exchange for Louisburg at the peace of Aix-la-Chapelle in 1748). In 1756 the young Nawab of Bengal, Siraj-ud Daula, declared war on the English and expelled them from Calcutta. It was at this crisis of their fortunes, and after 150 years of unambitious trade and settlement in India, that the British under the daring leadership of Robert Clive made a bid for real supremacy. Even before the outbreak of the Seven Years' War they had got the better of the French in Southern India. They overthrew the French nominee, and made their own nominee Nawab of the Carnatic in 1752; and Dupleix, the French governor-general, left India in disgrace two years later. Clive, in January 1757, recovered Calcutta; and in June won the decisive battle of Plassey, which made him virtually master of Bengal, the richest province of India.

There ensued in Bengal a period of anarchy. The Company were unwilling to assume the government themselves, while they made it next to impossible for their puppet Nawabs to govern. The situation was not materially changed when,

after much hesitation, the Company in 1765 accepted at the hands of the Mughal emperor himself the grant of the Diwani of Bengal, Bihar, and Orissa. The provincial administration under the earlier Mughal emperors was divided, and intentionally divided, between an officer known as the Diwan, who was responsible for the revenue and civil justice, and the Nawab-Nazim, who was responsible for criminal justice and the police; but later Nawabs of Bengal had usurped both powers. There was nothing anomalous in principle, therefore, in the so-called dual government which resulted from the grant of the Diwani to the Company; but it answered very badly in practice. The Nawab who, under this arrangement, was nominally responsible for the maintenance of law and order remained a powerless puppet in the hands of the Company; while the Company, who became technically responsible for the civil administration, continued to function, for the most part, only through native agency. The whole period (1757–72) was one of transition, during which the Company were gradually feeling their way towards territorial sovereignty.

In 1772 the Company resolved to 'stand forth as Diwan'; and Warren Hastings was appointed Governor of Bengal, with instructions to establish a new administration in place of the native agency hitherto employed. The Company's civil service was reorganized accordingly, and suitable regulations were framed for the guidance of officers in the performance of their new duties in both revenue and judicial departments. Warren Hastings had none of Clive's political scruples about 'throwing off the mask'. He discontinued the payment of tribute to the Mughal emperor, the titular sovereign, and pensioned off the Nawab, at the same time that he laid the foundations of the new administrative system. It was now made clear to all the world that the English had become the rulers of Bengal, a province with an area (including Bihar) equal to that of the British Isles, and a population (previous to the calamitous famine of 1770) certainly twice as large as the contemporary population of those islands. In 1773 Parliament gave statutory sanction to the assumption

of their new powers by the Company, accepting the revolution in Bengal as a *fait accompli*, and allowing itself to be drawn into no theoretical discussions as to how far the territorial sovereignty vested in the Company might be limited by the superior sovereignty of the British Crown, on the one hand, or by the shadowy authority of the Mughal emperor (in whose name and effigy the Company's coinage continued to be issued until 1835), on the other. The so-called Regulating Act, passed in this year by Lord North's ministry, provided for the government of the new territories by a Governor-General (Warren Hastings) and an executive council of four members (all named in the Act). Thus, whereas previous statutes (dating from 1698 onwards) and the charters granted thereunder had provided for the government of the British settlements in India through the civil and military powers conferred on the East India Company, the Act of 1773 provided (albeit still through powers conferred on the Company) for the government of the new and extensive territories comprising British India. The Act came into operation next year; and it is from 1774 (less than 150 years ago) that we must date the beginning of the constitutional history of British India.

II

It is not my purpose to trace the stages by which, starting from the collapse of Mughal power in Bengal, two-thirds of the Indian sub-continent were eventually brought under direct British rule and the remaining one-third under British suzerainty. It will be well, however, to get some idea of the general political outlines of the India which has emerged from this two-fold process, a process which built up the British provinces on the one hand, and on the other gave permanent shape to that curious political patchwork which constitutes the Native States. The map (at end) showing the political divisions of the Indian Empire, and the facts tabulated below, are intended to enable the reader to obtain a bird's-eye view of this kind.

Province.	*Population* (1921).	*How constituted.*
1. Madras . .	. 42,300,000	As a result of the French wars, in the middle of the eighteenth century, the Company became virtually supreme in the northern and eastern districts. As a result of the Mysore wars, at the end of the eighteenth century, the central and western districts were brought under British rule.
2. Bengal . .	. 46,700,000	To the territories included in the grant of the Diwani of Bengal, Bihar, and Orissa in 1765 was added (by cession from Oudh) the province of Benares in 1775. The so-called 'ceded and conquered provinces' (now the province of Agra) consisted partly of districts ceded by the Nawab Wazir of Oudh in 1801, and partly of districts annexed as a result of the second Maratha War in 1803, in which year also most of the districts of Orissa proper were recovered from the Marathas and reunited to Bengal.
3. Bihar and Orissa	. 34,000,000	
4. United Provinces of Agra and Oudh	. 45,600,000	Oudh was annexed, on account of gross and persistent misgovernment, in 1856.
[The so-called 'ceded and conquered provinces', originally administered by the Governor-General as part of Bengal, were placed under a separate administration (known as that of the North-Western Provinces) in 1835. In 1877 the offices of lieutenant-governor of the N.W. Provinces and chief commissioner of Oudh were combined in the same person, who, in 1902, became the lieutenant-governor of the United Provinces of Agra (re-named to avoid confusion with the North-West Frontier Province, created in 1901) and Oudh. The province of Bihar and Orissa was placed under a separate administration at the time of the revision of the partition of Bengal (1905) in 1912.]		
5. Bombay . .	. 19,300,000	Consists, for the most part, of the ex-Peshwa's territories, annexed as a result of the third Maratha war in 1819. The sub-province of Sind (pop. 3,300,000) was conquered in 1843, and was attached to the Bombay presidency.
[The settlement of Aden, which dates from 1839, was until recently attached to the Bombay government. In 1918 it was transferred to the political control of the British Foreign Office, and it is now proposed to place it under the Middle East Department of the Colonial Office.]		

Province.	*Population* (1921).	*How constituted.*
6. Assam . . . [Was administered from 1826 to 1854 by the Governor-General; from 1854 to 1874 by the lieutenant-governor of Bengal; from 1874 to 1905 by a chief commissioner, as a separate province; from 1905 to 1912 by the lieutenant-governor of Eastern Bengal and Assam; from 1912, once again as a separate province, by a chief commissioner (now a Governor).]	7,600,000	Annexed as a result of the first Burmese war in 1826.
7. Punjab . . . [Was administered by a board of three commissioners from 1849 to 1853; from 1853 to 1859 by a chief commissioner; from 1859 by a lieutenant-governor (now a Governor).]	20,700,000	The territory between the Jumna and the Sutlej (the 'cis-Sutlej States') was ceded by Ranjit Singh in 1809. To this was added the Jullundur Doab (between the Sutlej and the Beas), as a result of the first Sikh war in 1846. The whole province was annexed as a result of the second Sikh war in 1849. In 1901 the frontier districts beyond the Indus were formed into a separate province (the North-West Frontier Province) under a chief commissioner.
8. Central Provinces (and Berar) . .	13,900,000	The northern districts, annexed as a result of the third Maratha war in 1817–19, were formed into the Saugor and Narbada territories and placed under an agent of the Governor-General. They afterwards were incorporated in the North-Western Provinces, but in 1861 were united with the Nagpur territories (annexed under the 'doctrine of lapse' in 1853) to form the Central Provinces. Berar (pop. 3,100,000) was placed under the administration of the chief commissioner (now Governor) of the Central Provinces, when, in 1902, it was leased to the British in perpetuity by the Nizam of Hyderabad.

Province.	*Population* (1921).	*How constituted.*
9. Burma . . . [Lower Burma was originally administered by agents of the Governor-General. A chief commissioner was appointed in 1860; and in 1897 Burma was placed under a lieutenant-governor.]	13,200,000	What used to be known as British or Lower Burma (comprising the coastal tracts and Pegu) was annexed as a result of the first and second Burmese wars in 1826 and 1852. The independent kingdom of Burma (also known as Upper Burma) was annexed in 1886 after the third Burmese War.

There remain a number of small provinces, enumerated below. Each of these is administered on behalf of the Government of India by a chief commissioner, who is also superintendent of the Penal Settlement at Port Blair in the case of the Andaman and Nicobar islands, resident in Mysore in the case of Coorg, and agent to the Governor-General in the case of British Baluchistan and Ajmer-Merwara.

Province.	*Population* (1921).	*How constituted.*
1. North-West Frontier Province . .	2,250,000	Separated from the Punjab in 1901.
2. British Baluchistan .	422,000	Quetta was founded in 1876; and British Baluchistan was incorporated in British India in 1887.
3. Ajmer-Merwara .	496,000	Ceded by Gwalior in 1818.
4. Coorg . . .	164,000	Annexed owing to misgovernment in 1834.
5. Andaman and Nicobar Islands . .	27,000	The Andamans were first occupied in 1789; the Nicobars in 1869. The two groups were united under a chief commissioner in 1872.
6. Delhi . . .	486,000	Was constituted an 'administrative enclave' under a chief commissioner in 1912, at the time of the transfer of the Imperial capital from Calcutta to Delhi.

Hence the nine major provinces contain a population of approximately 243 millions, and the six minor administrations a population of nearly 4 millions, giving a total population for British territory of 247 millions. The Native States contain another 72 millions, making a total population for all India of 319 millions.

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The Native States of India are technically defined as territories of any native prince or chief under the suzerainty of His Majesty, exercised through the Governor-General of India or officer subordinate to him. Thus they fall into a different category from the neighbouring states of Nepal and Bhutan—not to speak of Tibet and Afghanistan—with which the Indian government has treaty relationships, but over which it exercises no formal suzerainty. Independence is associated with external sovereignty; and the Native States have none of the attributes of external sovereignty. Their external affairs, including their dealings with each other, are managed for them by the Indian government and under its direction. It follows that, being for international purposes under British jurisdiction, they enjoy precisely the same measure of military and diplomatic protection as British territory. All the Native States, on the other hand, in virtue of the territorial rights which they possess and in possession of which they have been confirmed by the Paramount Power, enjoy some measure of internal sovereignty. Subject, in every case, to the reservation of jurisdiction over British subjects and over cantonment towns in Native States occupied by British troops, subject also to an understanding as to the strength of the armed forces which a Native State may maintain, the Paramount Power and the ruler of the Native State divide this sovereignty between them 'in proportions' (says Ilbert)[1] 'which differ greatly according to the history and importance of the several states, and which are regulated by treaties or less formal engagements, partly by sanads or charters, and partly by usage. The maximum of sovereignty enjoyed by any of their rulers is represented by a prince like the Nizam of Hyderabad, who coins money, taxes his subjects, and inflicts capital punishment without appeal. The minimum of sovereignty is represented by the lord of a few acres in Kathiawar, who enjoys immunity from British taxation, and exercises some shadow of judicial authority.'

The total number of the Native States is in the neighbourhood of 700. Of these, however, not more than 60 or 70 are states of major importance; whilst very many (par-

[1] *Government of India*, p. 165.

ticularly in the Bombay presidency, which contains over half the total number) represent only petty chiefs and feudatories. Ancient Hindu dynasties in Mysore and Travancore were preserved by the British at the end of the eighteenth century; and at the beginning of the nineteenth century British protection was extended to the states of Rajputana, most of the ruling houses of which are of very ancient descent. The important states of Hyderabad, Kashmir, Gwalior, Baroda, and Indore are all, on the other hand, of comparatively recent creation; and the ruling dynasty is in every case foreign to the soil. In Hyderabad, where nine-tenths of the population is Hindu, the ruler is a Muhammadan; while in Kashmir, where two-thirds of the population is Muhammadan, the ruler is a Hindu. The most notable cases of territories originally recognized as Native States, which were afterwards incorporated in British India, are those of Nagpur, which was annexed under the 'doctrine of lapse' (failure of succession) in 1853, and Oudh, which was annexed owing to hopeless misgovernment in 1856. Below are given particulars regarding certain of the more important Native States of India. These ten states contain, between them, two-fifths of the area and over half the total population of all the Native States.

State.	*Population* (1921).	*Ruler* (*title, race, and religion*).
1. Hyderabad . . .	12,454,000	Nizam; Turkoman; Muhammadan.

[Asaf Jah, Imperial viceroy of the Deccan under Aurangzeb, declared his independence and founded the present dynasty in 1724. The Nizam was an ally of the British in the latter's wars with Tipu of Mysore, and was protected by the British against the Maratha power.]

2. Mysore . . .	5,977,000	Maharaja; Hindu.

[The dynasty of the Wodeyars, the ruling house of Mysore, dates back to the fourteenth or fifteenth century. It was re-established in possession of what is now the state of Mysore after Tipu's downfall in 1799. Owing to internal disorder Mysore was placed under British rule in 1831. It was again restored to the ancient ruling house in 1881.]

3. Travancore . . .	4,006,000	Maharaja; Hindu.

[The Maharaja claims descent from a dynasty associated with one of the three ancient Tamil states of the far south, the Chera dynasty. The defence of Travancore, in fulfilment of a treaty of alliance with that state, was the immediate cause of the third Mysore war (1790–2).]

State.	*Population* (1921).	*Ruler* (*title, race, and religion*).
4. Kashmir and Jammu .	3,322,000	Maharaja ; Rajput ; Hindu.

[Kashmir was conquered and added to the Punjab by Ranjit Singh in 1819. It was ceded in 1846 after the first Sikh war, and was made over by the British to Gulab Singh (created Raja of Jammu by Ranjit Singh in 1820), who during the war maintained a friendly neutrality, and who undertook to pay the greater part of the indemnity demanded of the Sikhs.]

5. Baroda . . .	2,122,000	Gaikwar ; Maratha ; Hindu.
6. Gwalior . . .	3,176,000	Maharaja (Sindhia) ; Maratha ; Hindu.
7. Indore	1,148,000	Maharaja (Holkar) ; Maratha ; Hindu.

[The above represent states which were carved out for themselves by Maratha chieftains early in the eighteenth century. A treaty of alliance, which remained unbroken thereafter, was made by the British with the Gaikwar as early as 1779. The final settlement with Sindhia and Holkar followed the third Maratha war (1817–19).]

8. Udaipur . . .	1,393,000	Maharaja ; Rajput ; Hindu.
9. Jaipur	2,329,000	Maharaja ; Rajput ; Hindu.

[The above represent two of the more important of the ancient states of Rajputana, their ruling houses dating back to the seventh and twelfth centuries respectively. British protection was extended to the Rajput states in treaties of alliance in 1818.]

10. Bhopal . . .	691,000	Begam ; Afghan ; Muhammadan.

[Next in importance among the Muhammadan states to Hyderabad, Bhopal was founded as an independent kingdom in 1723 by an Afghan officer of Aurangzeb, Nawab Dost Muhammad Khan. Bhopal entered into a firm treaty of alliance with the British in 1817. Since 1844 the throne has descended in the female line, the present Begam being the only female ruler in India.]

To complete this sketch of the political map of India, the territorial possessions still held in India by the Portuguese and the French ought to be mentioned. The Portuguese province of Goa (with a population of nearly half a million) dates back to the conquest of Goa by Albuquerque in 1510. The chief of the French settlements, Pondicherry (with a population of over a quarter of a million), was first founded in 1674.

III

British provinces, on the one hand, and Native States, on the other, make up, then, the India of to-day ; and the particulars which have been given are sufficient to show how these political

divisions follow the lines marked out by the course of history, modified here and there by administrative exigencies. We must now attempt some picture of those more fundamental divisions which enter into India's political system as a whole —divisions based on race and language, on caste and creed.

To begin with language, which also affords a valuable clue to race. The peoples of northern and central India and of the western Deccan, with few exceptions, speak languages descended from vernaculars akin to Sanskrit, the ancient Indo-Aryan tongue. These Sanskritic languages fall into three clearly defined groups—an outer, an inner, and a group intermediate between the two. The language of the 'inner' group is Hindi, the language of middle India, spoken in its various dialects by nearly one-third of the total population. Closely related to Hindi, comes Punjabi to the north, the speech of 5 per cent. of the Indian people;[1] and to the west, Rajasthani (the language of Rajputana and neighbouring parts) and Gujarati (spoken in Gujarat and in the city of Bombay), two languages which more or less merge into one another, and constitute together the speech of another 8 per cent. These three languages form the 'intermediate' group. Included in the 'outer' group are Marathi, a language with a very distinct character of its own, predominant in the western Deccan, and the speech of over 6 per cent. of the population; in the east, Bengali (spoken by 15 per cent.) and Oriya, the language of Orissa (spoken by 3 per cent.); and in the north-west, two closely connected languages, the speech of nearly 3 per cent. of the population, Sindhi and Lahnda (or western Punjabi), the latter merging into Punjabi.

It is supposed that these languages were brought to India by two successive waves of Aryan immigration, extending over several centuries, the later-comers occupying middle India (penetrating also into Gujarat) and forcing the earlier immigrants out all round them. Whether this is the true historical explanation or not, the geographical fact remains

[1] The percentages given are taken from the Census of 1911. The detailed figures for 1921 are not available.

that Hindi in its various forms, with languages such as Punjabi, Rajasthani, and Gujarati nearly akin to it, is surrounded by an outer belt of languages like Sindhi, Marathi, and Bengali (related to which are both Oriya and Assamese), markedly differing from the languages comprised in the former group and from each other.

There remain—to make up the sum of the Indo-European vernaculars (spoken by approximately three-quarters of the whole population)—one or two Sanskritic vernaculars, peculiar to the hill-men along the slopes of the Himalayas; Kashmiri, which is an Indo-Aryan but non-Sanskritic language; and the Iranian languages (Baluch and Pashtu) spoken on the north-west frontier.

Without pressing the analogy too far we may, perhaps, compare the Sanskritic languages of India to the neo-Latin or Romance languages of Europe, where we have languages deriving from a common source, and yet as different as Spanish and Rumanian; where, again, we have languages quite distinct, yet closely related, like the three varieties of the Romance tongue spoken in Spain and Portugal. It must be noted that Hindi, or Hindustani as in its Persianized form it is called, has served since Mughal times as a *lingua franca* all over India, including most parts even of southern India; though naturally as we travel further from middle India, the heart of the Indo-Aryan civilization, we shall find that it is less perfectly intelligible and to fewer people. Similarly with the alphabet and script. Hindus in most parts of India are familiar with the Nagari (Sanskritic) character; while Hindustani (or Urdu) is usually written in the Persian character, which is that employed by most Muhammadans. Cursive forms of Nagari in common use are Kaithi, which is employed throughout middle India from Bihar across to Gujarat, and Mahajani, which is employed in Rajputana and by Marwari bankers (or Mahajans) all over northern India. Other quite distinct scripts, though they are based on the Nagari character, are Gurmukhi in the Punjab, Bengali, and Oriya. Thus, to the differences of language are added differences of written and printed characters.

Turning to the south of India, we are confronted with an entirely different family of languages, representative of an entirely different civilization. The Magyar tongue is not more radically different from the languages of western Europe than are the Dravidian languages of the south from the Sanskritic languages of the rest of India. Tamil is the language of the far south (the ancient name for which is Dravida); and closely related to it is Malayālam, the language of the Malabar coast, including Travancore. Together, these are spoken by 8 per cent. of the Indian population. North of the Tamil country to the west, in a tract which includes the greater part of the Native State of Mysore and extends into the Bombay presidency, are Kanarese-speaking people (the people of the Carnatic properly so-called); to the east, in a tract which extends through the central and northern districts of Madras and includes a great part of the Nizam's dominions, are Telugu-speaking people (the Telingas, sometimes also called the Andhra people, from the ancient Hindu kingdom of that name). Telugu, which differs radically from Tamil both in vocabulary and written character, is spoken by 7.5 per cent. of the population; and Kanarese, which in its vocabulary is related to Tamil, but in its written character resembles Telugu, is spoken by 3.4 per cent. Including the less important languages such as Gond and Tulu, Dravidian languages are spoken by one-fifth of the entire population.

There remain only the Munda languages (spoken by 1.25 per cent. of the population, being mainly the aboriginal tribes of Chota Nagpur), and the Tibeto-Chinese (spoken by 4 per cent., being mainly the Burmese).

Here it may be said that Burma, albeit politically part of the Indian Empire, is geographically, and in almost every other way, a separate country. Its people belong to a different race (the Indo-Chinese), to a different religion (Buddhism), and to an altogether different civilization. In India proper there are to-day practically no Buddhists; in Burma, on the other hand, caste, which is the distinguishing feature of Hindu society, is unknown.

It has been said above that language is a valuable clue to race in India; and, while it by no means follows that all those who speak the same language belong to the same race, the foregoing classification of the Indian population by languages corresponds broadly to racial and national divisions.

On the terraced plateau which constitutes the Indian peninsula, shut off by the irregular but massive barriers of mountain and jungle which stretch from west to east across central India, the Dravidian race (a remote and dark-skinned branch of the great Caucasian stock) has been from time immemorial working out its separate destinies. North of the Vindhya ranges, an Indo-Aryan race has stamped its features, its languages, and its civilization on the population.[1] These two dominant facts remain unshaken, despite our having to admit (1) that Indo-Aryan languages are spoken by large sections of the population which are predominantly Dravidian in physical characteristics; (2) that the original Dravidian civilization was Hinduized under Indo-Aryan influence in very early historical times; and (3) that Hinduism itself is overlaid by much that is Dravidian in origin.

Keeping before us these two dominant facts, let us take a rapid survey of the map of India. In the far north we have the Kashmiris, strongly Aryan in type, with a distinctive language, literature, and civilization. Next we come to the Punjab, with its noticeably pure Indo-Aryan stock, and Rajputana, where the true Rajputs—themselves a minority in the country of which they are the ruling aristocracy—belong to the same pure stock. Sind, in the north-west, has a history and a distinctive language of its own; and is a country, besides, like Kashmir, predominantly Muhammadan in faith. South of the Punjab comes the vast middle-land,

[1] This is a broad generalization. We must not lose sight of the 'aboriginal' Munda-speaking peoples of Chota Nagpur, whose physical characteristics are those of the Dravidians, though their language is entirely distinct, nor of the possible influence on the dominant physical type in Northern India of the numerous streams of immigrants from the north-west within historical times, including those who brought the Muhammadan faith to India.

containing a population in which the Aryan is much mixed with Dravidian and other aboriginal strains, the predominant language being Hindi in its different forms. Bihar (the ancient Magadha) and Oudh (the ancient Ajodhya) have each a national character of their own, which is the inheritance of a long historic past. Coming next to Bengal, we have a population of a physical type which, whatever else we may say about it, is unlike any other. It appears to be Dravidian, sensibly modified by a foreign (Indo-Chinese) element; but, for our present purpose, it is sufficient to say that the Bengali is one of the best-recognized racial types in India. Equally unique in their racial character and national traditions are the Marathas of western India; in whose case, also, it is thought that we have Dravidian stock modified by some foreign element—Scythian (i. e. Mongolian) according to one theory, Alpine according to another and later theory. Another western people with a notable literature and history of their own are the people of Gujarat. Finally, south and south-east, among the pure Dravidians we have, on the one hand, Kanarese and Tamils, each with their own national and racial characteristics, history, and literature; and, on the other, the Andhra (Telugu-speaking) people and the Oriyas, who have for some time past been pressing upon the Indian government their claim to recognition as separate national units, and demanding a revision of existing political boundaries such as will give to each a separate administration (in the form of a sub-province) of a 'national' character.

This, then, is India from one aspect—a country, a sub-continent, divided into a number of well-defined nationalities, separated by language, traditions, and race. From another aspect, however, nothing is more easily demonstrated than India's essential unity. By this is meant not a common nationality, for this clearly does not and cannot exist, but a common culture, witnessing to a common spiritual ancestry. Hinduism long ago made India one, indissolubly one, with a unity which transcends national and racial differences. The institution of caste; veneration of Brahmans, the highest and priestly caste; the sacredness of the cow; the

great Hindu epics; adoration of India's seven sacred rivers; pilgrimage to India's seven sacred cities; these are a universal and a common heritage.

At this point, however, we must note that the Indian people are divided by religion as well as by language and race. However much Muhammadans may seem to conform to the social usages of the Hindus, however close at times the political *rapprochement* between the leaders of the two communities, there remains a fundamental antagonism of thought and feeling, comparable in some ways to that which exists in Ireland between Ulster Protestants and their Catholic fellow-countrymen. Sind and Kashmir have a predominantly Muhammadan population; so also have Baluchistan and the North-West Frontier Province. In the Punjab and in Bengal Muhammadans form half the population. In other parts they are less important, numerically; although throughout northern India, for obvious historical reasons, they form an important element in the towns. All told, Muhammadans number one-fifth of the population.

Among other religions which exercise an important influence on India's political life, is that of the Sikhs, who number 12 per cent. of the population of the Punjab. The Sikhs form a semi-military religious order, professing a monotheistic religion, and repudiating caste; and in recent years they have been active proselytizers, especially among the depressed classes. The Parsis, who hail from Persia originally but have been settled in western India (Gujarat) since the eighth century, are a small but a most advanced and vigorous community. They profess the Zoroastrian faith, and number about 100,000 persons. Parsis are pre-eminent in the field of modern industrial and commercial enterprise in India.

Finally, Christians number altogether nearly 4 millions, or 1.25 per cent. of the population.[1] Of these some 200,000 (including the British garrison, numbering about 70,000) are Europeans; another 100,000 are of mixed descent; and the rest are Indian Christians. The Anglo-Indian (Eurasian) community is pronouncedly European in its political sym-

[1] Census of 1911.

pathies; but Indian Christians are, for the most part, nationalistic in their sympathies and outlook.

Turning now to social stratification, the basis of Hindu society is caste; and caste is universal throughout India. There are castes and sub-castes without number, some being of merely local and others of national importance. Among Brahmans alone there are said to be upwards of 2,000 sub-divisions. A caste may be described as partaking of the nature at once of an order of freemasonry and of a trade-union; but its essential character—to-day, as it has been for centuries—is this, that no man can belong to a caste who is not born into it, and that no man can marry outside his caste or sub-caste Now, if we use the 'melting-pot' as the figure by which to describe the racial and social fusion of all the different elements in a mixed population through intermarriage, we may, perhaps, speak of the caste system as crystallizing those different elements, the resulting crystals having as many different forms as there are component elements. An age-long process of crystallization of this kind has made for what is, in one sense, social cohesion of the strongest and most enduring kind, and much of what is best in Hindu society consists of the ties which bind a man, every man, to his caste-fellows; but cohesion, in the sense of racial and social fusion, it equally makes impossible. How this most peculiar social structure will obstruct, or possibly modify, the working of democratic institutions it is extremely difficult to say. Experience alone can show. Only in those parts of the country where it sharply accentuates class divisions does caste raise immediate political difficulties. In the Madras presidency, for example, a numerically insignificant Brahman minority enjoys immense social prestige; and against the undue political domination of this class it has been considered necessary to protect, not only the out-castes, or pariahs, but caste-men also, who, though they belong to the middle-class of Hindu society, are non-Brahmans. The same problem is met with elsewhere (e.g. among the Marathas); but, as a rule, the social and industrial grading associated with the caste system is characterized by less violent cleavages between class and class.

Economically, there can be no doubt that the caste system does, to some extent, check initiative and interfere with mobility of labour; but, here again, it would be rash to dogmatize until India's industrial revolution, along with that of her political institutions, has developed a good deal further.

At this point it cannot be emphasized too strongly that India is still to-day, what India has been for centuries, a land of peasant farmers—an average holding being one of about 5 acres. One-third of the whole population live in villages having less than 500 inhabitants; and nine-tenths live in villages of 5,000 inhabitants, or under. Excluding Rangoon, and regarding Howrah as a part of Calcutta, India has only 15 cities with a population of 150,000, and over;[1] and, of these, only five (Calcutta, Bombay, Madras, Ahmedabad, and Cawnpore) are big industrial centres in the modern sense. The rural population which, as we have seen, numbers 900 out of every 1,000 includes, besides the agricultural classes proper, which consist of peasant-proprietors, tenant-cultivators, and a considerable body of landless labourers, a small rent-receiving landed aristocracy, the village storekeepers and moneylenders, and the typical village artisans and servants, such as the village chaukidar (or policeman), the blacksmith, carpenter, and barber. Out of every 1,000 of the total population, every 100 of the urban population, approximately 5 belong to the educated income-tax paying middle-class, engaged in trade and the professions; 15 are supported by modern machine-industries (including the railways and the coal mines); and the remaining 80 follow indigenous industries and miscellaneous occupations.[2]

It follows that, in a country so industrially undeveloped as

[1] Census of 1911.

[2] Cf. *Joint* (*Montagu-Chelmsford*) *Report*, par. 133. An apparent discrepancy between my own figures and the figures given in that paragraph is explained as follows. When it is said, in the *Joint Report*, that 15 per 1,000 of the population belong to 'professions', and 15 to Government service or the Army, it must be remembered that both these figures cover the rural as well as the urban population, and also that the figure which I have given for trade and the professions applies only to the income-tax paying class.

India, a country where the class, which along with education has a certain amount of leisure, is so very small, the task of leadership, under the system of representative government lately introduced, will devolve almost entirely on two sections of the population, namely, the lawyers who constitute the political backbone of the urban middle-class, and the landed aristocracy of the countryside. It is well to remember that, for a good many years to come, India's popular representatives and legislators will be drawn mainly from these two classes.

IV

On the 20th August 1917, Mr. E. S. Montagu, the Secretary of State for India, made the following pronouncement in the House of Commons :

'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 the administration, and the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in India as an integral part of the British Empire. . . .

'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 advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility.'

It is characteristic of British political methods that, just as no attempt has ever been made to define the source and the basis of British sovereignty in India, so there had never before been any authoritative statement of the goal of British policy in India. It is characteristic also that Mr. Montagu's pronouncement, which had been formulated with meticulous care and was the outcome of months of deliberation, was made apparently quite casually, in answer to the apparently casual question of a private member of the House of Commons.

The declaration of policy thus made opens an entirely new era in the history of British India. When Lord Morley, a great Liberal statesman and the most forceful personality perhaps ever known at the India Office, introduced his once famous reforms of 1909, he repudiated in the most emphatic possible manner any intention whatever of introducing into India even the beginnings of a parliamentary system of self-government. When Lord Hardinge, shortly after he became Viceroy of India, declared in 1911, in a public dispatch to the Secretary of State for India, that the only possible goal of British policy in India appeared to him to be

'gradually to 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 it was claimed that in foreshadowing provincial autonomy he foreshadowed provincial Home Rule, there was immediately a chorus of official denials. Yet what was only a few years earlier declared by responsible British statesmen to be, if not repugnant to sound statesmanship, quite outside the range of practical politics, was in 1917 adopted as the deliberate policy of Parliament.

It must not be supposed that men of far and clear vision had not, from very early days, faced the question of India's political destiny under the British Crown. One of the first to face the question boldly was Sir Thomas Munro, Governor of Madras (1820–7), and one of the great figures in Anglo-Indian history, who wrote as follows[1]:

'There is one great question to which we should look in all our arrangements; what is to be their final result on the character of the people? Is it to be raised or is it to be lowered? Are we to be satisfied with merely securing our power and protecting the inhabitants, leaving them to sink gradually in character lower than at present, or are we to endeavour to raise their character and to render them worthy of filling

[1] In the same State paper Munro also wrote: 'We shall in time so far improve the character of our Indian subjects as to enable them to govern and protect themselves.' (Quoted by Sir Valentine Chirol in *India Old and New*, p. 77.)

higher situations in the management of their country, and of devising plans for its improvement?'

To raise the character of the people, and to render them worthy of filling higher situations in the management of their country, is, in truth, a policy which has been endorsed by Parliament from the days of the Charter Act of 1813,[1] which made provision for a grant of a lakh of rupees (£10,000) out of the Indian revenues, to be

'set apart and applied to the revival and improvement of literature, and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India';

and of the Charter Act of 1833, which contained the famous clause declaring that

'no native of the said territories shall by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the Company'.

Further landmarks are the famous report on India's educational needs written by Macaulay in 1835, he being then Law Member of the Government of India, and the educational dispatch of Sir Charles Wood, President of the Board of Control, in 1854, as a result of which an educational system was evolved, which provided for the literate middle-class a high-school and college education on Western lines and through the medium of English, and for the diffusion amongst the illiterate masses, so far as the extremely limited resources of the country would allow, of elementary education through the vernacular.

In 1861, three years after the East India Company had handed over the reins of administration, and Parliament had assumed direct and undivided responsibility for the government of India, the principle of representative government first received practical recognition, in the constitution of

[1] Acts renewing the charter of the East India Company, and revising the conditions under which the Company was granted a new lease of its privileges, were passed in 1793, 1813, 1833, and 1853.

British India, by the admission of half a dozen non-officials, including natives of India, to the council associated with the Governor-General for the purpose of making laws for British India, similar steps being taken in the councils associated with the Governors of Madras and Bombay and the Lieutenant-Governor of Bengal for the purpose of provincial legislation. In the growth of these legislative councils is contained the history of representative institutions in British India. Just as the successive Charter Acts of 1793, 1813, 1833, and 1853 mark stages in the evolution and consolidation of the system of government fashioned for India at the hands of her British rulers, so the successive Indian Councils Acts of 1861, 1892, and 1909 and, finally, the Government of India (Reforms) Act of 1919 mark even more clearly defined stages in India's own political and national development. An account of the way in which the non-official or representative element in the councils was gradually enlarged and placed upon an increasingly popular basis, and of how administrative were gradually added to legislative functions, will be found in Chapter II.

A further landmark which we must notice is the establishment by Lord Ripon, a liberal-minded and most popular Viceroy (1880–4), of a system of local self-government on modern lines. In all the provinces there were created, on something like the English model, local authorities, both urban and rural, having duties and funds assigned to them in connexion with the upkeep of the local roads, elementary schools, public dispensaries, and the like. In a notable Resolution on the subject, issued by Lord Ripon's Government in 1882, the new policy was advocated, not because the work was likely to be better done than if it were left entirely in the hands of Government officials, which was scarcely to be expected at any rate at the outset, but frankly as an instrument of political and popular education. The actual results of the experiment, even from this latter standpoint, have been admittedly disappointing. Parish-pump politics do not, in India, elicit as much local interest and public spirit as it was hoped they would; while, at the same time, the municipalities and

district boards have been kept, for the most part, too severely in leading-strings to permit of them really finding their feet. The constitution of these local bodies on a popular, and, to a certain extent, on an elective basis was an important affirmation, however, of the principle of representative government. If the management of local affairs could safely be entrusted to representatives of the local public, was it unreasonable to ask that some share, at least, in the management of provincial affairs should be given to representatives of the province? If it was a good thing for the people of India to learn to govern themselves, even if they had to learn from their mistakes, why stop at local self-government? Even if it were conceded that, in a wider sphere of government, the difficulties were more formidable and mistakes more serious, this involved only the admission that a higher degree of political capacity was required in this wider sphere; and if political education could produce one kind of capacity, why should it not also produce another? The recognition of the elective principle, in particular, established a precedent, which could not well be disregarded when it came to remodelling the legislative councils in 1892.

Political reform was 'in the air' in India during the eighties. The policy laid down in Sir Charles Wood's dispatch of 1854, the establishment of the universities of Calcutta, Madras, and Bombay in 1857, the admission into the legislative councils of a non-official and Indian element in 1861, now began to bear fruit. In Indian middle-class society, a generation which had received a Western education had grown up. The spread of education among this class favoured the growth of a popular newspaper press; and this, in turn, served to increase the intellectual ferment. Nourished on the oratory of Burke and of Bright, fired by the patriotism of Mazzini, impressionable minds began to dream of a new dispensation for India, their political testament being that of mid-Victorian doctrinaire Liberalism. Immature and precocious as these ideas were, it was not long before they took concrete shape. Founded in 1885, under the leadership of Mr. A. O. Hume, formerly a high Government official, the

Indian National Congress afforded a rallying ground for those professing the new political faith. From this time forward, through its provincial and district organization and conferences, its annual all-India conferences with their formidable output of resolutions, its British committee, its weekly newspaper *India*, the Indian National Congress carried on a systematic and persistent propaganda in favour of self-government for India under the British Crown. Its methods were those of constitutional agitation, aimed on the one hand at discrediting autocracy in India and, on the other, at creating an atmosphere favourable to reform in England.

This, very lightly sketched, is the historical background against which we view the declaration of the goal of British policy in India, contained in Mr. Montagu's pronouncement. Slight as the sketch is, it will be obvious at once that this background does not fit the picture. The official denials evoked by Lord Hardinge's too frank statement of the problem of self-government for India in 1911, and Mr. Montagu's unqualified endorsement of that statement in 1917, belong to two different periods. The explanation is, of course, that we have not yet sketched in the completely new background created by the War, and the part which India played in the War.

Memories of individuals may be short, but national memories are long; and India will always remember, nor will England ever forget, the response which India, in common with all other parts of the British Empire, made, and with no uncertain voice, in face of the common danger. What was true of India during the early days of the War, was equally true during the even more critical days of the spring of 1918, when, in response to the Empire's renewed appeal, India put forth her maximum effort—officials and non-officials uniting in the common task.

Of the assistance which India rendered during the early days of the War, the following extracts from a speech made by the ex-Viceroy, Lord Hardinge, in the House of Lords in July 1917, will give some idea:

'In August and the early part of September an Indian Expeditionary Force of an Indian army corps of two divisions

was sent to France . . . where they arrived in time to fill a gap that could not otherwise have been filled, and there consecrated with their blood the unity of India with the British Empire.

'A comparison between the ordinary establishment of the army in India and the units sent overseas in connexion with various expeditions shows, in a striking manner, the military effort made by India to assist the Empire. Of the British establishment in India, seven regiments of British cavalry out of nine were sent overseas; 44 British battalions of infantry out of 52, and 43 batteries of Royal artillery out of 56; while of the Indian establishment, 20 regiments of Indian cavalry out of 39, and 98 battalions of Indian infantry out of 138 were sent abroad. In return for these troops India received, many months after the outbreak of War and the dispatch of Indian divisions overseas, 29 Territorial batteries and 34 Territorial battalions. . . . It is a fact that, for the space of some weeks before the arrival of the Territorials, the British garrison in India was reduced to about 15,000 men. The safety of India was thus imperilled in the interests of the Empire as a whole. In such a cause I was naturally prepared to take risks, and I took them confidently, because I trusted the people of India, and I am proud to say they fully justified my confidence in them.'

Lord Hardinge, in this speech, placed at 210,000 the total strength of Indian officers and men dispatched overseas. Before the end of the War this number was more than doubled. India's total contribution in man-power, for the whole period of the War, was 1,457,000, of whom 552,000 combatants and 391,000 non-combatants (including men in the Labour Corps) served overseas.

In the supply of war material of many kinds, India rendered timely and valuable services; and her financial contribution, relatively to her resources, was a generous one. The normal annual expenditure on the army in India, according to the pre-war standard, amounted to £20,000,000. Besides providing, as usual, for this normal expenditure, India also paid the ordinary charges of Indian units serving abroad, the full cost of operations, in the various theatres of war in which Indian troops were engaged, apart from this special contribution, being met by the British exchequer, which further made

itself responsible for the cost of raising in India and maintaining additional troops. Adding a later contribution which amounted eventually to some £14,000,000, made with the express approval of the non-official members of the Indian Legislative Council in 1918, India was involved in extra military expenditure, first and last, amounting to £40,000,000. India's main financial contribution, however, has yet to be mentioned. This was made in 1917, when the Government of India assumed responsibility for £100,000,000 of War debt. A great part of this sum was raised by means of War Loans in India; and the whole of the interest and sinking fund charges, amounting to £6,000,000 annually, are met out of Indian revenues.

Such, in brief, is India's War record; and it is one which lays, not only England, but the whole British Empire under obligation. Nor must we overlook the far-reaching moral effects on India, remote as India was from the scene of conflict, of her participation in the common danger and the common cause. Racial self-esteem was immeasurably enhanced by the comradeship in arms of Indian and British troops on European battlefields. The confidence of those political leaders, who for years had been demanding self-government for India, was immeasurably strengthened in the justice of their cause, not only by India's increased national stature as a result of the War, but also by the nature of the conflict itself, which was fought on behalf of national liberty against imperialistic aggression, and on behalf of democracy, and all the ideals associated with democracy, against autocracy.

In its special bearing on India's political future, the situation is well described, in the following passages taken from a manifesto issued in September 1916 by leaders of the Reform Party in India: [1]

'There is no doubt that the termination of the War will see a great advance in the ideals of Government all over the

[1] *Memorandum* with regard to post-war reforms, submitted to the Viceroy by nineteen non-official members of the Indian Legislative Council.

civilized 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.

'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 battle-fields 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.

'India does not claim any reward for her loyalty, but she has a right to expect . . . that she should no longer occupy a position of subordination but one of comradeship.

'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.'

The first practical recognition of the new place, which India had won for herself in the British Empire, was the admission of representatives of India, on the same footing with representatives of the self-governing Dominions, to the Imperial Conference. At former Colonial and Imperial Conferences (the first of which was held in 1887) the Secretary of State for India, or some other representative of the India Office, had occasionally attended, and both in 1907 and 1911 contributed to the proceedings; but India herself had no recognized place in the Conference. At the first Imperial War Conference, held in 1917, four representatives of India attended, viz. the Secretary of State for India and Sir James Meston as official representatives, Sir Satyendranath (now Lord) Sinha as a non-official representative of British India, and the Maharaja of Bikaner as a representative of the Native States—all being members also of the Imperial War Cabinet, a smaller body which functioned as the Empire's supreme War Council. India enjoyed similar representation at the meetings of the Imperial War Conference and Cabinet of the following year, and at the Paris Peace Conference. India, like the self-governing

Dominions, is a signatory of the Treaty of Versailles and an original signatory of the Covenant of the League of Nations. Representatives of India have attended the meetings at Geneva of the Assembly of the League of Nations; and the Rt. Hon. Srinivasa Sastri represented India at the recent Washington Conference.

When remembering the part played in the War by British India, the loyal zeal and generous co-operation of the Ruling Princes must not be forgotten. This has been suitably recognized; and the Native States now occupy a distinct place of their own, both in the political system of India and of the British Empire. At the Imperial Conference of 1921, the first to be held since the War, a seat was reserved amongst India's representatives, as at former Conferences, for one of the Ruling Princes; while in India, earlier in the same year, there was inaugurated by the Duke of Connaught, on behalf of the King-Emperor, the Chamber of Princes, a consultative and deliberative body, which has been constituted with the object of bringing the Native States into closer association with each other and with the Government of India. In the course of the speech which he made on this occasion, the Duke of Connaught said:

'Your Highnesses, it is a sincere pleasure to me to congratulate you on the place that, as a body, you have achieved for yourselves in recent years in the wider Councils of the Empire. You have been represented in the Imperial War Cabinet and at the Imperial Conference. One of your number took part in the Peace Conference of 1919, and his signature is appended to the Treaty of Versailles. More recently another of your order attended the League of Nations Assembly at Geneva.'

At the beginning of the present year (1922), a scheme for the reorganization of the military strength of the Ruling Princes was brought into effect, whereby the troops maintained for internal security and those intended for war service (formerly known as the Imperial Service Troops) have been combined in the Indian State Forces—the new designation of this branch of the army of the Indian Empire. The new policy is intended as the sincerest possible recognition of

the military services rendered by the Native States in the past, and especially during the Great War.

Having now sketched in something of the special background created by the War, it is possible to see Mr. Montagu's pronouncement in its proper setting. Before the War had been in progress many months, it was manifest to men of statesmanlike outlook, both in England and in India, that a very material change in India's political status was inevitable. In Chapter III I have given some account of the gestation of the reforms, which eventually took shape in the Government of India Act of 1919. The determination of the British Government and the Government of India to proceed at once with a scheme of reforms, instead of postponing consideration of the problem until the War was over, is eloquent, both of the recognized urgency of the problem, and of England's eager desire to demonstrate her good faith.

V

Let us now return to Mr. Montagu's pronouncement of the 20th August 1917, and analyse its terms, in order that we may see exactly to what Parliament was pledged; and let us next see how Parliament has redeemed those pledges.

In the first place, then, Parliament pledged itself to a policy of increasing the association of Indians in every branch of the administration. By this is meant, principally, the employment of Indians in greater numbers in the higher branches of the public services. It is clear that India will not be fully ripe for self-government until the higher personnel of the public services is predominantly Indian; at present it is predominantly British. The adoption, therefore, of a policy, which has as its ultimate aim a self-governing India, necessarily involves a policy of deliberately increasing the Indian personnel.[1] The substantial steps which have already been taken in this direction are described elsewhere.[2]

Next, Parliament pledged itself to the gradual development of self-governing institutions in India. This is not

[1] Cf. *Joint Report*, para. 313.

[2] Cf. *infra*, pp. 127-31.

a new policy, having been adopted—whether consciously or not—as long ago as 1861, when non-officials, including Indians, were first admitted to the legislative councils. What is new, however, and constitutes, indeed, an entirely new orientation in British policy towards India, is an acknowledgment that the development of self-governing institutions has as its ultimate goal India's political emancipation. In other words, the Indian people are not merely to be partners with the British in the government of India (which, although never formulated in so many words, was the policy of the past), but are themselves to direct and control the government. Parliament further pledged itself to initiate 'substantial steps in this direction' as soon as possible; promised, in fact, that a certain measure of genuine Home Rule should be granted to India immediately.

Before we proceed to examine exactly what this pledge involved, and how it has been redeemed, it would be well to note the conditions under which India's charter of self-government has been granted. These conditions have been laid down very carefully indeed; and so great is their importance, from the constitutional standpoint, that they have been embodied in the preamble to the Government of India (Reforms) Act. It is laid down, first of all, that progress in the development of responsible self-government can only be achieved by successive stages; in other words, Home Rule can only be granted by instalments. Secondly, it is for Parliament, upon whom rests the ultimate responsibility for the welfare and advancement of the Indian peoples, and for Parliament alone, to determine the time and measure of each step forward.[1] Further, Parliament will form its judgement in the light of the political progress realized in India, and will be guided in its action (in the words of the preamble to the Act) 'by the co-operation received from those on whom

[1] It should be noted that, in the pronouncement of the 20th August, it was contemplated that the British Government and the Government of India would determine the time and measure of each constitutional advance. The Act entrusts this all-important function to the supreme authority of Parliament.

new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility'. Finally, the self-governing British India which is contemplated in the preamble to the Act, is an India forming an integral part of the British Empire. Dominion Home Rule, that is to say, is put forward as the ultimate goal, not independence.

Mr. Montagu's statement in the House of Commons was followed, three months later, by his visit to India, where during the cold-weather season the Secretary of State and the Viceroy, Lord Chelmsford, exhaustively examined the whole problem on the spot. Their report, which ranks among State papers with Lord Durham's famous report on British North America, was completed in May 1918, and published in July.

The twelve months following were occupied in further spade-work. During the cold-weather season two committees in India, presided over by Lord Southborough, were respectively engaged in framing a basis for the new popular electorates, and in working out the many intricate problems connected with the division of functions between the central and provincial governments, and the accompanying devolution of authority. A third committee, presided over by Lord Crewe, dealt with questions affecting the Home administration, such as the future relations between the Secretary of State for India and the Government of India, between the former and his Council, and the reorganization of the India Office. The local and central governments in India were, during the same period, engaged in a searching review of the whole body of the proposals from the standpoint of the practical administrator.

On the 29th May 1919, a Bill embodying the proposed scheme of reforms was introduced in the House of Commons by Mr. Montagu. It was referred, at the beginning of July, to a strong Select Committee, representing both Houses of Parliament and all political parties, presided over by Lord Selborne. This Joint Select Committee had before them the considered views of all the official authorities; and it further examined a large number of witnesses of every shade of opinion, all important sections of the Indian public being represented.

Amended in accordance with the committee's recommendations, the Bill was passed by both Houses of Parliament, and received the Royal assent on the 23rd December 1919.

The greater part of the following year was occupied in the framing of essential rules under the Act, and the preparation of electoral rolls. This work accomplished, it was possible in November 1920 to hold the first elections; and in January 1921 the reformed system of government came into operation.

The reformed constitution I have dealt with, in detail, in Chapter IV. Here it is proposed to give only a general outline of it.

It will be well, at the outset, to distinguish what is of a permanent, from what is intended to be only of a temporary character, in the reformed system of government. Permanent foundations have been laid, on which it will be possible to raise a complete structure of parliamentary self-government. The essential groundwork for this is a political system of a federal pattern, the basic principle of which is provincial autonomy in provincial affairs. The need for such a groundwork is recognized in the preamble to the Reforms Act, the last clause of which is as follows :

'Concurrently with the gradual development of self-governing institutions in the Provinces of India, it is expedient to give to those Provinces, in provincial matters, the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities.'

The initial reform, therefore, and that on which all the others rest, is the statutory separation of the respective functions of the central and provincial governments, and of their finances. This signalizes the final reversal of the policy adopted in 1833, but which has been greatly modified in practice, especially in recent years, of concentrating the whole administration and finances of India in the hands of the central government.

Fundamental also in the reformed system of government is the electoral system on which are based the new representative institutions. Three different organs of government are involved, viz. the provincial legislative council, the Legislative

Assembly (the lower house of the all-India legislature), and the Council of State (the upper house of the all-India legislature). Each one of these bodies is constituted on a basis of direct election, the unsatisfactory system of indirect election adopted for the Morley councils of 1909 being completely abandoned. In the Morley councils a majority of the elected members represented sectional interests; the new councils contain only a very limited number of such members, the great majority representing general constituencies. Five-sevenths of all the members of the new councils (three-fifths, in the case of the Council of State) are elected members; whereas in the Morley councils (with the single exception of the Bengal council) only a minority of the members were elected. Finally, officials, who dominated the Morley councils, form in the new councils a numerically insignificant minority. In short, the new councils are parliamentary bodies of a very fairly, if as yet not completely, representative character.

There are three classes of electors in every province, corresponding to the three different bodies to which members are elected. Each electorate is based on a property qualification. The lowest is that admitting to the franchise for the provincial legislative council. This has been made sufficiently low to enfranchise the great body of the more substantial peasantry, and the respectable lower-middle-class in the towns, and yet high enough to prevent the registers from being swamped, and the electoral machinery from breaking down under the heavy initial strain. In all, 5,345,870 persons have received the vote[1]; and this number will grow automatically with the material progress of the country, apart from any lowering of the franchise which further experience of the working of the electoral system may justify. Not far short of 2·5 per cent. of the total population brought within the scope of the reforms (230 millions), or about 10 per cent. of the adult male population, have thus been enfranchised.

[1] i.e., for the Provincial Legislative Councils. The total number registered as voters for the Legislative Assembly was 909,874; that for the Council of State, 17,364.

There is no test of literacy; and to assist the illiterate voter, use has to be made of different coloured ballot boxes and similar devices. Illiterate and extraordinarily credulous as he often is, the Indian peasant is also a very shrewd person where his material advantage is concerned; and when he learns, as before very long he will, to distinguish between the candidate who can be relied upon to represent him, and to serve his interests faithfully in the provincial legislature, and the candidate who represents no one but himself, and learns to exercise his vote accordingly, the political education of the peasant will proceed apace, and representative institutions will begin to take root.

The second class of electors consists of those entitled to vote for a member of the Legislative Assembly. The property qualification in this case is a good deal higher; but the franchise is sufficiently broad to give the Assembly a representative character. The Council of State, which is the second or revising chamber of the all-India legislature, is designed to represent administrative experience in addition to the larger moneyed and landed interests. Hence, while the property qualification admitting to the franchise (and candidature) for the Council of State is a high one, the franchise is also open to any one, whatever his private means, who has rendered some conspicuous public service—e.g., one who has served as member of any legislative body, or as chairman, or vice-chairman, of a municipality or district board.

Coming now to the superstructure, part of this, which is permanent, is on the new democratic plan in conformity with which the foundations of the reformed system of government have been laid; part is on the old plan of a limited autocracy. The latter represents the temporary part of the superstructure.

Just as a division of functions has been made between the central and provincial governments, so a division has been made between what are known as the reserved and transferred departments of the provincial government. On this basis rests what has been called dyarchy[1] in the provinces. The

[1] Cf. *infra*, p. 98.

transferred departments have been placed in the administrative charge of Indian ministers responsible, in the full parliamentary sense of the term, to the provincial legislature.[1] The transferred departments include:

Education.
Excise duties.
Sanitation and public health.
Development of agriculture and industries.
Roads and buildings.
Local self-government.

It is in these branches of provincial government that immediate Home Rule has been introduced. In regard to the administration of the transferred departments, the Government of India, which is the central government, has now no longer any constitutional right to interfere; and in regard to these branches of provincial government, there has been a complete devolution of authority on the part, not only of the Government of India, but of the British parliament itself. In this fact lies the momentous change brought about by the reforms. In the field of provincial government covered by the transferred departments, the British official as executive head has abdicated, and the Indian minister, responsible to an Indian legislature, controls the reins of administration in his stead.[2] Whatever mistakes are made, it will be no longer the British official who is to blame, but the responsible Indian minister, and the legislature upon whom his power rests and from whom his authority is derived; and it will be for them to put things right. Whatever success is achieved and progress made, theirs will be the credit.

To the other half of this provincial dyarchy is entrusted the administration of the reserved departments, of which the most important—viz. the administration of the courts of justice and the control of the police—are concerned with the maintenance of law and order in the province. Though it

[1] Cf. Note at the end of this chapter.

[2] At the same time it must not be overlooked that the Governor of the Province has the constitutional right of overruling his Ministers in circumstances which appear to him to require his intervention. Cf. *infra*, p. 99.

also contains a substantial Indian element, this half of the government is dominated by the British official; and as regards the reserved departments, the provincial government remains subject to the general control of the Government of India and the Home authorities. This, however, is a temporary arrangement. If the gigantic constitutional experiment, which the introduction of Home Rule on a parliamentary basis in a country like India involves, prove a success; if, during the period of their apprenticeship, ministers develop qualities of judgement and leadership, and the legislatures a due sense of responsibility, further instalments of Home Rule will simply mean handing over to ministers departments now reserved. The temporary structure, which now gives to the provincial government a curiously composite character, will thus ultimately disappear; and, in its place, we shall have a provincial government of a homogeneous character, enjoying full autonomy in provincial affairs, and consisting wholly of Indian ministers responsible to an Indian legislature.

Only by the adoption of a plan such as this was it possible to make the great constitutional experiment, to which the British parliament has pledged itself, with any degree of safety or, indeed, with any hope of success. Any reservations which would have made less complete the grant of Home Rule, in the limited sphere of government in which alone immediate Home Rule was practicable, any concessions which might have had the effect, at a critical time of transition, of undermining authority, or rendering insecure those fundamental conditions of law and order without which no political progress of any kind is possible, would have alike proved fatal.

A word or two must now be said regarding the position and powers of the provincial legislature. In relation to the transferred departments, presided over by ministers who are themselves elected members of the legislature, its powers are virtually those of a sovereign parliament. In relation to the reserved departments it exercises similar powers, including control over finance and legislation; but temporarily, and in relation to this branch of the provincial government, its

authority is limited. In his capacity as executive head of the reserved departments, the Governor may, at his discretion, and subject to the superior authority vested in the Government of India and in the Secretary of State for India as representing Parliament, override the legislature—on his certifying that the action which he proposes to take, whether legislative or financial, is essential to the discharge of his responsibility for any reserved department. Hence the full authority, which will ultimately vest in the provincial legislature, will not be realized until complete Home Rule within the province has come into effect—until, in other words, all departments of the provincial government, including those concerned with the maintenance of law and order, have been transferred to ministers responsible to the legislature.

Turning now to the central government, we find that the executive body, the Government of India, remains dominated by the British official, though the Indian element has been substantially increased in accordance with the policy of associating Indians more closely with all branches of the administration. We also find that, with certain statutory limitations in regard to the army, foreign affairs, and relations with the Native States, the legislative body, consisting of the Legislative Assembly and the Council of State, exercises the same parliamentary powers over finance and legislation as the provincial legislatures. Its authority is limited, however, by the fact that, like the Governor of a province in his administration of the reserved departments of government, the Governor-General or Viceroy, may, at his discretion, and subject to the superior authority vested in the Secretary of State for India and in Parliament, override either chamber or both chambers in a matter which he considers to be of vital importance, and certifies as such.

Thus, while all the foundations have been laid for a system of parliamentary self-government for India as a whole, the full authority which, short of reservations in regard to matters affecting vital Imperial interests, will ultimately vest in the all-India legislature, will not be realized until the executive body, the Government of India, is transformed and consists

of ministers responsible to that legislature. The difficulties involved in such a transformation are great, at any rate until the provincial governments are completely on a Home Rule basis; since, pending full provincial autonomy, one most important function of the Government of India is the general direction and control of that part of the government in the provinces which administers the reserved departments, and is mainly in the hands of British officials. This is a function which would seem to call for the undivided attention, and the undivided authority, of the central government.

With the transformation of the Government of India, the final stage in the progressive approach to responsible government will have been reached; and India will have attained to full and complete Home Rule within the British Empire.

NOTE ON RESPONSIBLE GOVERNMENT

THE conception of an executive amenable to an elected legislature, or what is understood in Great Britain and the self-governing Dominions as 'responsible' government, is not a familiar conception to Americans. In the United States the amenability of the executive to the national will, which is the essence of democratic government everywhere, rests on a different basis. In the United States the national will asserts itself every two years in its choice of a House of Representatives, every four years in its choice of a chief executive. In Great Britain, on the other hand, the national will having asserted itself (every five years or, in the case of a dissolution of Parliament, at shorter intervals) in its choice of a House of Commons, the character of the executive (Prime Minister and Cabinet) is virtually determined by that same act. Only the leaders of that political party, or coalition of parties, which commands a majority of votes in the House of Commons can expect to hold office; and they can remain in office only so long as they continue to enjoy the financial and legislative support of that majority. Hence the legislature, which for the time being represents the national will, can make or unmake the government, which in this sense is

responsible to it, that is to say, can be called to account, directly by the legislature, and indirectly (on a dissolution of Parliament) by the nation itself.

One form of colonial government under the British Crown is that in which the legislature is elected, and so represents the colonists, while the executive consists of a Governor (and an executive council) appointed by the Home authorities, and not amenable to the colonial legislature. This is known as 'representative' government; and most of the British colonies, which now enjoy 'responsible' government, have passed through this stage. It is, however, a most unstable form of government, since if the elected legislature and the Governor disagree, there is no constitutional means of settling their differences; and the legislature, if it possesses full control over finance and legislation, can bring constitutional government to a standstill. For a constitutional deadlock of this character there are only two solutions. Either a return can be made to 'crown colony' government, in which the legislature, being nominated instead of elected, can be constituted in such a way as to harmonize with the views of the executive; or an advance can be made to 'responsible' government, in which case an irremovable Governor, appointed by the Home authorities, continues to function as the nominal head of the executive, but the real power is exercised by a colonial ministry which can be made and unmade by the colonial legislature.

The island of Malta admirably illustrates these various types of 'colonial' government. In 1849 a council of government was created for Malta, in which the majority of the members were appointed. This was 'crown colony' government. In 1887 the council was reconstituted, with a substantial majority of elected members. After endless friction between this council and the Governor, matters came to a head, when, as a protest against what they considered the high-handed proceedings of the Governor, the council refused to pass money bills and rejected appropriations, thus bringing constitutional government to a standstill. In 1903, accordingly, a return was made to the 'crown colony' form of

government adopted in 1849.[1] Last year (1921) Malta received a new (Home Rule) constitution, based on the principle of dyarchy. Matters affecting vital Imperial interests are reserved in the hands of the Governor; all other matters are to be administered by Maltese ministers, responsible to an elected legislature.

In India the same problem has had to be faced. To have enlarged the Morley councils, and increased their powers, so as virtually to give them control over an executive composed mainly of British officials, would have meant heading straight for the constitutional deadlock involved in 'representative' government. That India should remain indefinitely at the stage of 'crown colony' government was not to be thought of. There remained the alternative, eventually adopted, of making an advance to 'responsible' government within the limits, and subject to the safeguards, made possible by the adoption of the principle of dyarchy.

[1] Cf. Lowell, *The Government of England*, vol. ii, chap. lvi. President Lowell sums the whole matter up, when he says: 'A legislature elected by the people, coupled with a Governor appointed by a distant power, is a contrivance for fomenting dissensions and making them perpetual.'

CHAPTER II

POLITICAL AND CONSTITUTIONAL DEVELOPMENT, 1773–1912

PREVIOUS to Lord North's Regulating Act of 1773, the form of government maintained by the British in India was that established by the East India Company, under the powers conferred by Royal charters during the Stuart period and confirmed by Parliament after the Revolution. It was a form of government primarily designed for a commercial purpose, and consisted, in each of the Company's chief settlements, or presidencies as they were called, of what was virtually a local board of directors, having a chairman known as governor or president, and the senior merchants in the local employment of the Company as its members. These local boards or councils were all subordinate, of course, to the Court of Directors in London, but were independent of each other. Besides managing the commercial affairs of the Company, they exercised, within the terms of the Company's charter, executive, legislative, and judicial functions. A semi-independent judiciary, deriving its powers directly from the Crown, was established in 1683 at Surat (and afterwards at Madras); but the experiment was not encouraging, owing to friction between the court and the Company's officers, and it was dropped. Mayor's courts, however, on the English municipal model, having civil jurisdiction, subject to an appeal to the governor or president and council, and a further appeal in important cases to the Privy Council, were established in the presidency towns at various dates from 1687 to 1726.

By the Regulating Act of 1773 a new form of government was established for the administration, under the East India Company, of the newly acquired territories in Bengal, the Act being the first of the succession of parliamentary statutes on which the constitution of British India rests. Instead of the

large, unwieldy, and semi-commercial council, which had proved quite unequal to the task of administering affairs in Bengal under the new conditions, the government of the Bengal territories was placed by the Act in the hands of a Governor-General and a Council of four members. All were named in the Act, and were to hold office for five years; since when, five years has always been the traditional term of office for all members of the central and provincial governments in India. Their successors were to be appointed by the Court of Directors.

The first Governor-General was Warren Hastings. One of his colleagues in the new government was a fellow-civilian in the Company's service; the other three were men sent out from England. It is well known that for nearly two years Warren Hastings had to contend with the persistent opposition and obstruction of these three Members of Council, opposition which threatened at times to bring government to a standstill. It was this which prompted Lord Cornwallis (the same who surrendered to Washington at Yorktown in 1781) to insist, before going out to Bengal as Governor-General as the successor of Warren Hastings in 1786, that he should be given the constitutional right to overrule his Council. A special amending Act was accordingly passed, which empowered the Governor-General to overrule his colleagues in a matter vitally affecting, in his judgement, 'the interests of the Company, or the safety or tranquillity of the British possessions in India', while at the same time it provided that the views of the dissentient majority should be recorded so as to make it perfectly clear where the responsibility rested. The same principle was applied by the Charter Act of 1793 to the subordinate presidencies of Madras and Bombay, the governments of which were reconstituted on the Bengal model by Pitt's Act of 1784. Only in one case of historical importance, when Lord Lytton as Governor-General, acting under pressure from the Home authorities, used it in 1879 to abolish partially the import duty on English cotton goods, has this power actually been exercised. The existence of such a power in the background sufficiently

strengthens the hands of the chief executive. In virtue of the position thus occupied by the latter, the central (or provincial) government is known as that of the Governor-General (or Governor) *in* Council rather than that of the Governor-General (or Governor) *and* Council. This unique feature of Council government in India evoked the admiration of John Stuart Mill,[1] combining as it does the strength, which unity of command alone can give in an emergency, with the balance and ripe judgement of collective counsels.

On the establishment of the new government in Bengal in 1774 most of the purely commercial business, as distinguished from the civil and military government proper, was transferred to a separate Board of Trade created for the purpose. Further, it was undoubtedly the intention of those who framed the Act of 1773 to relieve the new government of certain of its judicial and legislative functions as well. The Act gave power to the Crown to establish by letters patent a supreme court of judicature for Bengal, consisting of a chief justice and three puisne judges to be appointed by the Crown; and to this Supreme Court (established in 1774) were given not only very wide judicial powers, but also the following control over legislation. The Governor-General and Council were authorized by the Act to make 'rules, ordinances and regulations for the good order and civil government' of Bengal; but these were not to be valid until duly registered and published in the Supreme Court, with the assent and approbation of the court. The court very soon found itself, however, in violent conflict with Warren Hastings and his government. The drafting of the Regulating Act was vague and unsatisfactory; and the amending (Declaratory) Act of 1781 conceded all the points in dispute substantially in favour of the Governor-General. The independent jurisdiction of the courts, including the courts of appeal, subordinate to the Governor-General and Council was recognized, while that of the Supreme Court was strictly defined and limited; and the Governor-General and Council were authorized to make laws or regulations independently of any reference to the

[1] Cf. Mill, *Representative Government*, chap. xiv.

court, but subject to amendment or disallowance by the Crown.

The Supreme Court established at Calcutta in 1774, and the similar courts established later at Madras and Bombay, formed the basis of the High Courts of Judicature established in India by Royal letters patent in 1861, in which were incorporated the separate courts of appeal maintained by the Company from the days of Warren Hastings.

The executive council in Bengal was reconstituted by Pitt's Act of 1784. The number of members was reduced from four to three, of whom one was to be the Commander-in-Chief; the other two were to be covenanted servants of the Company. Councils of the same pattern were established in Madras and Bombay. After this, there are no important changes in the constitution of the executive government in India until the Act renewing the charter of the East India Company in 1833. This Act provided for the addition to the Governor-General's Council of a fourth or Law Member, who was not to be one of the Company's servants. Macaulay was the first holder of this office. This Charter Act contained the famous clause, whereby it was enacted that 'no native shall by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the Company'.

The most profound change made by the Charter Act of 1833, however, was the centralization of government in India—the effects of which, though the system has been gradually modified, have been felt ever since. Up to this time, the control exercised by the Governor-General of Bengal over the two minor presidencies had been very slight, and was limited (in the phraseology of Pitt's Act of 1784) to 'all such points as relate to any transactions with the country powers, or to war or peace, or to the application of the revenues or forces of such presidencies in time of war'. This was now completely changed. The financial system was completely centralized; and it was not until the reforms initiated by Lord Mayo's government in 1870–1 that the local administrations again enjoyed any independent resources

whatever. The legislative powers formerly exercised by the governments of Madras and Bombay were taken away from them, and were not restored until 1861. It was originally intended to abolish the council form of government altogether in the subordinate presidencies. The councils were retained, however; but powers having been given under the Act to reduce the number of members, the number was reduced from three to two. The Governor-General of Bengal was now designated the Governor-General of India; and his government was known, for the first time, as the Government of India.

One of the main reasons for concentrating legislative powers in the hands of the central government, and thus securing uniformity of legislation throughout British India, was the apprehension felt as to the outcome of the policy of freely admitting Europeans into India—private traders, missionaries, and planters. The admission of Europeans under a strict system of licences had been permitted since 1813, when the Company's monopoly of the foreign trade of the country was abolished. With the abolition of all the Company's commercial undertakings in 1833, a much more liberal policy was adopted; and it was seriously feared that the presence in the country of a large number of Europeans, independent of official control, would lead to trouble, unless it were carefully watched and kept in check by a strong central government, armed with all the necessary legislative powers.

In the addition to the Governor-General's Council of a Law Member we have the beginning of the gradual enlargement of that council for legislative purposes. It was not until 1853 that the Law Member became entitled to sit and vote at executive meetings of the council; and originally he was an 'additional' member, for legislative business only. The legislative powers of the Governor-General in Council were now expressly defined; and the laws made under the Charter Act of 1833 were known for the first time as Acts, taking the place of the former 'regulations'.

The first legislative council in India was established by the Charter Act of 1853, being a further enlargement of the

Governor-General's Council for legislative purposes. Along with the Governor-General and the members of his executive council (the Commander-in-Chief and the four 'ordinary' members) there sat the following 'additional' or legislative members, viz. :

> The Chief Justice of Bengal.
> A puisne judge of the Bengal Supreme Court.
> Four covenanted civil servants, representing Bengal, Madras, Bombay, and the North-Western Provinces; whose duty it was also 'to supply information to the Governor-General and his Council in their executive capacity'.

The sittings of the legislative council were public; and its proceedings were published. In fact, it conducted itself like a miniature parliament. The Governor-General was given a veto over legislation.

The legislative council so constituted was, it will be observed, wholly made up of officials; and no native of India had a seat. Sir Charles Wood, President of the Board of Control, observed in the House of Commons when introducing his proposals, that 'it would not be desirable to place natives in the council'. An opposite view prevailed after the Sepoy rebellion of 1857; and when in 1861, three years after the transfer of India to the Crown, the legislative council was reconstituted, a number of seats were given to non-officials, including natives of India. To Lord Canning, who guided India through the dark days of the Mutiny, and was nicknamed 'Clemency' Canning on account of his efforts to reap peace instead of bitterness from that ever tragic episode, must be given the credit for this new and liberal departure in British policy in India; and by his hands may thus be said to have been sown the first seeds of representative institutions in British India.

The Indian Councils Act of 1861 doubled the number of 'additional' or legislative members of the Governor-General's Council, and of these half were to be non-officials. The same Act restored legislative powers to Madras and Bombay, creating legislative councils of a similar type for those

presidencies. The Governor-General was directed to establish a legislative council for Bengal; and legislative councils were subsequently established for the North-Western Provinces in 1886 and for the Punjab in 1897. In addition to the assent of the Governor or Lieutenant-Governor, the subsequent assent of the Governor-General was required for all Acts of a local legislature; and all such Acts, together with Acts of the Governor-General's legislative council, were subject to the disallowance of the Crown, at the instance of the Secretary of State for India in Council. Subject to the provision that certain measures might be introduced into the central or a local legislature only with the previous sanction of the Governor-General (an unusual and important limitation), the widest possible powers were given to the new legislative bodies, the central and the local legislatures enjoying concurrent powers of legislation. The new councils were strictly limited, however, to legislative functions. The first Indian legislative council, established by the Act of 1853, had 'modelled its procedure on that of Parliament, and had shown what was considered an inconvenient degree of independence by asking questions as to, and discussing the propriety of, measures of the executive government'.[1] In his speech in the House of Commons, introducing the proposals of 1861, the Secretary of State for India, Sir Charles Wood, declared that the government 'had no intention of doing anything to make the council a debating society'.

Powers were given to the Governor-General by the Act of 1861, in cases of emergency, to make ordinances having, for a period not exceeding six months, the force of law. An Act of 1870 gave the Governor-General in Council power to make regulations having the force of law for backward tracts, scheduled as such by resolution of the Secretary of State for India in Council, such regulations being drafted by the local administration concerned. These statutes may be regarded as supplementary to the Act of 1861, which created the normal machinery of legislation for British India.

[1] Cf. Ilbert, *op. cit.*, p. 100.

The Indian Councils Act of 1892 was responsible for a number of notable changes. The Governor-General's legislative council was reconstituted as follows:

The Governor-General.
6 (or 7) members of the executive council.
6 additional members, being nominated officials (also the Lieutenant-Governor of Bengal, *ex officio*).
6 additional members, being nominated non-officials.
5 additional members, being non-officials 'recommended for nomination as additional members', one being 'elected' in this fashion by the non-official members of each of the four provincial legislative councils, and one by the Calcutta Chamber of Commerce.

Not only was the non-official element in the council increased, but it was placed for the first time, albeit in a timid and roundabout way, on an elective basis. The Act further enlarged the functions of the council, which, in addition to purely legislative business, was given the opportunity of discussing the budget, or annual statement of revenue and expenditure, and the liberty of asking questions of members of the executive. Corresponding changes were made in the size, composition, and functions of the provincial legislative councils.

The reforms of this year were initiated by Lord Dufferin, who towards the end of his Viceroyalty appointed a strong committee of his cabinet to examine the whole subject. Lord Dufferin himself left India before the exceedingly liberal scheme of reforms put forward by this committee could materialize.[1]

The next stage in the development of representative institutions in British India is reached in 1909, the generously conceived reforms of that year being associated with the name of Lord Morley of Blackburn, Secretary of State for India in the Liberal government which came into power in December 1905. The Indian Councils Act, which received the Royal assent on the 25th May 1909, was the outcome of discussion and correspondence extending over three years, in the course of which the views of all sections of the Indian public as well of those of the local administrations were very fully

[1] Cf. *Joint Report*, pars. 66–8.

elicited.[1] There was some idea, first of all, of securing the closer association aimed at, between the executive government and the more stable elements in Indian society, by the creation of Councils of Notables, to be attached to the central and local governments in an advisory capacity; but this idea was afterwards abandoned in favour of the plan of remodelling the existing legislative councils, and enlarging their functions. The elective element in the councils was very considerably increased, and was unequivocally recognized as such. Under the regulations (supplementary to the Act) of November 1909, as revised in 1912, the Indian (or Governor-General's) Legislative Council was constituted as follows:

37 officials	The Governor-General. 7 members of the executive council. 28 additional members, being nominated officials, of whom one was nominated as a representative of each of the nine local governments (also the Chief Commissioner of the province of Delhi *or* the Lieutenant-Governor of the Punjab, *ex officio*).
32 non-officials	5 additional members, being nominated non-officials. 27 additional members, being elected non-officials.

Total number of members 69.

The electorates constituted for the Indian Legislative Council were the following:

(*a*) The non-official members of the provincial legislative councils, electing 13 members in all.

(*b*) The larger landholders in six provinces; one member each.

(*c*) Muhammadans of approved standing in six provinces; one member each.

(*d*) Chambers of Commerce (European), Calcutta and Bombay; one member each.

The provincial legislative councils were reconstituted on the same general plan; and in 1912 a legislative council was established in each of the two smaller provinces of Assam and the Central Provinces. The size of these councils varied, from

[1] Cf. Ilbert, *op. cit.*, pp. 108–10.

a total membership ranging from 45 to 54 in the larger, to one ranging from 26 to 27 in the smaller or less advanced provinces.[1] In the Indian Legislative Council, in order to secure a safe passage for essential Government measures, provision was made for an official majority. Lord Morley laid it down that the Governor-General's Council 'in its legislative, as well as its executive character, should continue to be so constituted as to ensure its constant and uninterrupted power to fulfil the constitutional obligations that it owes, and must always owe, to His Majesty's Government and to the Imperial Parliament'. In the provincial legislative councils, on the other hand, it was not thought necessary to retain this safeguard. In all the provinces (except Burma) the non-official members, including both nominated and elected members, were in a small majority; while in Bengal the elected members alone were in a majority. In point of fact, however, the official *bloc* was strong enough to dominate the voting power in all the councils.

The composition of the Bengal Legislative Council, which may be used to illustrate the composition of the provincial councils generally, was as follows:

The Governor.

20–2 officials:
- 3 members of the executive council.
- 16–18 additional members, being nominated officials.

32–4 non-officials:
- 4–6 additional members, being nominated non-officials.
- 28 additional members, being non-officials elected—
  - 13–14 by the non-official members of certain local authorities.
  - 4–5 by the larger landholders of the province.
  - 5 by Muhammadans of standing in the province.
  - 4 by trade and commercial associations.
  - 1 by Calcutta University.

Total number of members 54.

[1] The total number of members in the Burma Legislative Council (first created in 1897) was 18; and there were no elected members.

It will be observed that, although a substantial elective element was introduced both in the central and provincial legislative councils, no attempt was made to establish (other than for Muhammadans) any system of direct popular representation. Constituencies for the representation of a number of special interests were formed; but, apart from these, recourse was had to indirect election—the non-official members of the municipalities and district boards and other local authorities being formed into constituencies for the purpose of elections to the provincial councils, and the non-official members of the latter for the purpose of elections to the central council. It cannot be said that the Morley councils possessed anything, in consequence, but a partially representative character.

The position of the Muhammadans gave rise to much anxious deliberation. On the one hand, Lord Morley was most reluctant to endorse the principle of a separate electorate for Muhammadans, serving as this was bound to do, to stereotype the differences between the two communities, Hindu and Muhammadan; on the other, the title of the Muhammadan minority to adequate representation in the new councils was unimpeachable. Eventually, since the leaders of the Muhammadans would be satisfied with nothing less, a separate electorate was conceded—a decision fraught with grave consequences for the future of representative institutions in India.

Turning now to the functions of the Morley councils, we find that their powers were enlarged in the following directions. The Act of 1892 provided for the discussion of the annual budget, and nothing more; Lord Morley's Act allowed resolutions to be moved in the council, advocating changes in the budget, before that measure was finally drafted, and allowed a vote of the council to be taken on those resolutions. The Act of 1892 provided for the asking of questions of which due notice had been given; Lord Morley's Act (or, more accurately, the rules framed under the Act) allowed the member asking the original question to put a supplementary question in council—an additional privilege of no

small value. Finally, the Act gave to private members the important right of moving resolutions in the council in regard to matters of general public interest, and of having such resolutions put to the vote.

The attempt to enlarge upon these lines the administrative functions of the councils was not conspicuously successful; and it was a mistake, as the event proved, to attempt to combine with legislative powers, which were real, administrative powers which were somewhat shadowy. For no resolution, even if adopted by the council, was anything but a recommendation to the government. If approved by the government, it was accepted, and often acted upon; if opposed, it could be defeated in council, if pressed to a division, by the votes of the official *bloc*.[1] The presence of this official *bloc*, indeed, exercised from the beginning a somewhat paralysing influence over the deliberations of the councils, clothing them as it did with an air of unreality. From the beginning also there was engendered friction between the government and the councils. The government chafed at the constant raking criticism to which they were subjected by the non-official elements in the councils; the councils chafed at their powerlessness to exercise any effective control over the administration.

That any such control should be exercised by the reformed councils was, indeed, never contemplated. Lord Morley was most emphatic on this point. 'If it could be said', he declared, 'that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I, for one, would have nothing at all to do with it.' Yet it is difficult to see how the reformed councils, lacking any effective administrative control, were to justify themselves even as advisory bodies. This contradiction is inherent, indeed, in the very conception of how these bodies were to function. Sober, well-considered, constructive advice is likely to be offered by those who are, partially at least, responsible for the

[1] In the Bengal Council, in one or two instances, a vote adverse to the government was recorded; but this was the rarest possible occurrence.

results which follow from adopting such advice and acting upon it, whereas advice offered by the irresponsible critic is almost inevitably of a different character. Advice, uninformed by a proper sense of responsibility, is usually marred by the evident desire of the critic to embarrass and to find fault, rather than to be helpful and to co-operate; and so it proved, too often, with the resolutions moved in the Morley councils and the debates which accompanied them. Indeed, looking back, it is difficult to avoid the conclusion that the problem of enlarging the administrative functions of the councils was misconceived; and at the next (the present) stage in India's political development, as we shall see later, a new start had to be made, and the councils had to be reconstructed on the basis which Lord Morley had rejected—the basis, that is to say, on which all parliamentary institutions rest.

When all is said, however, it must never be forgotten that, during the ten years of their existence, the Morley councils afforded an invaluable training-ground, in which both Indian political leaders and British officials learned to accustom themselves to parliamentary usages and the parliamentary standpoint; and in this respect, if in no other, the councils amply justified their existence.

At this point we must note certain changes in the constitution of the executive government in India. A fifth ordinary member was added to the Governor-General's executive council, or cabinet, in 1861; and in 1874 power was given to increase the number to six. The sixth became a permanent member, with the creation of a separate portfolio for Education in 1910. Of these six members (the Commander-in-Chief continuing to be an extraordinary member), three were to be senior members of the Indian Civil Service, and one (the Law Member) was to be a barrister or advocate of at least five years' standing. The first appointment of a native of India to the Viceroy's cabinet was made, when, at the instance of Lord Morley, Mr. Sinha (now Lord Sinha, the first Governor of Bihar and Orissa) was appointed Law Member in March 1909, shortly before the coming into operation of the

reforms of that year; and since that time there has always been an Indian member.[1]

The Indian Councils Act of 1909 gave power to raise the number of members of the Governor's executive council in Madras and in Bombay to four as a maximum, of whom two were to be senior members of the Indian Civil Service. A native of India was in that year appointed to one of the remaining portfolios; and this practice has since been followed in every province having an executive council. The same Act gave power to create an executive council for Bengal, and thereafter, with the approval of both Houses of Parliament, for any other province. An executive council was constituted next year in Bengal. In 1912 a number of far-reaching administrative changes were carried out. The Imperial capital, the seat of the Government of India, was moved from Calcutta to Delhi. Simultaneously, a repartition was made, in supersession of the partition carried out by Lord Curzon's Government in 1905, of the vastly overgrown province of Bengal, Bihar, and Orissa. Lord Curzon had made a separate province, under a Lieutenant-Governor, of Eastern Bengal (with Assam). This was now reunited with Bengal under a full Governor, in place of a Lieutenant-Governor; Assam was placed once more under a Chief Commissioner; and a separate province, under a Lieutenant-Governor assisted by an executive council, was formed for Bihar and Orissa. A proposal made in 1915, to create an executive council for the United Provinces, was thrown out by the House of Lords, a powerful party in that House preferring, on grounds of administrative efficiency, the more autocratic single-member executive.

It remains to outline the constitutional development of what is known as the Home government. Lord North's Regulating Act of 1773 left this undivided in the hands of the Court of Directors, a body of 24 members, elected and, to some extent, controlled by the Court of Proprietors, of which all the principal shareholders in the East India Company were members. Pitt's Act of 1784 made drastic changes,

[1] Under the recent reforms the number has been increased to three.

however. The control over the Court of Directors, formerly exercised by the Court of Proprietors, was transferred to a Board of Control representing Parliament. The Board had access to all records and correspondence of the Court of Directors, could amend or veto any action which they proposed to take, and could issue independent orders through the Court, or a small secret committee of the Court. The Board, which was styled the Commissioners for the Affairs of India, consisted of a President and five other Privy Councillors. In practice, the President of the Board of Control exercised all the powers vested in the Board, which existed only in name.

Thus arose the famous 'double government', which functioned until 1858. The authority of the Crown was strengthened by the Charter Act of 1853. The membership of the Court of Directors was reduced from 24 members to 18, of whom one-third were to be nominated by the Crown. In 1858, on the complete transfer of India to the Crown, the Home government was reconstituted on its present basis.[1] A Secretary of State for India took the place of the President of the Board of Control; and a council of 15 members, seven of whom were elected in the first instance by the latter body, took the place of the Court of Directors.

In all matters involving appointments in India, or expenditure out of Indian revenues, the Secretary of State is constitutionally bound to abide by the majority vote of his Council. To this extent, the authority of Parliament over Indian affairs as represented by the Secretary of State for India is theoretically limited; but its authority has never been challenged in practice. In all other matters the Council is advisory only; but the Secretary of State, if he rejects its advice, must record his reasons for doing so. The composition of the India Council has been modified from time to time. Previous to the most recent changes, made under the Government of India Act of 1919, it consisted of not less than 10 or more than 14 members, holding office normally for 7 years, of whom 9 were required

[1] The East India Company was formally dissolved on the 1st June 1874.

to have recently served or resided in India[1] for at least 10 years. A member may be removed from his office on an address of both Houses of Parliament. No member of the India Council can sit in Parliament. Since 1907 two, and more recently three, natives of India have had seats in the Council.

[1] Or rather (previous to the Act of 1919), in British India.

CHAPTER III

THE GESTATION OF THE REFORMS (1914–19)

THE Morley reforms of 1909, of which some account has been given in the last chapter, disappointed, after a very short trial, the hopes which they had raised. British officials had hoped that, in the reformed councils, they would have advisory bodies, representative of the more conservative elements in Indian public life, whose goodwill would be enlisted because they were freely consulted, whose advice would be valuable, and whose support would strengthen the hands of the government.[1] They were disappointed. Indian politicians, whether of the moderate or more advanced school, hoped that, in the councils, they would be able to exercise effective, if indirect, control over the administration. They also were disappointed. The Morley councils were designed as advisory bodies, and as advisory bodies might have functioned very usefully. They were not designed as parliamentary bodies, and could not usefully function as such; but it was in the light of parliamentary bodies that Indian public opinion persisted in regarding them. From the beginning the non-official members constituted themselves an 'opposition' party, the official members, from this point of view, constituting an equally solid Government party. In the Indian Legislative Council Mr. Gokhale, the then outstanding figure in Indian public life, was spoken of as 'leader of the opposition'. Since the will of the 'opposition' could not, and in a parliamentary sense was never intended to prevail, the criticism against all the acts and policy of the government grew steadily less friendly and more irresponsible. The government was placed, in consequence, in a most unenviable position. Far from receiving the constructive advice and the moral support it had looked for, and which would assuredly have

[1] Cf. *Joint Report*, para. 73.

made for greater administrative efficiency, it met with little but opposition and obstruction. In challenging the authority of the government, this organized opposition seriously impaired the former's efficiency; while, in the efforts which it made to placate its critics, the government became halting and vacillating in its policy.[1]

Of the situation created by the War, and of the new place which India at that critical time won for herself among the nations, more especially among the nations which own allegiance to the British Crown, I have spoken elsewhere. In the present chapter I propose to deal with the more immediate reactions of the War on India's political life, and on the movement towards constitutional reform. I have dwelt above on the unpromising results which attended the earlier Morley reforms, partly because the political situation to which they gave rise is our starting-point, but also because they were adopted by many as the constitutional basis for a further advance; and it is important that we should realize their inherently defective character for this purpose.

Of the numerous Reform schemes, the earliest was that prepared a few months after the outbreak of war by the eminent Indian statesman, Mr. Gokhale, at the instance of Lord Willingdon, then Governor of Bombay.[2] In his opening paragraph, which I quote below, Mr. Gokhale with true insight went right to the heart of the problem.

'The grant of provincial autonomy, foreshadowed in the Delhi dispatch,[3] 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 connexion with the internal administration of the country, and substituting on the other, in place

[1] Cf. *Joint Report*, para. 81.

[2] Mr. Gokhale's lamented death, early in 1915, deprived India, just when his country needed it most, of the wise judgement and sober counsel which he was pre-eminently fitted to give. His draft scheme of reforms was published in August 1917.

[3] Cf. *supra*, p. 28.

of the control so removed, the control of the representatives of taxpayers through Provincial Legislative Councils.'

By provincial autonomy Mr. Gokhale rightly understood the control of provincial affairs by a provincial legislature; but this control he sought to establish on the basis of the existing system of administration. Not only did he take the provincial legislative council, more or less as he found it, but the provincial executive also. Four-fifths of the legislative council were to be elected members, it is true; but the method of election was to be that of the Morley councils. The need for creating popular electorates, in order to provide a new and more fundamentally democratic basis for a representative body exercising the powers which Mr. Gokhale proposed to entrust to it, was overlooked. The executive council was to be enlarged, and three of its six members were to be Indians. There was no idea, however, of making any part of the provincial government responsible to the provincial legislature, or of making it anything but a body appointed by the Crown and irremovable. 'The members of the executive government shall not', Mr. Gokhale wrote, 'depend, individually or collectively, on the support of a majority of the council for holding their offices.' Yet, for genuine provincial autonomy, it is clear that the provincial executive, no less than the legislature, must reflect the popular will. Mr. Gokhale, no doubt, felt that it would be altogether too hazardous an experiment to reconstitute the provincial government in such a way as to weaken its authority, or to hand over the actual reins of administration to inexperienced hands. Hence he fell back on the existing government, modified, as it had already been modified to some extent by Lord Morley, by the introduction of a non-official Indian element. Now this type of government, while suitable enough to what may be described as limited autocracy, is quite unsuitable to anything like genuine democracy. Mr. Gokhale was himself conscious of the anomaly, which he defended by appealing to the example of Germany. 'The relations between the executive government and the legislative council so constituted', he wrote, 'should be roughly

similar to those between the Imperial Government and the Reichstag in Germany.'[1] A closer analogy, and one as to which the verdict of experience is unanimous, would have been that of a British colony under what is known as 'representative' government, when a colonial legislature exercising full control over legislation and finance is combined with an executive appointed by the Crown and irremovable. As President Lowell says, in a passage which I have already quoted:[2] 'A legislature elected by the people, coupled with a Governor appointed by a distant power, is a contrivance for fomenting dissensions and making them perpetual.'

Mr. Gokhale, indeed, recognized that, under such a system, it would be necessary to give the central government, the Government of India, a reserve power in connexion with provincial administration, to be exercised in emergencies. For this purpose he proposed to maintain in the Indian legislature concurrent powers in regard to provincial legislation, and an official (Government) majority. Thus 'if a provincial legislative council', he wrote, '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 over the head of the province.'

On the other hand, he introduced a new and most dangerous constitutional principle when he proposed that, along with resolutions in connexion with the Budget, resolutions of the provincial legislature on questions of general administration should be binding on the government, unless vetoed by the Governor. For this there is no precedent, even in countries where the government holds office at the pleasure of the legislature; and it means an interference on the part of the legislative body with the details of administration which no self-respecting government, however constituted, would tolerate for a moment. This idea, once more, is borrowed from the Morley scheme of reforms; and it would, otherwise,

[1] 'In Germany', pertinently remark the authors of the *Joint Report* (para. 166), 'the system [of an irremovable executive and an elective assembly] appears to us only to be possible because military obedience rather than political instinct is the guiding principle of German political life.' Cf. also Curtis, *Dyarchy*, p. 390.

[2] Cf. *supra*, p. 47, foot-note.

never have been heard of. One of the principal features of that scheme was the power which it gave the legislative councils, in their capacity of advisory bodies, to move and vote upon resolutions relating to matters of general public interest. Being unable to carry these resolutions, the non-official members, who had never accepted the rôle of mere advisers, naturally chafed at their powerlessness to control the administration through their agency. Hence it was argued, to give the council the desired control over the executive, all that was necessary was to secure a popular majority and make the resolutions binding.

Next in date to Mr. Gokhale's, is the Reform scheme prepared towards the end of 1915 by Sir William Duke, who had been Lieutenant-Governor of Bengal, and was at this time a member of the council of the Secretary of State for India. The Duke Memorandum, as Sir William Duke's draft in the form which it finally assumed has been called, was written at the suggestion of Mr. Lionel Curtis of the *Round Table*, an organization which Mr. Curtis was mainly instrumental in founding, in 1910, for the furtherance of closer union between all parts of the British Empire by means of a systematic interchange of views, by the formation of study groups in the different colonies and in India, and by the publication of a quarterly journal dealing with Imperial affairs. In his recent work, *Dyarchy*, Mr. Curtis has given an interesting account of the genesis of this early and most valuable contribution to the problem of Indian constitutional reform, and of how it was revised in the light of further discussion of the problem by Mr. Curtis and his friends. Among the other papers collected in this volume, he has printed the Memorandum in its revised and final form, under the sub-title, 'An experiment in the application of the principle of dyarchy to the government of Bengal'.

This sub-title accurately describes the character of the essay. The position taken up by the author is fairly summarized in the two extracts given below. The first of these expresses in unmistakable terms his verdict on schemes like Mr. Gokhale's; the second leads immediately to the

constitutional changes actually carried into effect last year (1921). The Duke Memorandum, as Mr. Curtis says,[1] was 'the first paper in which the principle underlying the present constitution of India was reduced to tangible shape'.

'It will be well to consider first what changes can be made within the frame of government as it exists at present. Obviously there is very little room for change within that frame because comparatively small changes would result in transferring the reality of power in Provincial affairs *en bloc* from the Governor and his permanent officials to the elected majority of the Council, in fact in revolution.'

'An alternative which has been suggested is that for departments [of the provincial government] in which it can be done safely some form of responsible as distinct from merely representative government should be instituted forthwith, while the remaining departments would continue to be administered under the present system, the functions of constitutional ruler in the one case and of actual administrator in the other being united in the person of the Governor. . . . The suggestion is that for such of the departments of government as were made over to it, the [provincial] legislature should be really supreme, and should administer by an executive chosen from its own members and responsible to it.'

Lord Chelmsford, who succeeded Lord Hardinge as Viceroy in April 1916, having expressed a desire to be acquainted with the conclusions arrived at by the *Round Table* group in their study of the Indian problem, a copy of the Duke Memorandum was dispatched to him in May. Even before he went out to India as Viceroy, we are told,[2] Lord Chelmsford had become convinced in his own mind that responsible government, in the sense in which this is understood in the self-governing colonies, was the only possible goal of constitutional advance, and that it ought so to be declared. There can be little doubt that the Duke Memorandum did much to strengthen Lord Chelmsford in this opinion, indicating as it did in terms of practical administration how an immediate advance along these lines was possible, and possessing as it did the high authority of a man in Sir William Duke's position. In the autumn of 1917, when the authoritative statement of policy had at last been made, and Mr. Montagu's visit to

[1] Cf. *Dyarchy*, p. xxvii.

[2] Cf. *ibid.*, p. xxvi.

India had been announced, the Government of India, in calling upon the local administrations for a preliminary expression of their views, circulated for their information, among other papers, copies of the Duke Memorandum.

The next scheme which merits notice is that contained in the Memorandum of the Nineteen, as it is called. This was a memorial submitted to the Viceroy in September 1916 by nineteen non-official Indian members of the Indian Legislative Council. It was in the nature of a manifesto on the part of a number of India's foremost political leaders; and its appearance at this juncture was, no doubt, prompted by the knowledge that behind the scenes an official scheme was in preparation. 'We feel sure', say the memorialists, 'that the government is alive to the situation and is contemplating measures of reform in the administration of the country. We feel that we should avail ourselves of this opportunity to respectfully offer to Government our humble suggestions as to the lines on which these reforms should proceed.' About the same time, the first Indian Home Rule League was founded at Madras, the moving spirit being Mrs. Annie Besant.[1] In December 1916, at its annual sessions in Lucknow, the Indian National Congress and the All-India Muslim League, a somewhat similar organization, adopted a joint scheme, which followed very closely the proposals contained in the Memorandum of the Nineteen. This became known as the Congress-League scheme.

In one respect the Congress-League scheme shows a great advance on Mr. Gokhale's. In resolving that members of the reformed provincial legislatures 'should be elected directly by the people on as broad a franchise as possible', it was recognized that a new and thoroughly democratic basis was required for a legislative body to which it was proposed to give full parliamentary powers. In other respects, however, the Congress-League scheme succeeded only in more sharply accentuating the radically defective character of any attempt to graft parliamentary government upon a political system

[1] Mrs. Besant was elected President of the Indian National Congress at its annual session in Calcutta in December 1917.

which, as Lord Morley himself declared, had nothing whatever in common with it.

Mr. Gokhale had proposed that resolutions of the legislature should be binding on the executive, subject to the Governor's veto. The Congress went further, and demanded that a resolution reaffirmed by the legislature after an interval of not less than one year should be binding on the executive absolutely. If it was objectionable, in Mr. Gokhale's proposal, that all the odium of rendering inoperative a resolution of which the executive disapproved should fall on the Governor, it was still more objectionable to tie the hands of the Governor himself. This was to give to a resolution of the legislature a character even more authoritative than that of legislation, to which as representing the Crown the Governor must always be a party. More than this, it made the position of the executive an impossible one. No government, as the authors of the *Joint Report*, in criticizing this feature of the Congress-League scheme, point out, can consent to remain in office and to put into effect orders of which it disapproves.[1] An executive which can be made and unmade by the legislature is one thing; an executive which is irremovable, and yet can be compelled to conduct the administration according to the orders of the legislature, is quite another.

Mr. Gokhale, it will be remembered, had placed reserve powers in the hands of the Government of India by retaining the official majority in the all-India legislature, and by giving that body concurrent jurisdiction in the field of provincial legislation. The Congress swept all such safeguards aside. It demanded a four-fifths majority of elected members in the central legislature, and limited the jurisdiction of that body to all-India matters. Excepting only defence and foreign affairs, it gave full parliamentary control of legislation and finance to the central legislature; and, in all matters relating to the administration of the country as a whole, it made the resolutions of that body binding, not only on the Government of India, but presumably also on the local governments as well.

The most characteristic feature of the Congress-League scheme, however, is the proposal that the Indian members of

[1] Cf. *Joint Report*, para. 170.

the executive council associated with the Governor or Governor-General, besides constituting one-half of the total number in each case, should be elected by the elected members of the legislature concerned. The election of an executive by the legislative body, though objectionable in theory,[1] is not without precedent, and works admirably in Switzerland; but it is obvious that a government, half of whose members are appointed by the Crown while the other half is popularly elected, is a hopelessly hybrid body.[2] The position of an irremovable executive confronted by an all-powerful legislature is serious enough; the same executive, divided against itself, is in a more parlous case still. This very curious proposal is one more instance of the unfortunate legacy bequeathed by the Morley reforms, and is interesting for that reason. Lord Morley had introduced an Indian element into the Government of India and the Provincial Governments, so that Indian opinion and Indian advice might have some weight in the executive, in addition to that which it exercised in the legislative organ of government. The framers of the Congress-League scheme aimed at converting advice into control. For this it was not sufficient, as suggested by Mr. Gokhale,[3] to make the Indian element in the government numerically equal to the British, so long as the Governor (or Governor-General) remained at liberty to choose 'safe' men of neutral views, who could be overawed into acquiescing in the official when this was opposed to the 'popular' view; it was necessary to take the power of choice out of the hands of the official executive. Hence the proposal that the Indian members should be elected by the legislature.[4]

Eight months after the publication of the Congress-League

[1] Cf. Mill, *Representative Government*, chap. xiv.

[2] *Primâ facie*, the reformed provincial government, based upon dyarchy, is an equally hybrid body. It is not so really, however, since each half of the government is homogeneous in itself—one half consisting of an irremovable executive, the other being directly responsible to the legislature; and each has its separate functions.

[3] In the case of the Provincial Governments. In the case of the Government of India, Mr. Gokhale proposed that one-third of the members should be Indian.

[4] The Congress-League scheme is printed in Curtis, *Dyarchy*, pp. 90–5.

scheme, Mr. Montagu made the first authoritative official pronouncement on the subject of constitutional reform. In the emphasis which it laid on 'responsible' government, this declaration cut right across the Congress-League scheme, but, in the absence of any other definite body of proposals, the latter continued to monopolize the field.

At the end of November 1917, however, a memorial was addressed to the Viceroy, Lord Chelmsford, and the Secretary of State for India, Mr. Montagu, then about to enter on the inquiry which materialized seven months later in the famous *Joint Report*. This became known as the Joint Address, being endorsed by the signatures of a number of the leading business men and other members of the European community in Calcutta, and of many influential Indians belonging to the Moderate wing of the Nationalist party in Bengal. For some of the latter, acceptance of the scheme outlined in the Joint Address virtually involved their repudiation of the Congress-League scheme; but the great merit of the former, in the eyes of all who subscribed to it, was that it afforded a common meeting-ground for men of good-will, whatever their race or political preconceptions, who agreed in accepting Mr. Montagu's pronouncement of the 20th August as authoritative, and desired to place on record, at the earliest available opportunity, some definite and workable scheme for a constitutional advance on the lines therein laid down.

The first informal conferences, which eventually resulted in the Joint Address, were held in the autumn of 1917 at the house of Sir Satyendranath (now Lord) Sinha in Darjeeling, the summer head-quarters of the Government of Bengal, of which Lord Sinha was at that time a member. Mr. Lionel Curtis, who had been for some time in the country, studying India's political problems at first hand, was invited to take part in the deliberations, and later undertook to draft the memorial on the basis of twelve points settled and agreed upon among the signatories. For the details of the scheme Mr. Curtis was responsible.[1]

The scheme, in outline, was as follows. In each of the great

[1] *Dyarchy*, pp. xxxvii–viii, 326–56.

provinces of British India suitable areas of workable size were to be defined for the purpose; and State governments were to be brought into being of a new type, the State executive consisting of ministers chosen from the majority party in the State assembly (based on a popular electorate) and responsible to it. The constitutional head of the State government was to be a Chief Commissioner. Such departments as Education, Public Works, Agriculture, Local Self-Government, were to be transferred, in whole or in part, to the new State governments; and at the end of seven years a parliamentary commission was to report whether the transfer of further powers could safely and usefully be made. Each State government was to have a share of the provincial revenues assigned to it; and there was to be a specific devolution to the State assemblies on the part of the Provincial government of taxing powers and of legislative powers generally. The existing Provincial governments were to continue, meantime, to administer the reserved departments such as Land Revenue, Courts of Justice, Police. The provincial legislative council, consisting mainly of delegations from the various State assemblies, was to function as an advisory body only, since it was in the sphere of the State governments, and in the State assemblies, that parliamentary powers and popular control over finance and legislation were to be developed.

Looking to the more distant future, it was contemplated that, as soon as the various State governments had proved themselves capable of exercising all the powers, including the powers essential to the maintenance of law and order, hitherto shared between the Provincial government and themselves, the time would have arrived for the Provincial government to divest itself of its remaining functions and to abdicate. On the other hand, in the event of any serious administrative breakdown, the Provincial government was to possess the right to intervene in the sphere of State government, just as the Government of India has a right to intervene in the administration of a Native State in similar circumstances.

Finally, as soon as the transfer of powers to the responsible

State governments had been completed throughout the greater part of British India, the time would have arrived to devise a constitution under which the Government of India itself should be made responsible to an all-India parliament and electorate.

It will be seen that the scheme contained in the Joint Address, like that of the Duke Memorandum,* is based on the principle of dyarchy. Indeed, starting from the same premisses, no other basis of reform is possible. These premisses may be stated as follows: (1) That some form of 'responsible' government is to be introduced immediately; (2) that the first steps towards 'responsible' government must be taken in the sphere of Provincial government; (3) that, even in this sphere, complete 'responsible' government cannot, with safety or any real hope of success, be granted immediately. It will be seen, however, that the principle is applied in a different way. The dyarchy foreshadowed by the Duke Memorandum is based on a division of functions merely; that contemplated by the Joint Address is based on a division of areas as well. While the principle of division adopted in the former involves only the breaking up of the existing provincial government into two parts, that adopted in the latter involves the creation of entirely new and separate governments.

Now there is a good deal of force in the contention that some, at least, of the major provinces are unmanageably large and overgrown; and if this is answerable even at present, when the political system is still somewhat rudimentary, for a certain loss of administrative efficiency, much more serious will be the effects, with the development of India's political life, and the multiplication of the activities of government. The political map of India is, further, disfigured by certain anomalies which are eloquent of the need for territorial readjustments. There is, for example, the unnatural union of Sind, with its predominantly Muhammadan population and its distinctive language, history, and traditions, with the province of Bombay; there is the equally fortuitous association of Orissa with Bihar, and of Berar with the

Central Provinces. It is argued, accordingly, in the Joint Address that an essential preliminary to the introduction of responsible government is the task of selecting areas *capable* of genuine self-government on a parliamentary basis—areas, that is to say, which constitute homogeneous administrative units, in the sense of possessing a common history, and so far as possible community of race, language, and religion.

It is impossible to gainsay the truth of these contentions, or to shut one's eyes to the imperfections of the existing framework of India's political life. On purely theoretical grounds the scheme contained in the Joint Address is possibly the most satisfactory which could be devised. Indeed, the very merits of the scheme condemn it. To construct on a plan, which will square with the canons of abstract statesmanship, involves unfortunately drastic reconstruction; and the process of building up and building anew involves inevitably the process of pulling down. It is the process of pulling down which, on all practical considerations, is absolutely fatal in a country in which sentiment is so passionately conservative as it is in India. Let us apply the scheme, for instance, to Bengal. Those who remember the storm which raged as a result of Lord Curzon's partition of Bengal, who are acquainted with the convulsion of popular feeling attending the partitioning of a single district, will regard such a scheme as little short of madness. This is not all, however. Not only does the scheme recommended by the Joint Address involve the partitioning of every province in India, as a preliminary to the introduction of responsible government; it involves, besides, the destruction of cherished institutions. Round the provincial legislative council, as a nascent parliament, have centred the political hopes and dreams of two generations. In Bengal, ever since 1912, this council had the unique distinction of containing a majority of elected members. In the hands of this majority lay the sovereign law-making powers for the province. Yet, under the scheme we are considering, the Bengal council is stripped of its powers, and sinks its very identity in the several State assemblies of which it is the creature. The violence of the

opposition, the passionate indignation, aroused by Lord Curzon's attempt to reform (as his critics averred, to destroy) that cherished Bengali institution, the University of Calcutta, help us to form some faint idea of the reception there would have been in store for those who laid sacrilegious hands on the Bengal legislative council.

In the light of practical considerations such as these, the authors of the Montagu-Chelmsford Report, after giving it their most careful consideration, had no hesitation in rejecting the scheme put forward in the Joint Address. They urged, however, in the strongest terms, that it should be recognized as one of the earliest duties incumbent on the reformed provincial governments to explore the field, and to gauge the strength of popular feeling in regard to the readjustment of administrative areas, and the possible constitution, at any rate for areas so well defined as Orissa and Berar, of sub-provinces.[1] Special provision is made in Sect. 15 (1) of the (Reforms) Act of 1919 to facilitate the formation of sub-provinces, and the necessary devolution of administrative powers. The same section of the Act makes provision for the exclusion of 'backward tracts', and the adaptation of the administrative system to their special needs.

Coming now to the official scheme, contained in the masterly *Joint Report*, it is unnecessary to examine here the details of that scheme, since most of them form part of India's new constitution, which is the subject of a detailed examination in the next chapter. It will be instructive, however, in the light of the foregoing analysis of other and earlier schemes of reform, to note the lines on which the official proposals proceed. Briefly, they attempt to reconcile the ideals underlying the Congress-League scheme—ideals which originate, as we have seen, in the political hopes raised, but not satisfied, by the Morley reforms—with the pronouncement of the 20th August, and the essential pre-requisites of responsible government. The aim of the Congress was to make the reformed councils,

[1] Cf. *Joint Report*, para. 246. Similar recommendations are made by the Joint Select Committee in their comments on clause 15 of the (Reforms) Bill.

based on a broad electoral basis, all-powerful parliamentary bodies. Planned as the Congress had planned it, such a scheme could only have resulted in paralysing the administration by bringing about a complete constitutional deadlock. It was possible to avoid such a deadlock, however, on the one hand by giving the Governor (or Governor-General), as responsible head of the administration, the power in defined circumstances to override the legislature; on the other, by rejecting the proposal that the Indian members of the executive should be elected. This, reduced to its simplest terms, is the scheme known as that of the Five Heads of Provinces. This was a scheme drawn up, in January 1919, by the Lieutenant-Governors of the Punjab, the United Provinces, and Burma, and the Chief Commissioners of the Central Provinces and Assam; who, being convinced that dyarchy was dangerous and unworkable in practice, were invited by the Viceroy to formulate alternative proposals. The Five Heads of Provinces proposed that the provincial executive should consist of a Governor and an executive council, of which half the members were not only Indians, but Indians appointed from amongst the elected members of the legislature. The provincial legislature, reconstituted on democratic lines, was to exercise parliamentary powers of control over legislation and finance, subject only to the reserve powers vested in the Governor as responsible head of the administration. The authors of the *Joint Report* granted all this, but went still further; and proposed that in a certain limited field, and in regard to certain transferred departments, (*a*) the provincial legislature should possess virtually unlimited powers, and (*b*) the Indian ministers in charge of these departments should constitute a distinct branch of the provincial government, being not only appointed from amongst the elected members of the legislature, but being also responsible to the legislature in the full parliamentary sense of the term. Short of this, they contended, no genuine attempt was made to translate into fact the terms of the pronouncement of the 20th August.

The position taken up in the *Joint Report* is made clearer, if we contrast it with the attitude of those who interpreted

the terms of this pronouncement in a narrower and more uncompromising spirit. The Joint Address exemplifies this attitude. According to the scheme therein elaborated, only such elected bodies as have executives of their own responsible to them (the State assemblies and State ministries) are to enjoy parliamentary powers at all. As for the provincial government, which is in charge of the reserved departments, this from its very nature functions autocratically; and nothing is gained by disguising this fact. The provincial legislative council, according to this view, is to continue to function (as Lord Morley intended it to function) purely as an advisory body; and further, with the reduction of its official members to a numerically insignificant minority, it becomes incapable of exercising even legislative functions in a field of administration for which the provincial government is alone responsible.

To sum up, the authors of the *Joint Report*, unlike the framers of the Joint Address, favoured the retention of the existing framework of provincial government, and were prepared to go along with the Indian National Congress, in its desire to transform the Morley councils into real parliamentary bodies, as far as they safely could. Unlike the Five Heads of Provinces, on the other hand, they were resolved, again within the framework of the existing system, to effect a genuine if limited devolution of authority in favour of an Indian executive directly and fully responsible to an Indian legislature.

A curious survival from the era of the Morley reforms was the proposal to secure the passage of legislation, considered essential in the interests of the reserved departments, by constituting out of the reformed provincial legislatures, with their five-sevenths majority of elected members, Grand Committees on which there was to be a nominated majority. Exercising similar powers, and similarly constituted, was the Council of State in the Indian legislature. The Joint Select Committee, in their revision of the official Reforms scheme, as embodied in the Government of India Bill, 1919, eliminated the Grand Committees, and reconstituted the Council of State as a second or revising chamber, pure and simple. It was

considered very much better that the passage of essential legislation should be secured, when necessary, by the frank exercise on the part of the Governor (or Governor-General) of his special powers, rather than that an elaborate constitutional sham should be set up to disguise the exercise of such powers. It was also thought most undesirable to perpetuate, in any shape or form, the old and vicious system of the official *bloc*.

Other changes, designed to improve the status and powers of the legislative bodies in India, were made by the Joint Select Committee. One small but highly significant change was the substitution of an elected (for the first four years, an appointed) president in place of an official president in the person of the Governor. Another was the granting to the Legislative Assembly, the lower house of the Indian legislature, of substantial parliamentary powers of control over expenditure.

Something ought to be said, in conclusion, of the reception accorded in India to the official Reforms scheme. European opinion, even when liberally disposed to Indian aspirations, was at first intensely critical of that part of the proposals which depended on the application of the novel and untried principle of dyarchy, and would have preferred the scheme advocated by the Five Heads of Provinces. As time went on, however, and the character of the proposals became better understood, the current of opinion underwent a very distinct change; and in most quarters, both official and non-official, it was recognized that a genuine and at the same time practicable advance to responsible government could be made in no other way.

All sections of the Nationalist party united in voicing dissatisfaction with the proposals relating to the Government of India and the Home government. They demanded that, simultaneously with its introduction in the provinces, some element of responsible government should be introduced into the Government of India by the transfer of certain of the central departments; and they reaffirmed the demand contained in the Congress-League scheme, to the effect that the council associated with the Secretary of State for India (the

India Council) should be abolished. It was contended that bureaucratic control of Indian affairs, exercised from Whitehall, was inconsistent with India's new status and political self-respect.

Full opportunity was given by the Joint Select Committee for the hearing of arguments in support of these views. The application of the principle of dyarchy to the Government of India, though very moderately and capably urged upon the Committee, was rejected for reasons which have already been indicated.[1] The abolition of the India Council, which had been recommended in a modified form by the Crewe Committee on Home Administration, was resisted for reasons which are stated as follows by the Committee :[2]

'The Committee are not in favour of the abolition of the Council of India. They think that, at any rate for some time to come, it will be absolutely necessary that the Secretary of State should be advised by persons of Indian experience, and they are convinced that, if no such Council existed, the Secretary of State would have to form an informal one, if not a formal one. Therefore, they think it much better to continue a body which has all the advantages behind it of tradition and authority. . . .'

Obviously, however, the Council will function within a steadily narrower field as the field of responsible government in India is gradually enlarged.

In regard to other features of the proposed reforms, Indian opinion was sharply divided. Indeed, the cleavage between those who favoured a gradual constitutional advance along the lines laid down and those who strenuously denied India's need of any further political tutelage became more acute as time went on. With the drawing away of one section of moderate opinion after another, advanced Nationalism has formulated increasingly radical demands.[3] At a special session of the Indian National Congress, held at Bombay

[1] Cf. *supra*, pp. 45, 46.

[2] Cf. *Report*, with reference to clause 31 of the (Reforms) Bill.

[3] During the past year (1921) advanced Nationalism has assumed the unmistakable character of a revolutionary movement, pure and simple. This later phase is dealt with in Chapter VII, *infra*.

in August 1918, to consider the Montagu-Chelmsford Report, resolutions were adopted demanding complete responsible government throughout British India within a period not exceeding 15 years, and within 6 years (law, justice, and police being reserved during that period) in the provinces. At the annual session of the Congress, four months later, complete responsible government in the provinces was demanded forthwith.

At the annual session of the Indian National Congress held at Delhi in 1918 a resolution was adopted (which the Congress deputation later pressed upon the attention of the Joint Select Committee), demanding that in India's new constitution there should be embodied a Declaration of Rights, the two most salient articles of which are as follows:

'(*b*) That no Indian subject of His Majesty shall be liable to suffer in liberty, life, property, or in respect of free speech or writing, or of the right of association, except under sentence by an ordinary Court of Justice and as a result of lawful and open trial;

'(*d*) That the press shall be free, and that no licence or security shall be demanded on the registration of a press or newspaper.'

Some words of explanation are needed to make intelligible the demands here formulated. Experience had shown that the ordinary law, owing to the long delays and the systematic terrorization of witnesses, was incapable of dealing effectually with anarchical crime such as that which disfigured Bengal during the years following the partition of the province by Lord Curzon in 1905. In 1915 the Defence of India Act, a special war measure, placed powers in the hands of the authorities which made it possible, for the first time, to combat successfully the constant succession of murders and other outrages associated with the anarchist movement. The powers relied upon were, mainly, (1) the internment (in their own homes or elsewhere) of dangerous political suspects, and (2) the trial of those charged with serious political crime by special tribunals, of the highest possible judicial standing, but employing a more summary process than that of the

ordinary law-courts. A strong judicial committee, presided over by Sir Sydney Rowlatt, a judge of the Court of King's Bench, and containing two Indian jurists, was appointed in 1918 to review the history of the anarchist movement and to consider, more particularly, the situation likely to arise at the end of the War, when the Defence of India Act should be no longer in operation. After a searching analysis of the forces at work, the committee recommended unanimously that some permanent measure should be placed on the statute-book, framed on the lines of the Defence of India Act. Effect was given to this recommendation by the Government of India, although in deference to public opinion, which was bitterly and almost unanimously opposed to the measure, it was placed on the statute-book for three years only. The Rowlatt Act, as it is generally called, has never been put into force in any part of British India; but it gave to the authorities, when these were found to be necessary, special powers for proceeding against violent political crime on the lines of the Defence of India Act.

Experience in the past had also shown that special powers of control needed to be given to the authorities, if inflammatory utterances in the press and on the platform were to be kept within bounds. With this object, and to supplement the ordinary law, the Press Act of 1910 and the Seditious Meetings Act of 1911 were placed on the statute-book; although, in actual practice, very great freedom of speech and writing is permitted in British India.

In the light of these facts, let us now return to the demand made by the Indian National Congress for what they wished to be known as a Declaration of Rights. It must be observed that to use a written document as an instrument to limit the sovereign powers of the legislature, in regard to matters of this kind, is entirely foreign to the traditions of the British constitution. If public opinion in India demanded the repeal of legislation such as the Rowlatt Act, the Press Act, and the Seditious Meetings Act, this was a matter for the Indian legislature, which was responsible (in its unreformed days) for placing these measures on the

statute-book. The correct action, therefore, in response to the views expressed in regard to legislation of this character, was undoubtedly that which was taken, early in 1921, by the Government of India, namely, the appointment of two committees of the reformed Indian legislature, one to examine and report on the operation of the Press Act, and the other to examine and report on the scope and need for legislation of the type of the Rowlatt Act and the Seditious Meetings Act.

Action has since been taken by the Government of India on the report of these two committees. In September 1921 a Bill was introduced in the Legislative Assembly to repeal the Press Act; and in January 1922 two Bills were introduced in the Council of State to repeal a number of 'repressive' laws, including the Defence of India Act (a temporary war measure) and the Rowlatt Act. The power to restrain personal liberty without trial, conferred by the latter Act, was characterized by the committee appointed to examine these laws as inconsistent with the policy inaugurated with the recent constitutional changes. These three Bills have been subsequently passed into law. Two Acts remain for the present unrepealed, viz., Part II of the Criminal Law Amendment Act, 1908, which gives powers to the executive to proscribe and break up revolutionary organizations (such as the so-called Volunteer Associations), and the Seditious Meetings Act, which enables it to prohibit revolutionary meetings. The committee (which consisted of two European and seven Indian members, the Law Member of the Government of India, himself an Indian, being chairman) in their report, dated the 2nd September 1921, say: 'In view of the grave situation which exists and which may become more serious, we think it would be prudent to defer actual repeal of these Acts until such time as the situation improves.' [1]

[1] Another committee appointed by the Government of India, at the instance of the Legislative Assembly, which is now (March 1922) sitting, is examining the case for the removal of certain racial discriminations which exist in the code of criminal procedure in favour of Europeans (and Americans). The chief privilege enjoyed by European British subjects in the criminal courts is that of being tried by a jury of which not less than half the members are Europeans (or Americans).

CHAPTER IV

THE REFORMED CONSTITUTION

I

THE Government of India Act, 1919, contains the statutory framework of India's new constitution. Like the statutes upon which self-governing institutions in the great British colonies are based, it is an Act of the British Parliament. Unlike those statutes, however, the Government of India Act, 1919, is not a complete or self-contained instrument of government. In the first place it has, technically, the form of an amending Act; and its provisions, radical as are the changes which many of them make, have been embodied in the Government of India Act, 1915, a measure in which was brought together for the first time the whole body of constitutional law relating to British India. This latter Act, duly amended, is to be known in future as the Government of India Act (without any distinguishing date of enactment); and in it (or in the rules framed under it) will be embodied, in the form of amendments, all subsequent constitutional changes.[1] Further, the Government of India Act, 1919, while containing, as I have said, the statutory framework of India's new constitution, leaves the great mass of detail, involved in the building up of India's reformed system of government within that framework, to be determined by rules supplementary to the Act. This is in conformity with well-established practice in legislation relating to India, and serves a double purpose. It relieves Parliament of drafting work which can much better be done in India; while it greatly simplifies the carrying out of changes, in matters of detail, which experience may suggest or political progress justify. These rules, and all changes in these rules, are made by the Government of India (with the sanction of the Secretary of

[1] Cf. Sect. 47 (1) of the Government of India Act, 1919.

State for India in Council); but they must be submitted for the approval of Parliament, either in draft or in their final form. When submitted in their final form, it is open to either House of Parliament, within thirty days, to present an address to the Crown praying that the rules may be annulled, in whole or in part; when submitted in draft, the draft rules are formally adopted, with or without amendment, by resolutions of both Houses.[1] The latter was the procedure followed in the case of practically all the important sets of rules which have been framed under the Act, the final drafts, approved by Parliament, embodying the rules as framed by the Government of India and afterwards revised in the light of the recommendations of the same Joint Select Committee, representing both Houses of Parliament, which reported on the Act itself. The rules thus enacted have statutory effect, and are not subject to amendment or repeal at the hands of any legislative body in India.

The Government of India Act, 1919, received the Royal assent on the 23rd December 1919. The greater part of the following year was occupied in the framing of rules under the Act, and the preparation of electoral rolls. The Joint Select Committee, in their report on the draft rules, testify to 'the remarkable expedition with which this heavy task had been achieved by the Government of India and the Local Governments'.[2] In November the elections were held. In the first week of January 1921 the new provincial executives under the reformed system of government came into office; and during January and February were held inaugural meetings of the reformed provincial legislative councils. The Indian legislature at Delhi was opened in state by the Duke of Connaught on the 9th February 1921. On the day previous the Duke opened the Chamber of Princes, which places on a permanent footing the informal conferences held from time to time for the discussion, among the principal

[1] Cf. Sect. 44 (also Sect. 33) of the Government of India Act, 1919.

[2] Cf. *Rules under the Government of India Act.* First Report from the Select Committee, para. 1.

Ruling Princes, of questions affecting the Native States as a whole, and of common interest to them and to the Indian Empire.

II

The popular interest aroused by the unique constitutional device known as dyarchy, by means of which, in each of the great British provinces, a popular Home Rule form of government has been received into partnership with the older official type of executive, has been such that a student is in danger of overlooking a feature of India's new constitution, which is, logically, of prior importance.

This is the separation of the spheres of central and provincial government in India on something like federal lines. To realize the magnitude of this change, we must remind ourselves that, since 1833, the system of government in India, in theory at least, has been of the most completely centralized character. By the Regulating Act of 1773 the presidencies of Madras and Bombay were placed under the control of the Governor-General and Council in Bengal, so far as the making of war or of treaties (i.e. foreign affairs) was concerned; but in internal administration they remained practically independent.[1] By the Charter Act of 1833, however, the Governor-General of Fort William in Bengal became Governor-General of India; and Sect. 39 of that Act declared that 'the superintendence, direction, and control of the whole civil and military government of all the said territories and revenues in India shall be vested in the Governor-General of India in Council'. This applied, it will be seen, to the revenues as well as the general administration; and until 1871, when the provinces first began to be equipped with financial resources of their own, every rupee spent by a local government came out of the central purse. By the same Charter Act of 1833 the independent legislative powers previously exercised by the governments of Madras and Bombay were taken away from them, and were not restored until the passing of the Indian Councils Act of 1861.[2]

[1] Cf. also *supra*, p. 52.

[2] Cf. *supra*, pp. 52, 53.

In Sect. 33 of the Government of India (Consolidating) Act, previous to its amendment in 1919, the general powers and duties of the Government of India are thus defined:

'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.'

Sect. 45 of the Act defines as follows the relations of the provincial or local governments to the Government of India:

'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.'

Centralization of the government of a country so vast as India, however complete it may be in theory, must obviously be modified in practice; and, besides the formal delegation by the Secretary of State to the Government of India, and by the Government of India to the local governments, of the power to sanction new expenditure within certain limits, the actual control of the Government of India over the local governments had been relaxed (more especially since the report, in 1909, of the Royal Commission on Decentralization) in a multitude of details. At the same time, so long as full and undivided responsibility rested on the shoulders of the Secretary of State for India, as representing Parliament, so long was it necessary to secure that the authority of the Secretary of State, as exercised through the Government of India, was unimpaired. In other words, so long as the British Parliament held the Secretary of State responsible for the good government of India in all its branches, to enable him to discharge that responsibility it was clearly imperative that he should be placed in the position of having the last word to say in any and every matter of Indian administration, however ready he might be, in practice, to defer to Indian

public opinion, or to delegate authority to the 'man on the spot'.

The problem of decentralization occupied the attention of the Indian government almost continuously from the time of the appointment of the Decentralization Commission, in 1907, onwards. Lord Hardinge took up the question soon after he became Viceroy; and in the famous dispatch of the 25th August 1911, known as the Coronation Durbar dispatch, he wrote that the only possible solution appeared to him to be 'gradually to 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'. This is a striking anticipation of the reforms actually carried out last year (1921). Provincial autonomy, of course, might mean nothing more than what John Bright proposed long ago,[1] namely, to make the larger provinces directly subject to the authority of Parliament and independent of any central government in India. This, however, is clearly not what was in Lord Hardinge's mind. Assuming the existence of a central government, what other meaning can provincial autonomy have but this, that in provincial affairs Parliament, which controls the central government, should cease to control the local government? This at once raises the question: If Parliament is to abdicate in the sphere of provincial government, in whose favour is it to abdicate? When this issue, which is really the fundamental one, was at last squarely faced, it was realized that the only possible alternative to rule from Westminster was Home Rule. It is this alternative which has been boldly taken.

It is appropriate that the first section and the first subsection of the Government of India (Reforms) Act of 1919 should provide for the making of rules:

'(*a*) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of

[1] Cf. Strachey, *India*, p. 71.

the Governor-General in Council and the Indian legislature; (*b*) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments; (*c*) . . . and (*d*) for the transfer from among the provincial subjects of subjects (in the Act referred to as "transferred subjects") to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.'

Part I of the First Schedule to the Devolution Rules, which give effect to these provisions of the Act, contains a list of the central subjects (pertaining to the Government of India and the Indian legislature), the most important being the following:

1. Defence (other than police).
2. External and foreign relations.
3. Relations with the Native States.
4. Communications (other than tramways and light railways); posts and telegraphs.
5. Major ports: shipping and navigation.
6. Currency and coinage.
7. Public debt; savings banks; census and statistics.
8. Commerce and companies; patents and copyright; regulation of mines.
9. Customs; cotton excise duties; income-tax; salt.
10. Cultivation and manufacture of opium; and sale of opium for export.
11. Civil and criminal law and procedure.
12. Central agencies and institutions for research; certain universities.
13. All-India civil services; the Public Service Commission.
14. Legislation in regard to territorial changes; and in regard to any provincial subject, which is declared to be subject to legislation by the Indian legislature.
15. All matters not specifically declared to be provincial subjects.

Part II of the First Schedule contains a list of the provincial subjects; and the Second Schedule enumerates the

transferred subjects. It is in respect of the latter that provincial autonomy is recognized. Part V of the Devolution Rules provides as follows :

'The powers of superintendence, direction, and control over the local government of a Governor's province, vested in the Governor-General in Council under the Act, shall, in relation to transferred subjects, be exercised only for the following purposes, namely :

'(1) to safeguard the administration of central subjects ;

'(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement.' '

Another rule, agreeably with Sect. 33 of the (Reforms) Act, limits the powers of the Secretary of State for India (that is to say, the authority of Parliament itself) in a similar way ; but provides, in addition, for the exercise of his powers :

'(3) to safeguard Imperial interests ;

'(4) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire.'

Authority is further given, both to the Government of India and the Secretary of State, to intervene in order to secure the fulfilment of contracts, more particularly in relation to appointments and provincial loans to which the High Commissioner for India or the Secretary of State is a party.

Nothing can bring home to us better the nature of the constitutional change which is here involved than the action taken by the Speaker of the House of Commons shortly after the reforms came into force. Certain members of Parliament, interested in Indian affairs, had addressed to the Secretary of State for India questions relating to transferred subjects. These questions the Speaker rightly ruled out of order, declaring that it was highly undesirable that the House of Commons should interfere in any way with the control by the provincial legislatures of their own affairs.[1] In short, provincial autonomy and parliamentary control being clearly incompatible, the Speaker, in effect, declared : Hands off the transferred subjects !

[1] Cf. *House of Commons Debates*, 2nd March 1921.

The following are the more important transferred subjects :

1. Excise duties on alcoholic liquor and intoxicating drugs.[1]
2. Local self-government (municipalities, district boards, and other local authorities).
3. Education (other than European and Anglo-Indian education).
4. Sanitation and public health ; vital statistics.
5. Hospitals, dispensaries, and asylums ; provision for medical education.
6. Public works, such as roads and buildings, light railways, &c.[1]
7. Development of industries, including provision for research and technical education.
8. Agriculture, including research, demonstration, and education.
9. Civil veterinary department ;[1] fisheries ; co-operative societies.

In addition to the transferred subjects, the provincial government administers also what are known as the reserved subjects, the most important of which are enumerated below. We may include also among the reserved subjects the assistance given by a local government in the administration of certain central subjects, e. g., relations with Native States, statistics, income tax. These are known as Agency functions.[2]

1. Land laws, and land revenue administration in all its branches.
2. Famine relief.
3. Irrigation ; water-supplies ; water-power.
4. Forests.[3]
5. Administration of justice, including all civil and criminal courts.
6. Police and prisons.
7. Factory, &c., inspection ; and labour matters, generally.
8. Agency functions.

Reserved and transferred subjects together make up the

[1] Not in Assam.
[2] Cf. Part IV (Agency) of the Devolution Rules.
[3] In Bombay a transferred subject.

provincial, as distinguished from the central, subjects. Certain of the provincial subjects, however, are completely provincialized only in so far as administrative control is concerned; for legislative purposes they are subject to legislation by the Indian legislature. Among the more important of these are the following:

(*a*) Irrigation and water-power, so far as extra-provincial interests are involved.
(*b*) High courts and courts of criminal jurisdiction.
(*c*) Prisons.
(*d*) Factory legislation; and labour legislation, generally.
(*e*) Constitution of new universities.

The object of making these subjects, which are provincial for administrative purposes, subject to legislation by the Indian legislature is, of course, to secure uniformity of legislation throughout India in regard to them. There are certain other provincial subjects—viz., infectious and contagious diseases; animal diseases; destructive insects and pests and plant diseases—which may be declared subject to legislation by the Indian legislature, to such an extent as may prove to be necessary in order to secure the desired uniformity.[1] Finally, there is a formidable list of statutes of all-India application, which, in the exercise of their normal legislative functions, the local legislatures have no power to modify.[2]

Here a distinction of an important and somewhat curious character has to be noted. With the previous sanction of the Governor-General legislation of practically any kind (short of legislation which affects the authority of Parliament or the unwritten laws of the British constitution whereon may depend the allegiance of the subject or the sovereignty of the Crown) can be undertaken either by the Indian or by a local legislature. To this extent the Indian legislature, as regards British India, and each of the provincial legislatures, as regards its own province, have, in theory, concurrent jurisdiction over the whole legislative field; since, with the requisite previous

[1] In these subjects, and to this extent, the province may legislate only with the previous sanction of the Governor-General.

[2] Cf. the Local Legislature (Previous Sanction) Rules.

sanction, a local legislature may legislate in respect of central subjects, and the Indian legislature in respect of provincial.[1] These, however, are, so to speak, latent powers. In the exercise of their normal legislative functions, Indian and local legislatures alike are confined to the respective spheres assigned to them by the classification of central and provincial subjects under the Devolution Rules.

The new quasi-federal status given to the provinces extends also to financial arrangements. Beginning in 1871, there has been a whole series of re-adjustments, the purpose of which was to provide the provinces with more or less independent resources; but independent financial standing on the part of the provinces was not fully provided for, nor legally recognized, until the passing of the Act of 1919. The change is to be seen in the annual financial statement of 1921, when, for the first time since 1833, the provincial accounts were omitted from the revenue and expenditure accounts of the Government of India. Financial autonomy has brought with it certain new liabilities, as a result of the transfer to the provinces (1) of the charges for capital expenditure on irrigation works, now provincialized; (2) of the annual charges incidental to the so-called famine insurance fund; and (3) of the outstanding provincial loan account, which the provinces are required to pay off in twelve annual instalments. On the other hand, it is associated with new privileges. Power is conferred on a local government [2] to negotiate loans either in India or abroad on the security of the provincial revenues. This is an entirely new power. Power is also conferred on a local legislature to authorize or impose

[1] The reason why it was considered advisable to leave these powers of concurrent legislation unimpaired was that a statutory demarcation of powers between the central and local legislatures would allow the validity of Acts to be challenged in the law-courts on the ground of their being in excess of the powers of the legislature by which they were passed. This is impossible under the existing system, since the validity of a provincial Act cannot be called in question only because of its requiring the previous sanction of the Governor-General. Cf. the proviso to Sect. 10 (3) of the (Reforms) Act.

[2] By Sect. 2 (1) of the Act, to be read with the Local Government (Borrowing) Rules made under this section.

additional taxation for the purposes of local authorities, such as municipalities and district boards, or for provincial purposes. In the past (by executive order) the previous sanction of the Government of India was required; and the power was never exercised. Previous sanction is now no longer required, provided the tax in question is one contained in a schedule of taxes prepared for the purpose.[1]

The division of the Indian revenues between the central and the local governments follows the lines marked out by the classification of central and provincial subjects. The following, accordingly, are the main sources and heads of revenue:

Central.	*Provincial.*
Customs.	Land revenue.
Income tax.	Excise (spirits and drugs).
Railways.	Irrigation works.
Posts and telegraphs.	Forests.
Salt.	Stamps (judicial and non-judicial).
Export opium.	Registration fees.

This clear-cut demarcation is subject, however, to two important modifications. On the one hand, 25 per cent. of the increase in the provincial collections under income tax, so far as this increase is due to a growth in the amount of income assessed, is hypothecated to the province. On the other hand, contributions are payable to the central exchequer out of provincial revenues, the initial amount being fixed at £10,000,000 in all. It is hoped that, with the growth of the central revenues, these provincial contributions will be gradually extinguished. At the same time it is provided that, in cases of emergency, even larger contributions may be required.

The apportionment of funds between reserved and transferred departments of the provincial government is intended to be made by agreement between that part of the government, which is responsible for the administration of reserved subjects, and that part of the government, which is responsible

[1] Cf. the Scheduled Taxes Rules.

for the administration of transferred subjects.[1] Failing such an agreement, the Governor may at his own discretion, or acting on the advice of an arbitrator appointed in this behalf by the Governor-General, allocate the revenue and balances of the province between reserved and transferred subjects by specifying the fractional proportions which shall be assigned to each class of subject, such an assignment to remain in force, normally, for the lifetime of the existing legislative council.[2] Expenditure on the transferred subjects from the funds assigned thereto, or from the proceeds of taxation specially imposed *ad hoc*, is to be as determined by the vote of the legislative council, except that for the creation or abolition, or the revision of the pay, of any post to which appointments are ordinarily made by the Secretary of State, or of any post carrying similar emoluments, the previous sanction of the Secretary of State in Council is required.[3] Such expenditure, that is to say, is no longer to be subject to control by the central government or by the Secretary of State in Council, this being only another side of genuine provincial autonomy.

Provision is made, in view of the increased financial responsibilities of the local governments, for the establishment in each province of a strong Finance Department, presided over by a member of the Governor's executive council, with a financial secretary, and (if the ministers so desire) a joint secretary specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects, and with proposals for taxation or borrowing put forward by ministers.

III

We have seen that the only possible foundation for self-governing institutions in India was something like a federal system of government; and we have seen how this has been established by a process of devolution, which is the surrender on the part of an all-powerful central government of its authority in respect of provincial affairs. We have now to

[1] Cf. Rule 31 of the Devolution Rules.
[2] Cf. Rules 32 and 33 of the Devolution Rules.
[3] Cf. Part III of the Devolution Rules

observe that this devolution of authority is at present incomplete, and will remain incomplete until provincial affairs as a whole have been transferred to the Home Rule government already established in every major province. Section 3 (1) of the Government of India (Reforms) Act provides that these provinces

'shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with ministers appointed under this Act'.

This is the dyarchy,[1] or dual government, which constitutes so novel and remarkable a feature of the reforms. The problem being to provide for a genuine transfer of authority to a popular government in the provinces without at the same time risking, and indeed inviting, an administrative breakdown, which would have fatally discredited self-governing institutions at the outset, the solution arrived at appears to have been the only possible one.

If we look back at the list of transferred subjects (p. 93), we shall see exactly what part of the provincial government has been placed in the hands of ministers. All orders of government, which relate to transferred subjects, are to be clearly distinguished from other orders and proceedings of the provincial government in order that no confusion may arise as to the authority which issues and is constitutionally responsible for them.[2]

The constitutional position of the ministers *vis-à-vis* the Governor is defined in Sect. 4 of the Act, as follows:

'(1) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred

[1] The term dyarchy (Greek δύο = two, and ἀρχή = sovereignty) was coined by the historian, Mommsen, to describe the dual government which existed in certain of the provinces of the early Roman Empire, in which the Senate exercised concurrent authority with the Emperor. Though di- (from the Greek δίς = twice, double) is the prefix commonly employed in the formation of such words, usage appears to favour the spelling *dyarchy* rather than *diarchy*. Cf. Curtis, *Dyarchy*, p. xxxii.

[2] Cf. Sect. 6 (1) of the Act.

subjects, and any ministers so appointed shall hold office during his pleasure.

'(2) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

'(3) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice.'

From this it will be seen that the Governor, as head of the provincial executive, has the constitutional right of overruling his ministers. This, however, is a somewhat double-edged weapon, since it is open to the ministers to resign; and if the latter enjoy the confidence of the local legislature, of which they are and must be members, it may be difficult, if not impossible, for the Governor to find ministers to take their place, who will be able to secure sufficient support in the legislature to enable them to carry on the administration.[1] The administration of the transferred departments is, in fact, regulated by the principles of what is technically known as 'responsible' government, the executive being responsible to the legislature in the sense that without the support and approval of that body the government cannot be carried on.[2] The Instrument of Instructions which, following the colonial precedent, has been issued to all governors of provinces under the Royal Sign Manual affords guidance on this difficult constitutional point. In considering a minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, the Governor is to have due regard to his relations with the local legislature, and to the wishes of the people of the province, as expressed by their representatives in that body. On the other hand, he is specially charged to see that no

[1] The Governor possesses (cf. Sect. 8 (1) (a) of the Act) the usual constitutional right of dissolving the legislature; but this will not materially alter the situation, unless the new legislature is of a different political complexion from the old, in which case the change of ministers may be justified and upheld.

[2] Cf. the Note on Responsible Government, pp. 46–8, *supra*.

order shall be so framed that any of the diverse interests of or arising from race, religion, education, social condition, wealth, or any other circumstance, may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed.[1] Finally, to meet the case of a temporary vacancy in the office of minister, and to resolve any constitutional deadlock such as deliberately obstructive tactics might create, it is provided that the Governor, in cases of emergency duly certified by him as such, may himself undertake the temporary administration of a transferred department.[2]

While the ministers in charge of the transferred departments are, individually[3] and directly, responsible to the local legislature in the full constitutional sense of that term, the Governor in Council is not. For his administration of the reserved departments, of which the maintenance of law and order in the province is the key-stone, he is responsible, ultimately, to Parliament and to Parliament alone. Additional powers may be delegated by the Secretary of State, representing Parliament, to the Governor-General in Council and by the latter to the Governor in Council—indeed, it is intended that they should be;[4] but there can be no formal devolution of authority, if the long chain of responsibility is to remain unbroken. The whole of this side of Indian government is and must be, from top to bottom, of one piece.

It follows from this that, in view of the special functions entrusted to the Governor in Council, powers must be given to the Governor commensurate with his responsibility for the reserved departments. We may look at the matter in

[1] Cf. Instrument of Instructions VI and VII (3).

[2] Cf. Transferred Subjects (Temporary Administration) Rules.

[3] The *collective* responsibility of ministers, which is a distinguishing feature of 'cabinet' government, is not formally recognized; but it will doubtless become a part of the unwritten constitution of parliamentary government in India, as elsewhere.

[4] Such delegation of powers is effected by executive orders, the responsibility of the delegating authority remaining, technically, unimpaired. Any statutory devolution of his powers in relation to the reserved subjects, on the part of the Secretary of State or the Governor-General in Council, would be governed by the provisions of Sect. 33 of the Act.

this way. As a result of the formal devolution of authority, the legislature has constitutionally the last word in regard to the administration of the transferred subjects; but it has no constitutional right to tie the hands of the Governor in the exercise of those of his executive functions which he shares with his executive council, and which relate to the reserved subjects. In this capacity the Governor must be, in the last resort, independent of the legislature, whether it is a question of the legislation or of the funds required for the efficient administration of a reserved subject; although it goes without saying that, whenever he can, he will carry the legislature along with him and will defer to its views, whenever possible.

The first of these special powers conferred upon the Governor *quâ* administrator of the reserved subjects is an affirmative power over legislation put into operation by the use of what is known as the certificate procedure. This is conferred by Sect. 13 (1) of the (Reforms) Act, which provides as follows:

'Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall, on signature by the governor, become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.'

An Act so passed differs, it should be noted, from a mere decree of the executive, like an Ordinance[1] or Orders in Council, inasmuch as it is a measure which may and, unless

[1] Under the powers given by Sect. 72 of the Government of India (Consolidating) Act, '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 Indian legislature'.

leave to introduce it is refused, will be discussed at meetings of the legislature, and will very likely be modified in the light of that discussion. An Act so passed must be reserved by the Governor-General, save in emergency, for the opinion of His Majesty in Council; and in every case it must be laid before Parliament, which has an opportunity of expressing its views on the measure through the Standing Joint Committee on Indian Affairs. If upheld, therefore, it is with the full concurrence of the Home authorities.

Next, the Governor has a corresponding veto power over legislation (apart from his power to withhold his assent from any Bill, after it has been passed by the legislative council), which is conferred upon him by Sect. 11 (4) of the (Reforms) Act, which provides as follows:

'Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause, or amendment, and effect shall be given to any such direction.'

Lastly, by the use once more of the certificate procedure in the case of a reserved subject, and in all cases of grave emergency, the Governor can obtain independently of the legislature the appropriations which he needs. These powers are conferred by Sect. 11 (2) of the (Reforms) Act, and are as follows:

'(*a*) The local government shall have power, in relation to any such demand [for a money grant], to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

'(*b*) the governor shall have power in cases of emergency to authorize such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department.'

In order to avoid repetition, it may be explained here that the Governor-General in Council (i.e., the Government of India), who stands in much the same relation to the Indian legislature as does the Governor in Council to the provincial legislature, possesses identically the same special powers, brought into operation by the adoption of the certificate procedure. The only difference of procedure is that, whereas the Indian legislature consists of two chambers, the Governor-General must endeavour, in the exercise of his affirmative power over legislation, to obtain the assent of one chamber even if he cannot obtain the assent of both. He can pass the measure, however, after placing it (provided leave to introduce it is not refused) before both chambers, though he fail to obtain the assent of either.

To return to the two branches of the provincial government, it should be observed that while with their separate responsibilities and separate powers, one thoroughly popula and democratic in its character, the other (in the last resort) autocratic, they function quite separately, they must frequently—and, more particularly, in regard to financial matters—deliberate in common. Indeed, the Governor is thus enjoined in his Instrument of Instructions:

'IV. You shall encourage the habit of joint deliberation between yourself, your councillors, and your ministers, in order that the experience of your official advisers may be at the disposal of your ministers, and that the knowledge of your ministers as to the wishes of the people may be at the disposal of your councillors.'

Let us now try to form some picture of the provincial government as a whole. The head of the executive, the Governor, in the case of the three presidencies (Madras, Bombay, and Bengal), is drawn from among those who have made their mark in English public life, and is usually a Peer; in the case of the other provinces the Governor will be drawn, as a rule, from among those who have risen to the top in the Indian Civil Service.[1] Lord Sinha of Raipur, who has

[1] The technical difference is that the latter are appointed 'after consultation with the Governor-General' (cf. Sect. 3 (2) of the Act). All

held high office both in India and in England, but is not a member of the Indian Civil Service, was appointed the first Governor of Bihar and Orissa, however. The Governor's executive council consists, as a rule, of one official (a senior member of the Indian Civil Service) and one non-official (an Indian, who has made his mark in Indian public life); but in some provinces there are two officials and two non-officials.[1] This branch of the government is known as the Governor *in* Council rather than the Governor *and* Council because, although the members collectively constitute the government, the Governor has the constitutional right of overruling his colleagues.[2] Turning to the other branch of the government, to which is entrusted the administration of the transferred departments, there are at present two and in some provinces three ministers, drawn, as we have seen, from among the elected members of the local legislature, that is to say, from among the prominent political leaders of the province. The ministers enjoy the same status and, as a rule, the same salary as members of the executive council.[3] The distribution of portfolios among the executive councillors and ministers, respectively, varies in different provinces.

With regard to the position of civil servants under the dual government, it is laid down that authority over officers serving in transferred departments is to be exercised by ministers, and over other officers by the Governor in Council. Where an officer performs duties both in reserved and

governors and members of a governor's executive council are appointed by His Majesty by warrant under the Royal Sign Manual.

[1] The statutory limit is four members, of whom one at least must be a person who, at the time of his appointment, has been for at least twelve years in the service of the Crown in India. Cf. Sect. 47 (as amended) of the Government of India (Consolidating) Act.

[2] Cf. *supra*, p. 51.

[3] It was laid down in the Act (Sect. 4 (1)) that equal salaries should be paid, unless a smaller salary were provided for ministers by a vote of the local legislature. In every council there was an animated discussion on the point, but in only one province (the Central Provinces, where the ministers were voted salaries of Rs. 3,000 a month, as compared with salaries of Rs. 4,000 paid to the executive councillors) was a smaller salary provided, it being generally felt that the prestige of ministers was involved.

transferred departments, as will frequently be the case, he is to be deemed as serving under the Governor in Council or under a minister, as the Governor may decide. Statutory provision is made to safeguard the interests of civil servants employed under the new authorities.[1] No order affecting pay or discipline is to be passed to the disadvantage of any officer appointed by the Secretary of State in Council to an all-India service, or by the local government to a provincial service, without the personal concurrence of the Governor himself. An officer who belongs to an all-India service has a right of appeal to the Governor against orders of an official superior by which he considers himself wronged; he cannot be posted to any appointment without the Governor's concurrence; and he cannot be dismissed except by the authority which appointed him.

It remains to observe that dyarchy is essentially a temporary device, and is intended to remain in force only until such time as the Home Rule government has got firmly into the saddle. When this is assured beyond possibility of doubt, the control of Parliament exercised through the Governor in Council will be withdrawn; and the provincial government will become a single and homogeneous government, consisting of a Governor and responsible ministers. One of the greatest merits of the scheme is that, by a simple amendment of the Devolution Rules, Parliament can at any time either add to the list of transferred subjects, as ministers demonstrate their capacity to undertake a larger share of the provincial government, or in the event of anything like gross mismanagement can withdraw subjects from that list. In this way the path is opened to full responsible government on a parliamentary basis in the provinces, the rate of progress depending on the results achieved. The (Reforms) Act itself provides in Part V

[1] Cf. Sect. 36 (1) of the Act, and Rules 10 and 11 of the Devolution Rules. In their Report on the Government of India (Reforms) Bill (Clause 36), the Joint Select Committee recommended that officers who found it impossible to accept the new conditions should be found employment elsewhere, or should be allowed to retire on a pension proportionate to their length of service. The conditions governing retirement on a proportionate pension have since been published.

for a statutory commission to conduct on behalf of Parliament, at the expiration of ten years from the passing of the Act, an inquiry into 'the working of the system of government, the growth of education, and the development of representative institutions in British India'; and to report 'as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein'.

IV

Rules made under Sect. 7 of the (Reforms) Act (Electoral Rules for Provincial Legislative Councils) and under Sect. 23 (Electoral Rules for the Indian Legislature) define, within the limits prescribed by the Act itself, the composition of the several legislative bodies; map out the constituencies; determine the qualifications of electors and of candidates; and provide machinery for conducting the elections, controlling election expenses[1] and corrupt practices,[2] and disposing of election petitions.

By the terms of the (Reforms) Act the Indian legislature is to consist of the Governor-General and two chambers, viz., the Council of State and the Legislative Assembly (Sect. 17). The Council of State is to consist of 60 members as a *maximum*, of whom not more than one-third shall be officials (Sect. 18). The Legislative Assembly is to consist of 140 members as a *minimum*, of whom at least five-sevenths shall be elected, and not more than two-thirds of the nominated members shall be officials (Sect. 19). All members of the Governor-General's executive council are to be nominated as official members either of the Legislative Assembly or of the Council of State. They have the right, as ministers in

[1] Power is given to the Government of India (by Rule XVIII of the Electoral Rules) to fix maximum scales of election expenses, which may vary with different constituencies, in the light of the experience gained in the first elections, and to limit the number of paid persons who may be employed.

[2] Malpractices in connexion with elections are brought within the scope of the Indian Penal Code by Act XXXIX of 1920.

the Union of South Africa parliament have, of attending and addressing both chambers, although members only of one.

Under Rule III of the Electoral Rules for the Indian Legislature the two chambers are constituted as under :

	Council of State.	*Legislative Assembly.*
Elected members	34	104
Official members	20 [1]	26 [1]
Other nominated members	6	14
Total	60	144

Turning to the local legislatures, the (Reforms) Act provides (Sect. 7 (1) and (2)) that in every governor's province there shall be a legislative council, with a statutory minimum number of members (shown below), of whom not less than 70 per cent. shall be elected, and not more than 20 per cent. shall be officials (including members of the Governor's executive council *ex officio*). Under Rule II of the Electoral Rules for each province the local legislatures are constituted as under :

	Madras.	*Bombay.*	*Bengal.*	*United Provinces.*	*Punjab.*	*Bihar and Orissa.*	*Central Provinces and Berar.*	*Assam.*
Elected members	98	86	113	100	71	76	53	39
Official members	19 [2]	16 [2]	18 [2]	16 [2]	14 [2]	18 [2]	8 [2]	7 [2]
Other nominated members	10	9	8	7	8	9	9	7
Total	127	111	139	123	93	103	70	53
Statutory minimum	*118*	*111*	*125*	*118*	*83*	*98*	*70*	*53*

In addition to the ordinary members of his legislative council, a Governor may nominate, for the purposes of any

[1] This includes the President ; and, in the case of the Council of State, it is a *maximum*. If the full number of officials is not nominated, the number of nominated non-officials will be correspondingly increased. The number of official members of the Legislative Assembly, on the other hand, is statutorily fixed.

[2] This does not include the *ex officio* members, whose number varies from two to four ; and if the full number of other officials is nominated, the number of nominated non-officials must be correspondingly reduced. If, however, the full number of officials (after making allowance for the *ex officio* members) is not nominated, the number of the latter will be correspondingly increased—as it has been, for example, in Madras.

important piece of legislation, not more than two experts (or one in the case of Assam) who, for the time being and in relation to this special matter, enjoy all the rights of members of the council (Sect. 7 (2) (*b*)). These experts need not necessarily be officials.

There are three distinct and self-contained electoral systems—one provincial and relating to the local legislature, the second and third on an all-India basis, and relating to the Legislative Assembly and the Council of State, respectively. Each electoral system contains (*a*) general and (*b*) special constituencies. The qualifications required of an elector in a general constituency vary considerably in different provinces (and even in different parts of the same province), and are differently graded, of course, for each class of electorate; but within the same province (or part of a province) and the same electoral system the qualifications for all general constituencies are alike. The accompanying table will give some idea of the qualifications required.

In addition, the following have a right to be registered as electors for the local legislature, viz., retired and pensioned officers and men of all ranks of the Indian Army; and, in the Central Provinces and the Punjab, lambardārs, or village headmen. For the Council of State the following have a right to be registered, viz., those who are past or present members of any legislative body; those who hold or have held office as chairman or vice-chairman of a municipality or district board or of a co-operative central bank; those who are past or present members of a University Senate; and those who hold the highest titles conferred for Oriental scholarship.[1]

[1] 'Inasmuch as the Council of State will be . . . the revising authority upon all Indian legislation, we desire to attract to it the services of the best men available in the country. We desire that the Council of State should develop something of the experience and dignity of a body of Elder Statesmen; and we suggest therefore that the Governor-General in Council should make regulations as to the qualifications of candidates for election to that body which will ensure that their status and position and record of services will give to the council a senatorial character, and the qualities usually regarded as appropriate to a revising chamber.'—*Joint Report*, para. 278.

A. All Electorates. Male British subjects over 21 years of age.[1] [2]

B. Urban constituencies.	*Local Legislature.*	*Legislative Assembly.*	*Council of State.*
(1) Residence in the constituency during the previous 12 months; and (2)			
either (*a*) payment of municipal taxes, amounting (as a rule) to not less than:	per annum Rs. 3 [3]	per annum Rs. 15–20	—
or (*b*) occupation (or ownership) of a house of the annual rental value (as a rule) of:	Rs. 36 [3]	Rs. 180	—
or (*c*) assessment to income tax on an annual income of not less than:	Rs. 2,000	Rs. 2,000–5,000	Rs. 10,000–20,000 [4]
C. Rural constituencies. The holding of agricultural land assessed at an annual value [5] (as a rule) of:	Rs. 10–50	Rs. 50–150	Rs. 1,500–3,000 [4]

These general constituencies are further sub-divided on 'communal' lines, as shown in the table given below. In the Punjab, out of 64 members returned by general constituencies to the local legislature, Sikh constituencies, urban and rural, return 12 members; the European general constituencies return 5 members in Bengal, and either one or two members

[1] Subjects of Native States, possessing the necessary qualifications otherwise, may be admitted to registration as electors under such conditions as the Local Government in each case may prescribe (Rule VII (1) of the Electoral Rules).

[2] Women (or any class of women), possessing the necessary qualifications otherwise, may be admitted to registration as electors by resolution of the legislative body concerned; but their admission to all-India electorates in any province is contingent on their admission to the provincial electorate (Rule VII (1) of the Electoral Rules). Resolutions in favour of the removal of the sex qualification have been adopted by the local legislatures in Madras and Bombay and by the Legislative Assembly; in Bengal and in Bihar and Orissa such resolutions have been rejected.

[3] In the large cities of Madras, Bombay, and Calcutta these amounts are very much larger.

[4] Considerably lower limits are fixed for the admission to the register of Muhammadans in Bengal and in Bihar and Orissa.

[5] The amounts vary very considerably according to the province (or part of the province) and the nature of the rights in the holding.

elsewhere. The main division is between Muhammadan and non-Muhammadan general constituencies, the basis of division being the so-called Congress-League pact,[1] which gives to Muhammadan as compared with non-Muhammadan general constituencies a considerably larger proportion of seats in the provincial councils, and in both chambers of the Indian legislature, than is warranted, in the case of most provinces, by the numerical strength alone of the Muhammadan population. In Madras, out of 65 seats given to non-Muhammadan constituencies, 28 seats are reserved for non-Brahmans,[2] provided there are candidates forthcoming to fill them in the constituencies in which they are reserved; while in Bombay 7 out of 46 seats are similarly reserved for Marathas.

General constituencies:

(1) Muhammadan (2) Non-Muhammadan	for all elections and in all provinces, except for elections to the Council of State in the Central Provinces.
(3) Sikh	in the Punjab, for all elections.
(4) European	for elections to the local legislature or Legislative Assembly or both, in all provinces except the Punjab and the Central Provinces.
(5) Anglo-Indian (i.e. those of mixed descent)	for elections to the local legislature in Madras (*one seat*) and in Bengal (*two seats*).
(6) Indian Christian	for elections to the local legislature in Madras (*five seats*).

In addition to the general constituencies, there are certain special constituencies, which are tabulated below. The larger landholders return from 4 to 6 members to the local legislature; and bodies representing various commercial and industrial interests (such as Chambers of Commerce,

[1] i.e. the Lucknow pact of 1916, when the Indian National Congress and the All-India Moslem League, in session at Lucknow, agreed upon the percentage of seats which should be guaranteed to Muhammadans in the reformed legislatures.

[2] Cf. what is said about Brahmans and non-Brahmans in the Madras presidency, p. 25, *supra*.

Millowners' and Trades' Associations, Planters' and Mining Associations) return from 2 to 3 in the smaller provinces and from 6 to 7 members in the larger provinces (15 in Bengal). Altogether, from 6 to 9 members are elected to the local legislature from these special constituencies in the smaller provinces, and from 11 to 13 members in the larger provinces (21 in Bengal). An elector possessing the required qualifications, while he cannot be registered in more than one general constituency, may be registered in a general constituency and in one or more of the special constituencies.

Special constituencies:

(7) Larger landholders	for elections to the local legislature in all provinces except Assam, and for elections to the Legislative Assembly in all provinces except Bombay and Assam.
(8) University	for elections to the local legislature (*one seat*) in all provinces except Assam.
(9) Industrial interests	for elections to the local legislature in all provinces; for elections to the Legislative Assembly in Madras and Bombay and to the Council of State in Bombay and Bengal.

As regards qualifications for election, no person is eligible as a candidate for a special constituency who is not registered as a voter in that constituency. No person is eligible as a candidate for a general constituency who is not registered as a voter in that or some other general constituency in the province. He must further, in all provinces except Assam and the United Provinces,[1] belong to the community represented; while in the Central Provinces and the Punjab he must also be a resident of the general constituency in which he offers himself for election. Candidates must be 25 years of age.

Finally, we must note that a number of seats, both in the

[1] This exception does not apply to the European constituency in the United Provinces.

local and the Indian legislatures, is reserved to be filled by nomination on the part of the Governor or the Governor-General, as the case may be. The number of seats so reserved (including among these, in the case of the local legislatures, the members of the Governor's executive council, who are *ex officio* members) is as follows :

In the local legislatures, 22 to 29 (14 in Assam*; 17 in the Central Provinces).

In the Legislative Assembly, 40.

In the Council of State, 26.

Approximately two-thirds of these seats, in all cases, will ordinarily be occupied by Government officials—e.g., secretaries to Government and heads of departments. Besides giving assistance in presenting statements and answering questions on behalf of the Government, these high officials bring to the council-chamber administrative experience and first-hand knowledge of the subjects under discussion. Far from forming, as they did in the days of the Morley councils, an official *bloc*, capable of voting down popular opposition and frequently used for that purpose, officials now come to the council-chamber free to speak and to vote as they choose. In any case their voting strength in the reformed councils is insignificant. No official, by the way, can be a candidate for a seat filled by election. In debates of the local legislature it is intended that members of the executive council should act together, and that ministers should act together; and while it cannot be expected of members of either branch of the Government that they will support measures advocated by the other branch of which they disapprove, they will not actively oppose them in council, whether by speech or vote.

The seats which are filled by nomination, other than by the nomination of Government officials, are intended to provide for the representation of interests which cannot easily be provided for by means of election. In making his nominations to the Council of State and the Legislative Assembly the Governor-General is allowed unfettered freedom of choice; but in the case of the local legislatures the Governor's field of selection is, to a great extent, defined and limited by the

specific provision which is made in each province for the representation of certain classes. Provision, for example, is made in every province (except the Punjab) for the representation of the so-called depressed classes, and in several provinces provision is made for the representation of factory labour. Again, in the case of both the Anglo-Indian and the Indian Christian communities, nomination is the alternative in a number of provinces to election; and in the Punjab the European community is represented by means of nomination.

V

Having seen how India's reformed legislative bodies are constituted, let us next see how they function and what their powers are.

The normal life of a provincial legislature and of the Legislative Assembly is three years; that of the Council of State (the second chamber of the Indian legislature) is five years. The Governor-General has the power, however, to dissolve either chamber of the Indian legislature, and the Governor has similar power to dissolve the provincial legislature; but a new chamber or legislature must be summoned within six, or at the latest nine, months of a dissolution. The Governor (or Governor-General) is also given power, in special circumstances, to extend the life of the legislature—for a period, in the case of a provincial legislature, not exceeding one year.

In the past the Governor (or Governor-General) has always been president of the legislative body associated with the government of which he is the head. It is intended that the reformed legislative bodies shall, in the future, elect their own presidents; but for the first four years they are to have official presidents, whose duty it will be to guide them in the exercise of their new powers and to assist them in building up a parliamentary tradition. Mr. (now Sir) A. F. Whyte, who was appointed first president of the Legislative Assembly, brought to his task invaluable experience gained as a member of the British House of Commons. In some provinces

a British official has been made president of the local legislature; in others an Indian public man has been appointed to the post. The Governor (or Governor-General), having ceased to be the president, has consequently ceased to be a member of the legislature; but he has the right of addressing that body, which he may summon for this purpose. It is peculiarly significant of its new status that the legislature no longer meets, as in the past, in a council-chamber forming part of the Governor's official residence (in accordance with the old tradition, dating from Mughal days), but in a separate parliament-house of its own.

With the object of bringing the elected representatives of the Indian people into closer touch with the actual problems of government, standing committees of the legislature (or advisory boards, on which the legislature is represented) have been appointed in all provinces. The purpose is purely educative; and it is not intended that these standing committees (or advisory boards) should exercise anything like administrative control over the executive.[1] With the same purpose in view, provision is made in the (Reforms) Act[2] for the appointment by the Governor (or Governor-General) at his discretion, from among the non-official members of the provincial legislature (or Legislative Assembly), of council secretaries to assist members of the executive somewhat in the same way that a parliamentary under-secretary assists a British cabinet minister, and so to gain administrative experience. Advantage has already been taken of this provision in Madras, the Punjab, and the Central Provinces.

A committee with important functions is the Committee on Public Accounts, provision for the appointment and constitution of which is made under the Rules of Business for

[1] In many provinces there is a standing Finance Committee, which exercises important advisory functions in connexion with all projects for new expenditure. Bengal and the Punjab have standing committees (the United Provinces, advisory boards) associated with almost every department of government. In Bihar and Orissa there is a standing committee for reserved and another for transferred departments.

[2] Cf. Sections 4 (4) and 29 of the Act.

the provincial legislatures and the Legislative Assembly.[1] The member of the executive council in charge of Finance is chairman of the committee, which consists of not more than 12 members including the chairman, of whom not less than two-thirds are elected according to the principle of proportionate representation by the non-official members of the legislature, and the rest are nominated. It is the duty of this committee to scrutinize the audit and appropriation accounts of the year in order to satisfy itself that the money voted has been spent within the scope of the resolutions of the legislature, and to report on the results of its scrutiny.[2]

Provision is made in the Rules of Business[3] for the use of an Indian vernacular by members of the legislature who are not fluent in English, and advantage has been taken of this, more particularly in the Punjab[4] and the Central Provinces; but for the most part debates are conducted in English.

Like the other rules made under the (Reforms) Act, the Rules of Business for the provincial and Indian legislatures have been laid before Parliament, and can only be amended subject to the assent of that body. They are supplemented, however, in matters of detail by Standing Orders which have, in the first instance, been framed by the Governor (or Governor-General) in Council, but can afterwards be amended by the legislature (or chamber) to which they relate.

Inasmuch as the constitution does not yet provide for complete legislative control of the executive by the legislature, powers are reserved to the Governor (or the Governor-

[1] Cf. Rules 51 and 52 of the Rules for the Legislative Assembly, and Rules 33 and 34 of the Rules for Provincial Legislative Councils.

[2] The functions of this committee must not be confused with those of the standing Finance Committee, which is consulted on all projects for new expenditure. There is a standing Finance Committee of the Legislative Assembly, and many of the provincial legislatures have such a committee.

[3] Cf. Rule 14 in each set of Rules.

[4] In the Punjab the Rules have, indeed, been amended to permit of the freer use of the vernacular.

General), as we have seen, to legislate independently of the legislative body in the field of the central or reserved provincial subjects. These, however, are powers to be used only in exceptional circumstances. The normal powers of the Governor (or Governor-General) in regard to legislation are as follows. The assent not only of the Governor, but also of the Governor-General, is required before any provincial measure can become law. Either can veto the measure; and their veto is absolute. The assent of the Crown is implied in that given by the Governor-General; but it is open to the Crown to disallow any Act of the Indian or a provincial legislature. To mark the definitely higher status of Indian legislation under the new constitution, the Act provides that the pleasure of the Crown in regard to Indian legislation shall be signified in future through His Majesty in Council (i.e., on the formal advice of the Privy Council) instead of through the Secretary of State for India in Council, as heretofore. Use can also be made by the head of an executive in India of the power of reserving legislation for an expression of the will of a higher authority—a well-known constitutional device in the case of subordinate legislatures. The reserving power was formerly limited to the Governor-General. It has now been extended, as in Canada, to the head of a provincial executive; although in his case it has a special rather than a general application. Thus there are certain measures which, under the Reservation of Bills Rules, a Governor *must* reserve for the opinion of the Governor-General. These are Bills (1) seriously modifying the land revenue system; (2) affecting the religion of any class of the community; (3) having to do with the constitution of a university or the construction of a light railway. Again, there are measures which a Governor *may* reserve at his discretion, viz., Bills which affect (1) the interests of some other province; (2) some central subject; (3) any matter wherewith the Governor is specially charged under his Instrument of Instructions. The Governor-General may, in turn, reserve for the consideration of the Crown any Act passed by a local legislature, other than a Bill which has been reserved for his consideration (a new power, in regard to

provincial legislation); and in the case of a Bill so reserved he may pass it, the measure lapsing if he fails to signify his assent thereto within six months; or he may allow the Governor to return it for the further consideration of the local legislature. The power of recommitting a measure, along with a statement of the views of the executive, is a new power conferred by the Act; and it may be exercised by the Governor-General in respect of Bills which have been passed by both chambers of the Indian legislature, as well as by the Governor in respect of provincial legislation.

In case of failure on the part of the two chambers of the Indian legislature to agree upon any piece of legislation, recourse may be had, at the discretion of the Governor-General, to a joint session at which a majority vote of members of the two chambers present shall prevail.

Turning to the financial powers of the new legislative bodies, we have seen that, inasmuch as the constitution does not yet provide for complete financial control of the executive by the legislature in regard to central or reserved provincial subjects, power must be given to the Governor (or the Governor-General) to secure what he considers essential appropriations, and certifies as such. Obviously, he cannot discharge the responsibilities which are laid upon the Governor (or Governor-General) in Council unless he is able to finance this branch of the administration independently of the legislative body; nor must he hesitate to use the powers given him to this end. Normally, however, the annual appropriations for all departments both of the central and local governments are, with the exception of the items enumerated below, subject to the vote of the legislative body concerned. Appropriations for the following purposes do not require to be voted, viz. (1) expenditure classified by order of the Governor-General in Council as (*a*) ecclesiastical, (*b*) political, and (*c*) defence; (2) payment of interest and sinking-fund charges on loans; (3) payment of the salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State for India in Council; and, in the case of the local legislatures, (4) payment of the provincial

contributions to the central exchequer. Following the usual constitutional practice, no proposal for the appropriation of revenue for any purpose can be made except on the recommendation of the executive;[1] in other words, the legislative body can refuse its assent to any proposed appropriation, or can reduce it, but cannot increase it by diverting expenditure from some other head.

Care must be taken to distinguish between the allocation of the existing revenues to the different heads of expenditure (appropriation or supply) and the legislative sanction required for financial measures (money bills) which involve new taxation. All proposals for new taxation, whether Indian or provincial, must be submitted to the legislative body concerned in the form of Bills, and must normally receive its assent before they can be lawfully acted upon. The concurrence of both chambers of the Indian legislature is required in the case of measures imposing new taxation, as in the case of all other legislative measures. The annual appropriations, on the other hand, whether Indian or provincial, are embodied, not in Bills, but in the form of 'demands for grants', which, in the case of the former, are submitted to the vote of the Legislative Assembly only; and it is this chamber which, through its Committee on Public Accounts, scrutinizes the audit and appropriation accounts of the central government. New and enlarged taxing and borrowing powers have been conferred, as we have seen, on the local governments.

There are two important branches of finance, in regard to which very substantial concessions have been made to Indian opinion, and long-standing controversies have, it is hoped, been closed by recommendations contained in the report of the Joint Select Committee on the Government of India (Reforms) Bill—recommendations invested with what is, virtually, the authority of Parliament itself. One is the Indian customs tariff, which is a matter for the central legislature; and the other is the land revenue, which, in virtue of the fact that this source of revenue has now been wholly provincialized, is a matter for the local legislatures.

[1] Cf. Sections 11 (2) (*c*) and 25 (2) of the (Reforms) Act.

In regard to the tariff, the views expressed by the Joint Select Committee are as follows:

'A satisfactory solution of the question can only be guaranteed by the grant of liberty to the Government of India to devise those tariff arrangements which seem best fitted to India's needs as an integral portion of the British Empire. . . . In the opinion of the Committee, therefore, the Secretary of State should as far as possible avoid interference on this subject when the Government of India and its Legislature are in agreement,[1] and they think that his intervention, when it does take place, should be limited to safeguarding the international obligations of the Empire or any fiscal arrangements within the Empire to which His Majesty's Government is a party.'

In other words, there is to be no possible ground in future for any suspicion that India's tariff policy is dictated from Whitehall in the interests of British trade, and more particularly in the interests of Lancashire cotton manufacturers, who, for obvious reasons, have always been vehement supporters of the open-door policy for India. The somewhat drastic revision of the Indian customs tariff carried out last year (1921), while it was mainly designed to produce additional revenue, was a pledge of British good faith in this matter.

The land revenue, which formerly was divided between the central and the local governments, is now wholly provincial; and is, indeed, by far the most important source of provincial revenues. On the assumption that the State in India has divested itself of its ancient rights as 'superior landlord' the land revenue has been defined as a tax; on

[1] This, indeed, is a constitutional convention which is intended to be of general application. It is reflected in the Instrument of Instructions to the Governor-General who, in his relations with the provincial administrations in the reserved departments, is directed to act as follows:

'VII. In particular it is Our will and pleasure that the powers of superintendence, direction, and control over the said Local Governments vested in Our said Governor-General, and in Our Governor-General's Council, shall, unless grave reason to the contrary appears, be exercised with a view to furthering the policy of the Local Governments of all Our Governors of Provinces, when such policy finds favour with a majority of the members of the Legislative Council of the Province.'

the opposite assumption it has been defined as a 'rent'. For our present purpose, which is to relate this charge upon the land to the authority which fixes and sanctions it, we may regard it as a tax. In some parts of the country, principally in Bengal, the amount leviable was fixed once for all at the end of the eighteenth century. Elsewhere, conformably with the changes and, for the most part, steady rise in the value of agricultural land, it is subject to reassessment at intervals of 20 or 30 years. This re-settlement of the land revenue, as it is called, is carried out by experienced settlement officers under the supervision of the higher revenue authorities, to whom appeals against the first assessments lie. Indeed, the work has been reduced to a science. The fact remains, however, that the revenue demand assessed upon the land is fixed by decree of the executive, and is sanctioned by the same authority; and this, as has been pointed out, is wholly inconsistent with the first principle of representative government, which is taxation by consent of the tax-payers. Clearly, legislative sanction is required for the exercise of this, the most important of the taxing powers of the local government, at any rate before any fresh burden of taxation is imposed in the shape of an enhanced land revenue demand. The proposal to embody the general principles of land revenue assessment in provincial legislation was made as long ago as 1909 by the Royal Commission on Decentralization;[1] and this proposal, the object of which is to establish the land revenue system on a statutory basis, has now been endorsed with all the authority of the Joint Select Committee. 'The Committee are of opinion', they say, 'that the time has come to embody in the law the main principles by which the land revenue is determined, the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements, and the other

[1] Cf. *Report of the Royal Commission on Decentralization*, para. 252: 'We consider that the general principles of assessment, such, for instance, as the proportion of the net profits of the land which the Government shall be entitled to take and the period of settlements, should be embodied in Provincial legislation instead of being left to executive order, as is now the case outside Bombay.'

chief processes which touch the well-being of the revenue payers.' The work of thus bringing a powerful engine of taxation within the control of the representative legislative body has already been taken in hand in the Madras presidency.

VI

While the character of the Indian legislature has been transformed, more particularly as a result of the predominant weight given to the popular as opposed to the official vote in both chambers, and while its powers—more particularly on the financial side—have been greatly enlarged, the constitutional basis of the central executive remains, for the present, unchanged. *Vis-à-vis* the Indian legislature, the Governor-General in Council occupies the same relative position as that occupied, *vis-à-vis* the local legislature, by the Governor in Council. The Government of India, that is to say, is subject normally, and for most practical purposes, to the control of the Indian legislature; but since it is not constitutionally responsible to the Indian legislature, it cannot be removed by that body, nor can that body tie its hands.

The amenability to the legislature of the central government (and the same holds good of the provincial governments, in the reserved departments) is defined, in the following terms, in the revised Instrument of Instructions to the Governor-General, issued under the Royal Sign Manual:

'VIII. It is Our will and pleasure that Our said Governor-General shall use all endeavours, consistent with the fulfilment of his responsibilities to Us and to Our Parliament for the welfare of Our Indian subjects, that the administration of the matters committed to the direct charge of Our Governor-General in Council may be conducted in harmony with the wishes of Our said subjects, as expressed by their representatives in the Indian Legislature, so far as the same shall appear to him to be just and reasonable.'

The changes in the constitution of the central government are slight. For the office of Law Member Indian law qualifications are recognized as the equivalent of British; and the

limit of six to the number of ordinary members of the executive council is removed, the distinction formerly made between ordinary and extraordinary members also disappearing. A very much more important change, effected independently of the (Reforms) Act (which draws no racial distinction in any of its clauses), is the appointment of three Indian members to the executive council instead of one, as formerly, and two, as proposed in the Joint Report[1]—the total number at the present time (March 1922), inclusive of the Viceroy and the Commander-in-Chief, being eight.

Here it ought to be noted, although this has no direct connexion with the constitution provided by law for British India, that a permanent Chamber of Princes, of which all the most important rulers of Native States are entitled to be members and in which the lesser are represented, with a Chancellor (the Maharaja of Bikaner) and a small standing executive committee, has been established, with a twofold object, namely, (1) to bring the Native States into corporate association with the Government of India; and (2) to enable the Native States to deliberate on matters affecting their common welfare. A further innovation in the relations between the central government and the Native States is machinery providing (1) for commissions of inquiry, on which the Chamber of Princes will be represented, into cases of misgovernment or misconduct on the part of the ruler of a Native State, and (2) for courts of arbitration to deal with matters in dispute between two Native States or between a Native State and the central or a local government.

VII

Little material change has been made in the Home administration, as it is called. The Secretary of State for India continues to be advised, and in all matters involving appointments and expenditure technically controlled, by a Council—the Council of India. The number of members of this council has been reduced by two, and the number of those required to have recently served or resided in India has also been reduced.

[1] Cf. *Joint Report*, para. 272.

This was formerly 9, and is now one-half of the total number, which may be as few as 8 or as many as 12. The normal term of office has been made 5 in place of 7 years, this change being intended principally to accommodate the Indian members, of whom there are 3 at the present time (March 1922) out of a council of 10. The (Reforms) Act provides for a relaxation of the rules governing the transaction of business by the Secretary of State in Council, with a view to departmentalizing and so expediting the work; and statutory meetings of the India Council are required to be held only once a month instead of once a week, though, in practice, the weekly meeting is still held.

The (Reforms) Act provides that the salary of the Secretary of State for India, hitherto paid out of the Indian revenues, shall be paid out of moneys voted by the British parliament, and that the salaries of his under-secretaries and of the members of the India Council and any other expenses of his department may so be paid.[1] This, on the one hand, removes a long-standing grievance in India; while, on the other, by placing the Secretary of State for India's salary on the British estimates, it affords an opportunity for a 'live' debate on the administration of Indian affairs in the House of Commons in Committee of Supply, similar to that which accompanies the annual vote of the salaries of Ministers in other departments.[2]

With the object of focusing the interest taken by Parliament in Indian affairs—an interest which has never been, since 1858, as keen or as intelligent as it used to be when Parliament acted as mentor and critic of the East India

[1] In addition to paying the salaries of the Secretary of State and the Parliamentary Under-Secretary, it has been arranged that the British Treasury shall make an annual grant to the India Office of £136,000 (£142,500 in all, as compared with an annual grant of £50,000 formerly). This covers the whole cost of the India Office, other than the agency charges connected with the High Commissioner's department.

[2] Cf. *Joint Report*, para. 294. A motion in favour of placing the Secretary of State's salary on the British estimates was made in the House of Commons in 1906, and was defeated by a large majority, on the ground that the change would tend to bring the Indian administration into party politics. Cf. *Joint Report*, para. 33.

Company—a Standing Committee on Indian affairs (re-elected each session), comprising 11 members of each House of Parliament and representative of all political views, has been established in succession to the Joint Select Committee, which rendered such invaluable services in connexion with the (Reforms) Act and the Rules framed under the Act. To this Standing Joint Committee will be referred, in particular, (1) Acts which are passed by the Governor of an Indian province or by the Governor-General over the heads of the legislature by means of the certificate procedure, which Acts are required to be laid before both Houses of Parliament; and (2) all amendments in the Rules framed under the Government of India Act, which experience of the working of India's new constitution and India's political development generally may, from time to time, show to be necessary.

An important clause in the (Reforms) Act[1]—important because of the significantly higher status which it confers upon India as part of the British Empire—is that which authorizes the appointment of a High Commissioner for India. This functionary has since been appointed by Order in Council, and to him have been transferred what are known as the Agency functions, hitherto performed by the Secretary of State for India in the capacity of agent for the Government of India.[2] The High Commissioner is now the accredited agent in London of the Government of India, under whose orders he acts; and he thus occupies a somewhat similar position to that of the accredited representatives of the Dominion governments. Like them he acts as the chief official trade representative of India in London.[3]

[1] Cf. Sect. 35 of the Act.

[2] The cost of the High Commissioner's establishment (about £200,000 per annum) is naturally borne by the Indian revenues.

[3] An Indian Trade Commissioner, with duties corresponding to those of a consul, has been appointed in East Africa; and power is taken, under the Indian Emigration Act of 1922, to appoint similar agents of the Government of India overseas, where required, and with the permission of the colonial government concerned.

CHAPTER V

SOME POLITICAL PROBLEMS OF THE NEW ERA

An important part of the policy enunciated by the Secretary of State for India, in his pronouncement of the 20th August 1917, is that of 'increasing the association of Indians in every branch of the administration'. The principle of the full eligibility of natives of India for employment under Government, in all posts for which they may be fitted, was affirmed, as we have seen,[1] in the Charter Act of 1833; and it was reaffirmed, in the following terms, in Queen Victoria's proclamation of 1858:

'And it is Our further will that, so far as may be, Our subjects, of whatever race or creed, be freely and impartially admitted to office in Our service, the duties of which they may be qualified by their education, ability, and integrity duly to discharge.'

Giving full weight to considerations of efficiency, it has to be admitted that these pledges have not always been interpreted in the most liberal spirit; nor can it be gainsaid that much bitterness has been caused amongst Indians of superior education, in recent years especially, by the feeling, not altogether unjustified, that members of their class have not enjoyed the position in the public services to which their social and intellectual standing entitled them.

Let us consider, first of all, the Indian Civil Service. To members of this service are reserved by Act of Parliament[2] most of the highest administrative and judicial posts in the official hierarchy. From 1793, in which year the law reserving these posts was first enacted, until 1853 appointments

[1] Cf. *supra*, p. 29.

[2] Cf. Third Schedule of the Government of India Act.

to the covenanted civil service, as it was then called, were made by the Directors of the East India Company. In 1853 the Court of Directors lost their powers of patronage; and there was substituted, as the sole basis of recruitment, an open competitive examination held in London. This clearly placed Indians at a grave disadvantage; and a number of expedients were tried in order to correct the inequality. In 1869, for example, Lord Lawrence, who was then Viceroy, instituted a number of Government of India scholarships, to enable selected young Indians to obtain an education in England which would fit them to enter, with some hope of success, the competitive examination for the covenanted civil service. The scheme, however, did not meet with the approval of the Home authorities, and after a short trial was dropped. Next, an Act was passed in 1870 by which, with the object of giving 'additional facilities for the employment of natives of India of proved merit and ability in the civil service', it was provided that natives of India might be appointed otherwise than on the results of the competitive examination. The rules for regulating such appointments were framed in 1879; and it was contemplated that one-sixth of the posts reserved at that time to members of the covenanted civil service should be filled by nomination, on the part of the authorities in India, of 'statutory' natives of India. The officers so appointed were known as 'statutory' civilians. This system of recruitment was not found to yield satisfactory results, however, and in 1889 was abolished. The civil service was then reorganized, there being included in the cadre of the Indian Civil Service, as it was now called, most of the higher posts formerly reserved to the covenanted civil service; and henceforward the Indian Civil Service was recruited directly only through the open competitive examination held in London. Some of the higher posts, however, were included in the cadre of the newly created Provincial Civil Service, which constituted the upper branch of the former uncovenanted civil service, was recruited in India only, and consisted almost exclusively of Indians.[1] Occasion-

[1] According to a return made for the use of the Public Services Com-

ally, a member of the Provincial Civil Service of marked ability is promoted to a post usually reserved for a member of the Indian Civil Service. In 1893 the House of Commons adopted a resolution in favour of holding simultaneously in England and India the competitive examination admitting to the Indian Civil Service.[1] Practical and other objections prevented this proposal from being carried into effect.

It has now been decided, in accordance with the policy of 'increasing the association of Indians in every branch of the administration', to facilitate greatly the admission of Indians to the Indian Civil Service. The recommendations contained in the *Joint Report*[2] are, for the most part, based on those of the Royal Commission on the Public Services,[3] but are of a distinctly more liberal character. To begin with, a definite proportion of the posts to be filled each year is reserved for Indians. The initial proportion is to be one-third, and this is to be increased annually until in ten years' time a proportion of one-half is reached. The recruitment of Indians to fill these posts will be effected in a variety of ways, viz., (1) through the open competitive examination in London, as heretofore; (2) as the result of a competitive examination to be conducted by a Public Service Commission in India;[4] (3) by nomination in India; (4) by promotion from the Provincial Civil Service, as here-

mission, the personnel of the Civil Service on the 1st April 1913 was made up as follows:

	Europeans.	*Indians.*	*Total.*
Indian Civil Service	1,308	63	1,371
(*percentage of total*)	95	5	
Provincial Civil Service	209	2,223	2,432
(*percentage of total*)	9	91	
			3,803

[1] A committee appointed by the Secretary of State for India had advocated the same plan as early as 1860.

[2] Cf. para. 317.

[3] The Public Services Commission was appointed in 1912, and completed its report in 1915. It was appointed to examine and report, more particularly, with regard to 'such limitations as still exist in the employment of non-Europeans'.

[4] The first examination was held at Allahabad in February 1922.

tofore ; [1] (5) by appointment to judicial posts of legal practitioners who have made their mark at the Bar in India.

A similar policy is being adopted in regard to other branches of the public service. In the Indian Educational Service, for example, which is the upper branch of the State educational service, four-fifths of the posts were held by Europeans at the time of the Report of the Public Services Commission. One-half of the posts are to be filled by Indians in future, these being recruited both in India and in England, both directly and by promotion from the ranks of the Provincial Educational Service.[2] At least half the posts in the Indian Forest Service are similarly to be reserved for Indians, provided suitable candidates are forthcoming. In the Indian Police it is essential, for some time to come, to maintain a strong British element ; and the proportion of posts in this service to be filled by Indians is fixed at present at one-third, half to be recruited directly and half by promotion from the Provincial Police Service. On the other hand, there are certain services in which, apart from a few specialists, it is no longer essential to retain any British element in the personnel ; and these are to be completely Indianized. Such are the Indian Finance Department, and the Roads and Buildings branch of the Public Works Department.

Allied to the criticism which has been aimed at the personnel, is that aimed at the functions of the superior civil service ; and here something ought to be said on the much debated question of the separation of executive and judicial functions. The district officer, who is the chief executive

[1] Those promoted have been appointed to the so-called ' listed ' posts, the rules governing appointment to which were promulgated in 1892 and revised in 1910. A resolution in the Legislative Assembly in favour of greatly increasing, in fact more than doubling, the number of these ' listed ' posts was opposed by the Government, but carried by 68 votes to 34, on the 17th February 1921.

[2] According to a statement presented in the Legislative Assembly on the 15th September 1921, the proportion of Indians in the Indian Educational Service (excluding Burma) was at that time 37·6 per cent., showing that vigorous effect has already been given to the new policy. The corresponding percentage in the case of the Indian Civil Service was 13, as compared with 5 in 1913.

of an Indian district and corresponds roughly to the prefect in a French department, exercises certain judicial, in addition to his executive, functions. The administration of civil justice forms a separate branch of the civil service. The administration of criminal justice, however, is divided between executive officers and the judiciary. The district officer controls the police; he is also the chief magistrate, and disposes (usually through one of his deputy-magistrates) of all criminal cases except the most serious, which he refers to the sessions judge. Only in the cities of Calcutta, Madras, and Bombay is the administration of criminal justice entirely separate, being there divided between a judicial officer known as the Presidency magistrate and the High Court. It is argued that the combination of executive and judicial functions in the hands of the district officer is thoroughly objectionable, since an officer who, as controlling the police, is responsible for the prosecution, ought not also (even through the agency of a subordinate) to be judge in the case. This side of the question has been presented with great authority in a memorial praying for a complete separation of the executive and judicial functions, presented to the Secretary of State for India in 1899, and signed amongst others by former Chief Justices of Bengal and Bombay.[1] On the other hand, it is argued that the present arrangement is economical; that the prestige attaching to the district officer lends a weight and a dignity to the office of chief magistrate which it would otherwise lack; and, finally, that in many parts of India the district officer would not command the same respect if he ceased to be also chief magistrate. We may, perhaps, conclude that the question of creating a wholly independent and self-contained judiciary for India is one which cannot be postponed indefinitely; but whether its creation is absolutely necessary, or even altogether

[1] It is reprinted in Mr. Justice (now Sir Abdur) Rahim's minority report, as a member of the Public Services Commission. The matter was taken up by the Government of India in 1908; but the solution then suggested was not acceptable to the Local Governments. Lord Hardinge's government took the matter up a few years later, with no better result.

desirable, at India's present stage of political development is another question. The matter has been debated in both chambers of the reformed Indian legislature, and in all the reformed provincial councils, which are generally though not universally, Madras being an exception, strongly in favour of the complete separation of the executive and judicial functions, and have appointed committees to go into the question. The Government of India, while declining to interfere with the discretion of the Local Governments in the matter, have accepted the principle of separation, and have declared their willingness to promote legislation in the Indian legislature if any provincial government can devise and finance a workable scheme. The additional expenditure involved is the chief obstacle to separation.

Similar to the problem raised by the personnel of the higher branches of the civil services, is that raised by the personnel of the commissioned ranks in the Indian Army. Previous to the War that personnel was exclusively British. The army in India, it should be explained, consists partly of British and partly of Indian units, in the proportion roughly of one to two. The former are drafts from the British regular army, which for the time being are under the command of the Commander-in-Chief in India, are brigaded with Indian units, and are paid for by the Indian exchequer. The latter are recruited from the martial races of British India, such as the Sikhs and other Punjabis, the Rajputs, and Marathas, as well as from among the Gurkhas of Nepal. In the past no Indian has been eligible for rank higher than that of an officer—holding the Viceroy's commission—occupying a position between the British commissioned officer, on the one hand, and the Indian non-commissioned officer, on the other, and conveying to the latter the orders of the British company officer. A departure from this rule came with the War, when over fifty King's commissions were given to Indians who had distinguished themselves in the field; and, since the end of the War, ten young Indians of good family, and belonging to the martial races, have been selected annually for admission to Sandhurst, the military

academy in England, with a view to their graduating for commissioned rank in the Indian Army.[1] When reviewing the report of the Esher (Army in India) Committee in March 1921, among the other resolutions which it passed, the Legislative Assembly resolved that not less than 25 per cent. of the King's commissions granted annually in the Indian Army should be given to Indians and Anglo-Indians (i.e. those of mixed descent)—this number to include Sandhurst cadets, and those promoted from among officers holding the Viceroy's commission. This resolution was not opposed by the Government; but effect has not yet been given to it, pending a thorough examination of the whole question.

It is a delicate and a difficult problem. Not only is it difficult, as experience has already shown, to secure young Indians of the right class and the very special qualities required;[2] but it is doubtful how far the peculiar *esprit de corps*, which characterizes the regimental mess all the world over, is possible except among officers belonging to the same race and possessing the same social traditions. Possibly the solution will be found in the formation of units of the Indian Army entirely officered by Indians, similar to the Imperial Service Troops (now known as the Indian State Forces), which are maintained by some of the more important of the Native States and form an auxiliary branch of the Indian Army. In this way, moreover, would be laid the foundations of a national army in the full sense of the term.[3] Here must be noted the possible difficulty (which is to be apprehended in connexion with the future recruitment to the various branches of the civil services also) of recruiting suitable British officers in sufficient numbers

[1] This year (1922) the Prince of Wales opened at Dehra Dun a college on the lines of the English 'public school', where Indian boys, belonging to the classes in question, may receive an education which will fit them for entry into Sandhurst afterwards.

[2] The Indian officers holding the Viceroy's commission, and the Indian rank and file, are extraordinarily sensitive to the personality and *morale* of the officers placed in command of them.

[3] This policy of 'Indianization', as it is called, is now under consideration, as appears from the reply given to a question in the Legislative Assembly on the 10th January 1922.

under the greatly altered conditions. A solution of the difficulty, though by no means an altogether satisfactory one, may perhaps be found in facilitating transfers from service in the British Army to service in the Indian Army, and vice versâ. This might apply also to the medical branches, viz., the Royal Army Medical Corps and the Indian Medical Service.[1] These and other questions brought to the front by the War have been carefully examined in the report of the Esher (Army in India) Committee.[2] An innovation made by Lord Chelmsford's Government is worth noting, as indicative of the new spirit to which the War gave birth. This was the nomination of a distinguished Indian officer of the Indian Army to the Governor-General's Legislative Council, which, as is stated in the *Joint Report*,[3] 'was meant as a recognition of the army's claim to representation in the supreme council of the country'.

An amendment of the rules under the Indian Arms Act has removed a long-standing grievance, caused by the racial discrimination which exempted Europeans, as such, from the obligation to obtain from the district magistrate a licence to possess fire-arms. This special privilege has now been withdrawn; and Indians and Europeans stand on the same footing as regards the requirements of the Act.

In the Territorial Force, which has taken the place of the Indian (volunteer) branch of the Indian Defence Force raised during the War, we have something very much like the equivalent of a State militia. Indians have long complained that they were denied the opportunity of military training and of service for Home defence; yet, on the whole, the results of the recruiting for the Indian branch of the Indian Defence Force during the War were disappointing. The most hopeful units in this new branch of the Indian Army are the various University corps; and it is hoped that these may prove a useful recruiting and training ground for

[1] Three-quarters of the total number of officers recruited to the Indian Medical Service during the last two years have been Indians.

[2] See also debate on the report in the Legislative Assembly, in the proceedings for the 28th March 1921.

[3] Cf. para. 329.

Indian officers of commissioned rank. Another branch of the Indian Defence Force raised during the War consisted of Europeans and Anglo-Indians of military age, for whom service in units of Home defence was compulsory. This branch has now been re-organized on a voluntary basis as an Auxiliary Force, and contains a very large proportion of those eligible for enlistment.

India has at present no Navy in the proper sense of the term. Proposals have recently been made by Admiral Lord Jellicoe for the development of a small local force known as the Royal Indian Marine, and mainly engaged in transport work, into an Indian Navy. In view of the heavy military expenditure, which India has to defray for the defence of her land frontiers, it is doubtful, however, whether it would be possible at present to finance the most unambitious programme of this kind. India's net annual expenditure for all purposes coming under the head of Marine amounts in normal times to about half a million sterling, and this includes an annual subsidy of £100,000 to the British Admiralty, being a contribution to the upkeep of certain ships of the East India Squadron of the Royal Navy, which cannot be employed beyond certain territorial limits without the consent of the Government of India.

Perhaps, the foremost outstanding problem of the new era in India is the removal of the general illiteracy and the education, in particular, of the electorate brought into being by the Reforms. The dimensions of the problem are seen at once by a glance at the statistics. According to the Census of 1911 (the latest detailed figures available), only 6 per cent. of the total population (10 per cent. of the males) fulfilled the simplest test of literacy. According to recent official figures, only one in three boys of school-going age (5–10 years) is getting an elementary education; of girls of the same age, one in every fifteen only. The peculiarly backward state of female education is largely due, it is to be remembered, to deep-seated social prejudices connected with the seclusion of women, both among Hindus and Muhammadans; and these prejudices are being overcome only very gradually.

It is sometimes said that the British rulers of the country, for political reasons, have denied education to India. In the sense in which it is usually intended, this charge is manifestly unjust. The fact is that it is from the middle classes, who are also the politically-minded classes, that the only articulate demand for education has ever come. Among them the demand for education has been loudly voiced, on economic even more than on political grounds; and the response has been an exceedingly liberal one. If we take the figures for secondary education, confining our attention to boys, we find that nine per 1,000 of the total population are getting a secondary (middle and high school) education, which is actually a good deal higher than the corresponding proportion in England.[1] Much the same is true of college education. There are at the present time in British India eleven universities, embracing some 150 colleges; and in a province like Bengal, which is especially advanced in this respect, we are told that the proportion of the educated classes who are taking full-time college courses is almost ten times as great as in England.[2]

Far from having denied education to those for whom it has a directly economic as well as a political value, the government may not unjustly be accused of having erred on the side of liberality, with the two-fold consequence that the needs of the masses have suffered neglect in comparison, and that higher education has been provided so lavishly and cheaply as to create in some parts of India an educated proletariat which the economic system of the country is incapable of absorbing.

In 1911 Mr. Gokhale pressed upon the attention of the government the need for a bolder handling of the problem of elementary education, and moved in the Indian Legislative Council for the adoption of a policy of universal compulsory education throughout British India. For financial reasons the government were unable to accept the resolution; but the required impetus had been given, and during the last ten years a considerable advance has been made to the position

[1] Cf. *India in* 1920 (*Moral and Material Progress Report*), p. 163.

[2] Cf. *ibid.*

taken up by Mr. Gokhale. In most provinces an Act enabling municipalities to introduce compulsory education, if they so resolve, has been placed on the statute-book; and in Bombay it is provided, further, that municipalities putting the Act into operation can recover half the cost from the provincial government. The two great obstacles to be overcome before anything like a rapid advance is possible are, first, the financial one (which, in a country so poor as India, is an obstacle which confronts the social reformer at all points), and, second, but almost equally serious, the lack of trained teachers. At the present time only one-third of the teachers, including all branches of education, have received any training whatever. The problem, it is to be noted, is one in regard to which, with the introduction of Home Rule in the field of education, the initiative now lies with the Indian ministers; and whatever programme is adopted will have to be financed out of the provincial funds available, and from such sources of additional taxation, more especially local taxation, as can be tapped.

Closely connected with the problem of extending elementary education is that of India's industrial development. This, like education, is a department of government which has been provincialized and placed in the hands of responsible Indian ministers. Already, as a result of the valuable and comprehensive report of the Indian Industrial Commission, 1916–18, every province has its Director of Industries, who, under the Minister for Industry, will do whatever the State can do, along the lines indicated by the Commission, to initiate, advise, and co-operate in the field of modern industry. This abandonment by the government of its former attitude of *laissez faire* synchronizes with a very marked growth in private enterprise, which in turn owes much to the stimulus received during the War. The industrialization of India is, in fact, proceeding apace; and, undeniably ugly as are many of the accompaniments of this process, it is essential, not only for the removal of India's poverty, by providing more diversified employment for her population, and by creating more valuable home markets, but also for the quickening of

social life and of political intelligence, which is inseparable from large aggregations of population at industrial centres. Education and industrial development must, in fact, go hand in hand; and one reacts upon the other. Industrial progress, together with the social progress which is bound up with it, creates a demand for education, on the one hand; while, on the other, it creates, in the shape of increased material resources, the wherewithal to satisfy that demand.

While this is true, India is bound to remain, for many years to come, a country of villages and of small agriculturists; and the political education of the latter is by no means merely a question of the extension of elementary education. If democracy is to take firm root in the Indian country-side, it must be in and through institutions which are native to the soil. Such an institution is to be found in the village *panchâyat*;[1] and the efforts which are now being made to restore this ancient system of village self-government are full of promise. The *panchâyat* system, which is the government—whether it be of a village or of a caste—by an elected body consisting of (nominally) five members, who are known as the *panches*, with a *sir panch*, or president, at their head, is familiar throughout India. In the villages it fell into decay during the early years of British rule, partly as a result of the extreme centralization of the administration under British influence, partly as a result of the breaking down of the economic isolation of the village. Its restoration is to be earnestly desired, not only because it will make possible a healthy decentralization in the administration of purely local affairs which is very badly needed, but also because it will afford an invaluable first-hand training in practical democracy. Madras was the pioneer province in attempting the restoration of village self-government on the indigenous plan; Bengal has more recently enacted a Village Self-Government Act on similar lines; and other provinces are following their example. The plan usually adopted is to group a number of adjacent villages into a union sufficiently

[1] Another is the Raiffeisen co-operative bank, which is becoming year by year a more common feature of Indian village life.

large to form a convenient administrative unit, but not so large as to destroy its essentially local character, and to place in the hands of a (mainly) elected union committee or *panchâyat* the management of the roads, water-supply, schools, dispensaries, and similar local concerns, and the control, subject to the supervision of the district magistrate, of the village police. Village courts and village benches, for the disposal in a summary and inexpensive manner of petty civil and criminal cases, form part of the scheme, as a rule. This, once again, is a matter which is engaging the attention of the Indian ministers, since Local Self-Government forms another of the transferred departments.

Hence in these three spheres—to mention no others—viz., education, industrial development, and the restoration of village self-government, the reformed legislatures and the Indian ministers responsible thereto have ample opportunity to lay broad and firm the foundations of citizenship and democracy, to build boldly and in the light of their own ideas for their country's good, and incidentally, by their success in handling these problems, to prove India's fitness for a still fuller measure of Home Rule.

CHAPTER VI

THE REFORMED CONSTITUTION IN OPERATION

FIFTEEN months having now [1] elapsed since the inauguration of the reformed system of government, we are in a position to review some of the earlier results of this great constitutional experiment.

Before we turn to the proceedings of the new parliamentary bodies, a few words should be said of the first elections, which were held in November and December 1920. As noted in the account of the revolutionary movement given in Chapter VII, one important item in the programme adopted by the intransigeant Nationalists was a boycott of the elections. This policy was attended by a considerable measure of success in the towns, more especially in the United Provinces, the Punjab, and the Bombay presidency, where by means of combined persuasion and intimidation both candidates and voters, to a very appreciable extent, were prevailed upon to abstain. For only about half a dozen of the 774 seats to be filled by election was there no candidate nominated in the first instance, and all of these have since been filled at by-elections. At the same time, as a result of the abstention of candidates,[2] and the failure on the part of many of the electors in the constituencies affected by the non-co-operation movement to record their votes, the new bodies were less fully representative than they otherwise would have been.[3]

[1] March 1922.

[2] In all provinces the dearth of candidates was most marked in Muhammadan constituencies, particularly in the towns, and this was specially noticeable in the Bombay presidency and the Punjab. The boycott organized by the non-co-operation party was extensively adopted and advocated by Muhammadans, as a protest against the Turkish peace terms. Cf. *Return showing the results of Elections*, Introductory Note. Cmd. 1261.

[3] Occasionally, the non-co-operation party adopted different tactics, putting up 'freak' candidates, drawn from the lowest castes, in order to

There were contested elections for 535 of the 774 seats, with an average of three candidates per seat; and, taking the average for the whole country, the percentage of votes polled in contested constituencies, when compared with the number of electors registered, was 31, 25, and 55 in the case of elections to the provincial legislatures, the Legislative Assembly, and the Council of State, respectively. These figures would have been a good deal higher but for the influence of the non-co-operation movement in the towns. The heaviest polls in the towns were in the Madras presidency, the average for all contested non-Muhammadan urban constituencies being over 50 per cent., including percentages of 70 in two constituencies. In the rural constituencies, in which, on the whole, the results were much more satisfactory than in the towns, percentages of 58, 69, 71, and 75 were recorded in a comparatively backward province like Bihar and Orissa; while in the United Provinces, despite non-co-operation, one rural constituency polled 66 per cent., and eleven over 50 per cent. When all the necessary allowances are made—viz., for admittedly backward provinces such as Assam and the Central Provinces, for the influence of the non-co-operation movement, for the physical difficulty of getting voters to the poll, and finally for the novel character of the whole proceedings—the results of the first elections to the provincial legislatures were by no means disappointing. The same cannot quite be said of the elections to the Legislative Assembly. True, the average size of the constituency is in this case very much larger; but, on the other hand, the electorate is drawn from classes which might have been expected to take their responsibilities more seriously. The fact that in the first elections to the Legislative Assembly, with its 104 elected members, less than 200,000 votes were cast in all India, does not speak well for the representative character of the popular chamber. The Council of State represents very fairly the larger moneyed and landed interests, which are its principal constituents.

bring the new bodies into contempt. Only one or two seats were captured in this way.

Bearing in mind the fact that, owing to the influence of the non-co-operation movement, it is not of a fully representative character, a word or two may be said regarding the personnel of the new parliamentary bodies. All contain a big sprinkling of lawyers; but in most provinces the landed gentry are also well represented, though they are not a very articulate section at present.[1] Of a good many of the members, especially the lawyer members, it may be said that they are little more than 'carpet-baggers'. Indeed, in a country where the number of possible candidates is so limited, and the constituencies, for the most part, so large and scattered, the growth of a real community of interests between the member and his constituents can only come very slowly. A lack of sustained interest in public affairs on the part of many of the new members, and the fact that not a few of those who are busy professional men find themselves unable, or reluctant, to make the necessary sacrifice of their time, account for the thin attendance which has characterized certain of the provincial legislatures and even the Legislative Assembly.[2] For the success of parliamentary institutions in India public spirit, on the part of the members, is every whit as essential as political intelligence on the part of the electors; and it is not to be expected that the first any more than the second should be immediately forthcoming.

Parliamentary parties, with a party creed and whips, have been formed in some of the new bodies. In the Bengal legislature, for example, there is the Independent Liberal Party, which consists of some 50 non-official members, and constitutes the organized 'opposition'. In the United Provinces two parties, the Liberal and the Progressive, have

[1] This class was apprehensive of its chances at the polls, more particularly in Bengal, Bihar and Orissa, and the United Provinces; but in all these provinces they are well represented.

[2] At a recent meeting of the Bengal legislature the attendance was so thin that, out of 18 resolutions on the agenda paper, 10 fell through on account of the absence of the movers. In Bihar and Orissa the attendance has seldom exceeded 50, or less than half the full number; while at a recent important debate in the Legislative Assembly, out of 118 non-official members, only 67 (or less than 60 per cent.) were present.

combined to form a united Progressive Party, with a voting strength of 25 or so. In the Legislative Assembly there are two parties. The Democratic (or Radical) Party has the adherence of some 50 out of the 118 non-official members. The two main items in the party creed are (1) retrenchment; (2) a rapid advance to full Home Rule. The other is the National (or Centre) Party, which is numerically less important but contains a good deal of parliamentary talent. Its general policy is to maintain a balance between the Government and the more radical wing of the 'opposition'; but an important item in its programme is the Indianization of the army and the civil services.

The Madras legislature is divided on communal rather than on political lines. Contrary to general expectation, the non-Brahmans more than held their own at the first elections; and they possess a clear majority among the elected members.[1] This being the case, the Governor, in forming a Ministry to administer the transferred subjects, appointed all three Ministers from among the non-Brahman members. The Governor's action was in strict conformity with all the precedents of 'responsible' government, for the Ministers must be expected to act together, and they must also enjoy the support of a majority in the legislature. Nevertheless it caused a bitter outcry, since in the ordinary course of events the Governor might have been expected, following a well-established tradition in regard to Crown appointments in India, to select one Brahman, one non-Brahman, and one Muhammadan member to fill the new offices.[2]

Ministers in other provinces were drawn, for the most part, from among the recognized leaders of the Moderates, the party identified with the Reforms scheme; and the same is true of the Indians appointed to hold portfolios in the Viceroy's

[1] It will be remembered (cf. p. 110, *supra*) that special safeguards were provided in the interests of non-Brahman candidates. In the result, however, non-Brahmans succeeded in capturing 54 out of the 74 elective seats open to Hindus, including the 28 seats reserved for them among the 65 non-Muhammadan general constituencies.

[2] In the Governor's executive council one of the Indian members is a Brahman, and the other is a Muhammadan.

cabinet and in the provincial executive councils. These are men who believe in ordered constitutional progress, but are none the less strong Nationalists; men who have by no means compromised with their principles in accepting office; men, too, most of them, who have long since made their mark in Indian politics. One of the Ministers appointed in the Punjab (the Hon. Mr. Harkishan Lal [1]) was a prominent 'extremist' politician, who had been convicted on a charge of complicity in the Punjab disturbances in 1919, and had subsequently been pardoned as a result of the general political amnesty which accompanied the enactment of the Reforms at the end of that year. The courageous statesmanship which prompted this appointment gave great popular satisfaction.

Turning now to the proceedings of the new parliamentary bodies, we begin with the first session of the reformed Indian legislature (February–March 1921), which was characterized at once by a robust but sober vindication, on the part of the new legislature, of the rights conferred by the Reforms, and by a genuine anxiety to assist the Government in grappling with an embarrassing financial situation.

A resolution, dealing with the Martial Law administration of 1919 in the Punjab, was the subject of the first debate in the Legislative Assembly. This resolution called upon the Governor-General in Council (i. e. the Government of India) (1) to declare his firm determination to uphold the principle of absolute racial equality, Indian lives and honour being held as sacred as British; (2) to express regret that the Martial Law administration should have violated that principle in a manner calculated to wound the self-respect of the Indian population; (3) to mete out deterrent punishments to officers guilty of improper exercise of their powers; and (4) to satisfy himself that adequate compensation was awarded to the families of those killed or injured in the Jallianwala Bagh or elsewhere on the same scale as that awarded in the case of Europeans who had suffered, or had been killed, in the course of the disturbances. The third clause the mover

[1] Mr. Lal was elected to the Punjab legislature by a special constituency representative of Punjab industries.

withdrew, after statements had been made on behalf of the Government as to the disciplinary action already taken against the officers whose conduct had been impugned. The remaining clauses were accepted by the Government; and the resolution, thus amended, was passed unanimously, after a debate which was purged of much of its bitterness by the frank recognition on the part of the European members, official and non-official, of the Indian point of view, and the equal readiness on the part of the Indian members to press that point of view upon the House without rancour and without indulging in useless recrimination.[1]

Another matter on which, as we have seen,[2] Indian public opinion felt very strongly was the presence on the Indian statute-book of 'repressive' legislation. The subject was debated at the first meeting of the Council of State, when Mr. (now the Right Hon.) Srinivasa Sastri moved that a committee be appointed to examine the whole question. The resolution was accepted by the Government, who themselves, a week later, moved in the Legislative Assembly for the appointment of a similar committee to report upon the Press Act. These two committees reported in due course in favour of the total repeal of the statutes in question—with the exception of two which, by general agreement, it was decided to keep on the statute-book pending a definite improvement in the political situation. Thus one further obstacle to the good understanding, on which the whole success of the great constitutional experiment depends, was removed.

The reformed legislature had, during this first session, yet

[1] The memorable words of the Duke of Connaught, at the formal inauguration of the reformed Indian legislature, contributed much to this conciliatory spirit. 'The shadow of Amritsar,' he said, 'has lengthened over the fair face of India.' 'I am moved,' he went on to say, 'to make you a personal appeal put in the simple words that come from my heart, not to be coldly and critically interpreted. My experience tells me that misunderstandings usually mean mistakes on either side. As an old friend of India, I appeal to you all, British and Indians, to bury, along with the dead past, the mistakes and misunderstandings of the past, to forgive where you have to forgive, and to join hands and to work together to realize the hopes that arise from to-day.'

[2] Cf. pp. 83–5, *supra*.

another opportunity of pressing its views on the Government in a matter closely affecting India's national interests and self-esteem. This was in regard to India's military requirements, and arose out of the recommendations of the Esher Committee on the Army in India. The Committee's Report was published in the autumn of 1920; but the Government of India had deferred giving effect to its major recommendations, until these had first been considered by the new legislature. Certain ambiguous expressions in the Report had given rise to a very strong feeling in India that the Commander-in-Chief in India was to be subordinated to the British War Office, and that India was to be asked to man and to finance an army on a scale dictated, not so much by India's own needs, as by the exigencies of Imperial defence.

The subject was first debated at the second meeting of the Legislative Assembly, when the following amended resolution was accepted by the Government, and carried unanimously: 'That notwithstanding anything contained in the Esher Committee's Report, the Army in India should be entirely under the control of India, and should be free from any domination or interference by the War Office; and that such co-ordination as may be desirable between different parts of the Empire should be secured by discussion and agreement at conferences, at which India is adequately represented.' The next stage in the discussion was reached when, with the concurrence of the Government once more, a committee of the Assembly was appointed to consider the Report of the Esher Committee as a whole, and to make recommendations. These recommendations were subsequently laid before the House in the form of resolutions. The Esher Committee had used the phrase: 'to develop the military resources of India in a manner suited to Imperial necessities.'[1] By this, according to the official interpretation, they meant: 'to organize, equip, and train the army in India on the lines adopted from time to time by other military forces of the Empire.' The Assembly, however, declined to accept this version, and preferred to repudiate the offending

[1] Cf. para. 17 of Part I of the Report.

clause (with its supposed implications) as it stood. It was further resolved that, in any scheme of Imperial defence, 'the obligations resting on India should be no more onerous than those resting on the self-governing Dominions, and should be undertaken subject to the same conditions'. A number of other resolutions, embodying the recommendations of the committee appointed to consider the Report, were carried with or without amendment, some of them being formally accepted by the Government. One, recommending that the commissioned ranks of the Indian army should be opened more widely to Indians, I have alluded to elsewhere.[1]

The second outstanding feature of the session was the responsible frame of mind in which the legislature, and here we are concerned principally with the Legislative Assembly, approached the exercise of its new financial powers, and the cordial support which it extended to the Government's financial proposals.

The Finance Member found himself, at the beginning of the financial year 1921–2, faced with a deficit for the year just ended of £11,750,000[2] and an estimated deficit for the coming year, on the basis of existing taxation, of £18,500,000. The revenue for 1920–1 had failed to come up to expectation, largely on account of the fall in exchange and a diminution (caused by the great increase in working expenses) in the net receipts from the State railways. The estimated expenditure had been exceeded as a result of unforeseen commitments arising out of military operations on the north-west frontier and the adoption of a new frontier policy, involving the military occupation of Central Waziristan. The net deficit thus resulting (£11,750,000) was met by means of uncovered additions to the paper currency, and by borrowing. Obviously the estimated deficit of £18,500,000 in 1921–2 could not be met in the same way without a grave departure from the

[1] Cf. p. 131, *supra*.

[2] The rupee figures have been converted into sterling at the (nominal) statutory ratio of Rs. 10 = £1. Computed at the current rate of exchange (March 1922), the sterling equivalents are two-thirds of those given in the text.

principles of sound finance; and to meet it, the Finance Member proposed new taxation, designed to yield some £19,000,000. Of this rather less than half was to be obtained as a result of a drastic revision of the customs tariff, and the remainder from additions to the surcharge on railway goods traffic, the income and super-tax, and postal rates.

With some slight modifications (notably in the case of the raising of the postal rates, the most unpopular of the new taxes), this bold financial programme, as embodied in a single Finance Bill, was passed by both Houses. The appropriations under the various heads of votable expenditure were also carried without material change, although here and there the Assembly exercised its right to reduce a grant or to eliminate some item of proposed expenditure.[1]

Arising out of this first Budget and Finance Bill, several points of constitutional interest deserve mention. The Council of State successfully vindicated its right to amend the Finance Bill[2]; which, indeed, stands on the same footing as all other Bills, save that it originates in the popular chamber. The Council of State expressed a desire to be allowed to discuss the Budget as a whole, from which it was precluded by its own Standing Orders. These were changed, next year, so as to allow of a Budget discussion in the Council. A good deal of jealousy, it may be mentioned, was manifested by the Assembly towards the other House. Friction occurred over amendments made by the Council and over proposals to

[1] For example, the provision of a sum of £2,500 for charges in connexion with the proposed visit of an American lecturer to India was disallowed on the ground that India was likely to derive little material benefit from such propaganda.

[2] The Finance Bill was amended in two of its clauses by the Council of State. A difficult situation would have arisen if the Assembly had refused to accept these amendments, as six months must elapse before such a matter can be submitted for decision to a joint session of the two Houses. In the case of the Finance Bill this would create a very awkward situation. Such a situation would arise, automatically, in the event of the Council of State exercising its right of amendment in express opposition to the will of the popular chamber. This was, indeed, threatened during the passage of the Finance Bill of 1922 (cf. p. 155, *infra*), when the Government used its voting power in the Council to prevent a conflict with the other House over an important clause of the Bill.

refer measures to a joint select committee of the two Houses; and a somewhat undignified debate in the Assembly ended in the carrying of a resolution 'to place the members of both chambers on an equal footing in respect of allowances and honorary titles'.[1]

An important constitutional principle was conceded by the Government in connexion with the taxation proposals contained in the Finance Bill, in virtue of the provision that apart from the changes in the customs tariff, in regard to which any element of uncertainty is to be deprecated on commercial grounds, the additional powers of taxation granted were to be valid for twelve months only. The convention is thus established that money bills are to be voted annually.

Another important innovation, designed to render the control over expenditure exercised by the Assembly more effective, was the creation by the Government of a standing Finance Committee. All the members of this committee, which is presided over by the Finance Member, are elected (on a system of proportionate representation) by the Assembly. Meetings of the Finance Committee, extending over several days, are held every few months, at which the Finance Member takes his non-official colleagues fully into his confidence with regard to all projects for new expenditure (including Army expenditure and other non-votable heads), before these have received the sanction of the Finance Department, or been provided for in the coming Budget. He examines with them also proposals for which grants supplementary to the Budget provision are required. Technically, of course, the committee has only advisory powers, though the Finance Member accepts its views, whenever possible; but its real importance is that it brings popular control into play and members of the legislature into contact with financial proposals in their earliest stages.[2]

[1] The designation 'Honourable' is enjoyed by members of the Council, whereas members of the Assembly write M.L.A. after their names only.

[2] Hence its functions are altogether different from those of the Committee on Public Accounts (a statutory committee), which scrutinizes the national expenditure *after* it has been incurred. Cf. pp. 114, 115, *supra*.

Coming now to the second session of the Indian legislature (September 1921), it has to be acknowledged that this scarcely fulfilled the high promise of the first. The Assembly, in particular, showed signs of being affected by the political malaise of the time. As the revolutionary movement (of which some account is given in Chapter VII) gathered strength, too many of the members, instead of taking a firm stand on the ground already won, allowed themselves to be carried by the prevailing current into deep and treacherous waters. As if the need for political education on the part of electors and legislators was already a thing of the past, as if the Reforms had spent their usefulness in a few short months, the view was now enunciated that only by a rapid and automatic speeding-up of the scheduled plan of constitutional development could the situation be saved. One of the leading exponents of this view declared in the Assembly: 'The country is on the verge of revolution, and if something is not done in time, the National Congress will pass what is called the Civil Disobedience resolution, and the whole country will be in anarchy.' So strong, indeed, were these unsettling influences that a great part of this short session was frittered away, and the energies of the Assembly dissipated, in unprofitable and irritating controversy.

The following resolutions, among others of a similar type, were debated:

(1) That complete responsible government in the provinces, together with responsible government in all but the Army, Foreign, and Political Departments of the Government of India, be granted at the beginning of 1924, and complete Dominion Home Rule at the beginning of 1929 [the year, be it observed, specified in the Government of India Act as the date of the first Parliamentary Commission of Inquiry].

(2) That a policy be initiated of appointing Indians to the offices of Secretary, Joint Secretary, and Deputy Secretary in the Army, Marine, Education, Foreign, Political, and Public Works Departments of the Government of India. [This was moved in the Council of State.]

(3) That standing committees, elected by the Assembly, be associated with each of the departments of the Government of India other than the Army, Foreign, and Political Depart-

ments. [This was tabled for discussion at the September session, but postponed.]

(4) That steps be taken to equalize the number of Indians and Europeans occupying certain high offices (Governors, Chief Justices, &c.).

(5) That the public services, other than those of a technical character, be recruited entirely in India.

The first of these resolutions was debated for two days;[1] and it was proposed, by way of amendment, to refer the whole matter to a committee for examination. Eventually, on the motion of the Home Member, a compromise amendment was adopted, whereby the House resolved: 'That the progress made by India on the path of responsible government warrants a re-examination and revision of the present constitution at an earlier date than 1929.' That the Government should have given ground for the belief that they had identified themselves with a resolution in these terms was unfortunate, for it rendered their own attitude in the matter at once open to serious misconstruction. Indeed, the mover of the original resolution, in his reply on the debate, proceeded to congratulate the Government for having thought fit 'to recommend to Parliament that they should send out a commission *at an early date*'.

Discussion on resolution (5), which comes next in importance, was initiated at the fag-end of the September session. It was resumed during the next session, when a full-dress debate on the subject took place (11th February 1922). The mover argued his case temperately, and declared that he was in favour of the Indianization of the public services as much on grounds of economy as on national grounds. In the debate on this resolution the Home Member once again intervened to secure the adoption of an amended resolution to the following effect: 'That immediate inquiries be instituted as to the measures possible to give further effect to the resolution of August 1917 in the direction of increased recruitment of Indians for the all-India services,[2] and as to

[1] The so-called Autonomy debate (23rd and 29th September 1921).

[2] The extent to which effect has already been given to the terms of

the steps to be taken to provide in India such educational facilities as would enable Indians to enter the technical services in larger numbers than at present.'

The other three resolutions, which I have quoted, are of less importance, but exhibit the same uneasy desire to tinker with the new constitution, and to force the pace at which a predominantly British personnel should give place to a predominantly Indian personnel in the more responsible positions under Government. Resolution (3), which was taken up at an early meeting of the Legislative Assembly in January 1922, was opposed by the Government, mainly on the ground that to create such machinery would mean piling up work for the already over-worked officers of the Secretariat, not to speak of the demands made upon the time of the non-official members. Reference was also made to Lord Bryce's criticisms of House Committees in the United States. The Home Member expressed himself in favour, however, of a standing committee to examine legislative proposals. The resolution was carried by 40 votes to 30.[1] Resolution (2), which was moved in the Council of State, was amended at the suggestion of the Government, and passed in a non-committal form. Resolution (4) was rejected by a substantial majority.

The Assembly showed itself at its best this session in its alert but responsible scrutiny of the demands for supplementary grants. In submitting the supplementary estimates, the Finance Member stated that every item had been approved by the standing Finance Committee. By 46 votes to 37 the House refused a grant of £20,000 to enable the Lytton Committee, which had been appointed to report on Indian Students in England, to prosecute their inquiries in India. With this notable exception, the demands were granted in full.

the resolution of August 1917, here referred to, is indicated at the beginning of Chapter V.

[1] A resolution in favour of the appointment of parliamentary under-secretaries, to assist the members of the Government in charge of the different departments, which was moved in the Legislative Assembly later in the session, was rejected—presumably, because it was feared that the members selected to fill these offices would become 'Government men', and lose their independence.

We now come to the session (January–March 1922) which has just ended. This was an eventful and, in more ways than one, a critical session. In wholesome contrast to the September session, it was fruitful of much valuable legislative work. In fulfilment of international conventions, to which India was a signatory, an Act was passed for the suppression of the traffic in women and children, and the Indian Factory Act was drastically amended. Amongst other useful measures placed on the statute-book were an Emigration Act, an amending and consolidating Income and Super-tax Act, and an Act constituting a new university at Delhi. An important piece of private legislation was less fortunate. This was Dr. Gour's Bill for amending the Civil Marriage Act—a measure intended to facilitate marriage between persons professing different religions or belonging to different castes. Orthodox opposition to this measure proved too strong, and the Bill was thrown out, the Government maintaining an attitude of strict neutrality.

The second encouraging feature of the session was the considerable measure of support secured by the Government in both Houses in the counter-measures adopted by the former against the revolutionary movement, although in view of its long forbearance the Government might reasonably have expected more unqualified support in the division lists on the part of the non-official members. A resolution moved in the Council of State, in favour of a joint session of the two Houses with a view to patching up a truce with the non-co-operation party, was defeated by 22 votes to 10. An amendment in favour of a round-table conference was also rejected. On the same day (18th January 1922) a motion for 'the immediate abandonment of the policy of repression' was debated in the Assembly. Some remarkably courageous speeches were made on this occasion, in opposition to the motion; speeches which added point to a notable utterance of the Home Member when, in reviewing the policy of the Government during the past year, he said: 'There was no question that came before us in which we did not honestly seek to meet moderate members of the Assembly in order to

consolidate the moderate party into a great working power in the country for good.' The motion was rejected by 53 votes to 33; and, in considering the size of the minority, we must no forget that in two of the provinces (Bengal and Bihar and Orissa) similar votes of non-confidence in the Government were carried by overwhelming majorities. Later in the session, on more than one occasion, the Assembly upheld the action taken by the Government in defence of law and order.[1]

The most stirring and dramatic incidents of the session, however, centred round the Budget. It was known, as soon as the legislature reassembled in January, that the central government, in spite of the heavy additional taxation sanctioned in the previous March, was faced by an enormous deficit, and that there was no prospect of any substantial reduction in expenditure. The fact that all the provincial governments were experiencing the same acute financial stringency made the position still more serious. The action taken by the Government in appointing a Retrenchment officer to apply the pruning-knife to all departments, and with him associating two non-official members of each House, by no means satisfied the Assembly, which demanded the appointment of an independent Retrenchment committee with power to make use of the equivalent of the famous Geddes axe in England. A motion to this effect was carried with the support of all the non-official members, including Europeans; as was another motion, also opposed by the Government, demanding that, for this year at any rate, the Army estimates (and other non-votable heads of expenditure) should be submitted to the vote of the Assembly. Legal opinion on this latter point was obtained from the Law Officers of the Crown in England, who held that while Sect. 25 (3) of the Government of India Act, 1919, provided (at the discretion of the Governor-General) for the *discussion* of these

[1] Over an urgent measure, providing penalties for promoting disaffection among the police (on the model of the English Police Act), there was an unfortunate disagreement in the Select Committee to which the Bill was referred, and the Government were unable to proceed with the measure.

estimates, no authority but that of Parliament could transfer them from one class of expenditure, not subject to the control of the Assembly, to another subject to that control.[1] The announcement of this decision, on the eve of his introducing the Budget, did not make the task of the Finance Member any easier.

The position disclosed in the annual financial statement presented on the 1st of March was as follows. In the year just ending, expenditure had been exceeded by £14,000,000, owing to serious losses by exchange, higher working expenses on the State railways, and military operations on the frontier. Trade depression, seriously accentuated by political unrest, was responsible for a falling-off in revenue of £20,000,000. The consequent deficit, financed by borrowing and inflated paper, was £34,000,000—making an aggregate deficit for the last four years of £90,000,000. In the coming year provision had to be made for a total estimated expenditure of £142,000,000, as compared with £143,000,000 (the revised estimate) in 1921–2—the Army estimate remaining unchanged at £62,000,000.[2] The revenue expected, on the basis of existing taxation, was £110,000,000, as compared with £119,500,000 in 1921–2. Well might the Finance Member, in concluding his Budget speech, observe: 'India's financial credit has stood high with the world in the past; if she is to maintain this, and if she is to make good what is of equal importance, her political credit with the world, she cannot afford to falter in applying the obvious and inevitable remedy which the situation demands.'

To meet the anticipated deficit in the coming financial year, the Finance Member outlined a programme of new taxation designed to yield some £29,000,000, leaving an uncovered deficit of £3,000,000. By an increase of 25 per

[1] For the distinction between the two classes of expenditure, cf. p. 117 *supra*.

[2] This figure for military expenditure is not quite so staggering as at first sight it appears, if we remember that we are here concerned only with expenditure out of the central revenues. It amounts to not quite one-third of the total national expenditure, if we add the expenditure out of provincial revenues.

cent. in railway passenger fares he proposed to obtain £6,000,000, and by doubling the salt tax (now standing at one farthing per pound) another £5,000,000. The remainder was to be obtained by raising the excise duty on Indian mill-made cotton piece-goods from 3½ to 7½ per cent. *ad valorem*, by raising the general *ad valorem* customs tariff from 11 to 15 per cent. (25 per cent. in the case of sugar, 30 per cent. in the case of articles of luxury), by again increasing the postal rates, and by taxing large incomes still more heavily.

The Finance Member announced that, in deference to the wishes of the Assembly, the Government would appoint an independent Retrenchment committee, and later he said that he hoped the committee would be authorized to consider military as well as civil expenditure. He further announced that the Government were engaged in formulating a definite policy for the better solution of political troubles on the north-west frontier. At a later stage he declared that the Government could not consider any reduction in the Army estimates, in view of the fact that a reduction of 29,000 men below the pre-war strength had already been effected,[1] and in view of the serious unrest prevailing both in India itself and on the frontier.

These assurances did not satisfy the retrenchment-at-all-costs party in the Assembly, which proceeded, by way of protest against the Army estimates in particular, to apply to a large number of civil heads automatic 'cuts' of 5 per cent.; and, while voting £19,000,000 of the new taxes, to refuse £10,000,000, under the following heads, viz., enhancement of the salt tax and of the import duty on cotton piece-goods (as pressing too hardly on the poor), and enhancement of the cotton excise duty and the duty on imported machinery (as causing injury to home industry). This left the Finance Member with an uncovered deficit of £13,000,000, or £12,000,000, if account be taken of the arbitrary reductions

[1] As the Commander-in-Chief pointed out, however, 'the condition of equipment with the most up-to-date weapons, on the strength of which these reductions were made, has not yet been fulfilled, and it will be another twelve months before it can be fulfilled'.

effected in the civil estimates. At a later stage, however, a suggestion was made and accepted by the Government whereby an additional source of revenue was tapped, yielding £3,000,000, thus reducing the anticipated net deficit to £9,000,000.[1] At a later stage still, the Government declined to accept the restoration in the Council of State of the clause doubling the salt tax, thus bowing to the will of the Assembly, and, in effect, denying to the second chamber the right of amending a money bill in opposition to the declared wishes of the popular chamber.

By the compromise arrived at,[2] a serious constitutional crisis, involving the exercise of the emergency powers vested in the Governor-General,[3] was avoided. To what extent, however, India's financial credit may have been impaired by the action taken by the Assembly, in opposition to the strong representations of the Government, the history of the present financial year alone can show.

Before the close of the session, the Assembly accepted a motion for the expenditure of £150,000,000, to be financed out of loans, and spent during the next five years on the rehabilitation of the Indian railways—to the urgent need of which attention was drawn by the Acworth Railway Committee, in its report issued last year.

Reference may be made here to two striking representations which have recently [4] been put forward by the Indian legislature and the Indian government, in regard to matters closely affecting India's national interests or sentiments abroad, for they raise constitutional questions of great importance. India's present external status is indefinite, not

[1] The vote in favour of ear-marking as revenue, in the current and the preceding financial year, this additional £3,000,000, and the vote to eliminate the increase in the cotton goods import duty (after the corresponding increase in the excise duty had been rejected) were critical divisions. The out-and-out protectionists were for raising the import duty on cotton piece-goods on principle.

[2] For it must not be overlooked that, for the second year in succession, the Assembly voted new taxes amounting to £19,000,000.

[3] For the nature of these powers, cf. pp. 102, 103, *supra*.

[4] February–March 1922.

to say self-contradictory. On the one hand, she has been formally admitted to the councils of the British Empire as an 'equal partner'; on the other, the position of her government is correctly described by the British Foreign Minister as that of a 'subordinate government'. Whatever the precise position may be, the Indian government, with its enlarged Indian element and its increased dependence on the legislature, has almost inevitably taken upon itself to voice the national sentiments of the Indian people.

The first of the representations in question was made in regard to the position of Indians in British East Africa; when a resolution, to the following effect, was adopted by the Legislative Assembly, with the concurrence of the Government, and telegraphed to the Secretary of State for India: 'That the Governor-General in Council [i. e. the Government of India] do present to His Majesty's Government [i. e. the British Cabinet] that any failure in His Majesty's African territories to meet the lawful claims of India for equality of status with all other classes of His Majesty's subjects will be regarded as a serious violation of the rights of Indians to citizenship, which were recognized and affirmed only so recently as at the Imperial Conference of 1921.'[1]

The second was a manifesto, issued by the Government of India with the concurrence of all the Provincial Governments (including their Ministers), urging, in specific terms, the claims of Indian Muhammadans to a voice in the revision of the peace settlement with Turkey. The publication of this manifesto was followed, it will be remembered, by the resigna-

[1] The question of the civil and economic disabilities suffered by Indians in the territories comprising British East Africa, which are immediately subordinate to the British Colonial Office, stands on a different footing, constitutionally speaking, from that of the position of Indians in South Africa. At the Imperial Conference of 1921 all the Dominion Governments, with the exception of South Africa, while reserving the right to restrict immigration, agreed to extend the privileges of equal citizenship to Indians lawfully domiciled in the Dominions. In regard to South Africa, the Legislative Assembly, with the concurrence of the Government of India, resolved last September: 'That early steps be taken to secure equal status for Indians in South Africa.' Negotiations with the South African Government are in progress.

tion of Mr. Montagu, the Secretary of State for India, who had authorized its publication without obtaining the previous sanction of the British Cabinet.

Coming now to the provincial governments and legislatures, we naturally inquire, first of all, how dyarchy has worked in practice. On this point all that can be safely said, at present, is that dyarchy, as conceived by its authors, has scarcely yet begun to function. So far as one can judge, at this early stage, of the working of the reformed system of government in the provinces, dyarchy remains as yet little more than a dim constitutional background.

Many things have contributed to keep dyarchy in the background. In one province, at any rate, the Governor has made no secret of his preference for a unitary system of government.[1] The year has been one of acute political unrest; and it is not to be wondered at that the authorities charged with the maintenance of law and order under most difficult circumstances should, in more than one province, have deliberately invoked the support of the popular Ministers. In the United Provinces, one of the Ministers actually intervened in a debate in the provincial legislature, regarding the action taken in suppressing certain agrarian riots, to secure the withdrawal of a motion reflecting on the administration of a reserved subject. The adoption of such a policy, generally, is calculated to have two unfortunate results.[2] First of all, it tends to prevent the healthy growth, on the part of the Ministers, of that sense of independent and, be it added, collective responsibility for the administration of the departments specifically committed to their charge. Secondly, it places Ministers in a false position. It is impossible for them

[1] Thus, in opening the reformed legislature in the United Provinces, Sir Harcourt Butler said: 'As for my Government, I have chosen as colleagues, without favour, strong and independent men. They will have my complete confidence in all matters, and it is my desire that we should work together, as far as possible, as one Government.'

[2] The interesting experiment, initiated by Lord Willingdon in Madras, of placing the portfolios of Law and Police in the hands of an Indian member of the executive council rests on a very different constitutional footing.

to work in close relationship with the legislature, as was intended, if they become identified in the popular mind with an irremovable executive. Instead of ' responsible ' ministers, the trusted agents of the legislature, they will come to be looked upon as ' Government men ' ; and, like their official colleagues, will become the target of popular opposition.[1]

It is, indeed, no easy matter for the average member of a provincial legislature to grasp the fact that the popular half of the Government stands on an altogether different footing, and in a different relationship to the legislature, from the official half. More than one Provincial Governor has laboured to make this difference clear. In his inaugural address to the legislative council in the Central Provinces, the Governor said : ' To you is entrusted the full control of the administration in the transferred subjects. In the reserved subjects you have also wide powers of control ; and it is the intention of the Government to administer the reserved subjects in accordance with all the reasonable views of this council.' The Governor of Bengal, in the closely reasoned and illuminating address which he delivered in proroguing the provincial legislature at the end of its first session, examined ' this fundamental difference between the position occupied by Ministers and that occupied by members of the Executive Council ', more particularly in its bearing on the financial control vested in the legislature over the transferred and the reserved departments, respectively.

It was scarcely to be expected that, in their first year of office, Ministers would have been ready, even under the most favourable circumstances, with a programme having a popular

[1] Sir Valentine Chirol in his recent book, *India Old and New*, makes the following observations on this point (p. 238) : ' The policy, wisely adopted by Provincial Governors, of treating the two wings of their Government as equally associated with them in a common task of governance, has robbed the distinction between " reserved " and " transferred " subjects, if not of all reality, at any rate of the invidious appearance of discrimination which might otherwise have attached to the word " dyarchy ". As one Provincial Governor remarked to me, " We are in reality skipping the dyarchy stage ".' It would be much truer to say that the stage of genuine dyarchy (involving, in one branch, genuine ' responsible ' government) has not as yet been reached.

appeal in it, and calculated to focus public attention on the departments (education, public health, and local self-government) transferred to popular control.[1] In actual fact, the circumstances could not have been less favourable. Creditable progress, it is true, was made in several provinces, in the field of education and local self-government, on lines already laid down; but more ambitious schemes, even could they have been formulated, would have been still-born, owing to the universal financial stringency. Moreover, it was a year in which men's thoughts were engrossed with the dramatic ebb and flow of the revolutionary movement. Ministers and their policies and their departments were consequently overshadowed, and relegated very largely to the background. By a strange irony of circumstances, the one department in the charge of Ministers over which public feeling was strongly aroused was the excise department. Regardless of the manifestly insuperable practical difficulties involved, regardless also of the absolutely crippling effect of attempted prohibition on provincial revenues, there was a vehement demand, in more than one province, for the total suppression of the drink traffic, and the excise department rivalled even the Police department in popular disfavour.

There was no resignation of any Minister during the year, although occasionally, in matters of no great importance, a Minister suffered defeat in the legislature. One Minister (the Hon. Mr. Madhosudan Das, in Bihar and Orissa) plainly informed the legislature that, unless assured of its support, he would decline to remain in office.

If we next inquire how the reformed legislatures acquitted themselves, the answer will be found to vary, I think, with the composition of these bodies; and here, once again, we must bear in mind that, owing to the influence of the non-co-operation movement, these bodies were not of a fully

[1] A possible exception is to be found in Madras, where the strong identity of interests and outlook existing between the (non-Brahman) Ministry and the dominant party in the legislature gave a reality to the relationship between Ministers and legislature which was conspicuously lacking elsewhere.

representative character. The lawyer-politician, with his combative instinct and pronouncedly doctrinaire and radical views, was strongly represented in all the provincial legislatures; but while in some his influence appears to have dominated, in others the landed gentry appear to have controlled the voting power. The former was the case in Bengal and in Bihar and Orissa, the latter in the United Provinces and in the Punjab. This was unmistakably reflected in the position taken up by these legislatures towards the counter-revolutionary measures adopted by the Government. So critical of the Government's policy was the Bengal legislature that on no less than three occasions a motion, which amounted to a vote of censure, was carried by a large majority. In the legislature of the neighbouring province of Bihar and Orissa a similar motion was carried by an overwhelming majority. In the Punjab legislature, on the other hand, resolutions of a similar character were, on at least two occasions, put to the vote, and were each time decided in favour of the Government; while the same was the case in the United Provinces on three or four occasions.

In the Madras legislature, as we have seen, there was a solid non-Brahman majority, and this lent an unfortunate bias to many of the discussions, and narrowed the range of vision of the legislature, which was all too frequently preoccupied with the non-Brahman versus Brahman aspect of a question to the exclusion of more important aspects. Similarly, in the legislature of the United Provinces, there was a pronounced tendency to look at certain public questions too narrowly from the landlord's point of view. This was notably the case in the discussions over the Oudh Rent Act Amendment Bill, when what might have been an entirely satisfactory and final solution of a long-standing agrarian problem was just prevented from being either, not because the landlord party were unwilling to make concessions, but because they were not prepared to make generous enough concessions.

Over all the provincial legislatures, during these early critical days, hung the lowering cloud of financial stringency. This year (1922) only one or two provinces managed to make

their budgets balance, and the aggregate budget deficit was upwards of £8,000,000. Most of the reformed legislatures exhibited the strongest reluctance to vote additional taxation. In Madras the proposal to restore a small local rate for local purposes was thrown out.[1] In Bombay the Indian Stamp Act was amended so as to provide increased revenue; but an Amusement Tax Bill was rejected at the first reading. Measures designed to secure increased revenue by an amendment of the Court Fees Act were rejected in the Central Provinces and in the United Provinces at the first reading. In Bengal, on the other hand, three taxation measures (including an Amusement Tax Bill) were passed. Attention was concentrated on the possibility of retrenchment, and Retrenchment committees (in Bengal, a Police Retrenchment committee) were appointed in several provinces. Irresponsible reductions were, in some instances, made in the Budget grants—notoriously in Bengal, where a 'cut' of £230,000 (or one-eight of the total grant) was made in the Police vote. This was restored, however, by the voting of a supplementary grant. In several provinces use was made of the power given to the Governor to restore items of expenditure under reserved heads disallowed by the legislature.[2]

It is manifestly dangerous to generalize, when we remember that we are speaking of eight provinces, in many ways so different; but, on the whole, the provincial legislatures have hitherto shown considerably less grasp of political and financial realities, a less balanced judgement, a greater proneness to

[1] The Madras legislature, on another occasion, carried by 65 votes to 10 a resolution in favour of making a permanent settlement of the land revenue. This means that what is now one of the most elastic would become an absolutely inelastic head of revenue, with consequences so serious, that in Bengal the question is being discussed whether it is not within the competence of the reformed legislature (in the exercise of its popular sovereignty) to abolish the long-standing permanent settlement in that province.

[2] In Bengal Lord Ronaldshay pointedly drew the attention of the legislature to the following passage in the Report of the Joint Select Committee on the Reforms Bill: 'The Committee wish it to be perfectly clear that this power is real, and that its exercise should not be regarded as unusual or arbitrary.'

be carried away into by-paths of controversy strongly tinged with racial feeling, and, above all, considerably less application to business than the central legislature. The fact is that, while some of the best brains in the country are to be found in the central legislature, the supply of parliamentarians of anything like equal industry or ability in the provinces is wholly unequal to the demand. This will have to be remedied before the provinces can be said to be ready for the introduction of full Home Rule.

CHAPTER VII

THE MENACE OF THE REVOLUTIONARY MOVEMENT

THE publication of the official Reforms scheme in 1918, as we have already seen, was followed by a split among Indian Nationalists. The Moderates seceded from the Indian National Congress, and formed a separate organization, afterwards known as the National Liberal Federation, which held its first annual conference that year (1918). At the second annual conference, held a few days after the Government of India Act of 1919 had passed into law, the following resolutions were adopted :

'This Conference begs to convey to His Majesty the King-Emperor its profound homage and sense of deep gratitude for the Proclamation of the 23rd December 1919, which opens a new era in the history of British India by inaugurating the beginnings of responsible government.'

'While regretting the omission to introduce some measure of responsibility in the central government, this Conference welcomes the Government of India Act of 1919, as the first definite and substantial step towards the progressive realization of responsible government. This Conference appeals to all sections of the community, European and Indian, officials and non-officials, whole-heartedly to co-operate for the successful working of the Act.'

In striking contrast to this political manifesto of the Moderates, were the resolutions passed by the Indian National Congress at its annual session, held about the same time at Amritsar. These were as follows :

'This Congress reiterates its declaration of last year that India is fit for full responsible government, and repudiates all assumptions and assertions to the contrary, wherever made.'

'This Congress adheres to the resolution passed at the Delhi Congress regarding constitutional reforms, and is of

opinion that the Reforms Act is inadequate, unsatisfactory, and disappointing.'

'This Congress further urges that Parliament should early take steps to establish full responsible government in India in accordance with the principle of self-determination.'

'Pending such introduction, this Congress trusts that, so far as may be possible, they so work the reforms as to secure an early establishment of full responsible government; and this Congress offers thanks to the Rt. Hon. E. S. Montagu for his labours in connexion with the reforms.'

Over the last of these resolutions there was vehement discussion, one party being anxious to dissociate themselves from the Reforms Act, and to repudiate Mr. Montagu and all his works, the other reluctant to alienate the well-known liberal sympathies of the Secretary of State, or to bind themselves to take no part in the reformed system of government soon to be inaugurated. The conflict of views between the two parties is also evident in the second and third resolutions. In the Delhi resolution of 1918, which is reaffirmed in the first part of the former, the National Congress demanded immediate Home Rule in the provinces, and a statutory guarantee that complete Home Rule for India as a whole would be granted at the end of fifteen years; and one party favoured the capture of the new machinery of government as the most effective means of bringing pressure to bear upon the Secretary of State and upon Parliament to make them accede to these demands. The third resolution, however, in the emphasis which it places on self-determination, gives expression to a more uncompromising view, and one which has, fundamentally, nothing in common with the principles enunciated by Parliament in the preamble to the Reforms Act. In effect, it calls upon Parliament to re-open the whole question of India's political status, and to leave it to Indians themselves to determine their own political future. In the opinion of the party adhering to this view, the acceptance of the Reforms Act and participation in the reformed system of government involved a denial of the political faith to which, by its own resolutions, the Congress stood pledged.[1]

[1] As early as December 1917, in its annual session of that year, the

For the moment the out-and-out adherents to the principle of self-determination for India held their hand. In September 1920, however, at a special meeting of the Congress, it was decided to boycott the forthcoming elections; and at the annual session, held at Nagpur in December, a change was made in a fundamental article of the Congress constitution, which removed all doubt as to the political creed professed by that body. The object of the Indian National Congress was now declared to be 'the attainment of *Swarâj* [Self-rule] by the people of India by all legitimate and peaceful means'. Not only was all reference to India's constitutional position within the British Empire omitted; but still more significant was the omission of the declaration, contained in the former constitution, that the objects of the Congress were to be attained 'by bringing about a steady reform of the existing system of administration'. Significant, too, was the undisguised intolerance towards any dissentient minority displayed by the majority party at this Nagpur session.

The final transformation of the Indian National Congress into a revolutionary organization, pure and simple, did not take place until the latter end of the following year. In November 1921 the following resolution was passed at Delhi by the All-India Congress Committee (the supreme executive body): [1]

Congress had repudiated the claim of others [i.e., Parliament] to decide for India the time and measure of the stages by which self-government should be achieved, 'as a negation of the recognized principle of self-determination'.

[1] The following resolutions were also passed. The first sanctions attempts, which were already being made, to undermine the loyalty of the Indian troops. The second, which has in view Muhammadan states like Turkey and Afghanistan, is interesting on account of the claim put forward to the control of India's foreign affairs.

'The All-India Congress Committee . . . is of the opinion that it is the inherent right of every citizen to appeal in an open manner to soldiers and civilians to sever their connexion with a Government which has forfeited the support of the vast majority of the population of India.'

'The All-India Congress Committee wishes to assure all Foreign States that, when India has attained self-government, her foreign policy will be always such as to respect the obligations imposed upon them by their respective religions.'

'Whereas there is not much over one month for the fulfilment of the national determination to establish *Swarâj* before the end of the year . . . the All-India Congress Committee authorizes every Province, on its own responsibility, to undertake civil disobedience, including non-payment of taxes, in the manner that may be considered the most suitable by respective Provincial Congress Committees.' [1]

This resolution was confirmed at the annual session of the Congress, held a few weeks later at Ahmedabad; and two further resolutions were passed, which completed the transformation. One had the effect of suspending all the activities of the Congress other than those concerned with 'civil disobedience, whether mass or individual, whether of an offensive or defensive character'. The second conferred on Mr. Gandhi (or, in the event of his arrest, on a successor named by him) virtually unlimited executive authority, with the significant proviso that no 'terms of peace' were to be concluded with the Government of India, or the British Government, without the final ratifying authority of a special convention of the Congress.

Having seen how Nationalist opposition to the Reforms has gradually defined itself as a movement directed towards the overthrow of the established government, we must next consider the menace contained in this movement to the ordered constitutional progress which forms the subject of this book.

It must, first, be emphasized once more that a decisive parting of the ways has been reached between the constitutional and the revolutionary Nationalists. Many of the former, it is true, have strongly urged of late that India's progress along the road to self-government should be accelerated, some because they honestly believed that there was no other cure for the prevailing unrest, others because of the continuous social pressure, not to say persecution, to which they were subjected by the revolutionary faction, others again from no

[1] Certain preliminary conditions were to be fulfilled before civil disobedience was put into force; but these were of a somewhat illusory character.

worthier motive than a desire to make political capital out of the Government's embarrassments. But while this is so, and in the circumstances is, perhaps, scarcely to be wondered at, the Moderates are none the less committed, as a party, to certain fundamental principles governing India's constitutional development, which may be thus formulated:[1]

(1) India's future government must be the present government transformed.

(2) The sovereign authority of Parliament must be invoked at every stage in order to effect this transformation.

(3) The British element in the administrative system must not be eliminated too rapidly, if India's progress to Home Rule is to be safely accomplished.

The cleavage between the two parties goes deeper, however, than their fundamental political differences. The revolutionary Nationalists contemplate an India, not merely freed from all constitutional ties with Great Britain, but emancipated from all Western influences. India's economic salvation, according to this cult of Nationalism, depends on a return to the primitive spinning-wheel; only by clothing herself once more in universal homespun can India throw off the domination of Western capitalism. The bonfires of foreign cloth, lighted by Mr. Gandhi, are symbolical. Again, India's spiritual salvation, according to this cult, her deliverance from the snare of Western materialism, is to be accomplished only by purging the educational system of all its foreign

[1] The following extract from a recent leading article in an Indian (Moderate) newspaper illustrates so remarkably the angle of vision from which the Moderates approach the problem of India's political future, that I cannot do better than quote it:

'Cannot Indians, who have been slaves of foreign domination for the last 1,200 years or so, have patience for a few years more, and have a little trust in British honour and the plighted words of the British Sovereign and Parliament? They have most unequivocally acknowledged India's birthright to India's freedom. Are the British to be treated as enemies for all this, and is war to be declared against a country whose sons have worked and are working for India's freedom, who have inspired Indians with ideas of liberty and self-government, and the whole history of whose administration has been a steady move towards the desired goal?'

elements, including the use which is made at present, in the higher branches of education, of the English language.[1] But if revolutionary Nationalism is thus all of one piece, so also is the Nationalism of the rival cult professed by the Moderates. Just as, for them, India's political future lies, not in isolation, but in a union, based on free and equal partnership, with the other peoples which make up the British Empire; so her economic and spiritual future as a nation lies, not in plunging back into mediaevalism, but in boldly embracing progress on Western lines. For industrial development and intellectual quickening alike, India needs contact with the West. Hence it is not in the field of administration alone that the continued association of members of the two races, British and Indian, is required; equally essential, in the view taken by the Moderates, is their co-operation as canal and railway engineers, capitalists, bankers, and educationists, if India is to attain to her full national stature, and to take the high place among the nations which lies within her grasp.

In short, the fundamental conflict is between those who passionately desire, by expelling Western influence, to establish or re-establish a purely Indian civilization, and those whose firm conviction it is that East and West must join hands in the shaping of it, if India is to have, at this stage of the world's history, a civilization worthy of the name.

The first thing which we have to note, then, is that the real significance of the revolutionary movement lies below the surface; and unless we look for it there, we shall miss it altogether. The second is that the appeal of revolutionary Nationalism is addressed, mainly, to the illiterate masses.

[1] It was with reference to this aspect of a Nationalism of which he said, 'the whole world to-day is trembling under the oppression of this evil genius', that Dr. Rabindranath Tagore, in a recent letter (published in the Bengali magazine, *Prabasi*), wrote: 'When I found that Mahatma Gandhi was asking our ladies not to study the English language, I realized that the erection of a wall round the country had commenced. In other words, we have begun to believe that the way of salvation lies in our converting our own houses into prisons! We have begun to worship the darkness of our house by excluding all the light of the outside world.'

Generally speaking, the educated classes, who know the value of the British connexion and are able to grasp the essentials of stable government, have turned a deaf ear to the appeal; although this cannot be said of the rising generation,[1] a fact which is of grave moment for the future. With the notable exception of Mr. Gandhi himself, of Mr. C. R. Das, one of the most eminent of Bengali lawyers, and of men like Mr. Lajpat Rai in the Punjab and Mr. Motilal Nehru in the United Provinces, the revolutionary movement has produced no leaders of repute; while the older Congress leaders have either severed their connexion with that body, or have withdrawn into the background.

Failing in their efforts to stampede the educated classes, the revolutionary Nationalists have addressed themselves to the masses; and for the past twelve months they have been prosecuting an intensive campaign all over India, in the towns principally, but also in the villages, indoctrinating the masses with the revolutionary gospel, and provoking a collision with established authority, wherever a favourable opportunity presented itself. The authors of the *Joint Report*, in a passage often quoted, wrote:[2] 'The placid, pathetic contentment of the masses is not the soil on which Indian nationhood will grow, and in deliberately disturbing it we are working for India's highest good.' And again they wrote:[3] 'Political leaders in India, if they are to escape the charge of representing only the interests of the classes to which they themselves belong, must be able to appeal to, and be understood by, the masses of their fellow-countrymen.' It is a curious irony that the first great step in the direction indicated should have been taken by the leaders of a party deliberately seeking to discredit, and to paralyse, and to overthrow the established order.

A measure of the success, even though it be ephemeral,

[1] Revolutionary Nationalism, coloured by strongly anti-British feeling, appears to be especially prevalent among the Indian student class abroad, both in Great Britain and America. 'India for the Indians' is their watchword.

[2] Cf. para. 144.

[3] Cf. para. 185.

which has attended this great popular campaign, is afforded by the practically universal *hartâl* (concerted suspension of business) observed in most parts of Northern India on the day on which the Prince of Wales landed in Bombay (the 17th November 1921)—a demonstration of disloyalty by no means confined to the large cities only. That the revolutionary appeal was addressed to the credulity rather than the intelligence of the masses, who were told that *Swarâj* would be declared before the end of the year, and would be accompanied by cheap food, cheap cloth, free railway passes, and the virtual extinction of all taxes, if not of rent as well; that revolutionary propaganda was reinforced by intimidation, and every kind of social persecution, are facts which, for our present purpose, do not concern us. Here we are concerned with the simple fact of the campaign itself, and the considerable measure of success which attended it, as a political portent of profound significance. The spread of a rabid, anti-European Nationalism among Indian women of all classes, of which there is evidence, is another fact of immense and sinister significance.[1]

Now the success of the Reforms scheme depends, essentially, on the existence of a spirit of mutual understanding and goodwill between the rulers (among whom Indians themselves have now to be included) and the ruled. Anything like a permanent estrangement, on the part of the latter, from a system which they were taught to regard as a foreign tyranny would render the task of maintaining a stable but liberally progressive government exceedingly difficult, if not impossible.[2]

[1] The Ladies' Conference (an off-shoot of the Indian National Congress), which met at Ahmedabad in December 1921, is said to have been attended by 6,000 delegates. In Mrs. Sarojini Naidu, the distinguished Bengali poetess, the women of India have an eloquent and impassioned revolutionary leader.

[2] The alternative put forward by the revolutionary Nationalists, when this is squarely faced, as it seldom is, involves the withdrawal of British authority and British troops—India for the Indians, in fact. It is exceedingly problematical whether an alternative government of a 'national' character, if established on anything like a popular basis, could maintain itself for a day, in view of the many internal divisions which so gravely complicate the problem of government in India, not to speak of the

During the recent eventful months the police in all parts of India have shown admirable loyalty and fortitude under most exacting conditions; and the same is true of the Indian Army.[1] Too much, however, must not be expected of them. The police have always had to put up with a certain amount of unpopularity; but systematic persecution, which amongst its other forms has been directed against the wives and families of Indian soldiers absent on service, is another matter. Finally, there are the British officials, upon whom the whole weight of the administrative system still rests. It is to be feared that many of these—and, more particularly, District Officers filling lonely, isolated posts—would find it humanly impossible to carry on their work in an atmosphere of sullen, if not active, hostility.

The moral of all this is plain. India's political future lies with the party which commands the confidence and good-will of the masses. Are they to be left a prey to the tearing, raging propaganda of the revolutionary Nationalists; or are they to be won for something more hopeful, something more constructive? If the latter, it is high time the Moderates took the political education of the masses in hand, and vigorously challenged the revolutionary Nationalists on their own ground. Apart from other considerations, it is by no means unlikely that the latter will make up their minds, when

external menace which hovers always over the north-west frontier. It is another question whether 'national' government of the autocratic character found in the Native States might not, under favourable conditions and provided the necessary cohesion could be secured, prove both stable and progressive. Indeed, the absorption of the British provinces in the existing Native States, and in States under Indian Ruling Princes created *ad hoc*, has been suggested as a possible solution of India's political future, in the event of the narrower cult of Nationalism carrying the day.

[1] There has been some disaffection among the police in Bihar and Orissa, and also in the Madras presidency; but this has had an economic rather than a political cause. In Bengal a certain number of Muhammadan members of the police resigned the service under the influence of the *Khilâfat* agitation. The Indian sepoy, when actually serving with his regiment, can be protected from undesirable influences; but men are got hold of by agitators when at home on leave, and this has led in one or two instances to mutinous conduct.

the time comes (in the autumn of 1923), to contest the next elections; and the number of seats which the Moderates are then able to retain will depend very largely on the amount of missionary work of this kind accomplished.[1] The Government can do something, more especially by a wise and sympathetic handling of agrarian and labour troubles; but Indian public men, of resolute will and real devotion of purpose, can do infinitely more. It is the curse of a bureaucracy, such as India has had in the past, that men acquire the habit of thinking that the Government can and should do everything, and that all which is expected of the private citizen is enlightened criticism. Of this idea the Moderates will have to rid themselves. For it rests upon them to join hands with the Government in upholding the law and preserving order, to encourage the police in the execution of their dangerous and exacting duties, and to strive, by all the means in their power, to create that atmosphere of mutual understanding and good-will which alone will make it possible for India to retain the services of the experienced British administrator during this most difficult transitional period.

It is no easy task which the Moderates have to perform. It will not make for cheap popularity. They must be prepared to face misrepresentation, and abuse, and social persecution—as, indeed, they have faced all these already—for the sake of the cause which they believe to be the national cause. On their proving equal to the task, and, above all, on their ability to convince the masses of their fellow-countrymen of the wisdom and the abundant promise of their cause, depends the ultimate success of the Reforms scheme. The only possible alternatives lie in a return to some form of autocracy (whether Indian or British) or a plunge into anarchy and chaos.

To the analysis, contained in the foregoing paragraphs, of the general situation to which recent developments in the

[1] Something has been done, in the way of counter-propaganda, by the formation of *Aman Sabhas* (Security Leagues) in many districts of the United Provinces; and a Citizens' Protection League, with similar objects, has lately been established in Bengal, under the joint auspices of Indian and European public men.

revolutionary movement have given rise, it remains to add some historical background. This, the short account of the principal events of the past two or three years, which follows, is intended to supply.

It was in the early part of 1920 that Mr. Gandhi first established close relations with the brothers Muhammad and Shaukât Ali, the notorious Muhammadan fire-brands, and assumed the leadership of the revolutionary movement; which, at a special session of the Indian National Congress in September, secured a substantial majority for the adoption of its programme of non-co-operation, and in December, at Nagpur, captured the entire Congress organization for the carrying of that programme into action.

A word or two must be said about the remarkable personality of Mr. Gandhi. After an absence of some twenty years spent as a practising barrister in South Africa, and at the age of 45, Mr. Gandhi returned to India towards the end of 1914. He was, at that time, known as the untiring and unflinching champion of the Indian labourers and traders settled in Natal and the Transvaal, whose resistance he had organized, and whom he led, in their unequal struggle for the removal of the civil disabilities and racial discrimination to which they were subjected. This long struggle, which began in 1906, and culminated in 1913, was characterized by the same policy of non-violent, but open, and concerted defiance of the law—the so-called policy of civil disobedience—which Mr. Gandhi was afterwards to put into practice in India. He returned to India with very strong convictions as to India's need of *Swarâj*, as her only means of deliverance from the evils of Western civilization, and with a strong faith in the efficacy of civil disobedience as a peaceful method of winning that deliverance, should other methods fail. As one who has sacrificed all worldly advantages for a spiritual ideal, almost extravagantly ascetic in his private life, and a firm believer in the mystical value of suffering for its own sake, Mr. Gandhi is universally reverenced by Hindus; and his followers are bound to him, not by political conviction alone, but by a strong religious sentiment. He is a Tolstoyan in his naïve

belief in the sovereign virtue of non-resistance, as well as in his almost pathetic faith in the common man's instinct for good. He has the genius of his race, however, for political *finesse*; and with the politician's love of power he combines the lawyer's delight in verbal logic-chopping.

Mr. Gandhi returned to India just after the outbreak of the War; and throughout the struggle he identified himself with India's war efforts. He first came into prominence as a political leader of national importance, as a result of a number of whirlwind campaigns which he conducted in different parts of the country, from 1918 onwards, for the redress of agrarian and labour grievances. At the beginning of 1919, by way of protest against, and with the object of compelling the withdrawal of, what he regarded as a national indignity offered to India in the Rowlatt legislation of that year, he organized the *Satyagraha* movement. The *Satyagraha* pledge committed those who signed it 'faithfully to follow truth, and refrain from violence to life, person, or property', while, at the same time, refusing to obey such laws as might be selected for the purpose of concerted civil disobedience. The *hartâl* (concerted suspension of business) was a characteristic feature of the movement, and at once offered scope for intimidation and violence. Indeed, the impassioned appeals which, despite all advice, Mr. Gandhi insisted on making to the ignorant and easily inflammable masses in the large towns, could have had only one result. Rioting and bloodshed followed in Delhi, in Calcutta, and in Ahmedabad (Mr. Gandhi's own city), culminating in the widespread and very serious disorders in the Punjab. Mr. Gandhi was moved to acknowledge what he graphically described as his 'Himalayan error', and to confess that he had underrated the 'forces of evil'. The *Satyagraha* movement was suspended.

Unfortunately, the measures taken to suppress mob insurrection in the Punjab—the province which, in all India, had most distinguished itself during the War—were marred by racial rancour which caused severity, at times, to degenerate into brutality, and in one instance—the action taken by General Dyer at Amritsar—grossly violated all British

traditions. The full story of Amritsar was not known until the report of Lord Hunter's Committee a year later; and Indian soreness of feeling was inflamed, first by the long delay in publishing the facts, next by what was regarded as the half-hearted action taken by the Government upon the findings of the Committee, and finally, what rankled most of all, by the resolution of the House of Lords upholding General Dyer, and the purse of money (accompanied by a sword of honour) widely subscribed for him among his fellow-countrymen, both in India and at home. There can, I fear, be little doubt that the legacy of racial bitterness, which derives from the butchery at the Jallianwala Bagh, has proved the most powerful of all the forces behind the revolutionary movement.

Extraordinary scenes of fraternization between Hindus and Muhammadans were witnessed during the course of this popular upheaval in Northern India in the spring of 1919; and from this time dates the close political alliance between the revolutionary leaders of the two communities. In December of that year (1919) the brothers Muhammad and Shaukat Ali, who had been interned during the War on account of their openly professed pro-Turkish sympathies, were released as an act of Royal clemency. They at once placed themselves at the head of the *Khilâfat* movement, which has for its object the restoration of the Sultan of Turkey to his pre-war ascendancy as *Khalîf*, or spiritual sovereign of Islam.[1] While every sympathy has been shown by the Indian government towards Muhammadan sentiment, in a matter touching their religious pride to the quick, and

[1] The British Government has been accused, and with some justice, of bad faith in this matter. In the 'pledge' given by Mr. Lloyd George at the beginning of 1918, the Prime Minister was understood to have guaranteed the territorial integrity of Turkey within her own 'home-lands'. That, as a result of the peace settlement, the Sultan should have become virtually a prisoner in Constantinople, and that Turkey proper should have been dismembered by the handing over of Smyrna and Eastern Thrace to Greece, appeared to Indian Muhammadans of almost every shade of opinion to be, not only a repudiation of British promises, but a blow aimed through Turkey and the Sultan at Islam itself.

no effort has been spared to secure a revision of the peace settlement with Turkey such as would meet their reasonable demands, the *Khilâfat* agitation, as conducted by the militant, bitterly anti-British, and fanatical Ali brothers, has resulted in one tragic episode after another. The ferment among Muhammadans in Northern India undoubtedly encouraged the Amir of Afghanistan to make war on the British *Râj* in the summer of 1919; and the practically continuous fighting on the north-west frontier ever since is a manifestation of the same general unrest. The *Hijrât* (religious migration) movement, which led thousands of *Muhâjarin*—poor Muhammadan peasants from Sind and the North-West Frontier Province, for the most part—to trek across the border into Afghanistan, there to die in hundreds of exhaustion and starvation on the road to Kabul, is, perhaps, the most pitiful and the most discreditable chapter in the whole record of the revolutionary movement. This was in the summer of 1920. In August of last year (1921) occurred the fanatical Moplah outbreak, which spread murder and pillage far and wide in Malabar. This was an organized rebellion; a so-called *Khilâfat* kingdom was established; and the savagery of the rebels was directed very largely against the Hindus, many of whom were forcibly converted to Islam, while many hundreds were murdered.

In association with the leaders of the *Khilâfat* movement, and following the publication of the Turkish peace terms, Mr. Gandhi launched his campaign of non-co-operation in the autumn of 1920. At the special September session of the Indian National Congress resolutions were passed, to give effect to the following programme:

(1) Resignation of titles.

(2) Resignation of posts in the Civil Service.

(3) Boycott of educational institutions, maintained or aided by the State.

(4) Boycott of the law-courts, and suspension of practice by lawyers.

(5) Boycott of the forthcoming elections.

(6) Boycott of foreign goods—cotton goods, in particular.

(7) Resignation of service in the Police and in the Army.

(8) Refusal to pay taxes—the land-tax, in particular.

The boycott of foreign goods was to be a gradual operation; and the last two items were to be reserved until the final stages of the campaign. The boycott of the elections, as we have seen, was much more of a failure than a success; and the same can be said of the offensive, launched by the leaders in person, against the educational system of the country. True it is that, wherever Mr. Gandhi went, the students left their schools and colleges to follow him, as the children followed the Pied Piper of Hamelin, into the wilderness. Yet no sooner had he left for some other part of India, and the sound of his pipes died away, than they returned, the great majority of them, to their sanity and their studies. The Ali brothers received a check at Aligarh, the famous Muhammadan educational centre, and Mr. Gandhi himself a more decisive check still at Benares, the seat of the Hindu University. The attempt made to extemporize 'national' schools and colleges was, in most parts of the country, a grotesque failure; and after causing a good deal of temporary dislocation, and wrecking the career of many a promising student, the educational boycott movement has slowly fizzled out. As regards items (1), (2), and (4), the failure was still more complete; and no more appeals were made to the classes which these items in the programme of non-co-operation had in view.

In November 1920 a Resolution was issued by the Government of India, defining its general attitude towards the non-co-operation campaign. Instructions were issued to the Local Governments to set the law in motion only against those persons who, by speech or writing, should openly incite to violence, or should attempt to tamper with the loyalty of the Police or the Army. The reasons which had influenced the Government, in adopting this policy of forbearance towards a movement wholly unconstitutional in character, were stated as follows:

(1) Reluctance to interfere with the freedom of the Press and liberty of speech at a time when India was on the threshold of a great advance towards self-government.

(2) The knowledge that those against whom prosecution might be directed would be likely to find in it an opportunity to pose as martyrs, and so might swell the number of adherents to their cause by evoking false sympathy.

(3) The belief that non-co-operation would be rejected by the country as a whole as a visionary and chimerical scheme, the result of which could only be widespread disorder, political chaos, and the ruin of all such as possessed a real stake in the country, the appeal being made to the ignorant and prejudiced, and its creed being devoid of any constructive genius.

In January, and again in June, 1921, this policy was reaffirmed; but the Local Governments were urged to take more vigorous steps in the direction of prosecuting all dangerously seditious persons and of generally enforcing the law, to undertake remedial legislation for the removal of genuine grievances, and to organize counter-propaganda. In May, and some six weeks after his arrival in the country, the new Viceroy, Lord Reading, gave two long private interviews to Mr. Gandhi. These conversations were followed by a public apology, on the part of the Ali brothers, for the tone of their recent speeches, for which, as was announced in a statement simultaneously issued by the Government, it had been decided to prosecute them—together with a solemn undertaking, on their part, that so long as they were associated with Mr. Gandhi's movement, they would neither advocate violence, nor seek to create an atmosphere of preparedness for violence. Lord Reading's decision to invite the Prince of Wales to India, it is believed, also followed these conversations with Mr. Gandhi. At the end of July, the All-India Congress Committee resolved to boycott the Royal visit, though the motion to this effect was opposed by Pandit Madan Mohan Malaviya and others.

Serious agrarian riots in the United Provinces, and protracted strikes, frequently accompanied by violence, marked the beginning of 1921; and full advantage was taken by revolutionary agitators of every opportunity to exploit the

prevailing economic unrest, and to fan racial feeling. In the early summer, with the design of effecting the isolation and ruin of the European tea-planters of Assam, there was brought about a stampede from the tea-gardens of thousands of coolies (afterwards left to their fate, in the most desperate straits); and simultaneously a strike on the Assam-Bengal Railway was engineered. Later in the summer, the boycott of foreign cloth, and of liquor shops (the latter agitation being inspired in some parts of the country by a genuine zeal for temperance, but being also aimed against the Government revenue derived from the liquor excise), was intensified, picketing and intimidation on the part of the Volunteer organizations, which now began to come into prominence, being the methods employed.

A new and disquieting feature, introduced into the situation during 1921, was the growth of serious disaffection among the Sikhs in the Central Punjab. Enmity against the Government was fomented by giving currency to the infamous suggestion that Government officials had connived at the dastardly crime committed at Nankana Sahib in February, when upwards of 150 Sikhs, belonging to the *Akali Dal* (a reforming sect), were done to death in their attempt to take possession of a famous Sikh shrine. In this agitation, which has been closely identified with the non-co-operation movement, the religious and political issues involved have been so cunningly combined as to make it exceedingly difficult for the Government to grapple with the mischief, without laying itself open to the charge of taking sides in a purely religious controversy between two rival sects of Sikhs.

In the autumn of 1921 the situation grew rapidly worse. The *hartál*, which signalized the arrival of the Heir to the Throne in India, demonstrated more clearly than anything which had yet happened the virtual impotence of the loyal elements in the population, and the strangle-hold on the country which the revolutionary faction was fast obtaining. Its patience at length exhausted, the Government abandoned its policy of watchful neutrality, and proceeded to adopt

vigorous counter-measures. Already, on the 1st November, the Ali brothers, with certain other *Khilâfat* leaders, were convicted, under the ordinary law, for being the principal parties to a resolution of the central executive of the *Khilâfat* organization, calculated to seduce Muhammadans in the Army from their allegiance. Following the landing of the Prince, serious rioting broke out in Bombay, in which 53 persons lost their lives and 400 were injured. A few days later, notifications were issued by a number of Local Governments, declaring unlawful (under Part II of the Criminal Law Amendment Act) the various Volunteer organizations engaged in revolutionary agitation; and the local leaders, including Messrs. C. R. Das, Motilal Nehru, and Lajpat Rai, were arrested.

As regards Mr. Gandhi, the moving spirit in it all, the Government still held its hand. Mr. Gandhi continued to preach non-violence, though quite incapable of preventing a long succession of excesses in practically all parts of the country.[1] Nor had he as yet put into operation those items in the non-co-operation programme which inevitably involved violence—viz., the promotion of disaffection in the Police and the Army, and the no-rent (anti-land-tax) campaign. After the fatal riots in Bombay, when Mr. Gandhi courageously came to the assistance of the Government in restoring order, he was in a somewhat chastened mood. During January 1922 there was a good deal of talk about a round-table conference; but the attempted negotiations came to nothing. That month, the first no-rent campaign on an extended scale was opened in the Guntur district (an Andhra tract) of the Madras presidency; but it was not until the beginning of February that Mr. Gandhi finally decided to launch a similar campaign himself, in a carefully selected and prepared area (Bardoli) in the Surat district of the Bombay presidency. His arrest was now determined upon. Fresh excesses on the part of his followers—this time at Chauri Chaura in the

[1] Speaking in the Legislative Assembly on the 18th January 1922, the Home Member stated that the military forces of the Crown had been called out forty-seven times during the past twelve months in aid of the civil authorities.

United Provinces, where a whole posse of police, including two Sub-Inspectors, were brutally murdered by a mob instigated by Congress 'volunteers'—caused Mr. Gandhi to suspend operations once more; and the Government once more decided to await developments before proceeding to arrest him. It is probable that Mr. Gandhi, fully conscious as by this time he must have been of the drift towards open violence, would have preferred to call a halt, with a view to preparing the whole ground further; and that he only reluctantly acquiesced in the decision taken by the All-India Congress Committee at Delhi on the 1st March, when it was declared that 'the permanent abandonment of mass civil disobedience' was not contemplated. As soon as this decision, and Mr. Gandhi's concurrence in it, became known, instructions were issued for his arrest.

Mr. Gandhi was charged, under the Indian Penal Code, with 'attempts to excite disaffection towards the Government established by law in British India'. He pleaded guilty, and remarked: 'I have no desire to conceal from this Court that to preach disaffection towards the existing system of Government has become almost a passion with me.' The judge observed that Mr. Gandhi would have made it impossible for any government to leave him at liberty. 'I do not forget', he said, 'that you have consistently preached against violence, or that you have, on many occasions, I am willing to believe, done much to prevent violence. But having regard to the nature of your political teaching, and the nature of many of those to whom it was addressed, how you can have continued to believe that violence would not be the inevitable consequence, it passes my capacity to understand.' Mr. Gandhi was sentenced to six years' simple imprisonment, the judge adding, 'if the course of events in India should make it possible to reduce the period, and release you, no one will be better pleased than I.'

It is too early to pronounce upon the effect of Mr. Gandhi's withdrawal from the political scene. Far from precipitating the threatened storm of violence, it appears to have had, for the time being, precisely the opposite effect on the political

barometer. Firm action on the part of the authorities in other directions has very sensibly eased the situation; but more than to anything else, the present remarkable lull in the revolutionary campaign is to be attributed, I believe, to that subtle slackening of purpose, that sudden cooling of enthusiasm (to say nothing of an exhausted exchequer), which appears, sooner or later, to overtake every political crusade in India. There are signs—but again it is too early to speak with any measure of assurance—that the advanced Nationalists are already casting about for a safer, and more constructive programme.

The most disquieting features in the situation, at present, are the continued and acute agrarian unrest in certain parts of the United Provinces and of Bihar; the spirit of lawlessness among certain sections of the Sikhs (though in this direction also the situation has distinctly improved of late); and the exceedingly grave strike situation on the East Indian Railway, the greatest of India's railway systems. On the other hand, the recognition of Egyptian independence, and the recent promise of a satisfactory settlement in Turkey, have done not a little to conciliate Muhammadan sentiment; while bumper spring harvests will do something to improve the economic situation.

I cannot conclude this chapter more appropriately than by quoting the carefully weighed words, spoken by Mr. Montagu in the House of Commons, in the debate on Indian affairs of the 14th February 1922. Defining the position of the British Government, he said:

'Our policy is the maintenance of the integrity of the British Empire, coupled with the grant of opportunity for development of full self-government within that Empire. I think I ought to say something about the conditions of that policy, because I do not think it is at present sufficiently understood by the legislatures of India. His Majesty's Government announced the policy in 1917; and it was ultimately enforced by Parliament by the passage of the Government of India Act. . . . It is true that when the Act was passed it was intended to be a transition, and that it was described as a first step towards further instalments of

self-government; but it was made plain at the time, and I want to make it plain now, that those further steps would depend upon Parliament becoming satisfied with the use made of the first instalment. That was to be the criterion . . .

'It was our view and our desire, and it is still, that if the matter went well eventually further steps should be taken; but it was the determination of Parliament that if the matter did not go well no further steps should be taken. I ask for no judgement at this stage; but I think I do right in expressing my belief to Indians, who are working these Reforms, and other Indians, who are not, that I believe that, so far as this House is concerned, that criterion will not be departed from. To win their way to self-government, under the supreme and continuing authority of the King-Emperor, they must show, not merely individually, but collectively, a readiness for what is involved in self-government, matters which were mentioned in this House at the time of the passage of the Act—the creation and education of electorates in political affairs, the safeguarding and toleration of opposing views, the protection of the rights of minorities—for the taking of the risks which are inherent in the art of government, and maintaining order by whatever steps may be necessary against any challenge.

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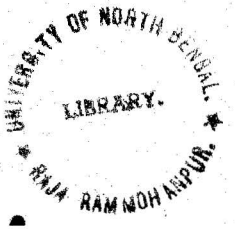
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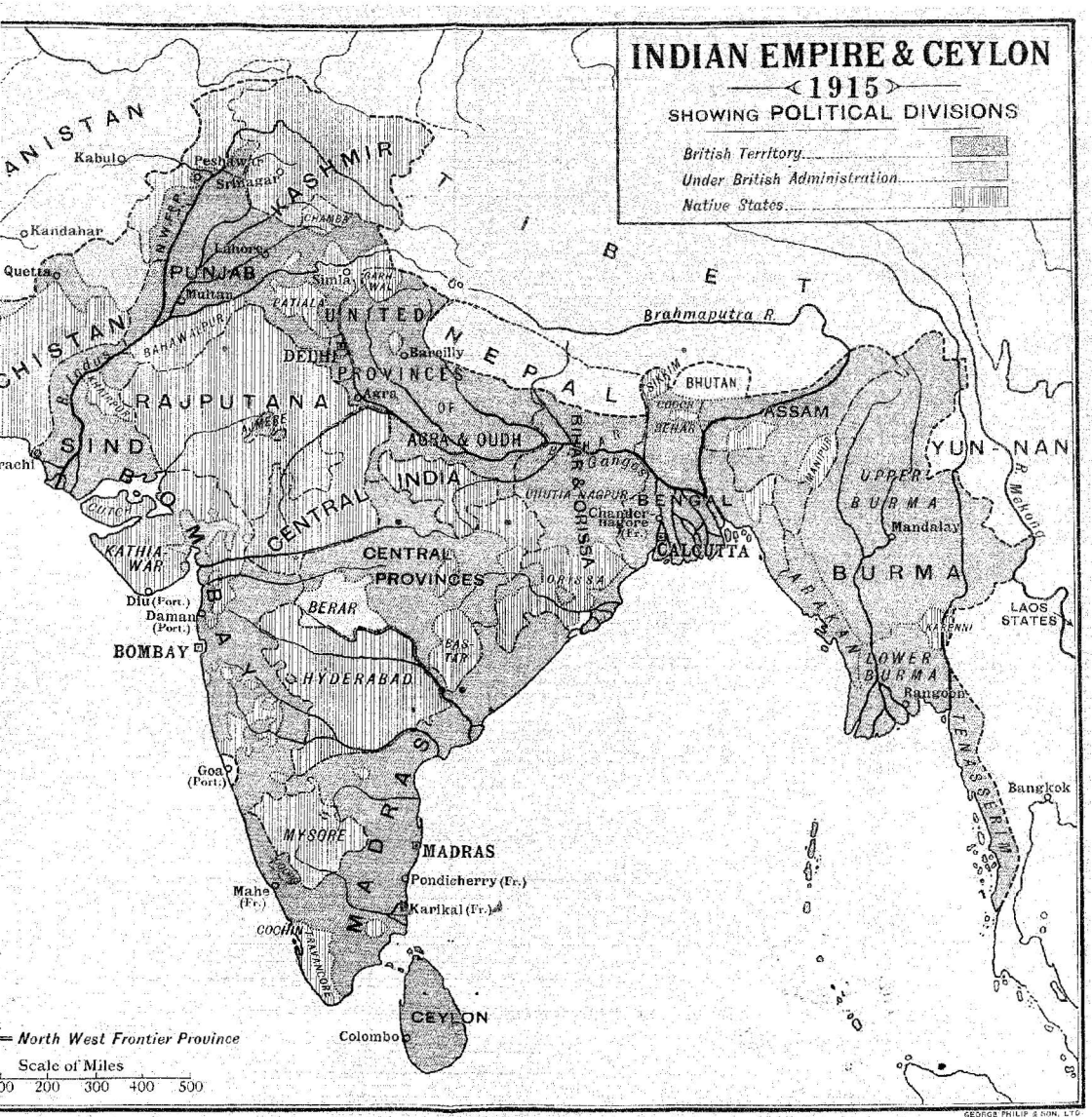
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INDIAN EMPIRE & CEYLON
1915
SHOWING POLITICAL DIVISIONS
British Territory
Under British Administration
Native States
ANISTAN
Kabul
Peshawur
Srinagar
KASHMIR
Kandahar
Quetta
Lahore
PUNJAB
Simla
Multan
PATIALA
UNITED PROVINCES
Brahmaputra R.
BHUTAN
ASSAM
DELHI
Bareilly
Agra
RAJPUTANA
SIND
Karachi
ABRA & OUDH
BENGAL
CENTRAL INDIA
CENTRAL PROVINCES
BERAR
KATHIAWAR
Diu (Port.)
Daman (Port.)
BOMBAY
HYDERABAD
Goa (Port.)
MYSORE
MADRAS
Pondicherry (Fr.)
Karikal (Fr.)
Mahe (Fr.)
COCHIN
TRAVANCORE
CEYLON
Colombo
CALCUTTA
Chandernagore (Fr.)
ORISSA
YUN-NAN
UPPER BURMA
Mandalay
BURMA
LOWER BURMA
Rangoon
LAOS STATES
Bangkok
= North West Frontier Province
Scale of Miles
200 300 400 500