

Calcutta Judges declared roundly that "no one can pronounce an opinion or form a judgment, however sound, upon any disputed right of persons, respecting which doubt and confusion may not be raised by those who may choose to call it in question."

57. In such a state of things the statute of 1833 was passed in Lord William Bentinck's time. It aimed at its simplification and correction, deliberately at simplifying the legislative machinery and also at correcting the errors

of the past. With the former object the Governments of Madras and Bombay were drastically deprived of their powers of legislation, and left only with the right of proposing to the Governor General in Council projects of the laws which they thought expedient. For the latter purpose the Indian Law Commissioners were established, and the work of regulating the courts and codifying the penal and procedure law was undertaken. The central Council was strengthened by the addition of a law member not in the Company's service whose duties were to be confined to legislation. Lawgiving by purely executive order such as had produced the three presidency codes of regulations was thenceforth to cease.

58. In place of three law-making executives India thus acquired one central though rudimentary legislature. But this reform was found to have defects of its own. The members of the Governor

* Beginning of the Indian Legislative Council.

General's Council belonged to the Bengal service, and their lack of local knowledge was felt to be a serious drawback to the Council's handling of Madras or Bombay questions. To Lord Dalhousie belongs the credit of differentiating the legislative machine much more decisively from the executive. The Act of 1853, for which he was in great part responsible, left the Governor General's Council as the one legislative power competent to enact laws for the whole of British India, but provided for the defect disclosed in the Act of 1833 by introducing representative members from the sister presidencies. The Council when acting in its legislative capacity was enlarged by the addition of six new members called legislative members, of whom two were English judges of the Calcutta Supreme Court and the other four were officials appointed by the local Governments of Madras, Bombay, Bengal, and Agra. This was the first recognition of the principle of local representation in the Indian legislature. At the same time the fourth ordinary member of council, who had been hitherto merely a member for legislative business, became a full executive member. These changes meant that in a full council if any single member of the executive were absent, the members of the Government were in a minority. On every legislative question there was at least to be one member present with local knowledge, and what may be called the English law element in the council was greatly increased. Discussions became oral instead of being conducted in writing. The examination of Bills was performed by select committees instead of by a single member, and for the first time the legislative business of India was conducted in public. We find legislation

for the first time treated as a special function of Government requiring special machinery and special processes.

59. But it was soon clear that even Lord Dalhousie's improvements did not suffice to meet the needs of the time. Madras and Bombay still complained of the preponderance of authority which Bengal exercised. The huge extent of territory for which a single council legislated made it impossible for matters to be handled with adequate information and experience. Moreover, the internal governance of the council itself was such that, contrary to the intentions of Parliament, it began to assume the character of a miniature representative assembly, assembled for the purpose of inquiry into, and redress of, grievances. Above all, the terrible events of the Mutiny brought home to men's minds the dangers arising from the entire exclusion of Indians from association with the legislation of the country.

60. We have now reached the critical point of the story at which representatives of Indian opinion were for the first time admitted to the legislature of the country, and need make no apology for quoting a well-known passage from a minute written by Sir Bartle Frere in 1860:—

"The addition of the native element has, I think, become necessary owing to our diminished opportunities of learning through indirect channels what the natives think of our measures, and how the native community will be affected by them. It is useless to speculate on the many causes which have conspired to deprive us of the advantages which our predecessors enjoyed in this respect. Of the fact there can be no doubt, and no one will I think object to the only obvious means of regaining in part the advantages which we have lost, unless he is prepared for the perilous experiment of continuing to legislate for millions of people, with few means of knowing, except by a rebellion, whether the laws suit them or not.

"The durbār of a native Prince is nothing more than a council very similar to that which I have described. To it under a good ruler all have access, very considerable license of speech is permitted, and it is in fact the channel from which the ruler learns how his measures are likely to affect his subjects, and may hear of discontent before it becomes disaffection.

"I cannot think that the plan proposed will even in our presidency towns lead, as has been apprehended, to needless talking and debate, or convert our councils into parish vestries. It is a great evil of the present system that Government can rarely learn how its measures will be received or how they are likely to affect even its European subjects, till criticism takes the form of settled and often bitter opposition."

61. Lord Canning decided that though any return to the system which existed before Lord Dalhousie was impossible, a partial return to the still earlier system which prevailed before 1834 was advisable. Once the principle of having local Governments represented in the Indian legislature was admitted, the Governments of Madras and Bombay could not reasonably be expected to be content with the meagre share which they then had in legislation concerning their own presidencies. Rejecting the idea of increas-

ing in his existing council the number of members drawn from the two subordinate presidencies, Lord Canning proposed that the single council should be broken up into three distinct councils—the legislative council of the Governor General at Calcutta and local councils in Madras and Bombay. The lieutenant-governorships of Bengal, the North-Western Provinces, and the Punjab should also be equipped with separate legislatures. To each council he proposed that three non-official members, European or Indian, should be admitted; that all measures of local character not affecting the revenue should fall within the competence of the local councils; that the latter should concern themselves with legislation only; and that business should be so conducted as to allow even Indians unacquainted with English to participate in it. These proposals are remarkable as constituting the first decisive step in the direction of decentralization, and also in that of associating Indians or indeed non-officials at all with the business of legislation.

62. Various events contributed to precipitate the passing of the Indian Councils Act of 1861. Differences
 Events leading up to changes. arose between the Supreme Government and the Government of Madras about the income-tax Bill; serious doubts were expressed about the validity of the laws introduced into certain backward areas which were known as non-regulation provinces without enactment by the legislative council; and finally the Governor General's legislative council presented an address asking that certain correspondence between the Secretary of State and the Government of India should be communicated to it. The situation had become strained, and justified Sir Charles Wood's complaint in the House of Commons that, contrary to the intention of its founders, the Council had become a sort of debating society or petty Parliament. He quoted the Chief Justice of Calcutta as saying that the Council "has no jurisdiction in the nature of that of a grand inquest of the nation. Its functions are purely legislative, and are limited even in that respect. It is not an Anglo-Indians House of Commons for the redress of grievances, to refuse supplies, and so forth."

63. Many provisions of the Act of 1861 still form the framework of the internal constitution of India. The
 The Indian Councils Act, 1861. Act restored to the Governments of Madras and Bombay the powers of legislation which the Act of 1833 had withdrawn, but with one important distinction. Formerly the laws enacted by the local legislatures had been complete in themselves and came into operation of their own force. Thenceforth the previous sanction of the Governor General was made requisite for legislation by the local councils in certain cases, and all Acts of the local councils required the subsequent assent of the Governor General in addition to that of the Governor. To this extent the Governor General was given direct and personal control over the exercise of all legislative authority in India. For purposes of legislation the Governor General's Council was reinforced by additional members, not less than six, nor more than twelve in

number, nominated for two years, of whom not less than half were to be non-officials. The legislative power of the Governor General in Council was extended over all persons whether British or Indian, foreigners or others, within the Indian territories now under the dominion of Her Majesty, and over all courts of justice and over all places and things within the said territories, and over all British subjects within the dominions of Princes and States in alliance with Her Majesty. The Act also gave legal force to all the miscellaneous rules and orders which had been issued in the newly-acquired territories of the Company (known as the non-regulation provinces) either by extending or adapting to them regulations which had been made for older provinces, or frankly by the executive authority of the Governor General in Council. (A few years later the power of legislating for disturbed or backward tracts by regulations made in executive council was restored to the Governor General by the Act of 1870.) Moreover we find some trace of the old executive power of legislation surviving in the power given to the Governor General, without his Council, in cases of emergency to make temporary ordinances which were not to remain in force for more than six months. The legislative councils were restored in Madras and Bombay by expanding the Governors' executive councils on the same lines as the Governor General's. The Governor General was also directed to establish a legislative council for Bengal and empowered to establish similar councils for the North-Western Provinces and for the Punjab; these two bodies actually came into being in 1886 and 1897 respectively. But we lay stress on the fact that there was no attempt to demarcate the jurisdictions of the central and local legislatures as in federal constitutions. The Governor General's Council could legislate for the whole of India; and the provincial council for the whole of the province, with the reservation that before doing so in respect of certain matters the Governor General's sanction had to be obtained. Finally, the provisions of the Act rebuked the precocity of the council established under the Act of 1853, which had modelled its procedure on Parliament and shown what was considered an inconvenient amount of independence by asking questions about and discussing the propriety of the methods of the executive Government. The functions of the new councils were strictly limited to legislation. They were expressly forbidden to transact any business except the consideration and enactment of legislative measures, or to entertain any motion except a motion for leave to introduce a Bill or having reference to a Bill actually introduced.

64. In summing up these changes we cannot do better than follow the present Lord Macdonnell who, writing 27 years after the Act was passed, was able to adopt with little modification the language in which the author of *Courts and Legislative Authorities in India* had described the position created in 1861.

"The character of the legislative councils established by the Act of 1861 is simply this, that they are committees for the purpose of making laws—commit-

tees by means of which the executive Government obtains advice and assistance in their legislation, and the public derive the advantage of full publicity being ensured at every stage of the law-making process. Although the Government enacts the laws through its council, private legislation being unknown, yet the public has a right to make itself heard, and the executive is bound to defend its legislation. And when the laws are once made, the executive is as much bound by them as the public, and the duty of enforcing them belongs to the courts of justice. In later years there has been a growing deference to the opinions of important classes, even when they conflict with the conclusions of the Government, and such conclusions are often modified to meet the wishes of the non-official members. Still it would not be wrong to describe the laws made in the legislative councils as in reality the orders of Government; but the laws are made in a manner which ensures publicity and discussion, are enforced by the courts and not by the executive, cannot be changed but by the same deliberate and public process as that by which they were made, and can be enforced against the executive or in favour of individuals when occasion requires."

"The councils are not deliberative bodies with respect to any subject but that of the immediate legislation before them. They cannot inquire into grievances, call for information, or examine the conduct of the executive. The acts of administration cannot be impugned, nor can they be properly defended in such assemblies, except with reference to the particular measure under discussion."

65. The Act of 1861 thus closes a chapter. Its main interest has lain in the gradual construction and consolidation of the mechanical framework of government. The three separate presidencies have come into a common system; much of the intervening spaces has been brought under British rule; the legislative and administrative authority of the Governor General in Council has been asserted over all the provinces and extended to all their inhabitants; and the principle of recognizing local needs and welcoming local knowledge has been admitted, so that local councils have been created or re-created, and a few non-official and even Indian members have been introduced for the purposes of advice. But, partly at least out of anxiety to prevent the authority of the executive from being impaired (as in Warren Hastings' days) by any other rival institution without administrative responsibility, it has been expressly declared that the councils are a mere legislative committee of the Government and are not the germ of responsible institutions. We think it worth noting how the innate tendency of even a few official Englishmen, assembled in a simulacrum of a legislature, to convert it into a parliamentary body positively contributed to retard the introduction of parliamentary ideas for the benefit of the people of India as a whole.

66. But at the next stage we find a decided advance. Whereas The Indian Councils in 1861 men said "we had better hear what a few Indians of our own choosing have to say about our laws," they said in 1889 "our laws have positively benefited by Indian advice and criticism; let us have more of it, and if possible let the people choose the men they send to advise us." The measure which eventually took shape as the Act of 1892 was initiated by discussions in Lord Dufferin's time in which Sir George Chesney, Sir Charles Aitchison, and Mr. Westland took prominent part. We should like to bear testimony to the breadth of outlook

and wisdom that marks their deliberations. The position as they then conceived it was that a limited but important section of Indian opinion demanded advance; elected chambers with power to control the executive were a premature conception because no electorates existed; but reforms were needed both in order to supply the councils with the local knowledge which was lacking and also to give them more liberty and power. We take, for instance, the following passage from Sir Charles Aitchison, as stating with great judgment the governing conditions of the problem which presented itself:—

"In my note of 19th January 1888, written with reference to the request of the Chambers of Commerce and other public bodies that the annual Imperial budget should be submitted to discussion in the Legislative Council of the Governor General, I pointed out that the proposal involved very much wider issues, and was in reality only the first step towards giving the legislature power of interpellation in executive affairs and of criticizing and controlling the executive Government in every department of the administration: a power which Parliament had deliberately withheld when the Indian Councils Act was framed. I therefore suggested that the question of general policy underlying the proposal should first be settled; that any changes which commend themselves should first be made in the legislative councils of local Governments, and their effect waited for before taking steps in the supreme legislative council which might prove unwise and would certainly be irrevocable; that in any case the time had come when large measures of decentralization could be adopted and the powers of local Governments could be increased with advantage to the conduct of affairs, relief to the Government of India, and corresponding economy; and that such decentralization was a necessary prelude to any enlargement of the powers and functions of the local legislative councils.

"Obviously it is an easier matter to popularize the local than the Imperial Council, and the risk on untried paths is less serious. Decentralization is therefore an essential preliminary. There is no room for local councils while the Government of India and the Secretary of State practically retain everything of importance and interest, and even much that is trifling and unimportant, in their own hands. If councils are to be of any use, a sphere must be provided within which their influence can be felt and their opinion will be potent in the settlement of affairs. As a mere arena of *ex post facto* debate councils will be little else than mischievous. Such debates avowedly lead to no practical action, and are apt to degenerate into acrimonious invective. As a means of expounding and explaining Government policy and measures, councils have no doubt a limited use, but such as will never satisfy the requirements of the day. More harm indeed than good may be done if the explanations are blundering, and especially if they are not perfectly frank and unreserved. The true use of councils, in my opinion, is as consultative bodies to help Government with advice and suggestion. It is with a view to this rather than to interpellation or debate and criticism that their machinery should be reorganized."

67. We are impressed with the bold approach which the members of Lord Dufferin's Committee were prepared to make even thirty years ago towards the position in which we now find ourselves.

Lord Dufferin's Committee.

They recommended for example that the councils should see papers freely and originate advice or suggestions; that debates on such advice or suggestions should be permitted; and that the estimates connected with local finance should be referred to a standing committee and debated if necessary in council. They also were concerned to bring into public affairs the gentry and nobility of the country; and for this purpose they devised a council which should

consist of two orders or divisions both containing some official members. They made the radical suggestion that election should be introduced as far as possible—in the first division directly, on a high property qualification, and in the second division indirectly, by local bodies and the universities. They advised that care should be taken to secure the fair representation of all classes; that power should be reserved to Government to pass measures in certain cases against the votes of a majority in council; and that councils should be of moderate size and not more than two-fifths elected. In these recommendations it is interesting to encounter the germ of proposals which bulks largely in our present inquiry, for standing committees, grand committees, upper houses, reserved and transferred subjects, and the like.

68. Lord Dufferin's view of the situation
 Lord Dufferin's views. is contained in the following noteworthy passage:—

" It now appears to my colleagues and to myself that the time has come for us to take another step in the development of the same liberal policy, and to give, to quote my own words, ' a still wider share in the administration of public affairs to such Indian gentlemen as by their influence, their acquirements, and the confidence they inspire in their fellow-countrymen are marked out as fitted to assist with their counsels the responsible rulers of the country.' But it is necessary that there should be no mistake as to the nature of our aims, or of the real direction in which we propose to move. Our scheme may be briefly described as a plan for the enlargement of our provincial councils, for the enhancement of their status, the multiplication of their functions, the partial introduction into them of the elective principle, and the liberalization of their general character as political institutions. From this it might be concluded that we were contemplating an approach, at all events as far as the provinces are concerned, to English parliamentary government, and an English constitutional system. Such a conclusion would be very wide of the mark; and it would be wrong to leave either the India Office or the Indian public under so erroneous an impression. India is an integral portion, and it may be said one of the most important portions of the mighty British Empire. Its destinies have been confided to the guidance of an alien race, whose function it is to arbitrate between a multitude of conflicting or antagonistic interests, and its government is conducted in the name of a monarch whose throne is in England. The executive that represents her *imperium* in India is an executive directly responsible, not to any local authority, but to the Sovereign and to the British Parliament. Nor could its members divest themselves of this responsibility as long as Great Britain remains the paramount administrative power in India. But it is of the essence of constitutional government, as Englishmen understand the term, that no administration should remain at the head of affairs which does not possess the necessary powers to carry out whatever measures or policy it may consider to be ' for the public interest.' The moment these powers are withheld, either by the Sovereign or Parliament, a constitutional executive resigns its functions and gives way to those whose superior influence with the constituencies has enabled them to overrule its decisions, and who consequently become answerable for whatever line of procedure may be adopted in lieu of that recommended by their predecessors. In India this shifting of responsibility from one set of persons to another is, under existing circumstances, impossible; for if any measure introduced into a legislative council is vetoed by an adverse majority, the Governor cannot call upon the dissentients to take the place of his own official advisers, who are nominated by the Queen-Empress on the advice of the Secretary of State. Consequently the vote of the opposition in an Indian Council would not be given under the heavy sense of responsibility which attaches to the vote of a dissenting majority in a constitutional country; while no responsible executive could be required to carry

on the government unless free to inaugurate whatever measures it considers necessary for the good and safety of the State. It is, therefore, obvious, for this and many other reasons, that, no matter to what degree the liberalization of the councils may now take place, it will be necessary to leave in the hands of each provincial Government the ultimate decision upon all important questions, and the paramount control of its own policy. It is in this view that we have arranged that the nominated members in the Council should outnumber the elected members, at the same time that the Governor has been empowered to overrule his council whenever he feels himself called upon by circumstances to do so.

"But, though it is out of the question either for the supreme or for the subordinate Governments of India to divest themselves of any essential portion of that Imperial authority which is necessary to their very existence as the ruling power, paramount over a variety of nationalities, most of whom are in a very backward state of civilization and enlightenment, there is no reason why they should not desire to associate with themselves in council in very considerable numbers such of the natives of India as may be enabled by their acquirements, experience, and ability to assist and enlighten them in the discharge of their difficult duties. Nor can it be doubted that these gentlemen, when endowed with ample and unrestricted powers of criticism, suggestion, remonstrance, and inquiry will be in a position to exercise a very powerful and useful influence over the conduct of provincial and local public business which alone it is proposed to entrust to them. As inhabitants of the country, as intimately associated with its urban and rural interests, as being in continual contact with large masses of their fellow-countrymen, as the acknowledged representatives of legally constituted bodies, or chosen from amongst influential classes, they will always speak with a great weight of authority; and as their utterances will take place in public, their opinions will be sure to receive at the hands of the press whatever amount of support their intrinsic weight or value may justify. By this means the field of public discussion will be considerably enlarged, and the various administrations concerned will be able to shape their course with the advantage of a far more distinct knowledge of the wishes and feelings of the communities with whose interests they may be required to deal than has hitherto been the case—for those wishes and feelings will be expressed, not, as at present, through self-constituted, self-nominated, and therefore untrustworthy, channels, but by the mouths of those who will be the legally constituted representatives of various interests and classes, and who will feel themselves, in whatever they do or say, responsible to enlightened and increasing sections of their own countrymen."

All that the Government hoped to do, he added, was by associating with them in the task of administration a considerable number of persons "selected and elected" from the educated classes to place themselves in contact with a larger surface of Indian opinion, and thus to multiply the channels by which they would ascertain the wants and feelings of the various communities for whose welfare they were responsible.

69. Lord Dufferin left India shortly after these words were written, and the Secretary of State's reply was addressed to his successor. Lord Cross introduced the cardinal recommendation that recourse should be had as far as possible to the principle of election, and said that he thought "it would be unwise to introduce a fundamental change of this description without much more positive evidence in its favour than was forthcoming." The system was unfamiliar to Oriental ideas, and had only been tried on a small scale in local bodies. But Lord Lansdowne's Government stood to their guns. They urged that they should not be precluded from resort to some form of election

where conditions justified belief in it; and they asked for power to make rules for the appointment of additional members by nomination or otherwise. They had their way. There are few more unobtrusive provisions in the statute book than the once famous "Kimberley clause" (due really to Lord Northbrook) which is the basis of section 74 (4) of the Government of India Act, 1915. That clause, while purporting merely to empower the Governor General in Council with the sanction of the Secretary of State in Council to make regulations as to the conditions of nomination of the additional members, in reality effected a revolution in the constitution. Her Majesty's Ministers had refused to recognize the principle of election; but the official spokesman of Government conceded in the most guarded terms that the door was not barred against it. Mr. Curzon said that—

"It would be in the power of the Viceroy to invite representative bodies in India to elect or select or delegate representatives of themselves and their opinions to be nominated to those houses, and thus by slow degrees, by tentative measures—and in a matter like this measures cannot be otherwise than tentative—we may perhaps approximate in some way to the ideal."

Mr. Gladstone speaking for the Opposition was quick to pin the Government down to a declaration that the experiment of election was to receive as reasonable a trial as the circumstances of India permitted.

"The great question we have before us—the question of real and profound interest—is the question of the introduction of the elective element into the Government of India. * * * I am not at all disposed to ask them at once to produce large and imposing results. What I wish is that their first step shall be of a nature to be genuine and whatever amount of scope they give to the elective principle shall be real. The honourable gentleman did not indicate where such materials for the elective element were to be found. Undoubtedly, Sir, as far as my own prepossessions go, I should look presumptively with the greatest amount of expectation and hope to the municipal bodies and the local authorities in India, in which the elective element is already included."

What happened was exactly what might have been anticipated by anyone familiar with British political development. Her Majesty's Government in transmitting the Act of 1892 explained that the intentions of Parliament were that—

"Where corporations have been established with definite powers upon a recognized administrative basis, or where associations have been formed upon a substantial community of legitimate interests, professional, commercial, or territorial, the Governor General and the local Governors might find convenience and advantage in consulting from time to time such bodies, and in entertaining at their discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they might be disposed to confide."

Technically, the function of the nominating bodies was to be that of recommendation only: but the political sense of the Government of India told them that it was impracticable either to insist on selection from a panel of names preferred, or to reject individual nominations at discretion. They also declined, otherwise than by laying down certain general qualifications, to fetter the discretion of the recommending bodies, in consultation with local Governments they

drew up regulations which Lord Kimberley accepted. These provided for an official majority, but restricted it so far as was thought possible; and they also left the majority of the non-official seats to be filled by recommendation. The term "election" was sedulously enshrouded; but inasmuch as the nominations by recommending bodies came to be accepted as a matter of course the fact of election to an appreciable proportion of the non-official seats was firmly established.

The Act of 1892 also followed the recommendations of Lord Dufferin's Committee so far as to give the councils the right of asking questions, and of discussing, though not of voting upon, the budget. To this limited extent we find it recognised—contrary to the decision of 1861—that the functions of councils were thenceforward to be more than merely legislative, or merely advisory.

70. Rather more than five years later, Lord George Hamilton ordered the working of these regulations to be reviewed with the object of seeing how far they had secured the representation of all important classes. Inquiry showed both in Madras and Bombay that the district boards and municipalities, which constituted the nominating authorities for rural areas, tended to nominate lawyers far too exclusively, but neither Government was disposed to press for any change. In Bengal, however, one seat was transferred from the rural municipalities to the large landowners who had not hitherto been given a right of nomination. The general idea was that the machinery for representation at that time corresponded to the needs of the country; and so for another ten years the elective element in the provincial councils consisted of at the utmost eight members, returned by a few large cities, by groups of municipalities and district boards, by large zamindars, by chambers of commerce, and by universities.

71. The same principle of election disguised as recommendation was also adopted in 1892 for the legislative council of the Governor General. But the reformers of that period felt bound to work within the statutory maximum limit of sixteen additional members, which made it impossible, if an official majority was to be kept, to admit more than ten non-officials. Four of these seats they allotted to recommendation by the non-official members of the four provincial councils, and one to the Calcutta Chamber of Commerce. Abandoning as hopeless the idea of securing the representation of the vast residuary area and population of the country by any quasi-elective machinery, they fell back for the filling of the five remaining non-official seats upon the process of nomination by the Governor General.

72. The impulses which led in 1906 to the initiation of the reforms associated with the names of Lord Morley and Lord Minto were partly internal, partly external. Fourteen years' experience of the reforms of 1892 had been on the whole favourable.

Criticism had mostly been temperate though not always well-informed. Useful information had been often, and valuable suggestions not infrequently, received; and the association of the leaders of the non-official public in the management of affairs even in a restricted and rudimentary form had afforded an outlet for natural aspirations and some slight degree of education in the art of government. Non-official speakers in Council and speakers and organs of the Indian National Congress were claiming that the time had come for further advance. Internally indeed the period was one of marked unrest, to which the Russo-Japanese war of 1904-05, the Universities Act of 1904, and the partition of Bengal had contributed. In November 1905 Lord Minto had replaced Lord Curzon as Viceroy, and in December Lord Morley became Secretary of State for India. In these circumstances Lord Minto, of his own initiative but with the full cognizance and approval of the Secretary of State, followed Lord Dufferin's example in appointing a committee of Council composed of Sir Arundel Arundel, Sir Denzil Ibbetson, Mr. Erle Richards, and Mr. Baker, to consider among other matters the increase of the representative element in the Indian and provincial legislative councils. His reasons for so doing may be best stated in his own words:—

" Indian affairs and the methods of Indian administration have never attracted more public attention in India and at Home than at the present moment. The reasons for their doing so are not far to seek. The growth of education which British rule has done so much to encourage is bearing fruit. Important classes of the population are learning to realize their own position, to estimate for themselves their own intellectual capacities, and to compare their claims for an equality of citizenship with those of a ruling race, whilst the directing influences of political life at Home are simultaneously in full accord with the advance of political thought in India.

" To what extent the people of India as a whole are as yet capable of serving in all branches of administration, to what extent they are individually entitled to a share in the political representation of the country, to what extent it may be possible to weld together the traditional sympathies and antipathies of many different races and different creeds, and to what extent the great hereditary rulers of Native States should assist to direct Imperial policy, are problems which the experience of future years can alone gradually solve.

" But we, the Government of India, cannot shut our eyes to present conditions. The political atmosphere is full of change; questions are before us which we cannot afford to ignore, and which we must attempt to answer; and to me it would appear all-important that the initiative should emanate from us, that the Government of India should not be put in the position of appearing to have its hands forced by agitation in this country or by pressure from Home—that we should be the first to recognize surrounding conditions and to place before His Majesty's Government the opinions which personal experience and a close touch with the every-day life of India entitle us to hold."

73. The problem which Lord Minto's Government set themselves to solve was how to fuse in one single government the two elements which they discerned in the origins of British power in India. They hoped to blend the principle of autocracy derived from Moghul emperors and Hindu kings with the principle of constitutionalism derived from the British Crown and Parliament;

Statement of the problem in 1907.

to create a constitutional autocracy, which differing *toto coelo* from Asiatic despotisms, should bind itself to govern by rule, should call to its councils representatives of all interests which were capable of being represented and should merely reserve to itself in the form of a narrow majority predominant and absolute power. They hoped to create a constitution about which conservative opinion would crystallize and offer substantial opposition to any further change. They anticipated that the aristocratic element in society and the moderate men, for whom there was then no place in Indian politics, would range themselves on the side of the Government, and oppose any further shifting of the balance of power and any attempt to democratize Indian institutions.

74. These sanguine expectations were short-lived. In nine years the Morley-Minto reforms have spent their utility. They are no longer acceptable to Indian opinion; and in the light of experience official opinion also views them with a critical eye. We judge that this is due in varying degrees to the political development brought about by the reforms themselves, to the precipitation of democratic feeling caused by the war, to some inherent features of the scheme of reforms itself, and to Lord Morley's assertion that these reforms were not meant to lead to Parliamentary government. Indeed Lord Morley whole-heartedly accepted and even emphasized the contention of Lord Minto's Government that they were not aiming at responsible government. He wrote:—

"Your Excellency's disclaimer for your government of being 'advocates of representative government for India in the Western sense of the term,' is not any more than was to be expected. Some of the most powerful advocates of the representative system in Europe have learned and taught from Indian experiences of their own that, in Your Excellency's words, 'it could never be akin to the instincts of the many races comprising the population of the Indian Empire.' One reason among many is suggested by the statement in the portion of your despatch dealing with local Governments, that 'Indian gentlemen of position ordinarily refuse to offer themselves as candidates to a wide electorate, partly because they dislike canvassing, and partly by reason of their reluctance to risk the indignity of being defeated by a rival candidate of inferior social status.' While repudiating the intention or desire to attempt the transplantation of any European form of representative government to Indian soil, what is sought by Your Excellency in Council is to improve existing machinery, or to find new, for 'recognising the natural aspirations of educated men to share in the government of their country.' I need not say that in this design you have the cordial concurrence of His Majesty's Government.

"One main standard and test for all who have a share in guiding Indian policy, whether at Whitehall or Calcutta, is the effect of whatever new proposal may at any time be made upon the strength and steadiness of the paramount power. In Indian government there is no grace worth having in what is praised as a concession, and no particular virtue in satisfying an aspiration, unless your measures at the same time fortify the basis of authority on which peace and order and all the elements of the public good in India depend. In the whole spirit of Your Excellency's despatch I read the conviction that every one of the proposals advanced in it is calculated by enlisting fresh support in common opinion on the one hand, and on the other by bringing government into closer touch with that opinion, and all the currents of need and feeling pervading it, to give new confidence and a wider range of knowledge, ideas, and sympathies, to the holders of executive power."

75. We need not review the correspondence in which the proposals were developed. Our purpose will be served by setting forth the salient features of the scheme with a brief explanation of the considerations which shaped them. Its

Salient features of the 1909 reforms. System of representation.

authors agreed that in the immense diversity of interests and opinions in India representation by classes and interests was the only practicable means of embodying the elective principle in the constitution of the councils. For certain limited interests, such as the presidency corporations, universities, chambers of commerce, or the planting community, it was an easy task to frame limited electorates. Difficulties began when it was a question of providing for widespread interests or communities, such as the landholding or professional classes, or for important minorities, such as the Muhammadans in many provinces or the Sikhs in the Punjab. The Muhammadans indeed pressed for and obtained from Lord Minto a promise that they should elect their own members in separate Muhammadan constituencies. (It is probable that the far-reaching consequences of this decision and the difficulties which it would create at a later stage were not fully foreseen: we shall have occasion to discuss them later.) Similarly to the large landowning interests a special electorate was conceded based on a high franchise. The residuary constituencies for the provincial councils—which constitute the only means of representation of the people at large—were constructed out of municipalities and district boards voting in groups.

76. Lord Minto's Government were at first disposed to maintain a bare official majority in the provincial councils, but to summon ordinarily only such a number of official members as would be necessary for the transaction of business.

Abandonment of official majority in the provincial councils

But in Bombay it had already been found possible to do without an official majority, and in the year 1906 the local council consisted of 10 officials and 14 non-officials though to three of the latter seats officials might at any time be appointed. It was decided therefore to face the risks of abandoning the official majority in provincial councils; to rely partly on the use of the veto, partly on the statutory restrictions attaching to provincial legislation, to prevent the carrying of undesirable laws; and to trust to the concurrent powers of legislation possessed by the Governor General's legislative council for the enactment of necessary laws which the provincial council refused. The provincial legislatures were enlarged up to a maximum limit of 50 additional members in the larger provinces and 30 in the smaller; and (the composition was generally so arranged as to give a combination of officials and nominated non-officials a small majority over the elected members except in Bengal where there was a clear elected majority.)

The Indian Legislative Council was also enlarged. According to the present regulations the number of additional members is ordinarily 60. Not more than 28 may be officials. The Governor

General also nominates three non-officials to represent certain specified communities and has at his disposal two other seats to be filled by nomination. In this case also it was found necessary to rely largely on the representation of interests rather than territories. The 27 elected seats are partly shared by certain special constituencies, such as the landowners in seven provinces, the Muhammadans in five provinces, Muhammadan landowners in one province (at alternate elections only), and two chambers of commerce, while the residue of open seats is filled by election by the non-official members of the nine provincial legislative councils. We may explain that our figures take account of the further changes in the regulations necessitated by the repartition of Bengal and the subsequent constitution of a legislative council for the Central Provinces. On the Governor General's Legislative Council a small official majority was thus retained. Lord Morley laid it down that the Governor General's Council "in its legislative as well as its executive character should continue to be so constituted as to ensure its constant and uninterrupted power to fulfil the constitutional obligations that it owes and must always owe to His Majesty's Government and to the Imperial Parliament."

77. The regulations in which these provisions were embodied made an important new departure in expressly recognizing the principle of election which the regulations of 1893 had practically but not legally admitted. Up to 1909, as we have seen, there was no obligation to accept the nomination made by the recommending bodies, but in practice the nomination was never disregarded. We have, however, seen it stated that the existence of power to reject a nomination did lead in a few cases to the withdrawal of some undesirable candidatures. The legal recognition of the elective principle in 1909 necessarily involved the imposition of legal disqualifications for election: and an oath or affirmation of allegiance to the Crown was at the same time imposed.

78. No less important than these changes in the composition of the councils were the changes in their functions. It is quite true that so far as legislative duties are concerned the somewhat old-fashioned provisions of the Act of 1861 continued mainly to regulate their powers: but the deliberative sphere of the councils was enlarged in a striking manner. As we have said, for thirty years between 1861 and 1892 the councils had no other function than that of legislation. The Act of 1892 gave members power to discuss the budget but not move resolutions about it or to divide the council. It became the practice accordingly to allot annually one or two days a year to the discussion of a budget already settled by the executive government. Lord Morley's Act empowered the councils to discuss the budget at length before it was finally settled, to propose resolutions on it, and to divide upon them. Not only on the budget, however, but on all matters of general public importance resolutions might henceforth be proposed and divisions

taken. The resolutions were to be expressed and to operate as recommendations to the executive government. On certain questions, among which may be mentioned matters affecting Native States, no resolutions could be moved. Any resolution might be disallowed by the head of the Government acting as President of the Council without his giving any reason other than that in his opinion the resolution could not be moved consistently with the public interest. At the same time the right to ask questions of the Government was enlarged by allowing the member who asked the original question to put a supplementary one.

79. In the next chapter we shall have something to say about

Nature of the advance the working of these reforms in practice. made.

But here we may pause for a moment to point out how the Morley-Minto changes carried constitutional development a step further. They admitted the need for increased representation, while reiterating the impossibility of basing it generally on a direct or general franchise. They admitted the desirability of generally securing non-official approval to the government legislation, though they trusted in an emergency to the support of nominated members, to the division of interests between different classes of elected members, and in the last resort to overriding legislation in the Indian Legislative Council where an official majority was retained. Frankly abandoning the old conception of the councils as a mere legislative committee of the Government, they did much to make them serve the purpose of an inquest into the doings of Government, by conceding the very important rights of discussing administrative matters and of cross-examining Government on its replies to questions. Lord Morley's disclaimer:—"If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I, for one, would have nothing at all to do with it"—is no doubt explicable when we remember his stout insistence on the sovereignty of the British Parliament, and his acceptance of the decided advice of Lord Minto's Government, backed by the experience of every Indian administrator of eminence, that anything beyond very limited constitutencies and indirect franchises was unthinkable in India. He took the constitutional view that no relaxation of the control exercised by the British electorate was possible until an Indian electorate, which was not then in sight, had arisen to take the burden from its shoulders. None the less we are constrained to say that the features of his reforms which we have described do constitute a decided step forward on a road leading at no distant period to a stage at which the question of responsible government was bound to present itself.)

80. One more point calls for notice in this review of the growth of legislative bodies in India. We pointed out in paragraph 63 that the central legislature retained the right of legislating for the whole of India. But there has been growing up during recent years a convention by which the Government of India do not ordinarily legislate for any

province in matters which are within the competence of the provincial legislative council. The institution of such councils in the smaller provinces has confirmed this tendency, which by this time has acquired such strength that it is safe to say that very special reasons indeed must now be forthcoming before the Indian legislature would concern itself with any matter with which a provincial legislature was fully competent to deal.

81. (But the reforms of 1909 afforded no answer, and could afford no answer, to Indian political problems.)
 Conclusions. Narrow franchises and indirect elections failed to encourage in members a sense of responsibility to the people generally, and made it impossible, except in special constituencies, for those who had votes to use them with perception and effect. Moreover, the responsibility for the administration remained undivided: with the result that while Governments found themselves far more exposed to questions and criticism than hitherto, questions and criticism were uninformed by a real sense of responsibility, such as comes from the prospect of having to assume office in turn. The conception of a responsible executive, wholly or partially amenable to the elected councils, was not admitted. Power remained with the Government and the councils were left with no functions but criticism. It followed that there was no reason to loose the bonds of official authority, which subjected local Governments to the Government of India and the latter to the Secretary of State and Parliament. Such a situation, even if it had not been aggravated by external causes, might easily give rise to difficulties: the plan afforded no room for further advance along the same lines. Only one more thing remained to do, and that was to make the legislative and administrative acts of an irremovable executive entirely amenable to the elected councils; on which must have ensued the deadlock and disruption to which we refer elsewhere. The Morley-Minto reforms in our view are the final outcome of the old conception which made the Government of India a benevolent despotism (tempered by a remote and only occasionally vigilant democracy), which might as it saw fit for purposes of enlightenment consult the wishes of its subjects. To recur to Sir Bartle Frere's figure, the Government is still a monarch in durbar; but his councillors are uneasy, and not wholly content with his personal rule; and the administration in consequence has become slow and timid in operation. Parliamentary usages have been initiated and adopted in the councils up to the point where they cause the maximum of friction, but short of that at which by having a real sanction behind them they begin to do good. We have at present in India neither the best of the old system, nor the best of the new. Responsibility is the savour of popular government, and that savour the present councils wholly lack. We are agreed that our first object must be to invest them with it. They must have real work to do: and they must have real people to call them to account for their doing of it.

Chapter IV.—The Morley-Minto Councils.

82. We have already explained in some detail the changes effected in the legislative councils in Lord Minto's time.

Introductory.

We now propose to examine the reformed councils in working and to attempt to gauge the extent to which they have fulfilled expectations. It was claimed for them that they would associate the people in a real and effective manner "in the work not only of occasional legislation, but of actual every-day administration". Let us see how they have done so. In the first place we shall consider the extent to which the councils have been in any true sense representative of the people, and thereafter we shall see in how far the people's representatives have been able to influence legislation and administration in the councils.

83. No one can deny that as an embodiment of the representative principle the present electoral system has great defects. The chief of these are the

Defects of the existing electoral system. Restricted nature of the franchise.

very restricted nature of the present franchise, and except in the constituencies composed of the members of some special class or community, the lack of any real connexion between the primary voter and the member who sits in the councils. In the Indian Legislative Council there are eighteen members who are elected to speak for sectional interests, and nine who may be said to represent, however remotely, the views of the people as a whole. So far as can be stated the largest constituency which returns a member directly to the Indian Legislative Council does not exceed 650 persons; and most of the constituencies are decidedly smaller. The constituencies which return the nine representatives of the people at large are composed of the non-official members of the various provincial legislative councils, and the average number of voters in these electoral bodies is only twenty-two, while in one case the actual number is nine. In the case of the provincial councils themselves there is the same division of members between those who are directly elected to represent special interests and those who are elected indirectly as the representatives of the general population. For the latter the members of municipal and local boards either act as electors or else choose electoral delegates to make the election; but in neither case do the constituencies exceed a few hundred persons. If we ignore the small class constituencies, then local bodies, which in a limited sense may be taken as standing for the people at large, enjoy the best representation and return 7·4 members for every 1,000 electors. Then come the landholders with 3·6 representatives for every 1,000 electors, and then the Muhammadans with 1·3 members per 1,000 electors. But whereas election is direct in the two last cases, it is indirect and, in cases where delegates are chosen, doubly indirect in the case of local bodies: be-

cause the members of the municipal and local boards are themselves elected by constituencies which cast their votes purely with reference to personal or local considerations and without any thought of contributing to determine the composition of the legislative councils. In such circumstances we are bound to hold that in the one case the non-official members of the provincial councils, and in the other case the members of the municipal and local boards, are for practical purposes primary voters so far as their representatives in the Indian and provincial legislative councils are concerned. There is absolutely no connexion between the supposed primary voter and the man who sits as his representative on the legislative council, and the vote of the supposed primary voter has no effect upon the proceedings of the legislative council. In such circumstances there can be no responsibility upon, and no political education for, the people who nominally exercise a vote. The work of calling into existence an electorate capable of bearing the weight of responsible government is still to be done; and as we shall see, the difficulties are great and it is likely to be a work of time.

84. A minor but still noteworthy result of the present electoral system is the large percentage of members of the legal profession who succeed at elections. If we look at the constitution of the Indian Legislative Council after the elections of 1909, 1912, and 1916 we see that the percentage of lawyers among all the non-official elected members was 37, 26, and 33, respectively; and if we exclude members returned by constituencies of the landholding and commercial classes, and also the special Muhammadan representatives, regarding whom no figures have been compiled, and look only to the members returned by the non-official members of provincial legislative councils, we find that the legal profession gained between 40 per cent and 45 per cent of the seats in 1909 and 1912 and in the present council hold 54 per cent. This increase has been gained chiefly at the expense of the landholders, who have also lost ground to the representatives of commercial interests. Turning to the provincial councils we find much the same state of affairs. In most of these councils also there are seats specially reserved for landholders and commercial men which are naturally filled by members of these classes. This reduces the legal element in the councils as a whole. Even so, the proportion of lawyers among the elected members of all the councils together (excluding Burma) was 38 in 1909, 46 in 1912, and 48 in 1916. But if we take those constituencies only which are intended to represent the views of the people at large, as distinct from any special interests, that is to say, the constituencies formed of members of local and district boards, we find that in 1916 out of 70 such constituencies no less than 49, or 70 per cent, returned lawyers as their members. The conclusion to be drawn from these figures is that in the only constituencies in which members of the general population are represented the chances are at least two to one that a lawyer will be returned. Now the predominance of the lawyer in politics is a feature of parliamentary institutions else-

where: and it is obvious that the art of parliamentary government which is so largely concerned with the making of laws and so largely conducted through the medium of persuasive speech must in any case offer the lawyer a definite advantage. In India these conditions may be accentuated by the fact that the choice of occupations open to the educated classes has hitherto been narrowly limited. The class that is both leisured and educated is a small one. At the same time so great a political predominance of men of one calling is clearly not in the interests of the general community, and it is therefore out of no antagonism to the members of an honourable profession or failure to appreciate their value in the councils that we suggest that in framing our new constituencies an important object to be borne in mind is to ensure that men of other classes and occupations find a sufficient number of seats in council. It may be that this can be attained by prescribing certain definite qualifications for rural seats.

85. On the other hand the arrangements for presenting and enforcing the Government's view are no less open to criticism. The old idea that the legislative councils are only the Governments in their legislative aspect still appears in the language of sections 63 and 73 of the Government of India Act, and as we shall see has quite recently been enforced by Secretaries of State. This is no doubt a main reason why the official *bloc* has been maintained with peculiar rigidity in the councils. Non-official members have long since enjoyed the right of introducing legislation; but the view that law-making was still primarily the prerogative of the executive Government which is amenable to Parliament has so far endured that it has been the exception, and not the rule, for Government to leave its official members free to speak and vote as they choose even on private members' business. On Government business their mandate has been stricter. The proceedings in council have been controlled by Government; generally speaking, Government officials are not expected to ask questions or move resolutions, or (in some councils) to intervene in debate or even to rise to points of order without Government's approval, and, though there is of late a tendency to treat more matters as open questions, when a division is taken the official members nearly always vote by order in support of Government.

86. The effect upon the proceedings in council can be readily imagined. The Government mandate has been compared to the rigidity of party discipline in the House of Commons, but, as we think, to little purpose. The reason which induces a member to acquiesce in the whip's bidding is the perception that, as the defeat of the Government ordinarily means a change of ministry, it is his duty to sacrifice his personal opinions on a particular point for the greater principles for which his party stands. Moreover, there comes a time when individual judgment asserts itself and Governments fall because some of their supporters vote against them. The essence of the system is political responsibility. But the official

obligation to vote with Government in an Indian legislative council is continuing, and is not made palatable by any necessity of securing an irremovable Government from demise; and as Mr. Gladstone saw many years ago the conflict between conscience and discipline may become acute.

87. Upon the Indian members of the legislative councils the effect is frankly irritating. It prejudices in their view the position of the official members who form the *bloc*. Indian members may share in a debate in which the majority of speakers, and in their eyes the weight of argument, are arrayed against the Government. The Government having only one view to present often contents itself with doing so through a single mouthpiece. But when a decision is taken the silent official phalanx effectively carries the Government measure or votes down the private member's resolution. The Indian member's views are therefore rarely placed on record as the opinion of the council, because the council's decision is in a majority of cases the decision of the Government. We may add that most Governments dislike the use of the official *bloc*, and that most of the men who compose it dislike the position in which they find themselves. The fact that Indian officials in the councils are rare, and that the few English non-official members as a rule vote with the Government, helps not merely to exacerbate the cleavage, but to give it an unamiable character. It tends to stimulate the discussion of racial questions and to give an edge to the debate. But above all the official solidarity naturally stifles any differences that exist between Indian elected members and drives them to a league against Government, into which the nominated Indian members also tend to enter.

88. These factors contribute to the unreality of the proceedings. Because the number of elected members is small, and the issue is often known beforehand, the debates lack life unless feelings are aroused or interests are directly affected; and because the Government has to a great extent controlled the proceedings the councils have not felt the need of developing any corporate opinion which would have the effect of raising the standard of individual performance. Nevertheless, the quality of speeches on both sides is improving; there is less reading than formerly of manuscripts prepared without reference to the debate; less repetition of points already dealt with and disposed of. Experience of the occasions when Government has withdrawn from the discussion and left the natural cleavages of opinion to declare themselves shows how much greater vitality may be infused into the council work in future if the official *bloc* be withdrawn.

89. To illustrate the way in which official command over the councils was maintained we may notice two incidents in 1911 and 1912 which brought out clearly the Janus-like nature of the Morley-Minto con-

Effect on Indian members.

Effect on council proceedings.

Position of official members.

stitution. It will be remembered that official members were first introduced into the Indian Legislative Council when that body was the only legislature in India, with the intention of ensuring that provincial interests were represented in it. Even when all the provinces had councils of their own this idea survived ; and after the Indian budget was thrown open to discussion by Lord Dufferin's reforms we find that it was still quite a common practice for provincial members in the central legislative council to express dissatisfaction with the terms granted to their provinces in the financial settlements. This usage continued after the Morley-Minto changes ; but the Government of India no longer listened with equal tolerance to criticisms of their financial decisions, and members of the executive Government responded with a fervour which surprised and staggered the provincial critics. Two provincial Governments protested against this sudden change of attitude ; but Lord Hardinge's Government ruled that the reforms of 1909 had entirely changed the position. Their official majority, they said, had been reduced to its lowest practicable limits ; and provincial official members were now present not to speak for their provinces, but to support the Government of India in the budget debate just as in legislation. So long as the official element was wholly predominant in the Indian Legislative Council no objection was felt to criticism by the official provincial members ; but with the admission of a large elected contingent it was necessary to close the ranks, to exclude the freedom of expression which had hitherto been conceded, and to discard the fiction that the Indian legislative chamber was the medium of discussion between the central and the subordinate Governments. Now it is reasonable to conclude that in pleading for better financial terms for their presidencies the Madras and Bombay official representatives were expressing the views not merely of the presidential Governments, but of the elected members of the provincial councils ; and we have the dilemma that under the Morley-Minto scheme official indulgence of the popular view may easily find itself in conflict with official discipline.

90. Precisely the same clash of principle occurred in another form a year later. The Bombay Government had been unsuccessful in their endeavours to persuade the Government of India to sanction certain changes affecting the educational staff. With the merits of their proposals we are not concerned. But the proposals were popular locally, and were again put forward for adoption in a resolution moved in the Bombay Legislative Council by an elected member. The Bombay Government thereupon accepted the resolution which was carried unanimously ; and once more they put forward their proposals to the Government of India on the ground that they had the council's entire support. The Government of India and the Secretary of State held that these tactics were out of order. Lord Crewe's words are worth quoting :—

“The Government of India have no representation on a provincial council, and the defence of their policy and orders in matters of provincial administration,

as well as that of any that may have been laid down by the Secretary of State, is wholly entrusted in these assemblies to the local Government. Therefore for reasons similar to those for which Your Excellency's Government in the Imperial Council are careful to preserve your solidarity with the Secretary of State it is incumbent on a provincial Government in the conduct of the business of its Legislative Council to avoid disclosing a difference of opinion in an administrative matter between the Imperial and the provincial Governments, and doing anything to foster the impression that there may be opposition between the constitutional responsibilities of those Governments, when no such opposition either does, or can, exist. There is for India one system of administration, and one alone ; and it is only by bearing steadily in mind this fundamental principle that the solidarity of the administration can be kept unimpaired and those disruptive tendencies controlled which must always form the chief risk of decentralization of authority. It was, therefore, in my view the duty of the local Government in dealing with the resolution to uphold with all their authority the decision of the Government of India."

Once more we find the principles of official subordination and official unity of view successfully opposed to the principle of meeting the popular wishes. The moral is a plain one. Deference to non-official wishes in India is not always consistent with the official discipline which is necessary to the supremacy of the Secretary of State and Parliament. So long as the latter remain unaltered there can be no reality about the powers of the councils ; and if we are to give the provincial councils power, Parliament and the Secretary of State and the Government of India also must realize this.

91. Turning now to the work actually done in the council chamber we must distinguish the work of the Indian Legislative Council from that of the provincial councils. Not only is the business coming before the former of greater importance, but the character of the assembly is different. It is less homogeneous than a provincial council ; its members generally have less immediate knowledge of many of the subjects with which it is concerned ; and discussion is relatively more concerned with principles than details. Moreover, unlike the provincial councils, the Indian Legislative Council has an official majority.

92. A casual observer turning over the proceedings of the Indian Legislative Council from 1910 onwards might be struck by the council's apparent lack of interest in what he would probably regard as its most important function, namely, legislation. In the eight years 1910-17 the council passed 131 laws, of which no fewer than 77, or 59 per cent, were passed without any discussion whatsoever. But examination of the proceedings shows that a very large proportion of these were financial or petty amending Acts, while many others, especially since the outbreak of war in 1914, were measures of a more or less technical nature which the council rightly felt that it was not competent to discuss. Moreover, the policy of the Government of India has been to avoid contentious legislation during the war, and some measures which might arouse controversy, such as the Bill to amend the Criminal Procedure Code, have for this reason been deliberately

The Indian Legislative Council. Influence of non-official members on legislation.

postponed. We must also remember that the central council contains representatives of the more backward, as well as of the more advanced, provinces, for which reason the general level of ability and power of expression among the non-official members is perhaps higher in the councils of the more advanced provinces. Nor indeed can it be said that the provincial Governments have always been at pains to send up their best official representatives to the central council. They have sometimes naturally preferred to retain their services for the provincial councils. But perhaps the most important reason why so many Bills have met with small opposition lies in the Government's policy of avoiding opposition as far as possible. With this end in view every effort is made before a Bill is introduced to ascertain as far as possible non-official opinion. It is probably true that the council exercises a greater influence on the shape of Bills before they are introduced than when they are actually under discussion. The tendency is for the Departments to prune a Bill beforehand of all features expected to arouse controversy, and thereafter to oppose all material amendments. It may thus happen that amendments proposed in council are less frequently adopted than suggestions submitted before the introduction of Bills. The constructive work of legislation is in fact still largely done by correspondence; and this can hardly be otherwise so long as the official majority is maintained. At the same time there is no reason for supposing that the non-official members are unable to influence the shape of Bills after introduction. On the contrary we find that in spite of the official majority they have in many cases been able to make their weight felt. Much of the most solid and useful work in the sphere of legislation is done in the seclusion of the committee room and not in the publicity of the council chamber. The presence of the official *bloc* may to some extent give an air of unreality to criticism in the council hall, but to the committee rooms its influence does not extend. The non-official member who is really interested in a particular measure, or is anxious to have a Bill altered generally arranges to be put on the select committee on the Bill, or to approach the official member in charge and to discuss the question with him in private. The reported debates thus afford no measure of the real influence of non-official members. Since 1909 only eight Bills can be said to have encountered really serious opposition. We have already seen that 77 provoked no discussion at all; of the remaining 56 the majority received little public attention but when the Indian members did take up a decided attitude they were often able to carry their point. We need only cite the Indian Court-fees (Amendment) Bill (1910), the Indian Factories Bill (1911), the Indian Patents and Designs Bill (1911), the Criminal Tribes Bill (1911), the Life Assurance Companies Bill (1912), the Indian Companies Bill (1912) and the Indian (Bogus Degrees) Medical Bill (1916) as measures which were modified to a greater or less degree, and generally improved, at the instance of non-official members. The White Phosphorus Matches Bill was a very minor piece of legislation but its career illustrates the Government's readiness to defer to public opinion. On its first intro-

duction the Bill was severely attacked on the ground that it would cause hardship to poor consumers and the Government withdrew it for further inquiry. When it was reintroduced the following year the opposition had died down and the Bill was passed. The Patna University Bill, however, was probably the most striking instance in which a measure underwent change in consequence of non-official criticism. It appears that whenever the Government has met with anything approaching solid opposition on the part of the Indian members it has, except on matters touching the peace and security of the country, generally preferred to give way.

93. Only five private Bills have been passed by the Imperial Legislative Council since 1910. The most important of these were the Musalman Waqf Validating Bill (1913), the passage of which was facilitated by the Government, and the Hindu and Musalman Disposition of Property Bill (1916). At least four other private Bills were introduced:—Mr. Gokhale's Elementary Education Bill, Mr. Basu's Special Marriage Bill, and Messrs. Madge and Dadabhoy's Bills regarding prostitution. Of these the first two were rejected. The Government declined to support the former for financial and technical reasons, and the latter because of the practical difficulties which it was feared that its passage into law would raise. But a factor in deciding the Government's attitude was the knowledge that both Bills encountered not a little non-official opposition. The other two Bills were not pressed as the Government itself undertook to proceed with legislation on the subject: but in the event the Government's own measure for the protection of girl minors was postponed during the war because it was evident that non-official opinion was not agreed upon the proposals embodied in it. As must perhaps be expected in the face of an official majority the tale of private legislation is not imposing, but it shows a certain tendency to increase.

94. We pass to another aspect of the council's work, namely, the influence which it exercises on the work of administration by means of questions and resolutions. The fact that nearly twice as many questions were asked in 1917 as in 1911 shows that serious value is attached to the right of interrogation. Supplementary questions can at present be asked only by the author of the original question; they have not been numerous; but there is a desire to extend the right of putting them to any member of the council. At the same time it cannot be said that the right of interrogation has been abused, though there has been a tendency to ask for information which could be ascertained from published reports, to require elaborate statistical information which is of no practical value, and also to ask questions which would appropriately be put in local councils. The right to move resolutions on matters of general importance and on the financial statement was conceded in 1909. The view taken at the time that this concession was perhaps the most

important of all the changes has been justified by experience. In all 168 resolutions were moved in the council up till the end of the year 1917; of these 24 were accepted by Government, 68 were withdrawn, and 76 were rejected either with or without a division. These figures by themselves do not give a true impression of the real effect of the resolutions. In some cases the mover withdraws a resolution because he is convinced by the Government reply that his proposal is unsound; but it more often happens that a resolution is withdrawn because, though the Government may for some technical or financial reasons not be able to accept the resolution in the form in which, or at the time when, it is moved, the spokesmen of the Government have indicated that its attitude towards the mover's object is favourable. Again many resolutions have been rejected either in pursuance of some settled policy, or else because the Government felt it unwise to accept them without inquiry; but the discussions have led to re-examination of the questions in issue, and at times to an ultimate change of policy, as happened indeed in the case of compulsory education and the treatment of persons dealt with under the Defence of India Act, which were both questions on which opinion was alive and active. A rough classification of the resolutions shows that some 73 can be described as fructuous. In not a few instances substantial results were obtained. Among the measures the decisions on which have been influenced by council resolutions were the abolition of the system of indentured labour in certain colonies, the establishment of an executive council in the United Provinces, the establishment of a high court in the Punjab, the appointment of a committee to inquire into, and report on, jail administration, and the appointment of the Public Services and the Industrial Commissions. These measures of major importance could be supplemented by a much longer list of less important matters of administration in regard to which non-official resolutions have definitely influenced the action of the Government. But the point needs no further elaboration. Every observer of the recent course of the administration is aware how perceptibly it is affected by the attitude of the non-official members of council on all public questions. Moreover, even when the Government is unable to accept a resolution, a debate may be of value as affording a convenient outlet for non-official opinions and as giving the Government an opportunity of explaining its own policy.

95. It is difficult to speak with any certainty about tendencies which have developed in so short a period as that with which we are dealing. We desire, however, to pay a tribute to the sense of responsibility which has animated the members of the Indian Legislative Council in dealing with Government legislation. In the passage of very controversial measures, such as the Press Act, the Government received a large amount of solid support from non-officials; similarly it received assistance when measures of real importance, such, for example, as the Defence of India Act and the recent grant of one hundred millions to the Imperial Treasury were under discussion. Again, good

Attitude of the non-official members.

examples of the practical nature of the work done were afforded by the debates on the Factories Act or the Companies Act. When we consider the debates on resolutions we must remember that, while the official majority renders it impossible for non-official members to carry any measure or resolution against the Government, the relatively ineffectual character of resolutions makes it hardly to be expected that members would show the same sense of responsibility in their speeches and votes as in legislation. Further, many resolutions recently have been concerned with racial subjects, and the debates have been tinged with the racial considerations to which we have drawn attention elsewhere. These causes have contributed to induce a habit among the non-official members, nominated and elected, of acting together; and during the years which have elapsed since the inception of the reforms the tendency to joint action has grown perceptibly stronger. Inasmuch as the nominated members are appointed to represent particular interests, they were at first expected to act independently, but in many matters they have acted with the elected members, and on racial questions in particular it was natural that they should not divorce themselves from the general Indian view. It is, however, we think in legislation, rather than in resolutions, that the real working of the council must be sought; and from the short experience from which we have to judge all that can be said is that, for the reasons we have mentioned, the tendency is growing for the non-officials (excluding the Europeans, who usually, if not always, vote with the Government) to act together.

96. We should have liked to make a similar analysis of the working of all the elder provincial councils; but neither the time nor the information readily available to us admit of this. Certain differences between the Indian and provincial councils are readily apparent. Both the elected and the official members in the provincial councils are in closer touch with the subject matter of discussion; many of the elected members have activities which bring them in contact with the official members outside of council and thereby closer relations are established; and because distances are smaller the meetings of councils are more evenly distributed throughout the year, and of shorter duration than in the Indian Legislative Council, with the result that the pressure upon the few official members on whom the chief business falls is probably felt less heavily than in the Government of India. The main point of difference, however, is, of course, the fact that in all the provincial councils there is a non-official majority and in Bengal a small elected majority. But the fact that absentees are more numerous among the non-official, than among the official, members tends to impair the effectiveness of the non-official majority. It cannot be said, however, that the introduction of Government Bills has been generally hindered by the prospect of opposition although there have, we understand, been occasions when a local Government has been deterred from attempting legislation which it desired. As in the Government of India the policy

has generally been to anticipate opposition to particular provisions by modifying a draft Bill in the light of objections raised in the opinions received. Moreover, the policy of avoiding controversial discussion during the war has checked legislative activity, and somewhat discounts the conclusions that are to be drawn. It is evident that select committees have done useful work in improving the actual form and shape of legislative measures. In comparatively few instances they have done much more. We may select the United Provinces Municipalities Bill as a striking example of the great influence which the elected element has had in shaping legislation. The Bill was changed out of all recognition by the select committee, and in the council itself twenty-seven non-official amendments were accepted by, and one was carried against, the Government. One of the most vital provisions of the Bill, a clause fixing the proportion of Muhammadan representation in municipal boards, was the result of a conference of non-official members, and was incorporated in the Bill by an amendment moved by a non-official member. Nowhere has there been much private members' legislation. In the Bombay Council only one Bill out of six has passed, but we understand that most of the others were reasonable attempts to deal with important problems. In the United Provinces non-official members carried Bills against adulteration and opium gambling. A private Bill to stop juvenile smoking is before a select committee in the Punjab and a private Bill dealing with compulsory education in Bihar and Orissa. These same two topics are at present the subject of two private Bills in Bengal.

97. The right of interpellation has naturally been used more freely than in the Indian Legislative Council. In the United Provinces Council the number of questions rose from 218 in 1910 to 458 in 1916, and in Bengal the increase has also been remarkable; in Madras we understand that the number of questions has been even greater. One local Government estimates that 20 per cent of the questions asked in council relate to information already published, and a general tendency to ask for unfruitful statistics is reported. On the other hand, questions have often served the purpose of resolutions in eliciting a statement of the Government's policy; and it is, we believe, generally recognized by moderate opinion that the Government endeavours to answer reasonable inquiries with reasonable fullness.

98. There is abundant evidence that the right to move resolutions is valued; and the number of resolutions withdrawn when the Government has indicated its benevolent intentions towards, though not its immediate acceptance of, the proposals, suggests that the power has been used with moderation. There is a marked difference, however, between provinces as to the number of resolutions moved; and in some councils the chief activity is confined to a small group of members. It is clear that the provincial Governments do attach weight to resolutions and

exert themselves if possible to defeat those which they are not prepared to accept. Not many resolutions have been carried against the Government, and when a resolution is carried the Government, if it decides that it cannot give effect to the wishes of the council, usually publishes its reasons for so deciding. But the effect of resolutions is by no means confined to those which are carried against, or accepted by, the Government, for it often happens that discussion of a subject leads to positive results. An analysis of the results attained by the resolutions moved in one provincial council in the years 1910-17 showed that they secured, or helped to secure:—

(1) an opium gambling Act, (2) a new cattle farm, (3) a council library, (4) the removal of a criminal tribe settlement, (5) the defence of poor prisoners charged with capital offences, (6) the regulation of the Burma meat trade, (7) concession to the matriculation examination of partial equality with the school-leaving examination, (8) the promotion of deputy superintendents of police to superintendents of police, (9) a promise in connexion with the abolition of revenue divisions, (10) Government assistance in connexion with a road to a shrine, (11) publication of certain college reports, and (12) an officiating appointment for a member of the provincial educational service.

The tendency of all non-official members to act together is more strongly marked in some provincial councils than in others. In the Punjab, where the nominated members are relatively in a stronger position than in other councils, and in Bombay, there is more independence of action than elsewhere. In other provinces the non-official members tend to act and vote together.

99. Speaking at the Indian National Congress of 1908 Mr. Gokhale

Mr. Gokhale's expectations from the reforms.

justly described the Morley-Minto changes as modifying the bureaucratic character of the Government and offering the elected representatives responsible association with the administration. He looked to local self-government to provide the real school of political education, and anticipated that Indians would now have full control and management of local affairs. That expectation has not yet been generally fulfilled, though in some provinces advance has certainly been made. Attention on both sides has been directed more to the provincial councils than to local bodies, and the importance of securing what Mr. Gokhale called the base of the edifice has been lost sight of. This seems to us a very strong reason for placing in Indian hands the responsibility for the development of local bodies which still remains to be carried out. Secondly, Mr. Gokhale referred to the every-day problems of administration, legislation, and finance as constituting the centre of the position; and in respect of this he believed that the reforms amounted almost to a revolution. In place of silent administrative decisions there would in future be open discussion. Over finance for the control of the Government of India would be largely substituted the control of discussion and criticism in the councils. (It must be explained that the Decentralization Commission had not then made its report, and the anticipations of a full measure of financial devolution had not yet

been disappointed.) The admission of Indians to the executive councils, moreover, meant, he hoped, that racial considerations would recede into the background, and that the Indian view of questions would be effectively presented in the highest councils. As regards legislation the non-official majority had gained a preventive voice in the provinces; and if the position was otherwise in the central council he thought that the Government of India would henceforth loom less largely in provincial matters, and that the elected members would have all the opportunity that they needed of influencing the course of provincial business. These concessions, he said, were large and generous; and they imposed two responsibilities. There must be co-operation with Government, instead of merely criticism; and the new powers must be used with moderation and restraint and for the promotion of the interests of the whole people. He named mass education, sanitation, peasant indebtedness, and technical education as large outstanding questions which it was beyond the power of an official government to handle without the co-operation of the people. Finally, he appealed to Indians not to be content with dreaming; let them prove that they could bear such responsibilities as they were being given before asking for any more.

100. In the light of these anticipations it is not hard to understand how the Morley-Minto constitution ceased in the brief space of ten years' time to satisfy the political hunger of India. The new institutions began with good auspices and on both sides there was a desire to work them in a conciliatory fashion. But some of the antecedent conditions of success were lacking. There was no general advance in local bodies; no real setting free of provincial finance; and in spite of some progress no widespread admission of Indians in greater numbers into the public service. Because the relaxation of parliamentary control had not been contemplated the Government of India could not relax their control over local Governments. The sphere in which the councils could affect the Government's action, both in respect of finance and administration, was therefore closely circumscribed. Again and again a local Government could only meet a resolution by saying that the matter was really out of its hands. It could not find the money because of the provincial settlements; it was not administratively free to act because the Government of India were seized of the question; it could therefore only lay the views of the council before the Government of India. As regards legislation also the continuance of the idea of official subordination led to much of the real work being done behind the scenes. The councils were really more effective than they knew; but their triumphs were not won in broad daylight in the dramatic manner which political ardour desired. This was one reason why more interest was often shown in resolutions than in legislation. The carrying of a resolution against Government, apart from the opportunity of recording an opinion which might some day bear fruit, came to be regarded as a great moral victory; and it is evident that topics that are likely to combine all the Indian elements in the council offered the best opportunity. Because the cen-

Reasons for their non-fulfilment.

tralization of control limited the effectiveness of the councils the non-official members were driven to think more of display than they might have otherwise done ; and the sense of unreality on both sides deepened. All this time the national consciousness, and the desire for political power, were growing rapidly in the minds of educated Indians ; and the councils with their limited opportunities proved to be an insufficient safety-valve. While therefore inside the councils there are signs of hardening opposition and the weariness which comes of sterile efforts, outside the councils the tide of feeling was rising more quickly. For a short time after their inception the Morley-Minto reforms threatened to diminish the importance of the Indian National Congress and the Muslim League. It seemed as if the councils where elected members took a share in the business of government must be a more effective instrument for political purposes than mere self-constituted gatherings. But with the disillusionment about the reformed councils, the popular conventions, where speakers were free to attack the Government and give vent to their own aspirations untrammelled by rules of business or the prospect of a reply, naturally regained their ascendancy ; and the line taken by prominent speakers in them has been to belittle the utility of the councils, if not to denounce them as a cynical and calculated sham. We cannot now say to what extent improvement might have been effected by gradual changes in the rules of business by relaxing official discipline, by permitting freer discussion, and by a greater readiness to meet the non-official point of view. However this be, events have proved too strong. The councils have done much better work than might appear to some of their critics. But they have ceased to satisfy Indian opinion, and their continuance can only lead to a further cleavage between the Indian members and the government and a further cultivation of criticism unchecked by responsibility.

101. It seems to us that the inherent weakness of the position created by the Morley-Minto changes is excellently brought out in the following comment :—

The present position. “ We must make up our minds either to rule ourselves or to let the people rule : there is no half-way house, except of course on the highway of deliberate transition. At present we are doing neither. We are trying to govern by concession and each successive concession has the air of being wrung from us. We keep public business going by bargaining and negotiation—not, however, the healthy bargaining of the market-place, but a steady yielding to assaults which always leave some bitterness behind on both sides. This is in no sense the fault of individuals ; it follows inevitably from the influences at work. Up to Lord Curzon’s viceroyalty, there was a sturdy determination to do what was right for India, whether India altogether liked it or not. The reforms which followed his régime brought in a power of challenge and obstruction— influence without responsibility ; and rather than fight we have often to give way. We are shedding the rôle of benevolent despotism, and the people—especially those who are most friendly to us—cannot understand what rôle we mean to assume in its place. We are accordingly losing their confidence and with it some of our power for good. If we returned to sheer despotism, we should carry many of the people with us, and should secure an ordered clam. But that being impossible, we must definitely show that we are moving from the Eastern to the Western ideal of rule. And, secondly, we must maintain

the full weight and order of government while the move is going on. Otherwise we cannot look for either internal peace or the co-operation of the people, or indeed for anything else except growing weakness with the fatal consequences that weakness involves in an Eastern country."

In these words we catch an echo of Warren Hastings' pregnant saying :—" In no part of the world is the principle of supporting a rising interest and of depressing a falling one more prevalent than in India ". Transition is indeed a difficult business and full of risks that we should be short-sighted to ignore. The old structure does not admit of development. All that could be done with it would be to increase the size of the non-official part of the councils—a step that would deprive those responsible for the government of the country of any power of obtaining necessary legislation. We must, therefore, create a new structure. That means time for the fresh material to form ; real work for it to do so that it may harden ; and retention of genuine powers of guidance, supervision, and, if need be, of intervention, until such time as the task is complete.

Chapter V.—The Existing Structure.

102. In an earlier chapter we have described how the Government of India developed out of a trading corporation and thereby inherited some of the centralized characteristics of its Moghul predecessor. We saw also that while the whole system of government in the country was operated by a lever which Parliament committed to the hands of the Secretary of State, the system itself centred in the Governor General in Council, to whom a large measure both of initiative and of decision was left and who exercised in theory complete control over his subordinate Governments. At the same time it will be remembered that the Government of India can act only within the limitations imposed on it by the India Office; and that the existence of such limitations is implied in what we have to say. We shall now examine rather more fully the relations between the central and provincial Governments, and also the means which the latter have of carrying their will into effect. We shall show how, and why, control is exercised; and we shall then be in a position to see that, however cautiously we approach the problem, not a little demolition of the existing fabric must precede the beginnings of responsible government.

103. The bond between the Governor General in Council and a provincial Government resembles in theory, Their general character. but in practice differs from that between the Secretary of State and the Government of India. It is true that the obligation to obey orders is expressed almost as straitly in section 33 of the Statute of 1915 as in section 45; but the construction placed upon the law in the latter case is wider, if for no other reason, because the Government of India are nearer to the cause of action, and are more likely to be moved to intervene, and to have more immediate knowledge of it than the Secretary of State. Legally speaking, their control over provincial Governments rests not merely on their executive, but also on their legislative powers; but in practice we may sub-divide the former, and so discern three strands—legislative, financial, and administrative—in the bond of subordination: and of these three the most important for day-to-day purposes is the financial strand.

104. The Government of India's control over revenues and expenditure is derived from the Acts of 1853 and 1858, Financial devolution. which treated the revenues of India as one and applied them to the purposes of the Government of India as a whole. It is true that this provision is not so strictly construed as absolutely to prevent the appropriation of particular sources of income to specific objects, all-Indian or provincial; but it has certainly had the effect of denying to provincial Governments any inherent legal right to the

revenues which they raised. It followed that all revenues originally went into the coffers of the central Government and that all but the most trifling expenditure had to be defrayed under its orders. From that primitive condition has been, by gradual stages, evolved the present system of "divided heads"—an arrangement which the on-looker is inclined to regard as a needless complication, but which, like many Indian institutions, has its basis in conditions peculiar to the country. It will be remembered that from the necessities of their position the Government of India are responsible for the defence of the whole country; for certain great commercial departments, such as the railways and the post office; for the administration of certain areas for strategic reasons, such as the Frontier Province, or for fortuitous reasons, such as Coorg; for diplomatic business and relations with Native States; for the service of the debt; for all audit and accounting; and for the upkeep of the India Office in England and a large pension list. They have also assumed the liability for insuring the provinces against the one great catastrophe which from time to time threatens their financial stability in the shape of a failure of the rains and consequent famine. For these purposes the central Government takes the receipts from the sources of revenue which it directly controls and also certain other revenue, such as salt, customs, and opium, of which the locale of origin is no guide to its true incidence. But these resources by no means suffice for its needs, and the deficit must be somehow made good. The system of divided heads is an attempt to do this; but in order to make it intelligible a brief retrospect is necessary.

105. The commercial principles which underlay the Company's rule sufficiently explain the original decision that the central Government should keep full control of all revenues in their own hands, and though a complete reorganization of the finance of the country followed soon after the transfer of India to the Crown no innovation in this respect for some time attempted. Provincial Governments had in other respects extensive powers, but they could incur no actual expenditure without the formal orders of the Government of India. Sir Richard Strachey (who was the real author of the changes that followed) wrote at the time "the distribution of the public income degenerated into something like a scramble, in which the most violent had the advantage, with very little attention to reason. As local economy brought no local advantage, the stimulus to avoid waste was reduced to a minimum, and as no local growth of the income led to local means of improvement, the interest in developing the public revenues was also brought down to the lowest level."

106. Lord Mayo's Government has the credit of the first attempt to make the provincial Governments responsible for the management of their own local finances. Each local Government was given a fixed grant for the upkeep of definite services, such as police,

Financial system up to 1861.
Evolution of the settlement system.

jails, education, and the medical services, with power, subject to certain conditions, to allocate it as seemed best, and also to provide for additional expenditure by the exercise of economy and if necessary by raising local taxes. All the residuary revenues the Government of India retained for its own needs. Experience of this initial step not only justified a further advance, but also pointed the direction which it should take. What was clearly wanted was to give local Governments an effective inducement to develop the revenues collected in their territories, to encourage economy, and to ensure that all parts of the administration received a due share of the growing revenues to meet growing needs. It was recognized also that less interference by the Government of India in the details of provincial administration was desirable. The final effect of the important changes made in Lord Lytton's time was to delegate to local Governments the control of the expenditure upon all the ordinary provincial services, and in place of the fixed grants previously given to hand over to them the whole, or part, of specified heads of revenue, wherewith to meet such charges. Here for the first time we meet with a classification of revenue heads into Indian, provincial, and *divided*. The heads of revenue made over in whole, or in part, to provincial Governments were those which were thought to offer most prospect of development under careful provincial management—forests, excise, license-tax (now income-tax), stamps, registration, provincial rates, law and justice, public works and education. But the difficulty of exactly adjusting means to needs remained: and as the revenue from the transferred heads was not ordinarily sufficient for provincial requirements, it was supplemented by a percentage of the important head of land revenue, which otherwise remained an all-India receipt. Settlements on these lines were made with the provinces for five years in 1882, and were revised in 1887, 1892 and 1897, not without controversy and some provincial discontent. At these revisions no changes of principle were introduced; but the growing needs of the provinces were met by treating land revenue as one of the sources of income divided between the central and the provincial Governments, and further by supplementing the provincial revenues by means of fixed cash assignments adjusted under the same head.

107. In the year 1904 we meet an important new departure—the introduction of the system of *quasi-permanent* settlements. Thenceforward the revenues assigned to a province were definitely fixed, and were not subject to alteration by the central Government save in case of extreme and general necessity, or unless experience proved that the assignment made was disproportionate to normal provincial needs. The object was "to give the local Governments a more independent position and a more substantial and enduring interest in the management of their resources than had previously been possible." Under the old system it every now and then happened that the supreme Government was forced by financial stress to resume balances standing to the credit of the provinces when the settlement expired. This killed

Settlements made quasi-permanent.

any motive for economy, as provincial Governments knew that if they economized in one direction in order to accumulate money for other needs their savings were imperilled, while their reduced standard of expenditure would certainly be taken as the basis for the next settlement. Improved financial conditions and a more liberal outlook combined to remove these difficulties. Local Governments could count on continuity of financial policy, and were able to reap the benefit of their own economies without being hurried into ill-considered proposals in order to raise their apparent standard of expenditure. But the Government of India were also gainers. Their relations with the provincial Governments were smoothed by the cessation of the standing quinquennial controversies, and they were also left in a better position to calculate their own resources.

108. A little later on the provinces gained still further. Hitherto, the liability for famine had lain upon them, and the central Government stepped in only when their resources were exhausted. There was devised instead a new famine insurance scheme, by which the Government of India placed to the credit of each province exposed to famine a fixed amount, on which it should draw in case of famine without trenching on its normal resources. When this fund was exhausted further expenditure would be shared equally by the central and provincial Governments, and in the last resort the Government of India would give the province further assistance from their own revenues. In 1917 this arrangement was simplified by making famine relief expenditure a divided head, the outlay being borne by the central and provincial Governments in the proportion of three to one, which coincided approximately with the actual incidence under the previous system.

The Decentralization Commission went into the whole question of the financial relations of the central and the provincial Governments and proposed no radical change; but Lord Hardinge's Government decided to take the final step in the development of the system, and in 1912 they made the settlements permanent. They further improved the position by reducing the fixed assignments and increasing the provincial share of growing revenues; and they conferred a minor, but still important, benefit on the provinces by curtailing their intervention in the preparation of provincial budgets.

109. We are not concerned with the arguments, some of admitted cogency, that have been used to defend this intricate arrangement. They may be found in the report of the Decentralization Commission. But what we are concerned to do is to point out how seriously it operates as an obstacle to provincial enfranchisement. Because provincial settlements have been based not on provincial revenues, but on provincial needs; a central control over provincial

expenditure is not merely justifiable but inevitable. The Government of India could not allow a province to go bankrupt. But, if the Government of India were responsible for provincial solvency, they must be in a position to control provincial expenditure; indeed, in view of their own competing needs, they could hardly avoid feeling a direct interest in keeping down provincial charges. Again as regard revenues, so long as the Government of India take a share in the proceeds they have a strong motive for interfering in details of administration. Their interest in land revenue, for example, inevitably leads them to a close supervision over revenue settlements; and the control tends to become tighter in cases where expansion and development, as in the case of irrigation, depend on capital outlay. The existing settlements are an undoubted advance upon the earlier centralized system, but they constitute no more than a half-way stage. If the popular principle is to have fair play at all in provincial Governments, it is imperative that some means be found of securing to the provinces entirely separate revenue resources.

110. In the second place, the Government of India completely control all taxation imposed in British India, apart from the local taxes which are raised by local bodies. Provincial taxation. Taxation can, of course, be only levied by law, and section 79 (3) (a) of the Government of India Act forbids a local legislature, without the previous sanction of the Governor General, to consider "any law affecting the public debt of India or the customs duties or any other tax or duty for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the government of India". This is the natural corollary of the statutory hypothecation of all Indian revenues to all-India needs. It is true that the law would not inhibit a provincial legislature from exploiting for provincial purposes any new source of taxation which it had the ingenuity to discover; but even in that case the central Government has its remedy at hand. It has been its practice to control all legislation in provincial councils by means of "instructions" to local Governments, which presumably depend for their authority upon the powers conferred by section 45 of the Act, and which require all projects of laws to be approved by the Secretary of State. A proposal for provincial taxation, like any other project for provincial legislation, would therefore be referred for sanction to the Government of India and the Secretary of State, and would, before being translated into action, have to secure the assent of the Finance Department, which would consider closely if it trespassed on the central Government's resources of taxation. Here again it is not our purpose to examine the validity of the arguments for maintaining the practice existing. If many buckets are dipping into one well, and drought cuts short the supply of water, obviously the chief proprietor of the well must take it upon himself to regulate the drawings. All that we are concerned to do is to point out how this power of controlling the levy of fresh sources of income contributes to the close subordination in which provincial Governments are at present held;

and to observe that, if possible, some means of enlarging their powers must be found.

111. A third restriction upon the powers of provincial Governments has also been accepted hitherto as almost an axiom of the Indian financial system. The Provincial borrowing. power of borrowing has never been conceded to the provinces. Port trusts and municipalities may raise loans within defined limits, but because the revenues of India are legally one and indivisible and are liable for all debts incurred for the purposes of the Government of India, provincial Governments have possessed no separate resources on the security of which they could borrow. Sterling loans are always raised in England by the Secretary of State under the authority of Act of Parliament, and rupee loans in India by the Government of India with the Secretary of State's sanction. We recognize that there were strong practical reasons for this arrangement also. The total market was limited; the Home market is sensitive. It was considered advisable to control the total borrowings of India by one agency, if rates were not to be forced up and the market dislocated, and credit possibly impaired by indiscreet ventures. Accordingly it has been the practice to reserve entry to the public loan market entirely for the central Government and for the latter to lend money to the provincial Governments when circumstances required. The Decentralization Commission went into the question in 1908 and declined to recommend any change. It seems to us, however, that if provincial Governments are to enjoy such real measure of independence as will enable them to pursue their own development policy, they must be given some powers, however limited, of taking loans. To this matter also we shall return in a later chapter.

112. A powerful instrument by means of which the Government of India exercises control over expenditure Codes of instructions. in the provinces is the series of the codes of instructions, such as the Civil Service Regulations, the Civil Account Code, the Public Works Code, and the like. In part these deal with the mechanism of finance, such as the maintenance of a uniform system of audit and accounting, the custody of public money, remittances, economy, and such matters: but they also impose definite restraints upon the powers of provincial Governments to create new appointments or to raise emoluments. Such restrictions arise largely out of the need for preventing a ruinous competition in generosity between provinces, or for providing for officers who are liable to transfer from one province to another. These reasons have led to a mass of regulations affecting such matters as recruitment, promotions, leave, foreign service, and pensions, upon which the codes really constitute a digest of the case-law laid down from time to time by the Government of India. Another praiseworthy object which, however, the growing complexity of the codes has tended to defeat was to make the right principles of public business intelligible to a scattered army of subordinate officials through-

out the country and so to avoid incessant applications for guidance to higher authority.

113. The bad name which attaches to the codes is partly explained by their size and obscurity, which probably helps to occasion the very increase of business.

Their justification. that it was hoped to avoid, partly by the conviction that they are construed in a narrow and meticulous fashion with the avowed object of keeping charges down. But we cannot doubt that the intention of the codes was sound, and that they have played a valuable part in checking extravagance and undesirable divergencies. The paramount justification for restrictions on the spending powers of local Governments and subordinate authorities, which the latter find irksome, was the need of ensuring that, in a poor country, official Governments were fully sensible of the duty of economy, and of making good the lack of effective popular criticism by close control from above. Indeed such control has not obviated much criticism in the legislative councils of the cost of official establishments. Regulations of this nature were therefore appropriate to the state of things for which they were devised ; but clearly they are also an impediment to be dealt with before the road to responsible government in the provinces lies open.

114. Now let us see how the Government of India, which has power in its legislative council to make laws for the whole of British India, exercises its control over legislation in the provinces. We have explained how nine provinces—Madras, Bombay, Bengal, the United Provinces, the Punjab, Burma, Bihar and Orissa, the Central Provinces, and Assam—have legislative councils, and we have watched these bodies in operation. The Statute declares that the local legislature of each province has power, subject to certain specified restrictions, to make laws "for the peace and good government of the province". At first sight the restrictions are not stringent. It is reasonable that a local council should not be allowed to effect any Act of Parliament, nor as a general rule to repeal or alter without previous sanction any Act of the Governor General's Legislative Council or indeed of any legislature but itself. (There are reservations to be made but they are relatively unimportant.) These general limitations might easily be so redrafted as to make superfluous some of the further inhibitions, surviving from earlier laws, which are embodied in the Act of 1915—such as those relating to the public debt of India, or customs or other taxes imposed by the central Government, or coin or currency notes, or posts and telegraphs, or the Penal Code, or the army and navy—because any effective provincial legislation on these matters would necessarily affect legislation by the Government of India. In addition, a provincial council may not, without the previous sanction of the Governor General, consider any law affecting the religion or religious rites and usages of any class of British subjects in India, or regulating patents or copyright, or affecting the relations of the Government with foreign Princes or States.

115. Evidently there is left an extensive field in which, so far as the substantive provisions of the Statute go, the legislative competence of the provincial councils is legally unfettered. Actually, however, the discretion of the local councils is curtailed in two ways. In the first place owing to the fact that in their present existence all the local councils are younger, and most of them much younger, institutions than the legislative council of the Governor General, a great part of the field that would otherwise be open to them is covered by Acts of the elder body, which has always retained a concurrent power of legislation for the country at large. The labours of the Law Commissioners initiated the practice of codifying the law on important subjects for the whole of British India, which has been since pursued to the great benefit of the country. On examining the Indian statute book we find that, apart from military and marine and political questions, or finance, or communications (for all of which they are necessarily the proper legislating authority), the Government of India have passed laws in their legislative council for all kinds of matters which might have been dealt with by provincial legislatures, but are doubtless far better handled on uniform lines. The Penal and Procedure Codes and the Evidence Act are the great monuments of this policy, but it has been pursued in many spheres of business. Under the head of crime we have laws for prisons, jails, reformatory schools, police, and whipping. Where the personal law affecting different communities has been codified, in such matters as marriage, minors, and succession, attempts have been made to make it uniform and to prevent provincial variations, to the great benefit of the people. In civil law we have Acts regulating contracts, trusts, specific relief, transfer of property, easements, and arbitration. Business has been regulated by laws for patents, trade-marks, weights and measures, securities, insurance, companies, insolvency, and usury. Laws for forests, mines, factories, boilers, electricity, and explosives have smoothed the course of industry; and labour questions have been dealt with in laws controlling compulsory labour disputes, breaches of contract, emigration, and apprentices. The course of public business in certain respects and the management of the public estate have been standardized. Essential matters affecting the public health—such as poisons, leprosy, lunacy, vaccination, and epidemics—have also been regulated by a uniform code of law. Finally in a wide miscellany of matters, such, for example, as religious endowments, charitable societies, plays and cinematographs, motor vehicles, ancient monuments, and treasure trove, India has been given a uniform law, which works well because conditions are everywhere sufficiently similar. This is a record of which its authors may be proud.

116. In the next place the power of the Secretary of State and Parliament to control all Indian legislation (which we saw finally asserted by Mr. Gladstone's Government) has been made operative as we have said above, by means of executive directions, which have

Restrictions resulting from previous occupation of the legislative field.

Restrictions imposed by executive directions.

made it incumbent on provincial Governments to submit for the previous sanction of the Government of India and the Secretary of State all their projects for legislation before introduction. It is quite true that these directions do not apply to private members' Bills; but inasmuch as a Bill can only be introduced with the leave of the council, and the local Government has in most cases been in a position, if it chose to do so, to oppose such a motion successfully, the Government of India, by directions to the local Government, have been in a position to control all private provincial legislation almost as effectively as the local Governments' Bills. Moreover, if a private member's Bill affects the revenues the previous sanction of the Governor is necessary to its introduction; and in a recent case the Secretary of State has ruled that such sanction should not be given until he has had an opportunity of considering the proposals. This system will strike the reader who has federal models in mind as an instance of excessive centralization. It is due to the fact that the provincial legislative councils are even now in theory only an enlargement of the executive Government for the purpose of law making, and that the legislative power has not been recognized as residing in the provincial councils as distinct from the provincial Governments, over whom official control is justified and necessary. Nor has the system been without advantage in the past, as it has enabled the central Government to curb unprofitable divagations and incidentally to maintain standards of legislative drafting which are acknowledged to be good. None the less, it is apparent that an effective measure of devolution is required before provincial councils can possibly acquire any genuine independence in legislation.

117. We have now to consider how the Government of India wield the administrative control over provincial business with which section 45 of the Statute invests them. In part, as we have seen, this rests on financial considerations. In part, it is due to Parliament or the Indian legislature having reserved certain matters, such as appointments to high office or statutory rules on important subjects, for the sanction of the central Government. But in the main it is too general and extensive to admit of easy analysis. All that we can do is to suggest some general reasons which explain what has occurred. It is easy to see that in many respects India is one single undivided country in which much work must be done on uniform lines. The main services which execute the orders of provincial Governments have been recruited from England on terms guaranteed by the Secretary of State, with the result that many questions affecting them cannot be determined by any provincial Government. Again, the development of trade and industry and science throughout India has favoured the tendency at headquarters to formulate and pursue a uniform policy. Business and industry might be seriously hampered if (even with one law for all India) the provinces were left to administer such matters as statistics, patents, copyright, insurance, income-tax, explosives, or mining on different lines. Particularly in the more scientific spheres—such as bacteriology, or agricul-

Administrative control.
The need for uniformity.

tural and veterinary science—advance has tended to concentration, because the expert services were much too small to be organized on a provincial basis, and also because the experience and resources of any one institution would not be fully used unless they were placed at the disposal of the whole country.

118. Moreover, in the past the Government of India have regarded themselves as distinctly charged with the duty of framing policy and inspiring reforms for the whole of India. It is the penalty of absorption in the heavy task of daily administration to concentrate unduly on detail. There is a tendency at times for the wheels to become clogged and to sink into the ruts of routine. At such times the Government of India, standing apart from immediate details and often actuated by the strong personality of their central figure, have set themselves to survey the whole field of some branch of the administration and to enunciate and enforce fresh principles. The method pursued has often been to assemble a Commission of inquiry, such as those which Lord Curzon appointed to deal with police and universities. The Commission reported, and then the Government of India consulted local Governments and issued a series of decisions. Their orders were often accompanied by handsome grants from their own surpluses, which were strictly earmarked for the purpose of pushing on some particular feature of the new policy. The disadvantages of an arrangement which so appreciably curtailed the provincial Government's freedom of expenditure will be apparent. Not seldom the Commission's labours resulted in the appointment of new advising or inspecting officers at headquarters, whose task it was to see that the new energy suddenly infused into the system was well-maintained and well-directed to the chosen ends. We do not doubt that these outbursts of creative activity have been beneficial, and have contributed to the admitted efficiency of the machine. We hope to find a substitute for them in future in the stimulus afforded by popular criticism. But official inspirations from above have as a side consequence certainly increased the disposition to intervene in provincial details. The Government of India have not been content to set the ball rolling; they have insisted on watching its pace and course. It is fair to add that in recent years we find a perceptible tendency in the opposite direction. The Decentralization Commission inculcated the principle of devolution and its spirit was embodied in the orders which followed on it. The resolutions in which Lord Hardinge's Government dealt with the large questions of education and local self-government certainly cannot be accused of Prussian rigidity and precision.

119. Among the reasons which have tended to the tightening of control has been the consciousness that while local Governments were largely immune from popular criticism in India both they and the Government of India themselves were accountable to Parliament. The problems presented by criminal activities of a political complexion will illustrate our meaning well. The Government of India were constrained

Effect of responsibility
to Parliament.

to control local Governments closely in such matters, if for no other reason, because of their responsibility to Parliament. But their control has been by no means actuated solely by this consideration. They have felt the serious responsibility which lay upon them as the supreme authority in the country for its good government, and for the maintenance of high standards of public and personal conduct. In the absence of popular control their general attitude was right. With the introduction of such control its justification is diminished.

120. We have dealt at some length with the strong tie which binds the provinces to the central government. The Indian constitution is not federal. It seemed to us necessary to analyse it, because it constitutes the chief obstacle across our path, and also affords a plain warning to those who are disposed to be misled by facile analogies from federal constitutions. Granted the announcement of August 20, we cannot at the present time envisage its complete fulfilment in any form other than that of a congeries of self-governing Indian provinces associated for certain purposes under a responsible government of India; with possibly what are now the Native States of India finally embodied in the same whole, in some relation which we will not now attempt to define. For such an organization the English language has no word but 'federal'. But we are bound to point out that whatever may be the case with the Native States of the future into the relation of provincial and central governments the truly federal element does not, and cannot, enter. There is no element of pact. The government of the country is at present one; and from this point of view the local Governments are literally the "agents" of the Government of India. Great powers have been delegated to them because no single administration could support the Atlantean load. But the process before us now is not one of federalizing. Setting aside the obstacles presented by the supremacy of Parliament, the last chance of making a federation of British India was in 1774, when Bombay and Madras had rights to surrender. The provinces have now no innate powers of their own, and therefore have nothing to surrender in a *foedus*. Our task is not like that of the Fathers of the Union in the United States and Canada. We have to demolish the existing structure, at least in part, before we can build the new. Our business is one of devolution, of drawing lines of demarcation, of cutting long-standing ties. The Government of India must give, and the provinces must receive; for only so can the growing organism of self-government draw air into its lungs and live. It requires no great effort of the imagination to draw a future map of India which shall present the external semblance of a great new confederation within the Empire. But we must sedulously beware the ready application of federal arguments or federal examples to a task which is the very reverse of that which confronted Alexander Hamilton and Sir John Macdonald.

121. It is time to consider the internal organization of a province, because of this also our scheme must take account. Our description must be understood

as an attempt to sketch typical arrangements without including special features of particular localities.

122. In every province but Bombay there exists at headquarters, for the purpose of supervising the revenue administration, a Board of Revenue, or its equivalent, a Financial Commissioner. In their administrative capacity these constitute the chief revenue authority of the province, and relieve the provincial Government of much detailed work which would otherwise come to it; while in their judicial capacity they form an appellate court for the increasing volume of revenue, and often of rent suits. But for other purposes than revenue the provincial Government deals chiefly with its commissioners and collectors. The easiest way of understanding the organization of a province is to think of it as composed of districts, which in all provinces except Madras, are combined, in groups of usually from four to six, into divisions, under a commissioner. The average size of a district is 4,430 square miles, or three-fourths the size of Yorkshire. Many are much bigger. Mymensingh district holds more human souls than Switzerland. Vizagapatam district, both in area and population, exceeds Denmark. In the United Provinces, where districts are small and the population dense, each collector is on the average in charge of an area as large as Norfolk and of a population as large as that of New Zealand. The commissioner of the Tirhut division looks after far more people than the Government of Canada.

123. The district, which is a collector's charge, is the unit of administration, but it is cut up into sub-divisions under the district assistant or deputy collectors, and these again into revenue collecting areas of smaller size. The provincial Government's general authority thus descends through the divisional commissioner in a direct chain to the district officer. The district officer has a dual capacity; as collector he is head of the revenue organization, and as magistrate he exercises general supervision over the inferior courts and, in particular, directs the police work. In areas where there is no permanent revenue settlement he can at any time be in touch, through his revenue subordinates, with every inch of his territory. This organization in the first place serves its peculiar purpose of collecting the revenue and of keeping the peace. But, because it is so close-knit, so well-established, and so thoroughly understood by the people, it simultaneously discharges easily and efficiently an immense number of other duties. It deals with the registration, alteration, and partition of holdings; the settlement of disputes; the management of indebted estates; loans to agriculturists; and, above all, famine relief. Because it controls revenue, which depends on agriculture, the supreme interest of the people, it naturally serves also as the general administration staff. The revenue officials and, to a much more limited extent, the police convey the orders of Government to the people in a hundred ways. Taken together, these two agencies act as the general representatives of Government over the country to its remotest borders, and, apart from them,

there is no other. Several other specialized services exist, with staffs of their own, such as the establishments for irrigation, roads and buildings, agriculture, industries, factories, and co-operative credit. These are controlled not by the district officer but by their own departmental heads; they may be regarded as a different set of strings connecting the Government with the people. But in varying degrees the district officer influences the policy in all these matters, and he is always there in the background to lend his support, or, if need be, to mediate between a specialized service and the people.

124. But, we shall be asked, what room is left for such all-pervading official activity, since all towns of reasonable size have been made into municipalities, and since rural affairs are committed to district or local boards? We have seen already that the hopes entertained of these bodies have not in the past been fulfilled. The avowed policy of directing the growth of local self-government from without rather than from within has, on the whole, been sacrificed to the need for results: and with the best intentions the presence of an official element on the boards has been prolonged beyond the point at which it would merely have afforded very necessary help up to a point at which it has impeded the growth of initiative and responsibility. Municipal practice varies between provinces; some have gone further in the direction of elected majorities, others in the direction of elected chairmen: Bengal has gone far in both directions. But over much of the country urban self-government in the smaller towns still depends largely on official support and guidance. The elected members of the boards appear to have difficulty in facing the disfavour aroused by a raising of the rates, or a purification of the electoral roll, or drastic sanitary improvements, unless they feel that the district officer is behind them; and, even when he is not a member of the board, he is generally armed with powers of inspection and advice. In rural areas, where people are less educated and less practised in affairs, and where the interests involved are diffused over large areas instead of being concentrated under their eyes every day, the boards are constituted on a less popular basis. Usually from three-quarters to one-half the members of the district boards are elected, and the electorate represents anything from ten to two per thousand of the rural population. The Decentralization Commission advised that the district officer should continue to preside over the district board, because they did not wish to cut him off from district interests and were anxious to retain his administrative experience; and up till now the Central Provinces are the only provinces in which marked headway has been made in the direction of choosing the chairman by election. Generally speaking, therefore, we may say that while within town areas elected town councils control the administration of their roads, schools, drainage, conservancy, lighting, and the like, the district officer is still at hand as a stimulus and a mentor; and in the more backward district boards he still plays an important part, because as chairman he directs the executive agency of the board. Rural education, dispensaries, sanitation, country roads,

bridges, water-supply, drainage, tree-planting, veterinary work, pounds fairs, ferries, sarais, and the like, are all matters which, to a great extent, he still administers, not primarily as a servant of Government, but on behalf of, indeed in some provinces, as the formally elected president of, a popular body; and the Commissioner above him exercises considerable supervision over the boards' proceedings. It will, of course be understood that we are speaking of *mufassil* practice. The great presidency corporations, whose beginnings date from the 17th century, are in a class by themselves. Mainly elective in character, they work largely through an official chairman or executive officer, and are not subject to close supervision from outside.

125. The system which we have described was originally due to imitation of the *quasi*-military organization of the Moghul Empire. The councils and local bodies are innovations, due to the totally different conception of administration which springs from English political thought. In large centres of population municipal institutions are a reality, and they form an oasis of popular control in the midst of an official system. In smaller towns official influence is still actually, though not technically, strong. The boards to whom rural affairs are committed, though they often enjoy elected majorities, are, in practical working, probably still weaker in relation to the official system than the Morley-Minto changes left the councils in relation to Government. The organization is still well-suited in many ways to the needs of a backward people and is well understood by them. Among all the suggestions made to us it has never been suggested that the system has broken down. It has the great advantage that in every district, and portion of a district—that is to say, in many parts of the country, within not more than twelve or fifteen miles of every single inhabitant—there is a direct representative of Government, to whom complaints on every conceivable subject can be addressed, and through whom the Government can act. Its weaknesses are, we conceive, equally apparent. It is humanly impossible for the district officer to control the whole business of government and to look after his army of subordinates as closely as is required. His utmost vigilance and energy do not suffice to prevent petty corruption and oppression from disfiguring official business. The people are slow to complain and prefer to suffer rather than to have the trouble of resisting. This mischief is being slowly remedied with the improvement of the subordinate services. It could be remedied further at great expense by decreasing district areas and increasing the supervising staff. But there can be no general improvement except through the awakening of public opinion which we believe that our reforms will stimulate. Strong as it is, the official system is too weak to perfect the enormous task before it without the co-operation of the people.

126. This executive organization which we have described has been well likened to a nerve system of official posts, actuated up till now chiefly by impulses of its own, but affected by the popular ideas

The place of the Indian Civil Service.

which impinge on it from three sources—the British Parliament, the legislative councils, and the local boards. Parliament can, of course, make its commands effective at any moment, but rarely chooses to do so. The effect of the councils and local bodies in India has been to influence, but not yet to control, official working. The system has in the main depended for its effectiveness on the experience, wisdom, and energy of the services themselves. It has for the most part been represented by the Indian Civil Service, which, though having little to do with the technical departments of government, has for over one hundred years in practice had the administration entrusted to its hands, because with the exception of the offices of the Governor General, Governors, and some members of the executive councils it has held practically all the places involving superior control. It has been in effect much more of a government corporation than of a purely civil service in the English sense. It has been made a reproach to the Indian Civil Service that it regards itself as the Government; but a view which strikes the critic familiar with parliamentary government as arrogant is little more than a condensed truth. It has long been a tradition of the service that men in it are entitled not merely to administer, but to advise. From the outset of their career they have been habituated to the exercise of responsibility; they have had to take important decisions of their own in emergencies; and they have acquired at first hand, and not merely from precedent or prescription, a stock of practical knowledge which they have been used and been encouraged to contribute to a common purpose. Because they have looked forward to attaining positions where they could decide or help to decide policy they have, within the restraints imposed by discipline and good order, been accustomed to express their ideas freely as to India's needs, and to criticize and advise a government which has in essentials been one with themselves.

127. It is a commonplace to say that Indian administration in the past has depended mainly upon the district officer. We believe that no testimony of ours is needed to the character of his labours. The greatest work that has been done in India has been the familiarization of the people at large with standards of public character and conduct which they accept as higher than their own. The country people have, and always have had, confidence in the English official because of his integrity, fair play, and detachment. He has given them peace and justice and made life easier for them, and the vast majority of people asks for little more. It is impossible but that the application of our guiding principles should react on the district organization, and we have to see how this will be. Clearly our first and immediate task is to make a living reality of local self-government. This cannot be done by a few amendments of the Indian statute book and a few notifications and executive orders. Such methods only prepare the ground. We can bid the Government official—district officer or tahsildar—step aside from his position as executive officer of the boards, and assume

for the future the rôle of onlooker and friendly adviser. We can transfer the execution of the board's orders from subordinates responsible to Government to employes of the boards themselves and, in part, we may perhaps hope, to honorary agency. But we cannot ourselves breathe the breath of life into these institutions. That must come with the awakening of the sense of duty and public spirit which the war has fostered, and which opportunity will develop.

128. Further, as the principle of popular control is admitted into the Government through the medium of the legislative councils, some means must be devised of enabling the established services to fall in with the new order of things. The precise means of doing so will depend on what we have to propose hereafter as regards the machinery of government. Naturally, there will be many men to whom the change will be irksome, while some men will find it grateful. But we shall be wise to minimize by every means that human foresight can devise the friction which a change in a long-established system tends to produce. Our aim throughout must be to make the change not needlessly difficult for the services, to enlist their co-operation with the popular element in the Government, and to induce on both sides the habit of good-will and mutual toleration, which is essential if India is to pass peaceably through the trying transitional period in front of her. We have, as we shall show, made due provision for the exercise of the duty which lies upon us to protect the services : but without good-will and a readiness to co-operate it will not be possible either to retain the men who compose them, or to get from them the best that they can give. Our labours will be vain, and worse than vain, unless the Indian public men, who will be responsible for the working of the reforms which we advise, succeed in so working them as to retain for India the willing help and guidance of many men like those who have led her thus far on her way, until such time as she has produced a generation of administrators of her own to compare with them in strength and foresight, integrity and detachment. Of the services much is being asked. We are confident that they will respond to the demand. But it will rest with the Indian leaders also to show themselves capable of statesmanship and self-restraint.

Chapter VI.—The Conditions of the Problem.

129. We have seen how British rule succeeded the personal, absolute, centralized Moghul Empire; and how the destinies of the people of India thereby became linked with those of an European nation, homogeneous by reasons of history and their island situation, which had developed under peculiarly favourable conditions the principle of self-government. India's own destiny had been different. She had been for ages plagued with invasion and split up and parcelled out by conquering foreigners or contending kings, and her people had become sub-divided, in a manner to which there is no parallel in the world, by the inveterate antagonism of different races and religions. The miseries of the period of chaos which ensued upon the break-up of Moghul rule have now almost faded from the mind of India; but for a long time they made her thankful for the peace and order which British rule conferred. We cannot summarize what followed better than in the words of Sir Alfred Lyall:—

"It may be affirmed that the moral and material civilization of the Indian people has made more progress in the last fifty years than during all the preceding centuries of their history. Yet it has inevitably come to pass that the differences of wealth and learning, frequent intercourse with Europe, and the saturation of the educated classes with Western ideas and political axioms have stimulated the desire for a larger share in the government of their country among the leaders of native public opinion. An efficient administration no longer satisfies them; on the contrary, it has created ulterior hopes and aspirations. We began with great organic reforms, with improving the police and the prisons, with codes of law, a hierarchy of courts of justice, a trained civil service, and all the apparatus of a modern executive. Latterly we have undertaken the gradual introduction of representative institutions, legislative councils in all the important provinces, and municipalities in every substantial town; we are seriously preparing for the slow devolution of local and provincial self-government.

"But the task of building up any substantial edifice of constitutional government in India is by no means easy, for all wide and uniform measures of reform are hindered by the immense area of the country, and especially by the number and diversity of its population; and undoubtedly this is an operation of extraordinary difficulty, since we have no precedents to guide us in the experiment. It must certainly be conducted within the limitations necessary to preserve undisturbed and indisputable the fabric of British sovereignty, which is to the political machine what the iron rails are to the locomotive, the foundation and permanent way upon which all progress must move. Nevertheless, some solution of this difficulty is demanded; for now that the English have accomplished the building up, after the high Roman fashion, of an immense polyglot Empire, the stability of the structure must depend upon a skilful distribution of weight, because excessive centralization is radically insecure, and supports are useless without some capacity to resist pressure. The solution of these problems requires the sympathetic insight, as well as the scientific methods of statesmanship, supplemented by the good-will and the growing intelligence of the Indian people."

130. It will be agreed that the character of political institutions Purpose of present chapter. reacts upon the character of the people. This fact, that the exercise of responsibility calls forth the capacity for it, is the best ground for confidence in

the working of self-government in India. At the same time we hold that, even from the beginning, political institutions must be devised with due regard to the conditions under which they will be worked; and, therefore, before we set forth our ideas of India's new constitution, we propose in this chapter to describe as justly as we can the character of Indian society, and the extent and kind of the political consciousness which it has hitherto evolved, so as to provide a touch-stone to which all our suggestions may be brought. The task is not easy. Conditions vary enormously; our description must be a composite picture, and will not apply equally to all localities.

131. A material difficulty is that the matters most essential to our purpose do not readily lend themselves to statistical exposition. Let us remember what the working of responsible institutions in their typical form involves. The electors send men to the councils with power to act in their name, and the councils commit power to ministers, over whom they reserve control in the form of the power of removing them from office. The elector controls his government, because if his representative in council supports ministers of whom he disapproves he can at the next election change his representative. The system presupposes in those who work it such a perception of, and loyalty to, the common interests as enables the decision of the majority to be peaceably accepted. This means that majorities must practice toleration and minorities patience. There must in fact be not merely a certain capacity for business, but, what is much more important, a real perception of the public welfare as something apart from, and with superior claims to, the individual good. The basis of the whole system is a lively and effective sense of the sanctity of other people's rights.

132. These qualities are only developed by exercise; they are greatly affected by education, occupation, and social organization; but ultimately they rest on the traditions and habits of thought of the people. We cannot go simply to statistics for the measure of these things. We cannot turn to the census tables and tabulate according to wealth, or literacy, or occupation the number of people who might reasonably be given the franchise. None the less we must try to realize the broad facts. Two dominating conditions will be quickly apparent to anyone who turns to the records and reports. One is that the immense masses of the people are poor, ignorant, and helpless far beyond the standards of Europe; and the other is that there runs through Indian society a series of cleavages—of religion, race, and caste—which constantly threaten its solidarity, and of which any wise political scheme must take serious heed.

133. Now let us face squarely the immensity and difficulty of the problem. British India has two and a half times the population of the United States. The United Provinces and Bengal hold each as many people as the British Isles. We may compare

Bihar and Orissa in respect of population with France, Bombay with Austria, and the Punjab with Spain and Portugal combined. In England and Wales four-fifths of the people live in towns. India has many ancient and historic cities, but taken all together they hold but a tiny fraction of her enormous population. It may perhaps be assumed that the first approach to urban conditions occurs when ten thousand people reside together in one place; for on that scale questions of water-supply and lighting and drainage—the material things which awake men to a consciousness of their common needs as neighbours—begin to be a serious concern. On that basis we may say that 226 out of 244 millions of people in British India live a rural life: and the proportion of these who ever give a thought to matters beyond the horizon of their villages is very small. Agriculture is the one great occupation of the people. In normal times a highly industrialized country like England gives 58 persons out of every hundred to industry, and only 8 to agriculture. But India gives out of every hundred 71 to agriculture or pasture, 12 to industry, 5 to trade, 2 to domestic service, $1\frac{1}{2}$ to the professions, and $1\frac{1}{2}$ to Government service or the army. In the whole of India the soil supports 225 out of 315 millions, and 208 millions of them get their living directly by, or depend directly upon, the cultivation of their own or others' fields. What concerns them is mainly the rainfall or the irrigation supply from wells or canals, the price of grain and cloth, the payment of rent to the landlord or revenue to the State, the repayment of advances to the village banker, the observance of religious festivals, the education of their sons, the marriage of their daughters, their health and that of their cattle. They visit the local town on bazaar days and the sub-divisional or district centre rarely on business or litigation. They are not concerned with district boards or municipal boards; many of them know of no executive power above the district officer, and of Parliament or even of the legislative councils they have never heard. In one province it is stated that 93 per cent of the people live and die in the place where they were born. Similar concerns are perhaps the main interests of the population of some country districts in the United Kingdom. But in India the conditions indicated apply to the great mass of the population.

134. The educational returns tell us much the same story. In

Extent of education. British India 6 per cent of the population, males and females together, were able at the last census to comply with the test of literacy which consisted in reading and writing a letter in their own script. It has no doubt risen perceptibly in the seven years since 1911. The percentage was much higher (11) in the case of men than in that of women (1·1). It was also naturally much higher in large cities, where it rose to 30 per cent. Aryas, Brahmos, Parsis and Jains are the best educated classes; then in order Buddhists, Christians and Sikhs. Among Hindus education is very much a matter of caste; some of the higher castes are better read than Buddhists, others are