

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

## LORD MORLEY

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

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

#### MR. GOKHALE'S SCHEME.

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

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

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

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

## OTHER QUESTIONS

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



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

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

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

## LORD HARDINGE'S VIEWS.

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

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

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

#### FISCAL POLICY

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

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

## INDIAN CURRENCY POLICY

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

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

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

SIR STANLEY REID.

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

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

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



## THE EXECUTIVE AND THE LEGISLATURES

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

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

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

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

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

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

## SECOND CHAMBER

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

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

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

## STRENGTH AND COMPOSITION

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

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

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



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

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

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

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

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

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

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

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

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## CHAPTER VIII.

### LOCAL GOVERNMENTS.

#### FINANCIAL AUTONOMY

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

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

## THE CENTRALIZED FINANCIAL SYSTEM.

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

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

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

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

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

#### POSITION OF THE LOCAL GOVERNMENTS

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

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



## FINANCIAL SETTLEMENTS.

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

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

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

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

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

#### METHODS OF FINANCIAL CONTROL

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

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

#### BUDGET RESTRICTIONS.

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

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

## A PROTEST

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

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

#### POWERS OF TAXATION.

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

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

#### POWERS OF BORROWING.

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

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

#### LOANS TO LOCAL BODIES.

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



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

#### A FEDERAL FINANCE.

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

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

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

#### THE CONGRESS SCHEME.

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

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

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

#### THE LEGISLATIVE COUNCILS

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

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

#### DECENTRALIZED FINANCE.

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

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

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



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

## CHAPTER IX.

### LOCAL GOVERNMENTS.

#### ADMINISTRATIVE AUTONOMY.

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

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

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

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

#### LAND REVENUE.

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

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

## FAMINE POLICY.

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

## FOREST ADMINISTRATION.

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

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

#### AGRICULTURAL ORGANISATION

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

#### EDUCATIONAL POLICY

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



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

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

#### IMPERIAL INSPECTORS-GENERAL.

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

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

#### THE VIEWS OF A LOCAL GOVERNMENT.

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

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

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

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

of the existing system of centralization cannot be avoided.

#### IRRIGATION.

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

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

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

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

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

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

#### THE PHILOSOPHY OF DOING NOTHING

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



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

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

#### PROVINCIAL RAILWAY POLICY.

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

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

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

#### STATUTORY DEVOLUTION

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

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

#### EFFECTIVE POPULAR CONTROL

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

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

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

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## CHAPTER X.

### LOCAL GOVERNMENTS

#### LEGISLATIVE AUTONOMY.

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

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



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

#### ADMINISTRATIVE CONTROL

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

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

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

#### LEGISLATION AND PUBLIC OPINION

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

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

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

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

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

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

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

#### THE GROWTH OF PROVINCIAL CODES

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

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

#### LEGISLATIVE AUTONOMY

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

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

## CONSTITUTIONAL CHANGES

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

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

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

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

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

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

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

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



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

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

#### THE VIEWS OF THE ROYAL COMMISSION.

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

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

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

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

#### THE REGULATING ACT, 1773

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

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

THE CHARTER ACT OF 1833.

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

MR. GLADSTONE'S VIEWS IN 1858

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

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

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

MR JOHN BRIGHT.

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

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

LORD STANLEY.

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

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

#### SUBSEQUENT LEGISLATION

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

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

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

## CHAPTER XI.

### LOCAL LEGISLATURES.

#### COMPOSITION AND STRENGTH.

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

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

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



## NUMERICAL STRENGTH.

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

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

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

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