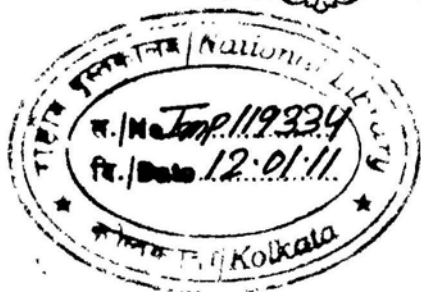


**REPORT**  
ON  
**Indian Constitutional  
Reforms**



CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
1918

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## INTRODUCTION.

Having now completed the inquiry which we were directed to undertake in the decision announced in the

**The Report.**  
House of Commons eight months ago, we beg to lay before His Majesty's Government this report of the conclusions to which we have come, touching the constitutional changes which are desirable in India, and to ask their assent to its publication.

2. We have a preliminary point to make. It has been asked why the Secretary of State and the Government of India are devoting time and energies to the task of domestic reconstruction, when the whole activities of the authorities and the country ought to be bent to the supreme purpose of the war. Our report will, we hope, show how strong in themselves are the reasons for not postponing the consideration of reforms. We can add that the calm atmosphere in which we hoped that our inquiry might be conducted has been attained; and this has in itself been of no small assistance to the Government. It would be easy to rebut the criticism by a specific recital of the part that India has played in the war. But we wish to avoid any appearance of either apology or glorification; and therefore we prefer to meet it simply by the formal and definite assurance, made with a full sense of responsibility, that the energies of the Government have at no time been diverted from the war by other considerations however important.

3. We have also briefly to explain the means which we took to comply with the direction that there should be a free and informal exchange of opinion between those in authority at Home and in India. As soon as the announcement was made in the House of Commons, the Government of India in Simla and a Committee of the India Office in London devoted themselves to the preliminary consideration of the problems involved. The Secretary of State and those who accompanied him from England reached India in November. We began work at Delhi and then visited in turn Calcutta, Madras, and Bombay, receiving deputations at each of these places and giving interviews to representative men. Efforts have been made to ascertain all shades of opinion. We have been throughout the inquiry in constant consultation with the members of the Government of India. We met the heads of certain provinces in Delhi in November, and the presidency Governors and Governments in their own capitals later on. On our return to Delhi a continuous series of conferences began; there were meetings of the Secretary of State and those associated with him and the Government of India; meetings with all the Heads of provinces; meetings with a Committee of the Ruling Princes; meetings of Committees to consider details; and frequent private interviews and informal discussions. We place our report

therefore before His Majesty's Ministers as the record of opinions formed after a very full and free discussion conducted in many varying ways with those whom we were instructed to consult. We are only too conscious of the defects which must attend a report produced under the limitations of time which we thought it right to impose on ourselves; but we have tried to make it a self-contained document, so as to obviate any need for the presentation of papers. Indeed this short description of the methods by which the enquiry has been pursued will show how difficult it would have been to present papers which would give a consistent and consecutive view of its progress.

4. In the course of our interviews with representatives of all classes of opinion we were made aware of their wishes upon many important questions which lie outside the scope of our present inquiry. For that reason we make no mention of such matters in our report. Nevertheless they are receiving and will receive our careful consideration. We have tried to trace the growth of the existing structure and to indicate its defects. We have tried to explain the conditions of the problem and to suggest the contributions which all concerned must bring to its solution. But we have not felt it our duty nor necessary to our purpose to pronounce judgment on the past, or to condemn individuals or classes or communities. Our concern was with the organization; and as far as possible we have confined our comments to it. In several cases we have been content to indicate our proposals without going into details which it would have taken us too long to explore; or without explaining the exact means by which we intend that our suggestions should be carried out. On many such points there must necessarily be further consultation between the Government of India and the India Office. Again we have often made use of compendious or convenient terms without attempting to qualify or define them on each occasion with extreme precision. The language of our report should not be taken as embodying the exact terms in which the proposals should be expressed in the legal instruments which will be needed to give effect to them. If we speak of India as self-governing, the phrase is a convenient means of referring to the objective set out in the announcement of August 20, namely, responsible government in India as an integral part of the British Empire. When we speak of "provincial autonomy" the words are to be understood as conveniently summing up the position of the provincial Governments which we have defined more precisely elsewhere in the report. When we speak of the action of a local Government or of the Government of India, the terms should be understood in reference to the general powers of control exercised by the Government of India and the Secretary of State in Council respectively. If we speak of "Indian opinion" we should be understood as generally referring to the majority of those who have held or are capable of holding an opinion on the matter with which we are dealing. We have not forgotten that public opinion can rarely be unanimous,



nor have we overlooked the fact that a public opinion which is the opinion of the population as a whole can be developed in India only as education spreads and as people learn to use the vote. We trust that this explanation will be borne in mind by those who read our report.

5. We do not suppose that any words of ours are needed to express our sense of the gravity of the task which we have attempted. The welfare and happiness of hundreds of millions of people are in issue. We have been called upon to revise a system of government, which has been constructed by builders who like ourselves had no models before them, during a century and a half of steadfast purpose and honourable aim; a system which has won the admiration of critical observers from many lands; and to which other nations that found themselves called upon to undertake a similar task of restoring order and good government in disturbed countries have always turned for inspiration and guidance. England may be proud of her record in India. She should have even greater reason for pride in it in future. Because the work already done has called forth in India a new life, we must found her Government on the co-operation of her people, and make such changes in the existing order as will meet the needs of the more spacious days to come; not ignoring the difficulties, nor underestimating the risks, but going forward with good courage in the faith that because our purpose is right it will be furthered by all that is best in the people of all races in India. But the fact that we are looking to the future does not mean that we are unmindful of the past. The existing edifice of government in India is a monument to the courage, patience, and high purpose of those who have devised and worked it, to which before we set about explaining our own proposals it is fitting that we pay our imperfect tribute.

PART I

The Material

## Chapter I.—Recent events in India.

The announcement in Parliament. 6. On August 20, 1917, the Secretary of State for India made the following announcement in the House of Commons:—

“ The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible, and that it is of the highest importance as a preliminary to considering what these steps should be that there should be a free and informal exchange of opinion between those in authority at Home and in India. His Majesty's Government have accordingly decided, with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and the Government of India, to consider with the Viceroy the views of local Governments, and to receive with him the suggestions of representative bodies and others.

“ I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

“ Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament.”

7. We take these words to be the most momentous utterance ever made in India's chequered history. They pledge the British Government in the clearest terms to the adoption of a new policy towards three hundred millions of people. The policy, so far as Western communities are concerned, is an old and tried one. Englishmen believe in responsible government as the best form of government that they know; and now in response to requests from India they have promised to extend it to India also under the conditions set out in the announcement. We need not dwell on the colossal nature of the enterprise, or on the immense issues of welfare or misery which hang upon its success or failure.

The announcement marks the end of one epoch, and the beginning of a new one. Hitherto, as we shall show, we have ruled India by a system of absolute government, but have given her people an increasing share in the administration of the country and increasing opportunities of influencing and criticizing the Government. With the development of the old system we shall deal hereafter. For the moment, however, let us review the last stage, which began with the reforms of 1909, in order to see how it came about that the old familiar ways would no longer suffice for the well-being

of the country and why the change should take the form set forth in the words of August 20.

8. Lord Minto told his legislative council in March 1907, that with the object of satisfying the Morley-Minto reforms constitutional aspirations of that day, his Government had been considering how to give the people of India wider opportunities of expressing their views on how they should be governed. The increasing readiness of the landed and commercial classes to share in public life and to render assistance to Government, and the desire of the rapidly growing numbers of educated Indians to have a larger voice in administrative questions had convinced both Lord Morley and himself that it was time to carry to a further stage the reforms effected in Lord Lansdowne's days. The underlying idea of the Morley-Minto changes, which were introduced in 1909, was to associate the people to a greater extent with Government in the decision of public questions. With this end in view one seat on the Governor General's and one on each of the provincial executive councils were in practice reserved for Indian members. All the legislative councils were enlarged, and all were given a real and substantial elected element, while the provincial legislative councils were also given a non-official majority. The right of discussing questions of public interest was also conceded to the councils. This gave members a real opportunity of exercising some influence on questions of administration and finance, and though the executive government was left free to act upon such recommendations as it thought fit, the concession was regarded by persons of insight as perhaps the most important part of the changes. The institution of finance committees of the councils also gave the elected members a direct share in framing limited portions of the budget. Their scope in this direction, however, was extremely restricted, being confined to the small margin of expenditure available for optional schemes, that is such as had not already been definitely selected by the Government for execution. Not only was the amount available small, but in the nature of the case the schemes under consideration were generally of secondary importance. It was thought impossible to introduce a general system of direct election with territorial constituencies; and indirect election was accordingly retained, except in the case of Muhammadans and certain other special electorates.

9. The Morley-Minto reforms were essentially of an evolutionary character: they were a natural extension of the previously existing system. Excessive claims were made for them in the enthusiasm of the moment, but in any case they cannot justly be described as embodying any new policy. The change was one of degree and not of kind. Lord Morley himself emphatically repudiated the idea that the measures were in any sense a step towards parliamentary government. They were based on the fundamental principle that the executive government should retain the final decision of all questions although some degree of popular control

over legislation was established in the provinces by providing small non-official majorities. We shall examine in due course the claim that the reforms would "really and effectively associate the people of India in the work not only of occasional legislation, but of actual every day administration." But however this may be, there is no doubt that they constituted a real and important advance. At first they met with a good reception. The Congress welcomed them and Mr. Gokhale spoke of their "generous and fair nature" but very soon depreciatory criticism began to manifest itself and dissatisfaction has steadily increased.

10. It is almost a truism to say that any extension of popular Decentralization Com- control over an official system of government mission. must be accompanied by some relaxation of the bonds of superior official authority. It was appropriate, therefore, that even the reforms of Lord Minto's time synchronized with an attempt to relax the closeness of the control exercised by the Government of India and the Secretary of State over the provinces. Between the constitutional changes and the attempts at decentralization a certain parallelism is discernible. The administration of Lord Curzon had been marked by a great period of investigatory and constructive activity. Department after department, service after service, was overhauled and a new programme of work laid down for it. Principles were enunciated and standards set. New departments or new authorities were created to relieve or to improve the existing machinery. All this tended to a marked concentration of authority in the hands of the central Government, against which a natural reaction in due course occurred. In addition, provincial Governments were beginning to chafe under financial and administrative restrictions, devised for a more primitive system, which fettered them in their plans of individual development. Complaints were heard also that the prevalent unrest was due in part to loss of touch between officials and the people. The district officer was said to be too closely bound by rules and regulations; too much occupied in writing to his official superiors; too much of a machine and too little of a personality. These reasons led to the appointment of the Royal Commission on Decentralization which presented its report in 1909. The report surveyed the relations between the Indian and the provincial Governments, and also between the latter and the authorities subordinate to them, and recommended a series of measures having for their object the relaxation of control by higher authorities and the simplification of administrative methods.

It would be unjust in us to blame the Commission for not taking a broader view of their task. They stand on firm ground when they defend the maintenance of close official control in India by the absence of control by local parliamentary bodies: nor can they be accused of want of foresight, since they recognized that if the local legislative councils were granted material control over provincial finance, a greater separation of Indian and provincial revenues must follow. Their work must be judged by the conditions of 1908

and not those of 1918; it was the appropriate corollary to, and in keeping with, the Morley-Minto changes. All we need say is that, if we mean to give the provinces a real measure of constitutional liberty of action now, measures of decentralization far beyond those conceived by the authors of the report will certainly be necessary.

Even as things were, however, and under the drastic limitations which the system imposed, their proposals affected much of the framework of government; much time was necessarily occupied in their examination; and their results, which are contained in a long series of Government orders and resolutions, have been important and valuable, especially in the financial sphere. Between the years 1910 and 1917 the control of the Government of India over local Governments has been appreciably relaxed in a multitude of details and much has been done both to free local bodies from official interference, and to delegate increased powers to the heads of departments both in the Government of India and in provincial Governments.

11. The year 1911 was made memorable by the visit of Their Majesties the King-Emperor and Queen-Empress. It was the first occasion on which The Imperial visit. the British Sovereign had set foot on the soil of his Indian dominions. The feelings of the people are warm and quick, the sentiment of attachment to a personal ruler is strong, and the King's presence among them was felt to be an act of Royal kindness and affection, which stirred the heart of India to its depth. The visit proved the deep loyalty of the masses of the people, which His Majesty's message of hope for the future did much to confirm. As the message from the Princes and peoples of India to the people of Great Britain and Ireland put it:—"Their Imperial Majesties have drawn closer the bonds that unite England and India, and have deepened and intensified the traditional feeling of loyalty and devotion to the throne and person of the Sovereign," and "we are confident that this great and historic event marks the beginning of a new era ensuring greater happiness, prosperity and progress to the people of India under the ægis of the Crown." By the Royal announcement in the durbar at Delhi the partition of Bengal was modified, in a manner which inevitably disappointed the Muhammadans of Eastern Bengal but was of political value in allaying a greater grievance; and the simultaneous removal of the capital from Calcutta to Delhi appealed to the popular imagination particularly as a striking manifestation of the powers of State. But these changes are only germane to our purpose in so far as the despatch in which they were proposed produced a lively discussion of constitutional policy. After dwelling on the necessity 'in due course' of giving Indians a larger share in the government and the difficulty of doing so while retaining the supreme authority of the Governor General in Council, the despatch stated "the only possible solution of the difficulty would appear to be gradually to give the provinces a larger measure of self-government, until at last India would consist of a number of administrations autonomous in all provincial

affairs, with the Government of India ordinarily restricting their functions to matters of Imperial concern." We do not propose to discuss the interpretation placed upon this reference to provincial autonomy; but Lord Crewe expressly repudiated any idea that the despatch implied a future for India on the lines of colonial self-government as the goal of policy.

12. Lord Hardinge's Government were indeed less concerned to deal with what they conceived to be vague and distant aspirations than to satisfy what they looked on as reasonable and practical claims. They were anxious to give to Indians as large a share in the public services as was consistent with the best interests of the country; and in September 1912 a Royal Commission was appointed to examine and report on various matters connected with the public services of which the most important was:—

"Such limitations as still exist in the employment of non-Europeans, and the working of the existing division of services into Imperial and provincial."

The Commission visited India during the cold weathers of 1912-13 and 1913-14 and recorded an immense volume of evidence, official and non-official, in each province. The evidence was naturally conflicting and there were occasions when it was tinged with racial feeling. The report was completed early in 1915, but owing to the outbreak of hostilities it was decided to postpone publication in the hope of avoiding controversy at a time when all energies should be concentrated on the conduct of the war. But the report could not be withheld indefinitely and was ultimately published in January 1917. By that time the war had raised the pitch of Indian expectations to an extreme height, and we are not surprised that a report which might have satisfied Indian opinion two years earlier was generally denounced in 1917 as wholly inadequate. The Commission proposed that some services should be entirely recruited in India and that the Indian element in others should be largely increased. But their assumption that British responsibility for India requires a preponderating proportion of British officers in the security services did not commend itself to many Indian critics. We shall return later on to the discussion of this question, and shall make our own proposals. For a time at all events, owing to the intensity which nationalist feeling had acquired, and, we must add, the tinge of racialism which had infected political discussion, the effect of the report was to irritate rather than to satisfy Indian opinion.

13. Ever since Lord Ripon's attempt in 1882 to give reality to the municipal boards and local cess committees instituted in the sixties, British administrators in India had looked to local self-government in town and country as affording the field in which Indians might best be trained in the management of public affairs. We cannot doubt the soundness of this principle: indeed our own proposals will be seen to endorse it. But the local bodies were ill-

Local self-government  
Resolution, 1915.

equipped with funds, and interest in local affairs and capacity to handle them were slow in developing, and meanwhile the material needs of the country could not wait. What happened therefore was that the educative principle was subordinated to the desire for more immediate results. The management of local affairs remained in the hands of those who were most competent to handle them, not from bureaucratic lust of power, but because no other agency readily presented itself and district officers never had the leisure nor were given sufficient assistance to create one. The broad fact remains that in a space of over thirty years the progress in developing a genuine local self-government has been inadequate in the greater part of India. Writing of local boards the Decentralization Commission said:—

" Critics of the present system have dwelt on the failure to develop the principle of election, and on the appointment of official presidents. The boards, it has been urged, have practically become a department of the Government administration; their work is done by the official element within the boards themselves, or by Government departments at the boards' expense; their proceedings are subject to excessive outside control; and in present circumstances they can never become, as Lord Ripon intended them to be, effective instruments of local self-government.

" While we do not go so far in suggestions for change as many who hold these views, we recognise that their assertions contain a large element of truth. At the same time those who expected a complete revolution in existing methods in consequence of Lord Ripon's pronouncement were inevitably doomed to disappointment. The political education of any people must necessarily be slow, and local self-government of the British type could not at once take root in Indian soil. .... We recognise, however, that much has already been done to carry out the objects which Lord Ripon had in view, and the added experience of a quarter of a century now renders it possible, we think, to attempt a further practical development of local self-government.

It is apparent that, though in a lesser degree, there has been the same lack of real growth in municipal boards as well.

Lord Hardinge's Government took up the subject anew, and in 1915 published a resolution setting forth their conclusions. But the field was so vast and the practical steps to be taken depended so greatly on local conditions, that they felt unable to do more than indicate the general lines on which advance should be made, and leave it to the local Governments to determine the pace and the methods which suited the circumstances of their own provinces. So far as municipal bodies were concerned the Government of India thought that the time was ripe for appointing non-official chairmen, granting elected majorities, and giving further freedom in regard to taxation, the framing of budgets, and control over establishments. Rural areas are naturally less advanced than municipalities and local knowledge and interest in public affairs are less common. Rural boards did not therefore afford the same scope for non-official activity, and the Government of India thought that they should still be guided by official chairmen. But in other respects they wished to see progress made on the same lines as in towns. The Commission had recommended the establishment of village panchayats with certain administrative powers, jurisdiction in petty



civil and criminal cases, and special sources of revenue. Lord Hardinge urged local Governments to make experiments in any areas where a practical scheme could be worked out. The suggestion that the control of local administration should be placed under a local Government Board did not find favour with the Commission.

These proposals were on the right lines generally. The Government of India were not in a position to press their views on the provincial Governments, because from the nature of the case no authority but a provincial Government has the necessary knowledge to foster and develop local institutions; and yet the existing system still left the initiative in such matters to the Government of India, which alone controls the resources and reserves of taxation necessary to make such a development real. The comparative ineffectiveness of the conclusions of 1915 is to our mind another strong reason for giving the provincial Governments far more extensive powers.

14. We have shown that Lord Minto and Lord Hardinge were by no means marking time. They 'sought out and set in order many inventions' in the domains of decentralization, the services and the local bodies; and all these measures were part and parcel of one sound purpose; but their endeavours were necessarily limited, just as were the constitutional changes of 1909, because the end of the policy had never been clearly and authoritatively set forth.

All this time Indian politicians were exerting continuous pressure to increase the pace of progress. The voice of criticism was never silent, but its tone showed a gradual change with the passing years; the purely negative attitude of opposition gradually passed into a more constructive policy. Criticism came to be combined with advocacy of progress, and with demands that became steadily more insistent for a form of government which would leave Indians free to rule India in a manner consistent with Indian ideas. The spirit of liberty was abroad and active. We can distinguish clearly the directions in which political activities were mainly bent.

15. First, there was constant opposition to Government measures which were regarded as repressive. Let us recall the situation broadly, keeping in mind that it is not germane to our main purpose to decide whether criticism was well-founded or not. The ordinary penal law and public opinion had failed to check the outpouring of literature subversive of law and order and in some cases aiming at the overthrow of the British Government. It was proved that a section of the press deliberately instigated to violence: and accordingly in 1910 the Press Act was passed. At the time there was general recognition of its necessity: and the leading politicians were content with criticism of its provisions and offered no direct opposition to its passage. But the Act, though by no means the obstacle to liberty of discussion that it is often represented, has since become increasingly unpopular. The Seditious Meetings Act, 1911, reproduced in a milder form a law which had been in force since the disturbed year 1907; but the new Act was a permanent

one while its predecessor was a temporary measure, and this point formed the chief ground of attack. The Criminal Law Amendment Act, 1913, followed on the attempt to assassinate Lord Hardinge in December 1912. It amended the Indian law of conspiracy by making it penal to conspire to commit an offence even though the conspiracy was accompanied by no overt act in pursuance of its object. Criticism of all such measures has generally taken the form of an appeal to abstract principles of liberty and the inalienable rights of British citizens; objection is generally taken to the use of executive rather than of judicial sanction; stress is laid on the advantages of conciliation; it is often said, to quote a non-official member of the Legislative Council in 1913, "Trust begets trust; mistrust, or even the suspicion of it, engenders suspicion." The Government's estimate of the situation is attacked as unduly pessimistic; the necessity for the measure is denied; or it is urged that the political position will certainly improve and therefore the measure should be only a temporary one. In particular, notwithstanding the services which the Criminal Investigation Department has rendered to the cause of peace and tranquillity, and so to the Indian people, by exposing and combating the growth of revolutionary conspiracies, there has been much criticism of its activities as being too widespread.

16. In the next place we may discern an ever-growing discontent with measures which were resented as evidence of racial discrimination. Again our concern is to take note of such feeling as an element in the conclusions to which we come hereafter rather than to pronounce a judgment on it. Race feeling is no new phenomenon in India. It has always existed, but has been more bitter at some periods than at others. The spread of English education and ideas, and the growing belief in the future possibilities of India were doubtless among the causes which made nationalist speakers and writers vehemently resent any suggestion of discrimination on a colour basis. We may mention, by way of illustration only, some of the matters which were specially attacked. The first is the preference shown in the arms rules to "every European or East Indian subject of His Majesty," who enjoys the privilege, denied to the ordinary Indian, of possessing ordinary sporting arms and ammunition without a license. Another grievance is what is described as the denial to Indians of the right to bear arms in defence of their country. Although there was no statutory prohibition of the enrolment of Indians in the volunteer force, it was left to commanding officers to admit or to exclude any would-be recruit, and while a small number of Indians, mostly Christians, were admitted as members of volunteer corps, Indians generally were in practice not enrolled. The Indian Defence Force Act has made an attempt to deal with this grievance. Again there was the exclusion of Indians from the commissioned ranks of the army. Indian officers form a separate establishment from the British officers, and the highest and most experienced of the former rank lower than the most junior

of the latter. This particular disparity naturally came into special prominence on the outbreak of the war.

Another grievance of a similar nature, which became more generally felt as the habit of travel increased, was the discrimination against Asiatics in the immigration rules and the municipal legislation of some of the Dominions. This stands on a different footing, because the grievance was not one created or removable by the Government of India, which indeed has steadily done its utmost to secure redress; but its action has not always been appreciated and at times the Government of India has had to bear the odium of these grievances as much as if it had been responsible for them.

17. Thirdly, we find much energy directed to accelerating progress in what may be called the more humanitarian aspects of government and also in social or sectarian reform. Not that Government had been idle; on the contrary the long record of its activities does it credit; but Indian opinion asked for more. The records of the legislative councils since 1910 are full of debates on resolutions to increase the grants for education and sanitation. The speakers did not always consider where the extra money was to come from; but if it had to be found by reducing expenditure on some other service or department then the police were nearly always selected as the victim. Police expenditure and administration were a constant object of attack; while the treatment of prisoners and jail administration also attracted frequent attention. In 1913, and again in 1914, resolutions, which have since borne fruit, directed the attention of the executive government to the whole subject of prison management. In 1911, Mr. Gokhale introduced a Bill to establish a system of compulsory primary education. The Bill was opposed by Government on technical and financial grounds and also by some non-official members, but it received the support of the progressive politicians; and, though defeated, it certainly sowed a seed that is beginning to germinate in Bombay and other provinces. Proposals for new universities, both sectarian and provincial, were another matter in which keen interest was shown. The Hindu University Bill was passed in 1915 and the Patna University Bill in 1917: other projects have had to be deferred till the war ends. In the sphere of social reform we observe one notable advance. The Government with public opinion behind them abolished indentured labour.

18. We note at the same time a decided movement in favour of what we may call the liberalization of existing institutions. The popular feeling in favour of council government in provinces received a stimulus when the new province of Bihar and Orissa was given an executive council. A proposal to set up a similar form of government in the United Provinces, received the support of the great majority of the non-official members of the Indian Legislative Council. Its rejection by the House of Lords in 1915, intensified the general demand for council government. We sus-

pect that the desire for more liberal institutions derives some strength from provincial emulation, since it is regarded as a slur on a province if an institution is denied to it which has been granted to a sister province: of this tendency not merely the movement in favour of an executive council in the United Provinces, but also the demands for a high court for the Punjab and a chief court for the Central Provinces are instances. In August 1914 the process of equipping all but the smallest provinces with legislative councils was also completed by the institution of such a body in the Central Provinces. The feeling against personal rule also finds expression in the demand for the creation of district advisory councils to be attached to district officers, which was a subject of debate in 1912 and has been supported in many of the addresses recently presented to us.

19. Finally we remark a growing desire to improve the status of India in the Empire. We have Imperial aspirations. already mentioned, in its social aspect, the movement for abolishing indentured labour. That movement had also another meaning. It was largely due to a feeling that the indentured system gave the Dominions and Colonies a wrong idea of India which hampered her in attaining her rightful position in the Empire. In 1913 we find the Indian Legislative Council discussing the possibility of increasing Indian revenues by preferential tariffs with the United Kingdom and the Colonies, and a year later, debating a proposal for a committee to report on the improvement of the mail service between Great Britain and India. India's position in the Empire was clearly becoming a matter of increasing concern to the leaders of Indian opinion: and the claim for representation on the Imperial Conference, which was made in 1915 and cordially accepted by Lord Hardinge's and His Majesty's Governments, was fulfilled in ample measure in 1917, when a Ruling Prince, a Lieutenant-Governor, and an Indian *ex-Member* of Council attended the Imperial War Conference and shared in the innermost deliberations of the government of the Empire.

20. We have tried to describe India's chief preoccupations at the time when war broke out. The war has The outbreak of war. affected India in many ways, but above all India's loyalty. it has become the predominant factor in the present political situation. Whatever qualifications may be needed in the case of particular classes, the people of India as a whole are in genuine sympathy with the cause which the Allies represent. The reasons of the entry of Britain into the war appealed to the educated classes and they have never faltered in their allegiance. However much they may find fault with the Government, they are true in their loyalty to the British Crown, and, as it would be easy to show from their own lips, they fully recognize and value the higher aims of British policy. German ideas involving the subjection of the weak to the strong and the maintenance of the theory that might is right fill them with repugnance and alarm; and the savage barbarities practised by German troops and sailors have

repeatedly been contrasted with the clean methods of the Allies. The spectacle of Indian troops going forth gladly to fight for justice and right side by side with the British army appealed intensely to India's imagination. It was a source of legitimate pride and delight to her people that Indian regiments should be deemed fit to face the most highly trained enemy in the world. The Indian Princes and the great landed proprietors responded splendidly from the very beginning of the war to the calls made upon them. Many offered their personal services and several Princes have been in the field. Offers of men and money at once began to flow in, and we are proud to add that the steady flow of contributions has hardly diminished, though the war is now nearing the end of its fourth year. In the early days of the war considerable disturbance of trade and prices occurred. This alarmed Indian commercial circles, and during the first year of war money was extremely scarce, and there were heavy withdrawals of deposits. Confidence was gradually restored, however, and markets improved; and a great expansion of industrial and commercial activities has since ensued. The rural population as a whole has been affected comparatively little by the war otherwise than by the rise in prices. For this reason it has been difficult to bring home to them in their remoteness the real issues of the struggle and the obligations imposed by it. But this has not been the case in areas where recruitment for the army has taken place. There interest has been awakened with remarkable results, especially in the Punjab, despite the events recorded in the succeeding paragraph, and every effort has been made to extend such areas and to open new ones.

21. The loyalty of the country generally was emphasized by the attempts made by very small sections of the Disaffected groups. population to create trouble. The Bengal revolutionary party, which had been active for many years before the war, scored a notable success in August 1914 by capturing a large consignment of pistols and ammunition in Calcutta. The arms were widely distributed and used in most of a series of outrages which followed for some months to come. We now know that the Bengal anarchists established communication both with German agents, and with agents of the revolutionary party outside India known by the name of their propagandist journal as the *Ghadr* (mutiny) party. They drew money from America and also from German sources, and made plans for running arms and ammunition into India and starting an armed rising; but the conspiracy was disclosed and the leaders eventually arrested. The influence of the *Ghadr* party was, however, more obvious, and probably more dangerous in other directions.

In September 1914 occurred the unfortunate *Komagata Maru* incident. In its origin this was merely an attempt to defy the immigration rules of Canada. Some four hundred Punjabis sailed from ports in the Far East to Vancouver. They were not allowed to land, and after much delay sailed for India. *Ghadr* agents had

not lost the opportunity of preaching revolt on board the ship, and the Indian authorities decided to enforce the *Lugress* into India Ordinance in order to prevent any agitation or disturbance on the return of the emigrants. The Sikhs were excited by the disembarkation arrangements at Budge-Budge and started to march to Calcutta. They were taken back by a force of police and military, and suddenly opened fire at Budge-Budge on the police. Men were killed on both sides and the Sikhs scattered before they could be surrounded. Most but not all of them were rounded up, and the leaders were put under restraint in the Punjab where they formed a nucleus of disaffection, which led to the events described below.

When the war broke out there had been a great stir among the Sikhs in America, and the *Ghadr* organization began a campaign to induce them to return to start a revolution in India. In all about 8,000 Sikhs came back to the Punjab from the United States, Canada, and the Far East, and we know that efforts were made to bring them all into the conspiracy. In most cases the attempt failed and in respect of some three-quarters of the returning emigrants no action was necessary: but most of the dangerous characters on their arrival were interned. Some who had merely been restricted to their homes disregarded the orders, and joining with others who had not been interned, attempted to collect a following. In this they had little success, for the countryside as a whole remained loyal and quiet; but so long as they were active, the gangs were dangerous and made attempts to concert a rising in conjunction with any disaffected elements that they could find in regiments. Happily all miscarried, as in each case timely information was given. But the position was full of serious possibilities. Political dacoities and murders of the type common in Bengal began to be a feature of the disturbance and it was apparent that the Punjab and the Bengal movements were in touch, and that the former derived direct stimulus from the latter. In certain districts of the Western Punjab widespread disorder ensued, to which political, racial, and agrarian causes all contributed, and the gravity of the situation convinced Lord Hardinge's Government of the need for some special weapon to enable them to deal with it promptly. The Defence of India Bill was introduced into the Indian Legislative Council and passed without delay. Inevitably it was a drastic measure; it gave to the Governor General in Council wide rule-making powers with a view to securing the public safety and defence of the country, and also provided for the creation of special tribunals for the quicker trial of certain classes of cases in specially disturbed tracts. It was comparable to a similar Act passed in the United Kingdom also as a war measure. The Bill was naturally rather a severe trial to the Indian elected members; as loyal citizens they supported its principle; but they made no secret of their aversion to particular provisions and moved many amendments against which Government used its official majority without hesitation as they would have destroyed the efficacy of the Bill. The Act was immediately applied in the Punjab, and later elsewhere as circumstances demanded. During



a war the Government could not have relied on its ordinary judiciary in dealing with conspiracy cases of such dimensions as those which the special tribunals were called upon to try.

22. We consider that the attitude of Indian political leaders in the first stages of the war was worthy of all praise. They responded loyally to Lord Hardinge's appeal for the suspension of domestic controversy, and through the legislative sessions of 1915 showed a general desire to co-operate with rather than to hamper Government. But we must recognize that latterly a change has taken place. As India settled down to war conditions, and lost alike its first enthusiasm and its first alarm, the old tendency to criticism asserted itself: the Government was charged with having itself departed from the principle of avoiding controversial legislation; and the politicians retaliated not merely by raising controversial issues, but by pressing on the Government more and more extravagant demands. We imply no criticism upon the Government of the time when we say that in the light of subsequent events we are constrained to wonder whether a bolder policy from the outset of the war, and a franker inviting of India's co-operation in all forms of war effort might not have done much to steady men's minds. The war is far from being won. Unless it is won India's political aspirations are a vain dream. We would call the attention of Indian politicians to this obvious truth. But the war and the sentiments to which the war has given expression have made political reforms loom larger in India; and the fact that among all the preoccupations of the war time was found for an attempt to solve the Irish problem and to consider questions of reconstruction encouraged Indian politicians to press their demands also. The change in their attitude nowhere more clearly appears than in the difference between the tone of the Congress of 1915 and that of 1916.

23. But for the real and lasting effects of the war on India's destiny we should look neither to the generous help of the Princes, nor to the loyalty of the people as a whole, nor to the misguided activities of revolutionary gangs, nor yet to the attitude of the political leaders. They must be sought deeper and, we think, in two main directions. First, the war has given to India a new sense of self-esteem. She has, in the words of Sir Satyendra Sinha, "a feeling of profound pride that she has not fallen behind other portions of the British Empire but has stood shoulder to shoulder with them in the hour of their sorest trial." She feels that she has been tried and not found wanting, that thereby her status has been raised, and that it is only her due that her higher status should be recognized by Great Britain and the world at large. The war has given an interest in public affairs to many thousands who were indifferent before. Many men, using language familiar to them in the past, claim that she should receive some boon as a reward for her services, but we do not think that this expresses the general feeling well or justly. We prefer to say that we find a general

Effects of the war.

New sense of self-esteem.

belief that India has proved herself worthy of further trust and of a more liberal form of government, and that whatever changes are made should be made in recognition of her own progress rather than as the reward for any services which she has rendered.

24. Further, the war has come to be regarded more and more clearly as a struggle between liberty and despotism, a struggle for the right of small nations and for the right of all people to rule their own destinies. Emphasis on self-determination. Attention is repeatedly called to the fact that in Europe Britain is fighting on the side of liberty, and it is urged that Britain cannot deny to the people of India that for which she is herself fighting in Europe, and in the fight for which she has been helped by India's blood and treasure. The revolution in Russia in its beginning was regarded in India as a triumph over despotism; and notwithstanding the fact that it has since involved that unhappy country in anarchy and dismemberment, it has given impetus to Indian political aspirations. The speeches of English and American statesmen, proclaiming the necessity for destroying German militarism, and for conceding the right of self-determination to the nations, have had much effect upon political opinion in India and have contributed to give new force and vitality to the demand for self-government, which was making itself more widely heard among the progressive section of the people.

25. The movement found formal expression when on September 1, 1916, The Home Rule movement. the Home Rule League was formally established at a meeting in Madras, and a month later nineteen elected members of the Indian Legislative Council submitted to the Government of India a memorandum of proposed reforms. In December 1916 the Congress of Muslim League, in a series of memorable meetings held at Lucknow, agreed to joint action in favour of political reform. Both bodies adopted the proposals now known as the Congress-League scheme, which was an elaboration of the proposal of the nineteen members with the addition of certain special provisions to secure Muslim interests; and both agreed also to co-operate with the Home Rule League in its propaganda.

26. As regards the Muslim League, a word of explanation is Position of the Muslims. needed. Throughout the troubled years 1907-10 the Muhammadans, with a few unimportant exceptions, held severely aloof from the revolutionary movement, and retained their traditional attitude of sturdy loyalty, secure in the feeling—which the partition of Bengal and the concession of communal representation in the reforms of 1909 had strengthened—that their interests were safe in the hands of the Government. Since 1911 their attitude has been growing far less acquiescent. Their first disquiet arose from the war which broke out between Italy and Turkey in 1911, when Great Britain's neutrality engendered some bitterness of feeling. It seemed to our Muslims in India that in deference to the religious susceptibilities of her seventy million subjects Great Britain ought to have



supported Turkey. Before this feeling had died down the re-partition of Bengal was announced. This was not only a severe disappointment to the community because it deprived them of what was essentially a Muslim province, but to many it came also as a shock to their faith in the Government which they regarded as positively pledged to maintain the partition. The Balkan war was a further cause of estrangement. This was represented as a struggle between the Cross and the Crescent and led to much bitterness of feeling. Indian Muslims showed their sympathy for Turkey by despatching a medical mission to her aid in December 1912; and a section of pan-Islamists began to teach that the first duty of Muslims is allegiance to the Khalif, and founded a new organization—the *Anjuman-i-Khuddam-i-Kaaba*—whose members took an oath to sacrifice life and property in defence of the holy shrine against non-Muslim aggressors. There were signs, however, of an improvement in Muslim feeling in the latter half of 1913, when riots and loss of life in connexion with the partial demolition of a Cawnpore mosque caused a temporary set-back. The Turks' recovery of Adrianople, the declaration of peace in the Balkans, and the reaction from the passions aroused by the Cawnpore affair induced calmer feelings; but a fresh difficulty presented itself when Turkey entered the war against us in November 1914. The Germans counted certainly on being able to stir up disaffection in India, and lost no labour in trying to persuade Indian Muhammadans that Turkey was engaged in a *jihad*, or holy war, and that it was their religious duty to take sides against England and her Allies. These enemy attempts wholly failed to affect the great mass of the Muslim community. Keenly as they felt the painful position in which they were placed, they were admirably steadied by the great Muhammadan princes and nobles and preserved an attitude of firm loyalty which deserves our praise and sympathy. In this attitude they were greatly helped by the public assurances given by His Majesty's Government to the effect that the question of the Khalifate is one that must be decided by Muslims in India and elsewhere without interference from non-Muslim powers. But a small section of extremists were quick to seize the opportunity of making trouble and ventured on almost open avowals of disloyalty against which the Government had no choice but to take action.

27. Probably few communities could have passed through so prolonged a period of trial without some cleavage in their ranks. The crumbling of Islamic kingdoms in Morocco and Persia had led Indian Muhammadans to cling more closely than ever to Turkey as the great surviving Muslim power in the world; and when Turkey was threatened first by Italy and then by the Balkan League the excited fancy of many Indian Muslims saw in these events a concerted plot of the Christian Powers to make an end of Islam as a temporal power. The re-partition of Bengal and also the check to the hopes entertained of a great Muhammadan university depressed the minds of many honest Muslims with a sense of their inefficiency. There were those who, feeling mainly their political weakness compared

with the Hindus, wished to have done with agitation and excitement, to concentrate effort on education, and to rely on Government for protection and fair play. Younger and keener minds, touched often with some fervour of pan-Islamism, were no longer willing "*stare super antiquas vias*." The advanced party prevailed in the counsels of the Muslim League; in 1913 it proclaimed its adoption of the cause of colonial self-government of a kind suited to India and was warmly eulogized by the Congress for so doing. So far as pan-Islamic feeling affected the situation, that factor did not tend of course towards union with the Hindus; but at the time stronger causes were at work to bring the advanced parties on both sides together. With them at all events the new nationalism produced by the war prevailed; and at the meetings at Lucknow in Christmas week, 1916, Congress and League came formally together, and the conservative portion of Muhammadan opinion which remained outside the *concordat* was ignored. This agreement, however, represents the beginning of united action between Hindus and Muhammadans which every well-wisher of India hopes will grow. The limitations of this union are discussed elsewhere; it is not surprising that some considerable reaction has since occurred; but none the less the Lucknow agreement was a beginning of which note must be taken, and which marks a change in the situation.

28. On all sides it was felt that the situation demanded new handling. The latter part of Lord Hardinge's term of office was largely devoted to a preliminary and informal examination of the changes which were possible and prudent; and Lord Chelmsford's first act was to take up the inquiry from the point where his predecessor left it, and to concentrate attention in the first place on a declaration of policy. The Cabinet's preoccupation with the war inevitably delayed the decision of questions so delicate and complex; and while the discussions between India, the India Office, and the Cabinet were proceeding came Mr. Chamberlain's resignation of his office as Secretary of State. India had learned during his tenure of office, and especially from the lips of her three delegates to the War Conference, how generously and steadfastly he had served her interests, and his retirement was as much regretted in that country as in England. Meanwhile the difficulties of administration in India were rapidly increasing. Lord Chelmsford's Government felt that without the declaration of policy for which they were pressing, it was impossible for them to act effectively on a directed course. The announcement of August 20 cleared the situation and was hailed with almost as much relief by the authorities as satisfaction by the politicians.

## Chapter II.—Growth of the Administrative System.

29. The supremacy of Parliament over British India is legally complete. But the process by which Indian affairs became a matter of national concern was slow and gradual. At first the Company's settlers were responsible only to the Directors, who derived their powers of control from Charters given them by the Crown. There was then no question of sovereignty or territorial administration. But when the battle of Plassey compelled the Company to assume the task of reconstructing Bengal, the astonishing position was created that a few commercial agents were handling the revenues of a kingdom in the name of an emperor. The Company's peril of bankruptcy was the immediate cause of Parliament's first intervention; but a more powerful motive was the growing feeling in England, to which the opulence and arrogance of officials returning from India contributed, that the nation must assert its responsibility for seeing that the new and vast experiment of ruling a distant and alien race was properly conducted.

30. The beginnings of Parliamentary control are seen in Lord North's Regulating Act which created and named the first Governor General and Council. But future appointments were still left to the Directors, with whom also the Home management remained. Parliament's first attempt to provide for the ordering of Indian affairs has been condemned with some reason as violating the first principles of administrative mechanics. It created a Governor General, who was powerless before his own Council, and an executive that was powerless before a Supreme Court, itself immune from all responsibility for the peace and welfare of the country—a system that was made workable only by the genius and fortitude of one great man. Such a structure could not have lasted and the Act of 1781 swept away some of its worst anomalies. Meantime the facts that Indian territories were becoming involved in European wars and that from the struggle the Company was emerging as the strongest power in the land made Parliament resolve to strengthen its control. Committees were appointed which reported adversely on the administration; and on their reports resolutions were carried requiring the recall of Warren Hastings and the closer definition of the Governor General's powers. The Directors defied Parliament and retained Hastings. Fox introduced his Bill, which was defeated, thanks to George III's famous intervention; and Pitt, at the age of twenty-five, reformed the constitution of India.

31. Pitt's Act of 1784 set up as the supreme executive authority six parliamentary commissioners for the affairs of India, known more generally as the Board of Control; and thereby instituted the dual system of government by

the Company and by a parliamentary Board which endured till after the Mutiny. From Lord Cornwallis' time onwards we may take it that all administrative acts of the Governor General in Council, including annexations of territory, were done with the sanction of the national Government. The Company survived; the Directors still had great powers of patronage and also the direction of the ordinary Home business; but before every renewal of the Company's Charter, Parliament made a practice of holding an exhaustive inquiry into the Indian administration. The most famous of these inquiries is that which resulted in the Fifth Report of 1812. Meanwhile the indefinite dominion derived from Moghul sources in the form of *Diwani* (or revenue administration) of Bengal, Bihar, and Orissa was gradually overlaid by new sovereignty derived from Parliament. The Act of 1813 while continuing the Company in actual possession, asserted the sovereignty of the Crown over its territories; and the Act of 1833 declared that they were held in trust for His Majesty. It also directed that all Indian laws and also the reports of the newly-instituted Law Commissioners should be laid before Parliament. Finally in 1853 the right of patronage was taken from the Directors and exercised under rules made by the parliamentary Board of Control. We must not conclude, however, that the supremacy of the President of the Board of Control left the Directors with no real power. Their position was still a strong one; the right of initiative still rested ordinarily with them; they were still the main repository of knowledge; and though the legal responsibility lay with Government, they exercised to the last a substantial influence upon details of administration.

32. When the Indian Mutiny sealed the fate of the greatest mercantile corporation in the world, the powers previously wielded both by the Court of Directors and by the parliamentary Board of Control passed to the Secretary of State for India. At the same time with the Secretary of State was associated a Council, of which, as matters now stand, nine members must have had long and recent service or residence in British India. The legal powers of the Council suggest that it is to be regarded as in some sort the successors of the Court of Directors; but the practical *raison d'être* of the Council of India is that its members provide a parliamentary Minister, who is usually without personal knowledge of India, with experienced advice upon Indian questions.

Like other Ministers of the Crown, the Secretary of State for India is a member of the parliamentary executive of the United Kingdom, and responsible to Parliament in accordance with constitutional practice for his official acts. He has therefore and must have generally the power of overriding his Council. But as an important exception to this rule it has been laid down, doubtless with the idea of protecting the tax-payers of India from improper charges, that the vote of a

majority in Council is necessary before any expenditure can be sanctioned or certain other specified matters decided; and it follows that to this particular extent Parliament has deliberately divested itself of the power of interference. It could not, without first amending the Government of India Act, order any expenditure to be incurred from Indian revenues which a majority of the Secretary of State's Council declined to sanction.

33. Let us now consider how Parliament actually exercises control over Indian affairs. Whatever other elements originally entered into it, India's constitution has been in the main derived from Parliament and, indeed, has very recently been embodied, to the great convenience of all concerned, in a consolidating statute (5 and 6 Geo. V., c. 61). The powers of the various governments and legislatures and high courts in India, indeed the establishment of the Secretary of State in Council, are thus due to Parliamentary enactment.

It is open to Parliament to exercise control either by means of legislation, or by requiring its approval to rules made under delegated powers of legislation; or by controlling the revenues of India; or by exerting its very wide powers of calling the responsible Minister to account for any matter of Indian administration. Some of these things, however, Parliament does not do. As a general rule it does not legislate specially for India; though from time to time it passes measures such as the Merchant Shipping Act or the Copyright Act, drawn after consultation with the India Office, which apply to India in common with other British possessions. Parliament as a rule legislates for India alone in two important directions only—amendments in the constitution of India and loans raised by the Secretary of State. The bulk of Indian legislation it leaves to the Indian legislatures which it has itself created, though it exercises through the Secretary of State complete control over the character of such law-making. But it insists that decisions on certain important matters, such as rules for the nomination or election of additional members of council, or for appointments to the Indian Civil Service, or defining the qualifications for persons to be appointed to listed posts, or notifications setting up executive councils for lieutenant-governors shall be laid before it. Nor are Indian revenue and expenditure controlled by Parliament. The revenues apart from loans are not raised, nor are the charges except for military expenditure beyond the frontiers incurred with its direct approval. The some expenditure is met from Indian revenues and therefore the salaries of the Secretary of State and his office are not included in the estimates. A motion in favour of placing these amounts on the estimates was made in 1906, and defeated by a large majority, on the ground that the change would tend to bring the Indian administration into party politics. Accordingly all that at present happens is that a detailed account of receipts and charges is annually laid before Parliament together with a report, the quality of which has incurred some criticism, upon the

moral and material progress of the country. A motion is made that Mr. Speaker do leave the chair for the House to go into Committee on the East India revenue accounts; the actual motion made in Committee is declaratory and formal; a general debate on Indian affairs is in order, and the Secretary or Under Secretary of State usually takes this opportunity to inform the House about any important matters of administration. All sums expended in England on behalf of India are also examined by an auditor who lays his report before both Houses. Because Parliament does not vote the revenues of India, it has not the same opportunity of exercising the control over its administration as over the great departments of the public service in Great Britain. It is, of course, true that when any matter of Indian administration attracts public interest, Parliament has the ordinary and perfectly effective means of making its opinion felt, by questions, by amendments to the address, by motions to adjourn, by resolutions or by motions of no confidence. We have no hesitation in saying, however, that the interest shown by Parliament in Indian affairs has not been well-sustained or well-informed. It has tended to concern itself chiefly with a few subjects, such as the methods of dealing with political agitation, the opium trade, or the cotton excise duties. It may be well to record that in India such spasmodic interferences are apt to be attributed to political exigencies at Home. We note that Her Majesty's Ministers did not feel it necessary to give effect to resolutions of the House of Commons on the opium trade in 1889 and 1891, nor about simultaneous examinations in India and England for the Indian Civil Service in 1893, because they felt assured that the House would not on reflexion constrain them to carry out measures which on inquiry proved to be open to objection. No one questions the competence of Parliament to interfere as drastically or as often as it chooses. Our point, however, is that it does not make a custom of interfering. There may be good reasons for this. The press, the telegraph, improved communications, the steady advance of India to Western methods and standards of administration, and the beginnings of representative institutions in India itself may all have helped to promote a feeling that India's welfare was generally safe in the hands of the Indian Government. Nor can it be denied that constant interference by Parliament in the affairs of a distant Asiatic country would have greatly increased the difficulties of its administration, or that India has been fortunate in rarely becoming a subject of party strife. But whatever advantages may have attended this comparative immunity from criticism of the Indian administration, we think that there have been losses as well. We have seen how in the days of the Company it was Parliament's habit before renewing the Charter to hold a regular inquest into Indian administration. That practice has lapsed since 1858. Indeed we have the paradox that Parliament ceased to assert control at the very moment when it had acquired it. It cannot be said that Royal Commissions on particular subjects, for example, those over which Sir Charles Hobhouse and Lord Islington presided, are an adequate substitute for



the old procedure. In January 1908, Lord Morley discussed the question of reviving it.

"I see what its advantages might be, yet I also perceive serious disadvantages. In the old days they were able to command the services on the Indian committees, of ex-Ministers, of members of this House, and members of another place, who had much experience of Indian administration, and I am doubtful, considering the preoccupations of public men, whether we should now be able to call a large body of experienced administrators, with the necessary balance between the two Houses, to sit on one of these committees. And then I would point out another disadvantage. You would have to call away from the performance of their duties in India a large body of men whose duties ought to occupy, and I believe do occupy, all their minds and all their time. Still it is an idea, and I will only say that I do not entirely banish it from my own mind."

Our own study of political development in India has led us, notwithstanding the force of these arguments, to one important conclusion. It is that Parliament's omission to institute regular means of reviewing the Indian administration is as much responsible as any single cause for our failure in the face of growing nationalist feeling in India, to think out and to work out a policy of continuous advance. For this failure it would be unfair to blame the Government or the services of India. They have been abundantly occupied with their own heavy tasks and they have lacked instructions from those whose business it was to give them. But, as we shall show hereafter, we think that there is a strong case for reviving in some form the machinery for enabling Parliament to discharge the weighty responsibility which lies upon it and which indeed the announcement of August 20 categorically acknowledges, for determining the stages and the pace of India's future political progress.

34. The absolute character of the supremacy of Parliament may be judged from the fate of attempts that have occasionally been made to impugn it. After the Councils Act of 1861 had made the legislative councils into something recognizably different from the executive councils and encouraged the idea that they enjoyed some measure of deliberative independence, we at once find signs of that conflict of principle which inevitably exists between allegiance to Parliament and amenability to any representative body in India. Questions vitally affecting the structure of the government were thereby raised. The unity of the executives in India, the subordination of provincial Governments to the Government of India, and the ultimate supremacy of Parliament in legislative matters, all became questions in issue. Members of the Governor General's executive council who differed from the views of the majority on legislative questions wished to reserve their freedom of action when the Bill came before the legislative council. Some claimed actually to oppose the Government measure if they chose; others said that they would be content if allowed to abstain from voting. Mr. Gladstone's Government at first dealt tenderly with the claim of individual liberty of conscience and declined to order official members to vote at dictation; they suggested that a proper sense of the necessity

Establishment of Parliamentary supremacy.

for upholding the authority of the Government should suffice to secure unity. But when Lord Mayo's Government as a whole protested at being required to pass the Bills which became the Contract Act and the Evidence Act in the shape in which the Secretary of State on the report of the Indian Law Commissioners approved them, on the ground that such a course deprived the legislative councils of all liberty of action, the Home Government proceeded to assert their rights of control in the most emphatic manner.

"It cannot be denied that some theoretical inconveniences are in separably connected with the working of such a machinery of Government as that through which the Empire of India is ruled from Home. In practice these inconveniences may be, and have actually been, reduced to a minimum by mutual respect on the part of those who discharge various functions and exercise different powers in a divided and complex system of administration. But the risk of serious embarrassment would become much greater than hitherto it has been found to be, if a clear understanding were not maintained as to one great principle which from the beginning has underlain the whole system. That principle is that the final control and direction of the affairs of India rest with the Home Government, and not with the authorities appointed and established by the Crown, under Parliamentary enactment, in India itself.

"The Government established in India is (from the nature of the case) subordinate to the Imperial 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, and to enforce on its officers, through the ordinary and constitutional means, obedience to its directions as to the use which they are to make of official position and power in furtherance of the policy which has been finally decided upon by the advisers of the Crown.

"Neither can I admit that it makes any real difference in the case if the directions issued by the Imperial Government relate to what may be termed legislative as distinguished from executive affairs. It may be quite as essential, in order to carry into effect the views of the Imperial Government, as to the well-being of Her Majesty's Indian dominions, that a certain measure should be passed into a law, as that a certain Act described in common language as executive, should be performed. But if it were indeed the case, as your argument would represent it to be, that the power of the Imperial Government were limited to the mere interposition of a veto on Acts passed in India, then the Government of the Queen, although it could resist the passing of an injurious law, would be helpless to secure legislative sanction for any measures, however essential it might deem them to be, for the welfare or safety of Her Indian Empire. I think that, on reconsideration, you will see how inadequate such a power would be to regulate and control the affairs of that Empire, and how small a part it would represent of that supreme and final authority which has always been held and exercised by the Government of the Crown.

"The Imperial Government cannot indeed insist on all the members of the Governor General's Council; when assembled for legislative purposes, voting for any measure which may be proposed, because on such occasions some members are present who are not members of the Government and not official servants of the Crown. But the Act which added these members to the Council for a particular purpose made no change in the relations which subsist between the Imperial Government and its own executive officers. That Government must hold in its hands the ultimate power of requiring the Governor General to introduce a measure, and of requiring also all the members of his Government to vote for it.

"I must add that the principle I have now asserted is the recognized principle of the British Government in relation to other parts of the Queen's dominions



where the authority of the legislating body is derived from the Crown and is not founded on the principle of popular representation. The vastness and importance of Her Majesty's Indian dominion, however they may add to the dignity of those who are called upon to administer its affairs on the spot, in no degree exempt them from the necessary tie of subjection, but rather render it more incumbent on Her Majesty's advisers and councillors at Home to maintain the more carefully the existing order of things as defined by constitutional usage, and by what I may term the fundamental axioms of the connexion between this country and India."

Again when Lord Northbrook's Government attempted to assert the independence of his Government in fiscal matters Mr. Disraeli's Government were equally decided in affirming their constitutional rights.

"It is not open to question that Her Majesty's Government are as much responsible to Parliament for the Government of India as they are for any of the Crown Colonies of the Empire. It may even be said that the responsibility is more definite, in that the powers conferred are, in the case of India, armed with a more emphatic sanction.

"It necessarily follows that the control exercised by Her Majesty's Government over financial policy must be effective also. They cannot, of course, defend in debate measures of which they do not approve; nor can they disavow all concern in them, and throw the responsibility for them upon the distant Government of India.

"Full legal powers having been entrusted to Her Majesty's Government, Parliament would expect that care should be taken that no policy should be pursued which Her Majesty's Government were unable to defend. If the control they possess were to be in any respect less than complete, the power of Parliament over Indian questions would be necessarily annulled. If the Government were at liberty to assume the attitude of bystanders, and to refer the House of Commons for explanations to the Governor General in Council upon any policy that was assailed, there would practically be no one whom the House could call to account, or through whom effect could be given to its decisions. In scrutinizing the control exercised over the Government of India by Her Majesty's Government, and the grounds for maintaining that control, it must be borne in mind that the superintending authority of Parliament is the reason and the measure of the authority exercised by the responsible Ministers of the Crown; and that, if the one power is limited the other must be limited at the same time."

Further when in 1878 a member of the Madras executive council moved an amendment which had been rejected by the Government of India, to a Bill that was before the provincial legislative council, the Secretary of State declared that his action was constitutionally improper.

The debate on the cotton duties in 1894 was the last occasion on which the issue was raised. Sir Henry Fowler then laid it down positively that the principle of the united and indivisible responsibility of the Cabinet, which was recognized as the only basis on which the government of the United Kingdom could be carried on, applied to the Indian executive councils, in spite of the different nature of the tie which held its members together.

"It should be understood that this principle, which guides the Imperial Cabinet, applies equally to administrative and to legislative action; if in either case a difference has arisen, members of the Government of India are bound, after recording their opinions, if they think fit to do so, for the information of the

Secretary of State in the manner prescribed by the Act either to act with the Government or to place their resignations in the hands of the Viceroy. It is moreover immaterial for the present purpose what may be the nature of the considerations which have determined the Government of India to introduce a particular measure. In any case, the policy adopted is the policy of the Government as a whole, and as such, must be accepted and promoted by all who decide to remain members of that Government."

The supremacy of Parliament over the Government of India and that of the Government of India over local Governments was thus finally established: and also the principle of unity within the Indian executives. The importance of both these points will be realized when we come to make our own proposals later on.

35. Parliament may sometimes be a sleepy guardian of Indian interests; but the feeling that it may call him at any time to account certainly leads the Secretary of State and his Council to exercise with some straitness both the specific powers of control with which they are particularly invested and also the general power of superintendence which the Government of India Act gives them. We need not dwell on the fact that they manage directly the Home charges (which amount to one-fifth of the total expenditure of India) on account of military equipment, stores, pensions, leave allowances, and the like; and that they also control the raising of sterling loans. The greater part of their duties consists in the control of the Government of India. The Governor General in Council is required by section 33 of the Government of India Act, 1915, "to pay due obedience to all such orders" as he may receive from the Secretary of State; and we have to see how this obedience is in fact exacted. Obviously the intensity of control must vary with the interest shown by Parliament on whose behalf the Secretary of State exercises his powers. The relations between Simla and Whitehall vary also with the personal equation. If resentment has been felt in India that there has been a tendency on occasions to treat Viceroys of India as "agents" of the British Government, it is fair to add that there have been periods when Viceroys have almost regarded Secretaries of State as the convenient mouth-piece of their policy in Parliament. Certainly there have been times when the power of the Government of India rested actually far less upon the support of the Cabinet and Parliament than on the respect which its reputation for efficiency inspired. The hands of the Government of India were strong; and there was little disposition to question the quality of their work, so long as it was concerned chiefly with material things, and the subtler springs of action which lie in the mental development of a people were not aroused.

36. We must distinguish, however, between the measure of control which has been exercised and the powers of control which the existing system provides. These are very great. All projects for legisla-

Powers of the Secretary of State.

tion, whether in the Indian or provincial legislatures, come Home to the Secretary of State for approval in principle. Before him are laid all variations in taxation or other measures materially affecting the revenues and in particular the customs; any measures affecting the currency operations or debt; and, generally speaking, any proposals which involve questions of policy or which raise important administrative questions or involve large or novel expenditure. To set out all the Secretary of State's specific powers would be a long task: but we may mention the construction of public works and railways; the creation of new appointments of a certain value, the raising of the pay of others, or the revision of establishments beyond a certain sum; grants to local Governments, or loans to Native States; large charges for ceremonial or grants of substantial political pensions; large grants for religious or charitable purposes; mining leases and other similar concessions; and additions to the military expenditure, as classes of public business in respect of which he has felt bound to place close restrictions upon the powers of the Governments in India. For some such restraints we have no doubt that there is solid constitutional justification. The Government of India exercise immense powers over a vast and populous country, and in the absence of popular control in India it is right that they should, in matters of importance, be made to feel themselves amenable to Parliament's responsible Minister and that he should exercise conscientiously the powers which Parliament entrusts to him. Nor should we underrate the value of the permanent officials at the India Office in contributing to maintain continuity of policy in a country where the high authorities are constantly changing. This consideration is of great importance. But as we shall show hereafter we think that the time may now have come when the detailed control of the India Office might with advantage be relaxed.

37. Deferring to the next chapter our account of the legislative machinery of India, we will now describe how the executive government of the country is constructed and conducted in India itself. The old settlements were administered by a president or governor and a large council, composed of from twelve to sixteen of the senior servants of the Company. Everything was decided by a majority vote, an arrangement that Clive found so unworkable for serious business in Bengal that he set up a select committee as the real instrument of government. The three presidencies were independent of each other, and each government was absolute within its limits, subject to the distant and intermittent control of the Directors at Home. But the need for a common policy in the face of foreign enemies was apparent; and when the disorder of the Company's finances and suspicions about the fortunes amassed by its servants in India drove Parliament to intervene, it was wisely decided to create one supreme government in the country. The grant of the *Diwani* in 1765 made Bengal the predominant presidency, and therefore the Regulating Act converted its Governor in Council into a Governor General in Council and gave

Development of British  
dominion.

him superintending authority over Bombay and Madras. How shadowy Warren Hastings found his authority at first is well-known : against his will the aggressive policy of first the Bombay and later on the Madras Government involved him in wars, which taxed to the utmost his courage and resources. A curious echo of this state of things lingers in the language of section 45 (2) of the Government of India Act, 1915, which still contemplates the possibility of a provincial Government making peace and war. For a long time indeed the mere isolation of the western and southern presidencies attenuated the authority of the Governor General in Council over them. His control became effective only as the British dominions extended till they became contiguous and communications between them improved. The Madras presidency took practically its present shape after the fall of Tipu Sultan in 1799 ; and the presidency of Bombay was settled on almost its present lines in 1818 after the third Mahratta war. But the Bengal presidency under the Governor General in Council continued to grow. Lord Lake's campaign against the Mahrattas added what is roughly the province of Agra to the Company's dominions. From that time forward the security of the Bengal presidency was the dominant reason for further extensions of the frontiers, and thus Lower Burma, Assam, the Punjab, Jhansi, Nagpur, and Oudh, as they were successively absorbed, were added unto it. Sind, which was annexed before the conquest of the Punjab, was attached to Bombay as being the only base from which it could be conveniently administered. The Governor General in Council was looked upon as in immediate control of all new territories ; but it was apparent that he could not directly administer so unwieldy a charge. The idea of instituting a fourth presidency was entertained, and for a very brief space actually put into practice, but it was shortly afterwards abandoned in favour of the creation of a lieutenant-governorship of the North-Western Provinces in 1836 ; and in 1854 the Governor General in Council divested himself of direct responsibility for Bengal, which also came under a lieutenant-governor. An Act of that year also gave the Governor General in Council authority to provide for the administration of any territory which there was no legal power to place under a lieutenant-governor by creating it into a chief commissionership. From that time onwards this power was regularly used, and so the Government of India came to assume its present character of a supervising and directing authority over the administration of the entire country.

28. Originally the Council of the Governor General worked together as a board and decided all questions by a majority vote. The difficulties which Warren Hastings encountered from this arrangement are notorious. Lord Cornwallis insisted on being given enlarged powers, and to meet his views the provision which now enables the Governor General to override his Council and to act on his own responsibility in matters of grave importance was inserted. The power has been rarely exercised, though Lord Lytton used it in 1879 to abolish

The Executive Council of the Governor General.

partially the import duty on English cotton goods. The appointment of special members of Council for law and finance initiated the portfolio system, and the great increase of work which resulted from Lord Dalhousie's energetic policy demonstrated its necessity. Lord Canning finally abandoned the attempt to administer a great empire by the cumbrous method of collective business, and introduced the present system by which the ordinary work of the departments is distributed among the members and only the more important cases are referred to the Governor General or dealt with collectively. Recent events have, however, thrown some light upon the drawbacks attending the discretionary limitation of collective deliberations. The Council has been from time to time enlarged and now consists of six ordinary members and the Commander-in-Chief. Three of the ordinary Members must have had ten years' service under the Crown in India and one must be a barrister of five years' standing. At the present time the portfolios are Foreign and Political (which is taken by the Governor General himself), Home, Revenue, Finance, Legislative, Commerce and Industry, Education and Army. The particular allotment of their work between them is unimportant. But it is essential to our purpose to see what the work of government in so vast a country comprises and how the burden is in practice shared between the Government of India and its delegates the provincial Governments.

39. First, however, it may be convenient to explain more fully what the provincial Governments are. British India is made up of nine major provinces and six lesser charges. The former comprise the three presidencies of Madras, Bombay, and Bengal; the four lieutenant-governorships of the United Provinces, the Punjab, Burma, and Bihar and Orissa; and the two chief commissionerships of the Central Provinces and Assam. The minor charges are the North-West Frontier Province, British Baluchistan, Coorg, Ajmer, the Andamans, and Delhi. Madras and Bombay grew into governorships out of the original trading settlements. Sind, as we have seen, was added to the latter soon after its conquest in 1843. The original presidency of Bengal was elevated from a governorship to a governor generalship by the Act of 1773. We have explained how India then consisted of the three presidencies only, and how military and political exigencies led to a great extension of the Bengal presidency to the North-West. Later legislation relieved the Governor General by empowering him to create the lieutenant-governorship of the North-Western Provinces in 1836, and further to rid himself of the direct administration of Bengal, including Bihar and Orissa, by creating the lieutenant-governorship of Bengal. The Punjab was the next province formed. Annexed in 1849, it was governed first by a board of administration and then by a chief commissioner. After the Mutiny Delhi was transferred to it and it became a lieutenant-governorship. Oudh was annexed in 1856 and placed under a chief commissioner, whose office was merged in that of the lieutenant-governor of the

Growth of the provincial system.

North-Western Provinces in 1877. The North-Western Provinces and Oudh were renamed the United Provinces of Agra and Oudh in Lord Curzon's time. Lower Burma was formed into a chief commissionership in 1862; Upper Burma was added in 1886 and the province became a lieutenant-governorship in 1897. The Central Provinces, formed out of portions of the North-Western Provinces and certain lapsed territories, were placed under a chief commissioner in 1861. In 1903 Berar, which had long been under British administration, was taken over on a perpetual lease from the Nizam and linked to the Central Provinces. Assam, annexed in 1826, was added to Bengal, from which it was again severed and made a chief commissionership in 1874. In 1905 the partition of Bengal converted the eastern half of the province together with Assam into one lieutenant-governorship under the name of Eastern Bengal and Assam, and the western half into a second lieutenant-governorship under the name of Bengal. This arrangement was modified in 1912: Assam became once more a chief commissionership, Bengal a presidency, and Bihar and Orissa a lieutenant-governorship. The North-West Frontier Province was created for purposes of political security in 1901 by detaching certain Punjab districts. British Baluchistan was formed into a chief commissionership in 1887. Coorg was annexed in 1834 and is administered by the Resident in Mysore. Ajmer, ceded in 1818, is similarly administered by the Agent to the Governor General in Rajputana. The Superintendent of the penal settlement of Port Blair administers the Andamans and Nicobar Islands as chief commissioner. Delhi comprises a small area enclosing the new capital city, which was created a separate province under a chief commissioner on the occasion of the King-Emperor's durbar. In this way the present map of British India was shaped by the military, political, or administrative exigencies or conveniences of the moment, and (except in the case of the reconstitution of Bengal) with small regard to the natural affinities or wishes of the people. The point is of supreme importance when we have to consider the future development of India, and we shall have occasion to return to it in a later chapter.

40. Some writers have described all the provincial Governments

as merely agents for the Government of India,  
The Presidencies. and in a sense, as we shall see, this is true.

But it must be remembered that the provinces differ in status not a little. We may gather them into five categories. First come the three presidencies, distinguished not merely by their history and traditions and the presence of great centres of commerce, but also by their more elaborate system of government. Each is administered by a governor with a council of three members, including since 1909 as a matter of unbroken practice one Indian member. In an emergency the Governor can overrule his colleagues, but otherwise the decisions are those of a majority. Presidency governments still enjoy some relics of their former independence: they have the right to correspond direct with the Secretary of State unless financial issues are involved; they can



appeal to him against orders of the Government of India; they have full discretion in selecting for important offices under them; and they are less liable to supervision than other provinces in the administration of their revenue and their forests.

41. Next rank the four lieutenant-governorships. The oldest and also by far the heaviest charge is the United Provinces with its population of 48 millions.

The Lieutenant-Governorships. It has been recognized that the burden which its administration imposed upon a single man was too heavy, and proposals to endow it with an executive council were frustrated only by the adverse resolution of the House of Lords in 1915. The newest creation is Bihar and Orissa, a product of the remodification of Bengal in 1912. The attachment of Orissa to the rest of the province was dictated by the need of providing for areas which the new presidency could not absorb rather than by considerations of convenience or economy. Part of Bihar and Orissa is no doubt very densely populated; but it was mainly because those portions of the former Bengal which are now included in it had enjoyed since 1910 an administration by a lieutenant-governor in council that it was deemed impossible in 1912 to withhold a similar equipment from the youngest and in area smallest of the lieutenant-governorships. The presence or absence of an executive council, however, though it affects the disposal of provincial business, does not materially alter the relations of a lieutenant-governor with the Government of India.

42. The two chief commissionerships of the Central Provinces and Assam rank next. In theory all the portions of British India which are not included in a governorship or lieutenant-governorship are under the immediate authority and management of the Governor General in Council, who can give all necessary orders and directions for their administration. A chief commissioner is therefore still regarded as administering his province as a delegate of the Governor General, who may resume or modify such powers as he has himself conferred. In official terminology chief commissionerships are generally referred to as local administrations rather than as local Governments. But in practice the powers entrusted to a chief commissioner are nearly as wide as those of a lieutenant-governor, and with the creation of legislative councils in Assam and the Central Provinces any distinction in administrative methods is tending to disappear.

43. The two frontier provinces of British Baluchistan and the North-West Frontier Province form a small class by themselves. They are administered by chief commissioners who are also agents to the Governor General in respect of political relations with adjoining tribal territories; they are in fact more directly than any of the foregoing provinces under the control of the Government of India, acting through its Foreign and Political Department, both because political questions are of preponderant importance and

also because they lack the financial resources and powers which more settled provinces enjoy.

44. In the last category come Ajmer-Merwara, Coorg, Delhi, and the Andamans. These are administered under the direct control of the Government of India, acting except as regards the first, mainly through its Home Department. The first three are practically districts and the fourth is a penal settlement.

45. Let us now try to realize the burden of government in India. If we set aside imperative necessities which may lead to a great temporary expansion of governmental activity, as in England at present, and also theories of the intrinsic merits of State management which find favour with some schools of political thought, we may say broadly that the degree of intervention by the State in the lives of its people varies with their own capacity and disposition to direct the material business of their lives. The great mass of India's people are illiterate peasants, living in mud-built villages, and cultivating small holdings of land, the produce of which is only too often threatened by drought or deluge. The physical facts of India, the blazing sun, the enervating rains, have doubtless coloured the mental outlook of the masses of her people. The Hindu caste system, with its segregating effect, circumscribes the range of public opinion by limiting the range of personal sympathies, and tends to perpetuate many customs and usages which progressive Indians themselves recognize as a grievous impediment to progress. Moreover the political disintegration which preceded British rule utterly destroyed any incentive to material improvement or progress by laying its results at the mercy of the first raider. It was inevitable, therefore, that when the government of the country was assumed by the vigorous and practical British race they should have formed a conception of their responsibilities towards the people wider than that accepted for their own land. We need not quote from the immense amount of eloquent testimony which writers on India have offered to the admirable character of the work which has been done. We are content to present the difference in this respect between government in England and India in the unadorned language of the Decentralization Commission :—

“The Government (in India) claims a share in the produce of the land ; and save where, as in Bengal, it has commuted this into a fixed land tax, it exercises the right of periodical reassessment of the cash value of its share. In connexion with its revenue assessments, it has instituted a detailed cadastral survey, and a record of rights in the land. Where its assessments are made upon large landholders, it intervenes to prevent their levying excessive rents from their tenants ; and in the Central Provinces it even takes an active share in the original assessment of landlords' rents. In the Punjab, and some other tracts, it has restricted the alienation of land by agriculturists to non-agriculturists. It undertakes the management of landed estates when the proprietor is disqualified from attending to them by age, sex, or infirmity, or, occasionally, by pecuniary embarrassment. In times of famine it undertakes relief works and other remedial measures upon an extensive scale. It manages a vast forest property and is a large manufacturer



of salt and opium. It owns the bulk of the railways of the country and directly manages a considerable portion of them and it has constructed, and maintains, most of the important irrigation works. It owns and manages the postal and telegraph systems. It has the monopoly of note issue, and it alone can set the mints in motion. It acts, for the most part, as its own banker, and it occasionally makes temporary loans to presidency banks in times of financial stringency. With the co-operation of the Secretary of State, it regulates the discharge of the balance of trade, as between India and the outside world, through the action of the India Council's drawings. It lends money to municipalities, rural boards, and agriculturists, and occasionally to the owners of historic estates. It exercises a strict control over the sale of liquor and intoxicating drugs not merely by the prevention of unlicensed sale, but by granting licenses for short periods only, and subject to special fees which are usually determined by auction. In India, moreover, the direct responsibilities of Government in respect of police, education, medical and sanitary operations, and ordinary public works are of a much wider scope than in the United Kingdom. The Government has further very intimate relations with the numerous Native States, which collectively cover more than one-third of the whole area of India, and comprise more than one-fifth of its population. Apart from the special functions narrated above, the Government of a sub-continent containing nearly 1,800,000 square miles and 300,000,000 people is in itself an extremely heavy burden, and one which is constantly increasing with the economic development of the country and the growing needs of populations of diverse nationality, language, and creed."

46. It is time to see how the tasks of government are apportioned between the Government of India and the local Governments. At the outset, it is obvious that their responsibility for the entire country constrains the Government of India to keep some functions of government entirely in their own hands. Since the Madras and Bombay military commands were abolished in 1893, the defence of India has been treated formally, as it had long been in fact, as an undivided charge. Connected with defence is the diplomatic business of relations with bordering Asiatic powers, and with this again the administration of bastions of territory like the Frontier Province and British Baluchistan. There is also the business of political relations with the numerous Native States, which is mainly, though not yet wholly, the sole concern of the Government of India. In a separate category come the administration of tariffs, the currency and the exchanges, and the debt, and also of the great commercial services like the post office and the railways, all of which concern the whole country. Again the central Government controls the business of audit and accounting, and has maintained it on a uniform system for the whole country. But responsibility for everything else is shared in greater or lesser measure by the Government of India with the provinces : and it is well to understand on what basis the distribution rests, if we are to be on sure ground in making proposals which must radically affect it.

47. Eighty-four years ago the Court of Directors set themselves to define the right principles of demarcation. They reminded Lord William Bentinck emphatically that the whole civil and military

Sphere of the Government of India.  
Relations with the provincial Governments.

administration of India was committed to the hands of his Government by the Act of 1833 and that for what was good or evil in it the honour or dishonour would redound on him. They criticized the control previously exercised over the presidency Governments as having generally taken the invidious and ineffective form of *ex post facto* intervention. They wrote :—

“ It is evidently the object of the present Act to carry into effect that intention of the legislature to which we have alluded. Invested as you are with all the powers of government over all parts of India, and responsible for good government in them all, you are to consider to what extent, and in what particulars, the powers of government can be best exercised by the local authorities, and to what extent, and in what particulars, they are likely to be best exercised when retained in your own hands. With respect to that portion of the business of government which you fully confide to the local authorities, and with which a minute interference on your part would not be beneficial, it will be your duty to have always before you evidence sufficient to enable you to judge if the course of things in general is good, and to pay such vigilant attention to that evidence as will ensure your prompt interposition whenever anything occurs which demands it.”

And again five years later :—

“ Although a minute interference on your part in the details of the local administration of the subordinate presidencies is neither desirable nor practicable, yet we should hold you but ill-acquitted towards those whose interests are committed to your charge, if you should allow to pass without comment and, if necessary, without effective interference, any measures having, in your opinion, an injurious tendency either to one presidency or to the Empire at large.”

48. We imagine that the Directors intended that Lord William Bentinck's Government should define the matters in which their interference would be rare, and those in which their control would be constant ; but we find that no such formal differentiation was actually ever attempted. Such discrimination between functions as obtains at present is the result of gradual administrative devolution. As the Decentralization Commission says :—

“ The difficulty of defining the exact limits between a ‘ just control, and petty vexatious, meddling interference ’ recognized by the Court of Directors in 1834, still remains. It is easy to say that the central Government should confine itself to laying down general principles, and that the detailed application of these should be left in the hands of the subordinate Governments ; but in practice it is sometimes extremely difficult to say what are mere details, and whether these may not affect the application of a principle. Again, what is normally a detail, properly left to a local Government, may at a period of political stress or under altered circumstances become a matter in which the Government of India, and even the Secretary of State, must assert their responsibilities. It is, therefore, of paramount importance, that the relations between the Government of India and the provincial Governments should be readily adaptable to new or changing conditions, and should not be stereotyped by anything in the nature of a rigid constitution.”

Obviously there are tendencies pulling in two opposite directions. Material development, improved communications, the raising of standards of administration, and the interest taken by Parliament in Indian affairs all tend to throw work on the central power ; just as the want of detailed knowledge and the variety of local conditions leave for

provincial liberty of action. The spread of enlightenment has on the whole probably operated to cast more work upon the Government of India ; for the growth of national feeling among the educated classes has raised many questions of a general nature with which only the Government of India could deal and increased the habit of invoking its intervention.

49. Let us glance at the list of work which the administrative departments of the Government of India deal with not at first-hand, but as supervising and appellate authority. To the Home Department are referred questions from the provinces affecting the Indian Civil Service, internal politics, jails, police, the civil medical service, law and justice, and courts ; the departments under the Revenue Member are similarly concerned with revenue, surveys, forests, agriculture, veterinary administration, meteorology, and famine and public works and irrigation ; the Political Department with such Native States as are in political relations with local Governments ; the Finance Department with opium, stamps, income-tax, and the pay, leave, and pensions of the services ; the Department of Commerce with commerce, exhibitions, factories, mining, explosives, emigration, fisheries, salt, and excise ; the Department of Education with education, local self-government, sanitation, and so forth. All these spheres of business are primarily the concern of local Governments, but in all of them the Government of India exercise an unquestioned right of entry, either of their own instance or on appeal. The measure of interference actually practised varies with circumstances, and to a great extent depends on the financial system — discussed in chapter V—for which place therefore we reserve its closer examination.

50. The text-books generally describe the Government of India as interfering very little with the details of provincial administration. Sir Bampfylde Fuller writing as an *ex-Lieutenant Governor*, says that the Government of India, as a rule, content themselves with laying down general principles and watching the effect that is given to them, but keep a very strict hand upon the creation of new appointments or the augmentation of salaries. We have no doubt that this correctly expresses the general aim. But in such a matter all opinion is relative. Compared with past days, provincial Governments enjoy great liberty of action ; but, as we shall show in due course, substantial restrictions are imposed on them by the dominant conception that the entire government system is one indivisible whole and amenable to Parliament. Even though the Decentralization Commission accepted this governing condition, they thought that both the Indian Government and in their turn the provincial Governments also had in the exercise of the control with which they were invested been dominated too much by considerations of administrative efficiency.

“ They have, we think, paid too little regard to the importance of developing a strong sense of responsibility amongst their subordinate agents and of giving

sufficient weight to local sentiments and traditions. 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 actions of the authorities subordinate to them, an interference which results in large measure in every administrative authority in India having to do over again work already accomplished at a stage below. Future policy should be directed to steadily enlarging the spheres of detailed administration entrusted to provincial Governments and the authorities subordinate to them and of recognizing that they must definitely dispose of an increasing share of the ordinary work of government."

We understand that public and official opinion alike endorsed this criticism. But, as we have said, the question now turns mainly on new and bigger considerations. Official control from above is incompatible with popular control from within, and the admission of the latter justifies, indeed demands, a corresponding reduction of the former. Parliament, the Secretary of State, and the Government of India must all relax control if the legislative councils in the provinces are to share the responsibility for the administration. Similarly provincial Governments must abate their superintendence where popularly-constituted subordinate authorities have been entrusted with functions of their own.

### Chapter III.—Growth of the Legislative Councils.

51. To explain the constitutional position with which we have to deal it is necessary to review as shortly as possible the growth of legislative bodies in India.

Introductory.

52. The indigenous law of India is a law of status, derived in the case of Hindus from the Shastras and in that of Muslims from the Quran, while in the case of both there grew up also a body of customary law varying with the locality. Although the first European settlements in the country were on sufferance of Indian powers yet the personal character of the law of India and the nature of many of its principles and penalties made it impossible for men of a different religion and habits of thought to adopt it for their own use. From the very first the English traders assumed that they carried their own law with them. In fact, the germ of legislative power lies embedded in Elizabeth's Charter, which authorized the East India Company to make reasonable "laws, constitutions, orders, and ordinances," not repugnant to English law, for the good government of the Company and its affairs. Similar privileges were affirmed by the Charters of her Stuart successors. Of the laws made under these earlier Charters not a trace remains: we infer that they were concerned with the monopoly of trade and the repression of interference. The Charter of William III made no mention of, and may be held to have withdrawn, the power of legislation; but George I's Charter of 1726 invested the Governors in Council of the three presidencies, with power "to make, constitute, and ordain bye-laws, rules, and ordinances for the good government and regulation of the several corporations thereby created, and of the inhabitants of the several towns, places and factories aforesaid respectively."

53. Accordingly from 1726 onwards the three presidency councils proceeded to make laws independently of each other within their several jurisdictions. But at this stage we come on a new source of legislative power. After the grant of the *Diwani* in 1765 by which the Company assumed the revenue administration of Bengal, Bihar, and Orissa, Warren Hastings, then Governor of Bengal, set up courts and offices for the disposal of judicial and revenue business, in virtue not of any powers derived from Parliament, but of the authority which had been delegated to the Company by the Moghul Government. Indeed it was not till 1861, that the last traces of the dual system of courts was swept away.

54. The Regulating Act of 1773 subordinated the presidencies and Councils of Madras and Bombay to the Governor General and Council of Bengal,

The Regulating Act, 1773.

who were thereby constituted the Supreme Government, and required the Madras and Bombay Governments to send to Bengal copies of all their Acts and orders; but we cannot find that the Bengal Government had any power of modifying them. At the same time the Act of 1773 took the unusual course of subjecting the legislative authority of the Governor General and Council to the veto of the Supreme Court. The hostile relations which existed between the Court and Council probably explain the comparative absence of legislation during the period from 1773 to 1780; but by 1780 the Council had triumphed, and Warren Hastings passed his regulations for the administration of justice in provincial courts without regard to the Court. The Amending Act of 1781 justified his action: it gave the Government the important power of making regulations for provincial courts without reference to the Supreme Court. A few years later the powers of the other two Governments were similarly enlarged. Copies of all regulations passed in Madras and Bombay were sent to Calcutta, but it does not appear that they were submitted for approval before being passed. The legislative power of the Governor General's Council was confined both by its constitution and in practice to the presidency of Bengal.

55. We may note that the advent of English lawyers as judges of the Supreme Court in 1773 led to an ill-advised attempt to apply the English law to Europeans and Indians alike; but this error was corrected by the Declaratory Act of 1780, which directed that their own law and usage should be applied to the people of the country. The door was thereby not closed, however, to such legislative modifications of the rules of the Shastras or the Quran as the public mind became ripe for, under the influences of Western jurisprudence, case decisions, and the growth of education and enlightenment; in which direction indeed the Indian legislatures have from time to time rendered services of incalculable benefit to the country.

56. In 1813 the powers of all three councils were enlarged and at the same time subjected to greater control by the Home authorities. Their regulations were applied to all persons who should proceed to the East Indies within the limits of their Governments. They were given power to make articles of war and to impose customs duties and other taxes. For another twenty years the three councils continued to make regulations, and in so doing constantly added to the complexity of the law system which the courts were expected to interpret. The confusion which by this time characterized the legal and judicial system of the country may be readily conceived. It rested on no less than five different bodies of statute law, besides having to pay heed also to the English common law, Hindu and Muhammadan law and usage, charters and letters patent, regulations authorized by statute or deriving their validity either from the Company's general powers of government or from their acquired rights as successors to native Governments, circular orders of courts, and treaties made by the Crown or the Indian Government. It is not surprising that the