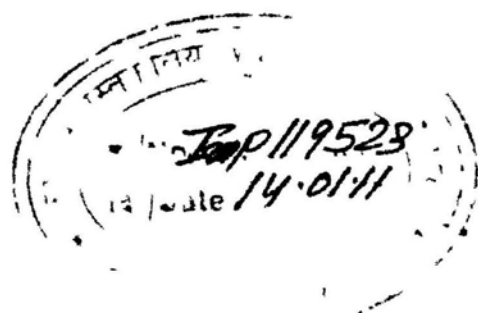


THE WORKING OF DYARCHY
IN INDIA



CONTENTS

CHAPTER	PAGE
INTRODUCTION	i
I. THE GOVERNMENT OF INDIA BEFORE THE REFORMS	1
/ II. THE REFORMED CONSTITUTION	14
III. POLITICAL CONDITIONS	28
/ IV. DYARCHY IN THE PROVINCES , , ,	42
(1) The Governor	
(2) The Executive Council	
(3) Ministers and the Executive	
(4) Ministerial Responsibility	
/ V. DYARCHY IN THE PROVINCES—(contd.) ...	61
(1) The Legislature and the Executive	
(2) Resolutions and Interpellations	
(3) Committees	
(4) The Party System	
/ VI. FINANCE AND THE COUNCILS	72
/ VII. THE COUNCILS AND THE PEOPLE	79
/ VIII. REFORMS IN THE CENTRAL GOVERNMENT ...	94
/ IX. THE FUTURE	110
(1) The Conditions of Enquiry	
(2) The Government of India	
(3) The Provincial Governments	
(4) The Services	
(5) The Franchise	
CONCLUSION	147
INDEX	151

INTRODUCTION

THIS work does not purport to do more than study the working of Dyarchy in India. In no sense is it an attempt to formulate a Constitution or to prescribe the course of political evolution. That work is entrusted by Parliament to a Commission of its own members and by the Indian leaders to a Convention which is to meet at any early date. The present writer has neither the equipment nor the desire to usurp their legitimate functions. His object has been solely to analyse the Montagu-Chelmsford Constitution as it was enacted, and to see how far it has been successful, as a first instalment of Responsible Government in India. That was the declared purpose of the Act. The Declaration of August 1917, now incorporated in the preamble of the Act, makes this eminently clear. That, obviously, is the first and fundamental problem that the student of the Dyarchical Government has to answer. Though the Reformed Government showed unexpected signs of strength in many other directions, and proved a source of great political progress, as will be shown in the course of the book, in its main idea, introducing the principle of Responsible Government, it proved an unqualified failure. The main issues that arise out of this question, for which an answer has been sought in this study, are the causes of this failure in its different aspects, relating to the Governor, the Executive, the Ministers and the Legislature.

If, on this fundamental question of Ministerial Responsibility, the failure of the new Constitution is undoubted, in

other directions, probably no less important for our ultimate development, its success has been equally undeniable. In the scheme of political education, social legislation, liberalisation of local government, and closer relation between the people and the administration, the work of the Reformed Constitution merits warm approval. The haze of political controversy, arising from the failure of the principle of Ministerial Responsibility, has obscured the achievements from the eyes of Indian political observers.

The Commission of Enquiry, to examine the working of this Constitution, has now been appointed. Given the limitation of a Commission, consisting solely of Members of Parliament, there is no doubt that its personnel is as impartial and as competent as we can hope to have. By the terms of reference, laid down in the Act itself, the Commission is to enquire "into the working of the system of Government, the growth of education and the development of representative institutions, in British India, and matters connected therewith." The Commission is asked 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, including the question whether the establishment of second chambers of the local legislatures is or is not desirable." In announcing the appointment of the Commission His Excellency Lord Irwin justified the procedure adopted—that of appointing a purely Parliamentary Commission to deal with this question—in the following terms:—

"It would be generally agreed that what is required is a Commission which would be unbiassed and competent to present an accurate picture of facts in Parliament, but it must be found willing to take whatever action a study of these facts may indicate to be appropriate.

"To fulfil the first requirement, it would follow that the

Commission should be such as may approach its task with sympathy and a real desire to assist India to the utmost of its power, but with minds free from preconceived conclusions on either side. It is, however, open to doubt whether a Commission constituted so as to include a substantial proportion of Indian members, and, as rightly would, British official members also, would satisfy the first condition of reaching conclusions unaffected by any process of *a priori* reasoning. On the one hand, it might be felt that the desire, natural and legitimate, of the Indian members to see India a self-governing nation could hardly fail to colour their judgment of her present capacity to sustain the role. On the other hand, there are those who might hold that British official members would be less than human if their judgment were not in some degree affected by long and close contact with the questions to which they would now be invited to apply impartial minds.

" But even after such a Commission had written its report, Parliamept would inevitably approach the consideration of it with some element of mental reservation due to an instinctive feeling that the advice in more than one case represented views to which the holder was previously committed. It would move uncertainly among conclusions the exact value of which, owing to unfamiliarity with the minds of their framers, it would feel unable to appraise.

• " We should, however, be making a great mistake, if we suppose that these matters are purely constitutional or could be treated merely as the subject of judicial investigation. Indian opinion has a clear title to ask that, in the elaboration of a new instrument of government their solution of the problem or their judgment on other solutions which may be proposed, should be made an integral factor in the examination of the question and be given due weight. In the ultimate decision, it is therefore essential to find means by which

Indians may be made parties to the deliberations so nearly affecting the future of their country."

With this object of making Indian opinion an integral factor in the examination of the question, His Majesty's Government proposed that the Commission should co-operate with a Joint Select Committee of the Central Legislatures in all-Indian matters, and with the Select Committees of the Provincial Legislatures in matters dealing with the Provinces. It was also laid down that the Report when submitted to Parliament, "will be referred for consideration to a Joint Committee of both Houses" which will take evidence from Indian bodies and consult a Joint Committee of the Central Legislatures. The proposals, especially as they are based on the exclusion of Indian representation from the Commission have led to an acrimonious controversy which is hardly suited to a calm and dispassionate examination of so important a political question as the future of Indian Government. Whatever arguments there may be in favour of a purely Parliamentary Commission, and it may be accepted that they are many of undoubted validity, the alienation of Indian opinion consequent upon so emphatic a repudiation of Indian claims to equal participation in deciding the future of this country, should have been foreseen. As it is, the Commission is threatened with a boycott which, whether politically wise or suicidal, will certainly hamper its work and add to the difficulties of the situation. It is to be hoped, that these adverse circumstances will not prejudice the Commission in the examination of the problem.

The refusal of experienced public men to give evidence on the working of the system will certainly handicap the Commission in their enquiry. They may have before them only the point of view of the Government—the Civil Services—and of those non-officials who are more loyal to the Government than the Government itself. Unless therefore, the

INTRODUCTION

Commission takes special care to put itself in the place of the Indian Nationalist, it is more than likely, as circumstances now stand, that its views will be moulded by official opinion. It is therefore, all the more necessary, that an impartial and detached study of the working of Dyarchical Government in India should be made available to them.

The present writer does not claim any special qualification beyond that of an observant student of politics who has lived all over India and watched the working of the system with critical interest. He has had the opportunity to watch the proceedings of both the Central Legislatures and of one Provincial Council almost daily for months from the press gallery. These may not be sufficient qualifications to deal with so important a problem, but they have saved the writer from political partisanship.

There is only one more point to which the writer desires to call attention in this Introduction: and that is a point of vital importance in all discussions of the Indian Constitution. There is an idea, which one often meets with in writings of eminent men, both English and Indian, that what India wants is a Constitution suited to her own genius. This subject is more fully treated in the chapter entitled "The Conditions of Enquiry."

It may be stated, summarily that this vague phraseology indicates either, a reactionary mind which sees in democratic progress a challenge to interests, or a vague idealism generated by a faith in India's past greatness. Both attitudes are dangerous to the peaceful political evolution of India. What India wants, and what Britain has undertaken to give her, is nothing less than "Responsible Government." Even if it is accepted that each country has differing political ideals, and that institutions at variance with national character are not likely to take root or to succeed in uncongenial soil, the problem, as it affects India, remains the same. Indian

political ideals are largely the reflection of what has grown up in England, and the century and a half of political contact has made them a part of Indian tradition. It is impossible to efface from history the last 100 years of political growth in India, and no one, who has studied the Indian movement, can deny that in the realm of ideas, more than in the realm of politics, the assimilated tradition of England has become the basis of Indian thought. Moreover, the transformations of government and the development of political institutions are to be in co-operation with and not independent of Great Britain. That fact alone renders all speculation about a Constitution, "indigenously developed and suited to the peculiar genius of India," futile.

The objective of Indian political development is clearly laid down. It is "the gradual development of Self-Governing institutions with a view to responsible government as an integral part of the Empire." If this declaration is adhered to, it clearly negatives all suggestion of a departure from the principle of Parliamentary responsible government as the basis of the future Constitution of India.

It only remains now to thank those friends who have helped the writer with suggestions and with sympathy. He is deeply obliged to Mr. C. R. Reddy, Vice-chancellor of the Andhra University, whose discussions with the writer, in the days when they were associated in work, helped him greatly to understand Council proceedings. He is also under obligations to Professor Sarma of Patiala and Mr. Mahadev Modak, both of whom helped him with their suggestions.

LONDON, *November 23, 1927.*

THE WORKING OF DYARCHY IN INDIA

CHAPTER I

THE GOVERNMENT OF INDIA BEFORE THE REFORMS

THE administration of India is entrusted by Parliament to a Governor-General in Council. The authority of Parliament is supreme and it is exercised through the Secretary of State for India who is invariably a member of the Cabinet. The Government of India is required by section 33 of the Government of India Act of 1915, to pay due obedience to all such orders as it may receive from the Secretary of State. From time to time successive Secretaries of State have laid it down emphatically "that the Government established in India is subordinate to the Government at Home and no Government can be subordinate unless it is within the power of the superior government to order what is to be done or left undone."* As recently as 1922, Lord Curzon referred to the Government of India as a subordinate branch of administration.

With this limitation, the Government of India rests with the Governor-General in Council. He is invested "with all the powers of Government over all parts of India, and is responsible for the good government in them all." The Governor-General acts in Council and even when, under exceptional circumstances, he overrides the authority of his Cabinet, his

*Dispatch of Gladstone's Government to Lord Mayo.

actions are officially considered to be that of the whole Government. The Council consists of 6 ordinary members and the Commander-in-Chief who is an extraordinary member. Originally, the method followed was that of collective deliberation on each question which was decided according to majority vote. The system of each member holding a portfolio came into existence only in the time of Lord Canning when the work of the departments was distributed, as in a Cabinet, among the members of the Council. The main departments from which the members take their names are Revenue, Law, Home, Finance, Commerce and Industry, and Education, besides the Foreign and Political, which is directly under the Governor-General.

India is divided into 8 major provinces (excluding Burma) and 6 minor charges. The eight major provinces are Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab, the Central Provinces and Berar, Bihar and Orissa, and Assam. The minor provinces are Coorg, Ajmir-Merwara, Baluchistan, the Andamans, Delhi, and the North-West Frontier Province. Among the major provinces, Madras, Bengal and Bombay, were styled presidencies. They were administered by Governors in Council. The United Provinces, the Punjab and Bihar and Orissa were administered by Lieutenant-Governors without the help of executive councils. Assam and the Central Provinces were under Chief Commissioners.

The Provincial Governments, before the Reform scheme, were merely what they were officially termed—local Governments. The conception of the Government of India, as one indivisible whole under the direct charge of the Governor-General in Council, involved strict control of provincial administration. At every turn, in financial, in legislative and in administrative matters, the Provincial Governments were bound hand and foot to the Government of India. There was

THE GOVERNMENT OF INDIA BEFORE THE REFORMS 8

no matter in which the Central Government of India could not intervene, in fact did not intervene. This interference developed to such an extent that the Decentralisation Commission reported that the Government of India "have paid too little regard to the importance of developing a strong sense of responsibility among their subordinate agents and of giving sufficient weight to local sentiments and traditions. In our opinion, the burden of work could be materially diminished if the Indian Government were to refrain from interfering in unnecessary detail with the action of the authorities subordinate to them."

The control over the Provinces was most clearly seen in the financial system of the pre-reform days. By the Acts of 1853 and 1858, the revenues of India were treated as one, and from that time, the Provincial Governments were carried on by a system of doles. The Provincial Governments had no right of any kind to the revenues they raised. But this system was modified in time, and slowly from 1870 onwards, the Provincial Governments were given fixed grants and also the right of raising additional revenues from taxation. Soon afterwards, in Lord Lytton's time, the Central Government substituted the system of grants to a surrender of certain revenue heads to the Provinces and hence arose the classification of revenues into Indian, provincial and divided. The Central Government kept the right of resuming accumulated balances in the Provinces in cases of necessity, with the result that there was no incentive to economy in the financial administration of the Provinces. This system was modified in the time of Lord Curzon, when the revenues assigned to Provinces were definitely fixed. These assignments were based not on the revenues of each Province, but on the demand each of them put forward, and consequently, the Government kept a strict watch on expenditure. The whole effect of the system, before the Reforms, was to place

the Provinces under the complete control of the Central Government and make them nothing more than subordinate agencies to the Government of India.

Though the supreme executive authority was thus vested in the Governor-General in Council and of Governors in Council and Lieutenant-Governors in the Provinces, the administrative system which they directed, was composed of the Civil Service which, in its corporate capacity, had such powers that it could claim in fact to be the Government of India. The Civil Services, before the Reforms, held every superior appointment in India, with the exception of the Governor-General and the Law Member of his Council, the Madras, Bombay and Bengal Governors and the Chief Justices of the High Court. Even in the Viceroy's Council, all the portfolios excepting Law, and in times of crisis Finance, were held by members of the Civil Service. All the Lieutenant-Governors belonged to the same service. A specified number of the Judges of Provincial High Courts were also Civil Service men. As the Montagu-Chelmsford Report expressed it: "It (The I. C. S.) has been in effect much more of a government corporation than a purely civil service in the English sense." Mr. Ramsay Macdonald, who was a member of the Public Service Commission (1913-1914), describes it thus: "The Indian Civil Service is more than a collection of individuals. It is a bureaucracy with a corporate life, a machine, a free-masonry. It moulds the raw recruit into its own image. It has to work as a whole. Many officers become wheels in a mechanism working by rule and repetition."

The Indian Civil Services differed from the administrative services in other countries in two ways. First, it was predominantly British in personnel. Though the recruitment to the service was by open competition, as the examination was held in London, the number of Indian candidates was small. To keep the service essentially British in character

was considered a necessity. Secondly, it was not merely an administrative body. The Civil Service claimed the right to advise the Government and insisted on being consulted on all matters of policy. In fact they constituted a governing caste, with rigid conventions and formulas. Thirdly, the Civil Service was not concerned merely with what may be called political administration. The superior judicial offices, under the High Court Bench, were reserved for them. They controlled, through the Secretariat, every branch of administration. Even the public works department, forest administration, police, and other technical services, were directed by the officers of the Indian Civil Service. In fact they combined the functions of the civil services with those of the political heads of departments in parliamentary countries:

Slowly however, a new element was introduced into this system of absolute bureaucratic control. This was the association of popular representatives with the affairs of Government. To the Legislative Council, established by the Act of 1861, a few Indians were nominated in order to represent Indian views. By the Indian Councils Act, 1892 a further step was taken in this direction. Lord Dufferin declared that "the time has come for us to take another step in the development of the same liberal policy and to give a still wider share in the administration of public affairs, to such Indian gentlemen as by their influence, by their acquirements and the confidence they inspired in their fellow-countrymen, are marked out as fitted to assist with their counsels the responsible rulers of the country." Lord Dufferin's Government recommended that the Legislative Council should be enlarged to include elected Indian representatives. And though the principle of election was rejected by the British Cabinet, the Council was enlarged to include Indian members who were nominally appointed but really elected by certain recognised bodies. The Council also received the

right to discuss the Budget and to interpellate the Government.

The Minto-Morley Reforms of 1908 took the Councils a step further. The principle of elective representation was for the first time introduced into the Indian Councils. It was, of course, hedged in by numerous conditions. The Mohammedans elected their own representatives in separate constituencies, Chambers of Commerce, Landholders and other special interests were given direct representation. The general constituencies themselves were constituted out of municipalities and district boards. But with all this, the introduction of the principle of elected representation on the Councils was an important change. The Councils were constituted of officials, nominated non-officials and elected representatives. In all the Provincial Councils, the official votes were in a minority, though the Government, with the help of the nominated votes, could in all Provinces, except Bengal, out-vote the elected representatives. In the Central Legislature the Government had, at all times, a clear majority.

The enlarged Legislatures were given the right not only to discuss the Budget, but to move resolutions on it and divide the Council and to move resolutions on matters of general interest. It also gave the members wide opportunities for influencing the administration in general.

An integral part of the reforms of 1908, was the appointment of Indian members to the Executive Councils of the Governor General and the Provincial Governors. This was a radical change and was carried out with difficulty, because of the strenuous opposition it met with from King Edward-VII. Lord Morley also appointed an Indian to serve on the Council of the Secretary of State. The appointment of Indian public men, with no previous administrative training, to the highest offices in the Government, was most important, because it was the first open attack on the monopoly of the

THE GOVERNMENT OF INDIA BEFORE THE REFORMS

Civil Service. Moreover, it was a recognition of the principle of the civil as against the official control of departments, and as Lord Morley made it clear, an emphatic assertion against the principle of racial discrimination in high appointments which the Government of India had so far followed.

The Minto-Morley Reforms left the Government of India an autocracy; but it was an autocracy which was in touch with popular opinion, though seldom influenced by it. The enlargement of the Legislative Councils led to considerable popular influence on the legislative side of the Government's work. It also familiarised the people with the right of the elected representatives to demand increasing control of administrative machinery. But unexpected weaknesses manifested themselves in the course of its working. The official members came to be organised into a *bloc* which voted like an automaton and opposed non-official propositions whether just or unjust. The non-officials, on the other hand had no function but to criticise, and their criticism, in view of the official *bloc* in the supreme Council, and the majority of official and nominated votes in the Provinces, carried but little weight with the Government.

The important thing, however, was that a legislative tradition had grown up side by side with the bureaucratic tradition of the services, and the former had made decided headway during the 30 years preceding the Reforms, at the expense of the latter. The Minto-Morley Reforms, with non-official majorities in the Provinces, and the official *bloc* in the Central Government, emphasised these contradictory tendencies.

Further reforms had become inevitable. The Civil Services, developed in an atmosphere of personal administration, had become, as a result of increasing control by the Secretariat, a soulless machinery out of touch with the population which

it governed. At one time, slowness of communication with headquarters left much local freedom to the district officials—the man on the spot had to act for himself. Railways, telegraphs and telephones compacted the official machine to ~~to~~ such an extent, that the man on the spot became little more than a clerk or an agent to the man at the headquarters. Under the changed conditions of Indian political life, it was more than good officials of that kind that India required. Administration is a part of government and everywhere government is essentially political. But politics in India of the 20th century differed essentially from politics of the 19th. Then, political government meant only efficient administration with as little interference in the social life of the people as possible. Now, it involves an appreciation of collective thoughts, social forces, political energies, and not of these alone, but also of vague moods and unvoiced feelings which are always facts *for* politics and may, at any time, become facts *in* politics. In short, the old world distinctions between things political and things executive was getting gradually obliterated. The mere executive efficiency which the Indian Civil Service had developed to an astonishing extent, was not of a character which could rise to that higher political efficiency which develops an understanding of complex social tendencies and gives insight into the things that agitate the human mind.

It is these facts that Lord Morley had in mind, when he declared in presenting the Indian Budget to the House of Commons in June 1907. "They (experienced officers) all or nearly all admit that there is estrangement, I ought to say refrigeration, between officers and the people. For the last few years, and this is a very important point, the doctrine of administrative efficiency has been pressed too hard our administration, so shrewd observers and very experienced observers assure me, would be a great deal more popular if it

was a trifle less efficient, a trifle more elastic generally. We ought not to put mechanical efficiency at the head of our ideas."

Moreover, the war had quickened the democratic impulse in India. It had also made the demand for political reform more and more insistent. The emphasis put by British and Allied statesmen on self-determination during the later period of the European war, reacted on the political movement in India. British statesmen recognized that a clear and definite statement of British policy towards India in relation to these two facts—the demand for self-government and the introduction of democratic institutions—had become imperative. It was under such conditions that the Declaration of 20th August 1917 was made in Parliament. This Declaration which lays down unequivocally the policy of the British Government is as follows:—

"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 realisation of responsible government in India, as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken, as soon as possible, and that it is of the highest importance as a preliminary to considering what the steps should be that there should be a free and informal exchange of opinion between those in authority at Home and in India. His Majesty's Government have accordingly decided, with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and with the Government of India to consider with the Viceroy the views of the Local Governments and to receive with him the suggestions of representative bodies and others.

" I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be the 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. Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament."

This Declaration contained three principles—first, the principle of associating Indians in an increasing manner with the Government of the country which had already been accepted by the appointment of Indians to the Viceroy's and the Governors' Cabinets and in the Secretary of State's Council. The second was a definition of the goal of British Indian Government, which was declared to be "the gradual development of a self-governing institution with a view to responsible government in India, as an integral part of the Empire." The British Cabinet and Parliament accepted by this Declaration self-government for India on the Dominion model as their ultimate object. The first was meant to meet legitimate Indian grievances that they had no part in the administration, the second was in response to the democratic impulse and the demand for political freedom. The third principle was the clear enunciation of the claim of the British Government to be the sole judge of the time and measure of advance.

In accordance with the statement contained in the Declaration, Mr. Montagu visited India in the winter of 1917-18, and submitted to Parliament, a report which was signed jointly by himself and by Lord Chelmsford who was then the Governor-General. The Report is remarkable chiefly because it recognised that the new official policy of gradually

developing "Self-Governing institutions with a view to the progressive realisation of responsible government" was impossible on the lines of previous reforms. The essential characteristic of the Minto-Morley Act was that the Legislatures created under it were merely advisory bodies, without sharing any kind of authority or responsibility. It was impossible to develop representative institutions out of these. The Mountagu-Chelmsford Report also recognised that Self-Governing institutions were impossible as long as the Provinces continued to be agencies of the Government of India without administrative independence. The Report, therefore, came to the following conclusions and, as these form a basis of the Reforms Act, it is important to keep them in mind for the purpose of our discussion. They were :

- " (i) There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control;
- (ii) The Provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once and our aim is to give complete responsibility as soon as conditions permit. This involves giving the Provinces at once the largest measure of independence, legislative, administrative and financial of the Government of India, which is compatible with the due discharge by the latter of its responsibilities :
- (iii) The Government of India must remain wholly responsible to Parliament, and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of the changes now to be introduced in the Provinces. In the meantime, the Indian

Legislative Council should be enlarged and made more representative and its opportunities of influencing Government, increased :

- (iv) In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and Provincial Governments must be relaxed."

Two Committees came out to India in 1918, to study on the spot, the problems connected with legislation based on these recommendations: questions relating to franchise, finance and functions. A Joint Committee of the two Houses of Parliament was also appointed to receive evidence on the proposals. The Reforms Act of 1919* was the outcome of these deliberations. It marked the close of an era in the history of British connection with India. The old idea was that India was a British possession to be governed, may be for the benefit of Indians, but without their participation. The Indian Government was not and did not pretend to be responsible to Indians. The Reforms Act did not introduce Responsible Government, but it introduced a change in the principle of the Government of India. A large body of influential Indian opinion considered the Reforms inadequate, unsatisfactory and unworkable, but there was hardly any controversy as to the rightness of the basic principle of the Reforms. It was about the adequacy of the Measure and not about its principles that Indian criticism was directed.

This change in the principle of government—the transformation from a purely British to a British-Indian Government, was emphasised even before the passage of the Act through the Houses—by the appointment of Sir S. Sinha to the Imperial War Cabinet, and later by his elevation to the Peerage as Lord Sinha of Raipur, and his inclusion in the Ministry as

THE GOVERNMENT OF INDIA BEFORE THE REFORMS 13

Under-Secretary of State for India. The fact that Lord Sinha was entrusted with the piloting of the Bill in the House of Lords was, in itself, meant to emphasise the change that had taken place in the relations between India and England. But however good the intentions of statesmen in 1918 were, circumstances beyond their control conspired to defeat them and the Reforms Act had to be worked, in an atmosphere, not of good-will, but of distrust and suspicion, such as India had never witnessed since 1857.

CHAPTER II

THE REFORMED CONSTITUTION

THE Reformed Constitution affected the Central Government in three ways : in its relation to the Secretary of State, in its control over the Provinces, and thirdly, in its relation to the Legislatures. We have seen, that before the Reforms Act, the Government of India was no more than a subordinate administration carrying out the wishes and instructions of the Secretary of State. The Act of 1919, made no alteration in the theory of Parliamentary Sovereignty over India and the Secretary of State's powers over the Government at Delhi continued unimpaired. But though in theory it remained the same, it is clear that there was a change in the relative positions of Whitehall and Delhi. The purpose of the Act was that, so far as possible, the Government of India must take the opinion of the Legislature and carry out its wishes. Especially in financial matters, excepting in regard to certain subjects (called non-votable) which are protected by section 67A from the vote of the Legislature, the decision of the Assembly is, in ordinary circumstances, binding on the Government of India.* To this extent therefore, the control of the Secretary of State over the Government of India may be said to have been relaxed in practice in favour of the Indian Legislatures.

Moreover, by section 19 A, power is given to the Secretary of State in Council by rule to "regulate and restrict the exercise

* See *infra*, p. 45.

of the powers of superintendence, direction and control vested in the Secretary of State . . . or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Act of 1919." ✓

Secondly, the Government of India has surrendered much of the power it exercised over the Provinces. The authority of the Government of India was maintained in three ways ; by the financial system which left the Province at the mercy of the Central Government . by the control of legislation, and by interference even in the ordinary details of administration. As the main provisions of the Act consisted in the establishment of Responsible Government in the Provinces, the authority of the Central Government, in all these three matters, had to be strictly limited by the Act itself. The whole range of subjects is divided into Provincial and Central, and though the Central Government does not surrender its supervisory and controlling authority over all Provincial subjects, the purpose of these divisions was to emancipate the Provincial Government from the parental tutelage under which they had previously lived.

In financial matters also, the Provinces were more independent of the Central Government. Before the Reforms, we saw that the Provinces were dependent on the Central Government for their revenues and this was the greatest obstacle in the way of Provincial autonomy. The Central and Provincial revenues were divided under the Act and this separation of finances laid the way for future development. The position was now reversed. The Government of India was not in a position to meet its whole expenditure from Central revenues. In fact, it was faced with a large deficit. The Committee which was appointed to go into the question of financial relations between the Provinces and the Central Government recommended a system of provincial contribution, which was to be the first charge on the Provincial revenues for the

upkeep of the Central administration. In some Provinces this contribution was over 53 p. c. of the increased spending power under the new distribution. Of the disastrous effects of this system of Provincial contribution on the working of the Reforms we shall speak later. But apart from the question of contributions, which have now been modified, there is no doubt that the separation of the Provincial and Central revenues was one of the most important features of the Reforms.

Administratively, the authority of the Central Government, in certain of the Provincial subjects transferred to the control of the Legislative Council, has been abolished by statute. In other Provincial matters also, though the responsibility of the Central Government remains, the increased influence of the Provincial Legislatures and a large measure of financial control enjoyed by them render an inquisitorial interference, such as was the practice before the Reforms, impossible in practice.

So far as the Government of India was concerned, the most important Reform introduced by the Act was the establishment of a bi-cameral Legislature with increased powers. The Indian Legislature, as constituted by the Act, consists of the Legislative Assembly and the Council of State. The Legislative Assembly is an enlarged successor of the Minto-Morley Council and consists of 100 elected members, and 40 nominated by the Governor-General, of whom 26 are officials. The franchise for the Legislative Assembly is based on a fairly high property qualification. For the first five years the President of the Legislative Assembly was nominated by the Secretary of State. The Legislative Assembly so enlarged; as to represent different interests and communities in India, differed from the Minto Morley Council in the following respects. The principle of direct election was introduced which made the Assembly a representative Legislature for the whole of India. Secondly the Assembly had

a clear elected majority. The Minto-Morley Council had only a minority of elected members and the elections were not direct, but by the elected members of the Provincial Councils. The powers of the Assembly were also considerably enlarged. Besides the right of moving resolutions and interpellating the Government, the Assembly was given the right to move adjournments, to discuss urgent matters of public interest, and what was more important, was given an effective control over a large portion of the Budget. Under section 25 of the Act, supplies are to be voted in the form of demands for grants, and except for certain heads declared by the Government to be non-votable, the Assembly had, in ordinary circumstances, control over the items presented for its approval. We shall discuss in detail the financial and other powers of the Legislative Assembly in a later chapter.

The Council of State originated from a proposal meant as a device to get through measures which were thrown out by the Assembly. But the Joint Committee, which was firmly convinced of the desirability of second Chamber, transformed it into an upper House. It consists of 34 elected and 26 nominated members, not more than 20 of the latter being officials. The franchise is based not merely on a high property qualification but on status, such as past or present membership of a legislative body, past or present tenure of office of a local authority, past or present university distinction, the tenure of office in a co-operative banking society or the holding of a title conferred for literary merit. No Bill, except a money Bill, is deemed to have been passed by the Indian Legislature, unless it has been agreed to by both Chambers. The members of the Viceroy's Executive Council who are members either of the Assembly or of the Council, may speak in either, but may vote only in the Chamber to which they are nominated.

Another important change introduced in the Central

Government is the increase in the number of Indian Executive Councillors. Before the Reforms, the Governor-General's Council consisted of one Indian member out of six ordinary members. After 1919, three of six are Indians. This was meant as a fulfilment of that part of the Declaration of 1917 which spoke of the increasing association of Indians in every branch of Government.

It will be clear from what has been said, that the most important and fundamental changes that were introduced were in relation to the organisation, authority and character of the Central Government. In fact, as the Montagu-Chelmsford Report clearly stated, the Provinces had first to be emancipated from the control of the Central Government before parliamentary responsibility could be introduced. The whole object of the Act was, therefore, to restrict the powers of the Central Government over the Provinces and to introduce responsibility to the elected representatives to the extent that the authority of the Central Government was relaxed. The chief feature of the Reforms—from which the name Dyarchical Government arises—is the separation of functions into two classes, one called the **Reserved** departments which the Governor, with the help of his Executive Council, administers under the control and supervision of the Governor-General and the Secretary of State, and the other called the Transferred departments which are administered by the Governor with the help of the Ministers responsible to the elected Legislature of his Province. The purpose of the division was to introduce parliamentary responsibility in certain important subjects, and to give the Legislature the right to control and direct the administration. Before the Reforms, the Governor in Council, was responsible for the whole of the administration directly to the Central Government and indirectly to Parliament. If the Provinces were to be emancipated from the control from above, it can only be on the basis of control from below. The

alternative to control by executive order is control by popular vote. In the Transferred subjects, this control was handed over to the Legislature and their administration placed in the hands of elected Ministers. Thus there came into existence two divisions of Provincial Government, the Reserved half and the Transferred half. The main subjects that were Reserved for the administration of the Governor and his non-parliamentary Executive are Revenue, Law and Order, and Finance. The Transferred half* consists of local self-Government, medical administration, public health and sanitation, and vital statistics; education, other than European and Anglo-Indian and exclusive of the Benares Hindu University and the Aligarh Muslim University, the Chiefs' Colleges and the Calcutta University—this latter only for a period of 5 years—public works, except in Assam: agriculture, exclusive of irrigation; co-operative societies, excise, religious and charitable endowments and development of industries. The administration of these departments was to be carried on by Ministers who were to be responsible to the Legislature of the Province. So far as the Transferred subjects were concerned, the control of the Secretary of State and the Governor-General was relaxed, that of the latter by the Act and of the former by a Rule† of the Secretary of State in Council, dated 23rd of November 1920, made in exercise of his powers conferred by section 33 of the Act.

* Officially defined as "matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonment Act, 1910; subject to legislation by Indian legislature as regards (a) the powers of such authorities to borrow or otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.

† Rules under the Secretary of State's Acts, p. 258.

The Rule declared—"The powers of superintendence, direction, and control vested in the Secretary of State and the Secretary of State in Council under this Act, or otherwise shall, in relation to the transferred subjects be exercised only for the following purposes, namely :

- (i) to safeguard the administration of central subjects :
- (ii) to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement :
- (iii) to safeguard Imperial interests :
- (iv) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire : and
- (v) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State in Council under the Act, namely, section 29A, section 30 (1a), Part VII A, or of any rules made by or with the sanction of the Secretary of State in Council."

So far as the Central Government was concerned, section 45 A (3) of the Act laid down, that "the powers of superintendence, direction, and control over Local Governments vested in the Governor-General in Council shall, in relation to the transferred subjects be exercised only for such purposes as may be specified in rules made under this Act. . ." The Devolution Rules, Part V (No. 49), limited this control to the first, second and fifth clauses of the rule which the Secretary of State made restricting his own authority.

Within these limits the Provincial Government in the Transferred departments is responsible only to the Legislature and is administered by Ministers appointed from leaders of parties in the Councils and holding their office subject to the authority of the Legislature.

The Reserved departments, on the other hand, are administered by a non-parliamentary Executive, responsible only to the Governor in Council and to the Secretary of State. Of the nature of the division of their functions and the difficulties arising therefrom, we shall speak in a later chapter. The important thing to note here is that the Provincial Government consists of two halves, one of which is responsible only to the Governor-General, and the other is responsible to the elected representatives: that Finance is a reserved subject, administered by an Executive official, and that the two halves share a common purse, though in its control the Ministers have but little voice.

The Provincial Legislatures, which have thus been entrusted with considerable powers of control, are constituted on a more liberal franchise than the Indian Assembly. The strength of the Council varies according to the Province. The following table gives the number of elected and nominated members in all Councils.

		Elected	Nominated	Total
Madras	...	98	29	127
Bengal	...	114	26	140
United Provinces	...	100	23	123
Bombay	...	86	25	111
Bihar and Orissa	...	76	27	103
Punjab	...	71	22	93
Central Provinces & Berar		54	16	70
Assam	...	39	14	53

The Provincial Councils enjoy much larger powers than the Central Legislature in all matters excepting legislation. The legislative authority of the Provincial Councils is restricted in two ways; by the previous sanction of the Governor-General in Council, which is required in certain specific matters, and by the Provincial character of the Acts passed by the Councils. The Governor has also the right of certifying, vetoing or of

reserving, for the consideration of the Governor-General, any Bill passed by a Provincial Council. The power of certification is an authority given to the Governor to declare that a Bill (or a clause of it, or an amendment of it) affects the safety or tranquillity of a Province and to direct that no proceedings shall be taken thereon. The Governor also has the power of withholding his assent to any Bill passed by the Council, if he considers that it is necessary either for the peace and tranquillity of his Province or it confers unfair advantages on some or deprives others of advantages which they heretofore enjoyed. The Instrument of Instructions lays this down clearly: "We do hereby specially require and charge you to see that no Act of your Legislative Council 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, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large." Besides this power of veto, the Governor has also the right of reserving for the consideration of the Governor-General in Council, a Bill passed by the Legislature of his Province. The Governor is not merely empowered but directed* to reserve for the consideration of the Governor-General any Bill not having been previously sanctioned by the Governor-General which has been passed by the Legislative Council, if it appears to the Governor to contain provisions:

- (i) Affecting the religion or religious rites of any class of British subjects in British India :
- (ii) Regulating the constitution or function of any university :

* Rules under section 12 (i) of the Government of India, Act 1919.

- (iii) Having the effect of including within a Transferred subject, matters which have hitherto been classified as Reserved subjects :
- (iv) Providing for the construction or management of a light or feeder railway :
- (v) Affecting the land revenue of a Province.

He may also reserve for the consideration of the Governor-General, any Bill which appears to him to affect any matter wherewith he is specially charged under his Instrument of Instructions, or to affect any Central subject or the interests of any other Province.

Subject to these important restrictions, the legislative powers in the Provinces are in the hands of the Council. We shall see, in estimating the work of the Council, that so far as this authority is concerned, most Provincial Councils have utilised it to the fullest extent. The only occasion where the Governor of a Province had to reserve a Bill for the consideration of the Governor-General, was in the important and far-reaching reform effected by the Hindu Religious Endowment Act of Madras, which clearly came within the provisions of the rule above discussed. The same Government also vetoed, with less justification, Bill seeking to protect tenant rights in Malabar, which in its essential principles and main provisions had received the previous sanction of the Governor-General. Otherwise, the legislative activities of the Provincial Councils have been unhampered. The financial authority of the Provincial Councils over the Transferred subjects is complete. The Council may cut down or refuse any demand made on behalf of the Transferred subjects. In the case of the Reserved subjects, the Governor is given the right of certifying that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subjects. There are also four important heads on which the Council's vote is not

required for expenditure. These non-votable items are: (1) the Provincial contributions to the Central Government, (2) interest and sinking fund charges on loans, (3) expenditure of which the amount is prescribed by law, (4) the salaries and pensions of High Court Judges and the Advocate-General of the Province.

The Council exercises control over the administration of the Transferred departments and indirectly influences by resolutions, questions, and by the reduction of demands, the administration of the Reserved departments. It was meant that the Councils should have considerable influence, though no direct authority, over the affairs of the Reserved half. How far and in what direction, they have been enabled to exercise such influence, we shall see in a later chapter.

The Provincial Councils as we noticed before, consist of elected members, representatives of special interests, nominated representatives of backward classes and of nominated officials and Executive councillors who are members ex-officio. Thus the elected members fall into two categories, those who represent a popular electorate, *e.g.*, members representing Mohammedans and non-Mohammedans, and those who represent special interests, *e.g.*, Indian and European Chambers of Commerce. The nominated members also fall into two divisions: those who are nominated to represent backward classes, and officials who represent merely the minimum voting strength of the Government. It is an anomalous Constitution as will be shown when the working of the system is considered. This much may be said here that the composition of the Council on the basis of the two contradictory systems, of popular representation, and the nomination of permanent officials, often junior officials who have no voice in the shaping of policy, militates against its responsible character. Also, so far, the members representing special European constituencies have considered themselves bound in duty, on all

occasions, to vote with the Government. A permanent bloc of this kind, based not on any similarity of opinion or interest, but on the ground of supporting the Government, does not in any way add to the strength or the usefulness of the Council.

The non-parliamentary Executive of the Provinces consists of a Governor and two or four Councillors. It was originally suggested that it should be statutorily laid down that half the members of the Executive Council must be Indian. But the Joint Committee of the two Houses, which reported on the proposal, recommended that division of that kind, on a racial basis, was inadvisable, though in practice it was very desirable that at least half of the Executive should be Indian. This has been uniformly followed. The control in the Provinces, both in the Transferred and in the Reserved departments, had thus to a large extent been vested in Indian hands.

(It should not, however, be forgotten that though the principle of responsibility was introduced and a measure of Indianisation was decided upon (and carried out in the Executive Government), the autocratic character of the Government was still maintained. In the Central Government there was not even the pretence of responsibility. It is true that the Assembly was given wide powers, but the irresponsible authority of the Governor-General in Council was safeguarded, by the extraordinary powers of certification and veto which were reserved for the Governor-General, and also by the constitution of the Council of State which was so composed as to give the Government a permanent and decided majority. The division of the Budget demands into votable and non-votable items constitutes a very serious restriction on the financial powers of the Assembly. Even in the Provincial Legislatures, autocracy, though weakened, still sits armed with the rights of certification and entrenched behind the Reserved half of the Government. The limitation of the powers of the

Provincial Councils in legislative and financial matters has already been noticed. Besides, in the power of making rules which is vested in the Governor-General in Council, the Government has always at hand a weapon with which to enforce its authority.

But when all is said, it still cannot be denied that the Montagu-Chelmsford Act introduced changes which though inadequate in Indian opinion, fundamentally altered the character of British rule in India. For the first time, it was accepted that Britain is pledged not only to good government in India, but to responsible Government. Until 1919, this principle was altogether foreign to the structure of British rule. Lord Morley stoutly repudiated the idea when he introduced the Reform Act in 1908. The introduction of this principle, in however limited a field, and through a machinery which even its advocates did not claim to be anything more than a difficult and trying invention, was in itself a change of far-reaching character. The bureaucratic citadel had been breached; not only breached, but an advance-guard planted inside. It is inconceivable that any attempt will now be made to go back on that. What every student of Indian politics should remember is that, though the Montagu-Chelmsford Reforms were inadequate and unsatisfactory as Indian opinion has consistently held, the turn that was taken in 1919 was the right one. It was in the direction of Responsible Government. It is easy now to forget that, at that time other roads were equally open and might have been taken without difficulty. One has only to read, either Mr. Gokhale's Testament representing the Moderate view, or the Nationalist scheme put forward by the Congress and the Muslim League, to realise this. It is to the credit of Mr. Montagu that he saw clearly the alternatives before him and stuck firmly to the principle of Responsible Parliamentary Government as the only line of sure advance. The introduction of that principle

is, in itself, the most important decision taken by Parliament in British Indian history since the first interference by Lord North in the affairs of the East India Company. That, in spite of determined opposition to the details of the Reforms, this great service of Mr. Montagu was recognised in India, is clear from the feeling which was evoked all over India at his death.

Secondly, it is equally clear that "the increasing association of Indians in every branch of the administration," which the Declaration of 1917 promised, was effected to a considerable though still inadequate extent. Half the Executive in the Central as well as in the Provincial Governments are now Indians. It was no doubt to emphasise this aspect of the matter, that an Indian was appointed Governor of Bihar and Orissa, though, so far, the example has not been followed. Appointments which were, until recently, exclusively reserved for Europeans, like Chief Justiceships of High Courts, have now been thrown open. Though the appointment of Indians to these posts has up to now, only been in the nature of exceptions, its purpose is unmistakable. It is to demonstrate that the policy of the Government is increasingly to convert the British rule in India from an alien administration into an Indian Government, based no doubt on British connection, but still Indian in its outlook and to a large extent Indian in its personnel. ✓

In these two respects Indian opinion has always looked upon the Montagu-Chelmsford Reforms as a distinct advance, and, but for the political circumstances to which we must now turn our attention, the working of the Reforms would, perhaps, have yielded more satisfactory results.

CHAPTER III

POLITICAL CONDITIONS

WHEN the Reform proposals were first made and the Act itself was on the anvil, Indian opinion, though seriously critical in its attitude, was in no sense hostile. The evidence submitted before the Joint Committee of the two Houses, on behalf of the leading political organisation of the country, clearly showed that, though Indian opinion was strongly against the provision by which the element of responsibility introduced in the Councils was sought to be hedged round there was every desire to work the Reforms for what they were worth. There was one section, the newly-formed party of Liberals, which enthusiastically welcomed it, and that party contained some of the most respected names in Indian politics, men who were responsible, to a very large extent, for the national movement. The Nationalists though they criticised many of its provisions, especially the continuance of legislative irresponsibility in the Central Government and were loud in proclaiming the inadequacy of the measure of Responsible Government granted to the Provinces, were still prepared to work it. The present writer attended, as a guest, a private party meeting of the Indian Home Rule League in May 1919, in the house of Mr. Bal Gangadhar Tilak, who was then the accepted leader of the Left Wing Nationalists. It was a conclave of party chiefs held under the presidency of Mr. Tilak himself. The object of the meeting was to consider the advisability of fighting the new elections on a party basis.

and it was unanimously agreed that every opportunity provided by the new Reforms should be utilised to the fullest extent. Mr Tilak himself agreed to stand for a constituency. This was in May 1919. In May 1920, the whole aspect of things had altered. Within the short period of one year, the political atmosphere of India had undergone a complete change. Goodwill and friendliness which had animated the discussions following the Reforms Report had vanished. The usually calm atmosphere of India gave place to a violent thunderstorm, in which the Reforms Act and the work of reconciliation in general, attempted by Mr. Montagu and his advisers, received an unexpected and violent blow.

What was it that had worked so sudden a change in the political sky? Four factors, each of them important in itself, contributed to it. They were the Rowlatt Bill, the massacre of Jallianwalla *Bagh*, the Turkish Treaty and the attitude of the Civil Service towards the Reforms. Early in 1919, the Government of India introduced into the Legislative Council a Bill to amend the provisions of the criminal law relating to public safety. During the war, there was an emergency Measure enacted in India, entitled the Defence of India Act, an Indian version of the British D. O. R. A. The Executive, having tasted the pleasure of summary criminal jurisdiction, was not prepared to forego it and desired to enact its main provisions as a permanent part of the criminal law of the country. The official justification for this course was that a Committee, presided over by Mr. Justice Rowlatt to enquire into revolutionary activities in India, had come to the conclusion that the hands of the Executive must be strengthened. The drastic and draconian character of the legislation may be judged from the following provisions: "Where in the opinion of the local government there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of an anarchical nature, the local government may

place all the material in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If, after considering such opinion, the local government is satisfied that action under this section is necessary, it may by order in writing give all or any of the following directions namely: that such a person (a) shall within such a period as may be specified in the order execute a bond: (b) shall notify his residence or change of residence: (c) shall remain or reside in any area in British India: (d) shall abstain from any act which in the opinion of the local government is calculated to disturb public peace or is prejudicial to public safety: (e) shall report himself to the officer in charge of the police station nearest to his residence at such periods as may be specified." Moreover, the Local Government was empowered by order in writing, on the report of an official of its own choosing, to arrest anyone without warrant and imprison him without trial and to search any place.

Indian opinion was unanimous against the Bill. The Indian members of the old Imperial Legislative Council, every one of whom has since then risen to the highest position* in India, opposed the Bill. While they were prepared to arm the Government of India with necessary powers, they refused

✓ *Mr. V. J. Patel, President of the Assembly; Sir Tej Bahadur Sapru, appointed Law Member of the Viceroy's Cabinet a year later; Sir B. N. Sarma, appointed in succession to various positions in the Viceroy's Cabinet after a few months; Sir Mohammed Shafi, Education Member; Right Hon. V. S. S. Sastri, appointed Delegate to the Imperial Conference and Indian Representative at the Washington Conference; Sir Surendranath Bannerjee, First Minister in Bengal; Mr. S. Sinha, Finance Member, Bihar Government; the Rajah of Mahmudabad, Home Member of the United Provinces Government; Sir F. Currimbhoy, Member of the Executive Council, Bombay Government; and Sir G. Chitnavis, the first President of the Central Provinces Council.

to accept so violent a change from the Rule of Law to the Rule of *lettre de cachet*. The question that was uppermost in every Indian's mind at the time was : how can this piece of czarist legislation be reconciled with the spirit of the proposed Reforms ? The appeal that was made by all the members was to save the Reforms by liberalising the provisions of this bill.* The Government stood adamant. A non-party observer, Mr. K. T. Paul, who was present at Delhi during the time, describes the atmosphere which prevailed in the capital. "The

*The official description of the Rowlatt Act its purposes and the attitude of Indians towards it, may be seen in the following extract from the Report on the Material and Moral Progress of India, 1919-20, placed before the Houses of Parliament (pp. 25-26.)

"In view of the salutary effect of this temporary provision (Defence of India Act), the Rowlatt Committee concluded that the principal requirements of the situation was the strengthening of the ordinary machine of law and order in such a fashion as to lend it permanently something of the power which it temporarily had acquired when buttressed by the Defence of India Act. Accordingly, Government determined to introduce two measures . . . One of the bills was a temporary measure framed to enable anarchist offences to be tried expeditiously by a strong court consisting of 3 High Court Judges, with *no right of appeal*. The second bill was intended to make a permanent change in the ordinary criminal law of the land. The possession of a seditious document with the intention to publish or circulate the same was to be punishable with imprisonment. . . ." The feeling of hostility on the part of Indians, the same report continues "sprang not so much from the provisions of the Bills themselves as from a fear first that the powers which the Bills conferred might be misused, and secondly, that the very fact that the Bills were considered necessary, constituted an index both to the genuine opinion of the Government about Indian aspirations and to the strength of the resistance which the Government would probably offer to their realisation. For it must be remembered that, though the Montagu-Chelmsford Report had been published towards the end of 1918, the Committees which were working out details had not yet published their conclusions."

incidents of those fateful days stand, before memory in tragic vividness. I was at Delhi at the time. On a Saturday, Sir William Vincent was persuaded to allow a day to intervene in the passage of the Rowlatt Bill. It was to be taken up on the Monday and, as all the world expected, to be forced through to a conclusion. I remember that particular Sunday. I called on Mr. Marris, Sir William Vincent's secretary. I also called on Mr. Srinivasa Sastri. With neither of them did I discuss the Bill, but in their rooms, and wherever I went in Delhi, the atmosphere had one even temperature, of set determination. Hope had fled from both sides." It was the same all over India at the time the Bill was being hurried through.

The Bill was rushed through ; but the agitation it produced in the country was something, the like of which the British Government in India had never seen before. Mr. Gandhi, who so far had taken no leading part in Indian political affairs, stepped forward and declared for a general *hartal*, a day of mourning and strike, as a protest against this Measure. He headed the agitation against the Bill. The whole of India answered his call, and in the Punjab, where the rumour of his arrest had roused popular emotion to a pitch, the Government in certain areas was handed over to the military authorities. The events that culminated in the massacre at Amritsar and the fancy punishments—like the crawling order by which no Indian was allowed to pass through a particular street except by crawling on his belly—were of such a character as to leave memories of humiliation and bitterness. The following description, by Sir Valentine Chirol, who cannot be accused of pro-Indian bias, will show the enormity of the crime committed at Amritsar.

"Order had been restored before General Dyer reached Amritsar but, on an ill-omened day he thought himself justified in opening fire without warning upon a great crowd

assembled in the Jallianwalla *Bagh* in defiance of his orders prohibiting all public meetings. Only those, perhaps, who have visited the *Bagh*, after studying the evidence given by General Dyer before a Committee of Enquiry presided over by Lord Hunter, a former Solicitor-General of Scotland, can realise the full horror of the tragedy enacted there. It was to dig so sinister a gulf between the ruling and the subject race that the story of that black day in the annals of British India cannot be ignored. The *Bagh*—once a garden—has long been, save for one clump of old trees, an open space covering perhaps the area of Trafalgar Square, enclosed on every side by mud walls with tall houses rising in many places close up against and above them. The approaches are few and extremely narrow. By one of them, leading on to the highest ground in the *Bagh*, General Dyer with a party of 50 Gurkhas entered the *Bagh*, and saw, at a distance of perhaps a hundred yards, a dense crowd, variously estimated at from 6,000 to 10,000, most of them engaged in listening to speeches. General Dyer assumed, rightly enough, that this was a public meeting in contravention of his orders and a seditious one. Without a word of warning, he opened and kept upon them a fusillade that did not stop until, as he himself said, his party's ammunition was almost exhausted, though the panic-stricken multitude broke at once, struggling to escape through the narrow exits or attempting vainly to climb the walls, or in despair throwing themselves flat on the ground. General Dyer, according to his own statement, personally directed the firing to the points where the crowd was thickest. The "targets," he declared, were "good" and by the time he and his men went off by the same way they had come, they had killed 379, according to the official figures given some months later by Government, and they left about 1200 wounded on the ground, for whom he did not consider it his "job" to provide any help whatever. General Dyer was convinced that the sternest measures

were necessary to spread terror through the Punjab and scotch a great revolutionary movement. He followed up his actions at the *Bagh* by a "crawling order" compelling all Indians to go on all-fours who wanted to pass through a certain street. . . ."

The true facts about this tragedy were not known until a few weeks later. The fury that burst upon India when the facts came to light could be imagined. But it was not General Dyer's action that hurt India most. An atavistic relapse on the part of a military maniac need not have embittered the relations between England and India; but for the attitude of the European community in India, and of the House of Lords in England. General Dyer was acclaimed a hero in every European club in India. Subscriptions were collected to give him a present worthy of his achievement. Every European Association in India, except the Punjab Association—the exception is significant—raised funds on his behalf and championed his cause. While the Coalition Cabinet, anxious for the safety of the Reforms and the prestige of its civilian government, repudiated Dyer's theory of terrorism and relieved him from service, the House of Lords went to the extent of passing a vote of thanks for his great services in India! This was indeed adding insult to injury. The atmosphere of bitterness and distrust was so strong in India, that the Duke of Connaught in his speech, opening the new Legislatures in February 1921, made a touching allusion in public to it. "Since I landed in Bombay," said His Royal Highness, "I have felt around me bitterness and estrangement between those who have been and should be friends. The shadow of Amritsar has lengthened over the fair face of India. I know how deep is the concern felt by His Majesty the King-Emperor at the terrible chapter of the events in the Punjab." But in spite of this strong condemnation,

* Sir Valentine Chirol, India, pp. 207-209.

by the Duke of Connaught, the non-official Europeans in India were ranged on the side of General Dyer. That curious psychological factor which unites all Englishmen in a foreign country in support of one of them, even when he is clearly in the wrong, helped to create a racial bitterness to which there is no parallel in Indo-British relations.

On the top of this came the estrangement of the Mohammedan population over the question of the Turkish Treaty. The Treaty of Sevres had dismembered Turkey. The Khalif was living in Constantinople as a protege of the British. Smyrna was handed over to the Greeks, and Mr. Lloyd George was egging on the Greeks to occupy as much of Anatolia as they could. Mohammedan opinion in India was indignant at what it considered a new and more objectionable crusade against Islam. The religious fervour of the Moslems was stirred and the Khilafat movement, which was the outcome of it, took a definitely anti-British attitude.

Mr. Gandhi's non-co-operation was the result of these two factors. We are not concerned here with the movement itself. Mr. Gandhi declared that the only effective guarantee against the repetition of the horrible incidents at Amritsar was the achievement of *Swaraj*. He defined *Swaraj*—not as independence—but as a change of heart on the part of the British. What he was concerned about was not that the Government of India was British and alien, but that it possessed a mentality which could tolerate the massacre at Amritsar, and allow the partition of Turkey against the unanimous opinion of the Indian Muslims. He persuaded the Congress—and the country generally—to accept his programme of non-co-operation, one of the main planks of which was the boycott of the Councils. It is not the wisdom of that policy that is under discussion here. For our purpose, it is necessary to remember, that the events of the preceding 12 months had conspired to bring into existence a movement

which placed on its banner the war-cry "Boycott the Reforms."

The sullen opposition of a large body of the Indian Civil Service to the Reforms also contributed to the feeling of distrust that was growing up in India. It could never have been expected that the Indian Civil Service, after enjoying unlimited powers for so long a time, would surrender its authority without a struggle. The democratic impulse that the war had quickened among all classes of people in England had hardly touched Civil Service Officials in India. Living in an atmosphere which was unpervious to the ideas agitating educated India, they did not, speaking generally, even know of the transformation that was taking place before their eyes. It was only when the Montagu-Chelmsford Report was published that they awoke to the new situation. We need not be surprised that they did their best to whittle down the proposals and in general to work against the idea of responsibility. The alternative scheme submitted by the Lieutenant-Governors—themselves the most senior members of the Civil Service and its champions—repudiated the idea of responsibility. They were prepared for concessions, but only such concessions as would leave the power of the Civil Service unimpaired. Another line of attack, on the part of the Civil Service, was discovered in the first dispatch of the Government of India on the Reform Scheme, the dispatch of March 5th, 1919. Propaganda on their behalf, inspired by influential members of the Service, became intense in England. It was no wonder that the cry of "White Mutiny" was raised in India.

It was under these circumstances that the Reforms were put into operation. The Indian National Congress had officially declared against them and in favour of a policy of boycott. Mohammedan opinion whole-heartedly supported Mr. Gandhi, and the Conference of Ulema declared that any co-operation

with the Government, under these circumstances, was sinful. During the winter of 1920—21, the non-co-operation movement gained almost universal hold over India. The effect of all this was seen in the elections to the new Legislatures, at which only a very small percentage of the electorate went to the polls. There was great difficulty even in getting candidates to stand. In one constituency, the non-co-operators, with a view to making the Councils look ridiculous, put up an illiterate barber as a candidate and had him elected. The imperial city of Delhi elected a sweetmeat-seller who, in his manifesto, held forth the alluring prospect that if he were elected he would sell his sweets rolled up in Rowlatt Acts. All over the country the boycott of the Reforms was effective. It is true that there was not a single constituency which did not elect a member. But the interest of the whole people was centred not on the Reformed Councils, but on the fight that was being carried on by Mr. Gandhi and the non-co-operators.

It was not only at the time of the introduction of the Reforms the feeling of ill-will manifested itself. All through the last 8 years, from the year in which the Act was passed until to-day, this heritage of distrust, suspicion and racial antagonism has continued. With the first shot of Dyer's guns at Amritsar vanished all prospects of friendly co-operation. The non-co-operation movement synchronised with the Reforms. Though the movement itself was never based on racial hatred, it engendered, among the European population, much mistrust and hostility. The transformation of the non-co-operators into *Swārajists*, committed to a policy of entering the Councils for the purpose of obstruction, did not in any way affect their attitude. The feeling of friendly trust in Indian affairs, which was manifested by all sections of political opinion in England during the early days of the Reforms vanished, at what was interpreted as ungrateful

hostility on the part of the Indians. British opinion stiffened towards India. The alarmist stories of disgruntled ex-Governors began to be credited, with the result that there was a considerable fall in the number of British candidates for the Indian Civil Service. In the I. C. S. examination of 1921, out of 86 candidates only 26 were Europeans. There were 16 appointments and only 3 were Europeans one of whom retired from service almost immediately. It became the fashion to speak of India as the Lost Dominion. The agitation in England reached such a stage that the Coalition Cabinet felt called upon to reassure the Services and Mr. Lloyd George was persuaded to make a speech in Parliament,* to that effect. The speech he made had the effect of further alienating Indian sympathies and making India suspect that the Reforms were no more than a sham. The following sentences in his speech gave colour to that interpretation :

"Those changes (the Reforms) were in the nature of an experiment, and they must be treated as an experiment. A great and important experiment but still an experiment . . ."

After stating that the Reforms had proved a success and that Indians had shown themselves good Parliamentarians, Mr. Lloyd George went on :

"What I want specially to say is this, that whatever their success as Parliamentarians or as Administrators, I can see no period when they can dispense with the guidance and assistance of the small nucleus of the British Civil Service. They are the steel-frame of the whole structure. I do not care what you build on it, if you take the steel-frame out, the whole structure will collapse."

The conclusion of the speech was even more important :

"There is an institution which we will not interfere with, there is one institution we will not cripple, there is one institution we will not deprive of its functions or of its privileges, and that is the British Civil Service in India."

This statement in Parliament created consternation in India. It was taken as a new Declaration, an attempt on the part of the reactionaries to go back on the policy of 1917. It is clear that if Mr. Lloyd George's speech meant anything at all, it meant the repudiation of the principle of Responsible Government even as the goal of British policy in India. Mr. Lloyd George declared that the functions and privileges of the British Civil Services will remain unimpaired. The question that was asked in India was, how could any scheme of Responsible Government, in however limited a sphere, such as was given to India by the Act of 1919, be reconciled with undiminished powers for a governing Civil Service? Again, if the British Government cannot visualise an India which is not controlled by the Services, how can complete Responsible Government, as an integral part of the Empire, the gradual achievement of which was declared by the pronouncement of 1917 to be the goal of Indian policy, ever be realised? There was no necessity to take Mr. Lloyd George's declaration in that tragic spirit. His speech was meant only to convey an assurance to the Civil Services that the British Government would look after their interests—a legitimate and, perhaps from the British point of view, a necessary step. What we are concerned with is not the intrinsic importance of the speech, but the effect it had in convincing the people in India, that the Reforms were nothing more than dishonest trickery. It is easy to see now that exaggerated importance was attached by the Indian public to an indiscreet utterance, but its effect was to stiffen the hostility of Indian public opinion towards the Reforms.

A greater and far more serious check that the Reforms had to encounter, was the use of Regulation III of 1818, to arrest and detain, 'without trial, a considerable number of public workers in Bengal. Revolutionary crime was known to exist there. On this point there is no doubt at all, and Indian Nationalist leaders, like the late Deshabandhu Das, had themselves acknowledged it in public. But that did not and could not justify the arrest and deportation of a large number of Bengali youths, some of whom were occupying responsible positions in public life. No charge was brought against them. They were not tried in any court of law. They were arrested and deported merely on an Executive order based on an arbitrary Regulation passed in 1818. Again, under ~~the~~ Regulation itself, those arrested could be detained only for six months. The Legislative Council refused to pass a law authorising the Executive to prolong the imprisonment, but by the use of the extraordinary powers vested in the Governor, the Act was certified and taken as passed. Thus, without either Legislative or judicial sanction, a Provincial Government, even under the Reformed Constitution, has been able to arrest and deport those whom it disliked. The question before the Indian public was not whether these youths were actually engaged in revolutionary activity. They might or they might not have been. Executive and judicial ideas of revolutionary activity differ widely from each other. In India there have been cases of people transported for life, by Executive authority, for waging war against the King, being made, shortly afterwards, Ministers of Government. Therefore, in the absence of any evidence submitted before a court, the Indian public naturally refused to accept the version given out by the Executive. To their mind a more important principle is involved in it. Is the Government in India based on the Rule of Law or is it based on the despotic theory of *lettre de cachet*? If the Reformed Legislatures have not the

authority even to see that elementary justice is done, then the public in India argued, the Reforms conferred not the substance but the shadow of Self-Government.

Thus, from the very beginning, the Reforms never had the proper political atmosphere. A total lack of imagination on the part of the Indian Government in insisting on the Rowlatt Act—the unwisdom of which has now been proved by the fact that it has not been revived and when it was on the Statute book it was never put in operation—and the tragedy at Amritsar, combined to prejudice the Indian people and create in them a bitterness hardly conducive to the working of the new scheme of government. Successive mistakes on the part of both the British Cabinet and of the Government of India and the prevalent idea that the Civil Service was hostile to the change and working for its failure, helped to sustain the feeling of bitterness and to keep the people sullen and discontented. With patience and understanding on both sides, much of this could have been avoided. But by the time the bitterness in India, about the Amritsar tragedy, and among the Mohammedans about the Turkish peace, had died out, the attitude of the British Government, and also of the public, towards India, had undergone a great change. The political success of the Reforms was therefore jeopardised from the beginning. It is only when this fact is understood, that the success and failure of the new machinery introduced by the Act of 1919, will be properly estimated.

CHAPTER IV

DYARCHY IN THE PROVINCES

It will be seen from the summary description of the Act of 1919, given in Chapter II, that the pivot on which the whole Reforms scheme moved, was the establishment of partial Responsible Government in the Provinces, on the basis of a division of functions into Transferred and Reserved halves. It is here that Dyarchy, as a system of administration, was introduced. The working of the Act, therefore, can be judged only by a detailed analysis of the Reforms as they have functioned in the Provinces. and it is to this problem that we must now turn our attention. (The subject has to be studied, not merely to see how far the intentions of the Parliament have been carried out in the way of establishing Responsible Government, but also from the point of view of administrative efficiency, the method and extent of popular control and the nature and line of further reforms. This could only be done by examining the working of the scheme during the last six years under the following heads :—

- (i) The relation of the Governor and his Ministers :
- (ii) The relations between the Transferred and the Reserved halves :
- (iii) The responsibility of the Ministers to the Legislature :
- (iv) The Legislature and the Executive :
- (v) Popular control in administration :
- (vi) Finance, the Civil Services and the Reforms

(One preliminary observation about the division of subjects into Transferred and Reserved, is of importance. This division was, in the nature of things, arbitrary ; but it was more than that. It was conceived in such a way that the Ministers who were supposed to administer the subjects Transferred, were never in control of the whole of any single department. The main subjects Transferred in all Provinces were education, sanitation, local self-government, agriculture and industries. But there were serious limitations affecting each of these. In his evidence before the Muddiman Committee, Sir K. V. Reddi, the first Minister of Industries in the Madras Government, stated this limitation in the following words :—

“ I was a Minister for development without the forests. I was a Minister of agriculture minus irrigation. As Minister of Agriculture, I had nothing to do with the administration of the Madras Agriculturists Loans Act or the Madras Land Improvement Loans Act. . . The efficacy and efficiency of a Minister of Agriculture without having anything to do with irrigation, agricultural loans, land improvement loans and famine relief, may better be imagined than described. Then again, I was Minister for industries without factories, boilers, electricity and water power, mines or labour, all of which are reserved subjects.” The medical administration, which is again under a Minister, is subject to No. 12 of the Devolution rules which states that “ a local government shall employ such number of Indian Medical service officers in such appointments and on *such* terms and conditions as may be prescribed by the Secretary of State in Council.” Education, again, is a much divided subject. European and Anglo-Indian education is a reserved subject, presumably because Indian Ministers could not be trusted to deal fairly with these communities. Chiefs' Colleges and any institution maintained by the Government, “ for the benefit of the members of His Majesty's forces or of other public servants, or of children o

members of such members or servants" are outside the control of Ministers. Besides, the Government of India maintains an education department under the charge of a Member of the Viceroy's Cabinet and the Central Legislature has, by the rules, concurrent jurisdiction on all important matters connected with Universities. The division of functions therefore, was not made in such a way as to give the Transferred departments autonomy within their own sphere.

✓ (1) *The Governor*

The most important feature of the Reforms Act was the change introduced in the position of the Governor. In the Reserved departments, the Governor in Council, that is the Governor acting with his non-parliamentary Executive, was responsible to the Secretary of State, through the Governor-General in Council. So far his position had not changed. With regard to the Transferred departments, the Governor was clearly understood to stand in a different position. The Secretary of State and the Government of India have relaxed their control over the Provincial Administrations in the Transferred subjects and reserved the right to interference and control only in specified matters. To whom was the Governor then responsible for the administration of those departments? Clearly the purpose of the Act was to make him not an irresponsible Executive head, but a constitutional Governor whose Ministers would be responsible to the Council. We shall discuss the question of Ministerial responsibility later in this Chapter. (But so far as the Governors are concerned, this intention of the Act was forgotten after the first two years and the Governors claimed more rights and authority than they ever possessed before the Reforms.* This

* Sir A. P. Patro, while still Minister of Education, stated in his official memorandum that one of the serious anomalies in the Scheme of Reforms is that the Governor of the Province is made more abso-

was done by three methods. Under section 49 (2) of the Act, power was given to the Governor to make Rules and Orders "for the more convenient transaction of business." These Rules were so framed as to concentrate power, as far as possible, in the hands of the Governor. Secondly, the Governor consulted the Ministers individually, and in cases of difference of opinion, the practice has grown up of overruling the Minister, though the Act, sec. 52 (3), lays down that he shall be guided by that advice, except in cases of fundamental difference. Mr. Chintamani, the first Minister of Education in the United Provinces, stated in his memorandum to the Muddiman Committee, that he was even overruled in the matter of nomination to a library committee. In the Reserved departments, if there is a difference of opinion between a Member and the Governor, the matter is brought up before the Executive Council and decided by a majority vote. The Governor, by dealing individually with the Ministers, has assumed greater power of control over the Transferred departments, than over even the Reserved departments, while in fact it was the whole purpose of the Act that such control should only be exercised in exceptional matters. Thirdly, the Governors in Provinces have advanced the untenable theory that the Ministers are only their advisers. The Rules framed under the Act (not by Parliament but by the Government of India), proceed on the assumption that the new Councils are only an enlargement of the old Minto-Morley Councils, not intended to override the Governor, but to extend his field of consultation and advice. On this ground, the Ministers were only supposed to give advice which the Governor was at liberty to accept or to reject. In fact, the Law Officers of the Madras Government, went to the extent of taking objection to the Legislative lute in the Transferred subjects than in the Reserved subjects. . . . Under the provisions of section 52, the Governor is held to be in charge of the departments transferred to the Ministers.

Council discussing appointments in the Transferred subjects, on the ground that the responsibility lay with the Governor whose actions could not be criticised by the Council. This objection, which the President rightly ruled out, has important bearings on the question of Ministerial responsibility.) As the law stands, by the rules framed under sub-section 5 of section 72 D, no resolution can be moved in regard to any action taken by the Governor even in the Transferred departments. So far as the Governor himself is concerned, the problem clearly is this. If the Governor is a Constitutional head, then it may be accepted that his action cannot be criticised by the Councils on the ground that the Constitution vests the responsibility on the Ministers. If on the other hand, the Governor claims to act on his own authority, it is equally clear that his actions should be open to discussion.

(The present position is that, to the extent the Government of India (and the Secretary of State) have relaxed control over the Transferred subjects, the Governor's powers have been increased and he virtually stands forth as an irresponsible, rather than as a constitutional head.) (This has been well brought out in the evidence given by ex-Ministers before the Muddiman Committee.) Mr. Chintamani, who was a Minister in the United Provinces, stated the matter thus in his written evidence: "I have passed through every stage from a habitual: 'Honourable Minister is responsible and his view shall prevail,' and 'I must support the Honourable Minister,' to being over-ruled in matters of varying degrees of importance and unimportance down to nominations to a library committee." Lala Hari Kishen Lal, who was Minister in the Punjab, gave evidence to the same effect. Sir A. P. Patro, Minister in Madras, stated that the Ministers were completely under the control of the Governor. (Sir Chimanlal Setalwad, who was an Executive Councillor in Bombay, declared that the Governor instead of limiting his interference to exceptional