August 1917 of the intention of His Majesty’s Government to bring about the “increasing association of Indians in every branch of the administration, and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire.” Mr. Montagu also said on the occasion that substantial steps in that direction would be taken as soon as possible. The Secretary of State with some of his colleagues came out to India in the cold weather of the same year and discussed the problem with Indian leaders of all shades of opinion, and the scheme proposing a dyarchical form of Government in the provinces was published in July, 1918. It was a signal for war amongst the different political parties and leaders in India. The extremist organs condemned the scheme in unmistakable language. Mrs. Besant wrote in her New India: “The scheme is unworthy to be offered by England or to be accepted by India.” The Madras leaders condemned it in a joint manifesto, and Mr. Tilak described it as “entirely unacceptable.” The scheme published in the Montagu-Chelmsford Report fell far short of the proposals either in the memorandum of the nineteen non-official members of the Imperial Legislative Council or in the Congress-League scheme. There was no element of provincial autonomy in the scheme; on the other hand, Dyarchy displayed a lack of confidence in Indians and provided room for a clash between the two halves of Government. The control of the central Government and of the Secretary of State over financial, legislative and administrative matters remained practically unrelaxed. The European members of the Executive Council were to be selected from persons who had been at least 10 years in the service of the Crown so that the posts were virtually reserved for the I.C.S. No change was proposed in the constitution of the central executive. Thus the reforms proposed proved unattractive to Indian politicians of advanced views. The scheme was, however, acceptable to the Moderates as
it made a part of the provincial Government responsible to the legislature and removable by its adverse vote. This is the essence of parliamentary democracy, and as such the Moderates welcomed it.

The special session of the Congress was held at Bombay to consider the reforms. Surendra Nath Banerjea, Bhupendra Nath Basu, Ambica Charan Mazumdar, Dinshaw Wacha, and some other veteran leaders were absent from the Congress; they held a separate conference under the Chairmanship of Surendra Nath Banerjea. This was the beginning of the National Liberal Federation, which became the organisation of the elder leaders of the Congress who thenceforth formed themselves into a separate party. The Congress reaffirmed the principles of the reforms proposed in the Congress-League scheme and declared that nothing less than self-government within the Empire would satisfy the legitimate aspirations of the Indian people. The Congress passed a resolution expressing its opinion that the Indian legislature should have the same measure of fiscal autonomy as the legislatures of the self-governing Dominions of the Empire and described the reforms as "disappointing and unsatisfactory." The Congress also made various suggestions regarding the constitution and powers of the central legislature and the central executive, and suggested that a statutory guarantee should be given for the grant of full responsible government to the whole of British India within a period not exceeding 15 years. As regards the provinces, the Congress resolved that after the first term of the reformed Councils the Governor should have the same relation with the Ministers with regard to transferred subjects as is prevalent in the self-governing Dominions, and that the status and salary of the Ministers should be the same as that of the members of the Executive Council. The Congress, while holding that the country was ripe for full provincial autonomy, was yet prepared, with a view to facilitating the passage of the reforms, to accept Dyarchy for a period of six years.
The Moslem League also practically endorsed the views expressed by the Congress. In the annual session of the Congress held in December 1918, at Delhi, this attitude of moderation was changed into a demand for full responsible government in the provinces at once and for extension of the reforms to the whole of British India. Thus, the schism between the Moderates and the Extremists was complete, and this led to the secession of the former from the Congress leaving it in the hands of extremists.

In 1917, Government appointed a committee with Sir Sidney Rowlatt as President "to investigate and report on the nature and extent of the criminal conspiracies connected with the revolutionary movement, to examine and consider the difficulties that have arisen in dealing with such conspiracies and to advise as to the legislation, if any, necessary to enable Government to deal effectively with them." The Committee submitted its report in 1918 and made certain recommendations regarding legislation, investing Government with powers to deal expeditiously with cases of seditious conspiracies, with powers to arrest persons reasonably believed to be connected with seditious conspiracies and to confine them in such places and under such conditions as were prescribed. The Committee further suggested that Government should take powers to keep these arrested persons continuously under detention, and they urged a permanent change in the ordinary criminal law with a view to meet the situation created by terrorist conspiracies and outrages. A Bill was introduced in the Imperial Legislative Council to give effect to these recommendations. There were countrywide protests against the Bill, known as the Black Bill.

Mahatma Gandhi who since his return from South Africa in 1915 had been staying in Ahmedabad in the Bombay presidency made his appearance in Indian politics in connection with the position of Indians in South Africa
before and during the War and rendered a great national service to the cause of the Indians overseas. His reputation as a selfless worker in the cause of the weak and oppressed was very high. A believer in soul force over material might, he declared his determination to launch “satyagraha” or passive resistance against the enforcement of the Rowlatt Act. There were demonstrations all over the country in which Hindus and Moslems greatly fraternised, Hindu leaders being allowed to address meetings from the pulpit of a mosque, and Hindus publicly accepting drinking water from the hands of Moslems. This Hindu-Moslem unity was the direct outcome of the excited Moslem feeling over the unsettled future of Turkey after the War and the danger to the Khilafat in which all Indian Moslems were vitally interested, as they felt that the position and stability of the Moslem religious head were in serious danger. Moslems, extremely sensitive as they are about their religion, ascribed the situation largely to the indifference of the British to the feelings of Indian Moslems. Hindus sympathised with them, and this led to a temporary unity between the two communities in an unprecedented manner. The Congress under the leadership of Mahatma Gandhi took up the matter and reaped full political advantage out of the excited Moslem feelings. This development in Indian politics requires more than a passing attention and will find place in the chapter dealing with the growth of political consciousness of Moslems and the part played by them in our national movement.

Since the suppression of the Indian Mutiny, the Punjab has been the principal recruiting ground of the Indian army. During the War, over 80% of Indian soldiers were recruited from this province. The Punjab Sikhs and the Punjab Moslems freely joined the army and bore the first brunt of the German attack in Flanders, and gave excellent accounts of themselves in Mesopotamia, Egypt and other theatres of the war. Besides men, the
province made substantial contribution to war loans. These sacrifices had their psychological effect on the whole populace and strengthened their claim for better treatment politically and in the army by way of greater trust and promotion of Indians to superior positions as officers. Moreover, the large number of soldiers who had returned from the front resented more than ever any claim of racial superiority by the British and most of them came back definitely dissatisfied and discontented. The authorities expected the people to make all possible sacrifices but in spite of their great services in the War, Government were not prepared to treat them with proper consideration. On the other hand, the people who made such valuable contributions to the success of the British in the war were being looked upon with increased distrust and therefore were subjected to more strict control and discipline. Any attempt on the part of politicians to rouse the political consciousness of the martial classes in the Punjab usually met with disapproval of the authorities and was discouraged by them. The session of the Congress in 1919 was proposed to be held at Amritsar. Sir Michael O'Dwyer, Lieutenant-Governor of the Punjab, and other British officials in the province did not favour the idea. They thought that the political atmosphere of the Punjab was by no means normal, and the holding of the Congress session might make it worse. Dr. Kitchlew and Dr. Satya Pal, two prominent Congress leaders, who were organising the party, were one morning sent for to his house by the District Magistrate of Amritsar and taken to some unknown place. This was the signal for the outburst in the Punjab. The subsequent events leading to the burning of the National Bank Buildings in the city, the killing of its European manager and some other Europeans, the burning and looting of the railway stations at Gujranwala and Kasur, the cutting of telegraph wires, the murder of European citizens and soldiers, the attack on railway trains, the declaration of martial law in the Punjab, the bombing of villages in
Gujranwalla by the military and the use of machine guns on a public meeting at Jallianwalla Bagh in Amritsar resulting in the death of hundreds of people including women and children, the crawling order on respectable citizens at Amritsar, the flogging of school children and forced marching of young boys in the sun, all these are too well-known to need repetition here. The action of General Dyer, the author of the Jallianawalla Bagh tragedy, was approved of by the Lieutenant-Governor. The Punjab riot and the Punjab atrocities had a very far-reaching effect on subsequent Indian politics. They brought about a great embitterment of feeling towards the British. All hopes of India being admitted into a position of equality with the self-governing Dominions and of the claims of Indians being recognised as citizens of a free country, largely because of the sacrifices made by Indian soldiers in the War and partly in realisation of the ideal professed by the British statesmen that Britain was fighting the War in the interests of the weaker nations of Europe and in vindication of liberty in the world, vanished. The undue severity and mass humiliation, resorted to by Government in suppressing lawlessness, produced a deep sense of mortification throughout India. Even people who severely condemned the action of the rioters were shocked by the severity of reprisal, and many of them lost confidence in the sense of fairness and honesty of intention of the British. All counsels of moderation were in vain; even some of the front rank leaders of the country lost their balance, and many were swept off their feet by the strong current of extremism. In this atmosphere of suspicion, mutual recrimination and ill-will, the Montagu-Chelmsford reforms were ushered in in 1921.

The Working of the Reforms of 1919.

The Congress committed itself to non-co-operation in 1920 in its Calcutta session at the instance of Mahatma Gandhi and decided on boycotting the new constitution,
besides advising people to boycott law courts, schools, and colleges, and to give up all honorary appointments and titles. The elections under the Government of India Act of 1919 were, therefore, not fought on party tickets, but by individual candidates as such. The Moderates or Liberals took full advantage of the situation, but they too were not yet an organised party and did not run candidates. But a large number of the candidates who fought or were successful had Liberal leanings. Success depended mostly on the influence, position and popularity of the individual candidate. Communal affiliations also were of great importance. In the second general election in 1923, however, the Swaraj Party all over India and the Justice Party in Madras tried to run candidates on party lines and on a definite party programme. The Swaraj Party collected large party funds and secured the support of almost all the important newspapers and periodicals for its candidates. This was the first endeavour to run candidates on behalf of a political party, though the party selection was still often made with regard to the social position and local influence of candidates rather than to their political convictions except in the cases of those candidates who were especially selected as having suffered imprisonment in connection with the non-co-operation movement in 1921-22. Local landlords and lawyers were the most favourite candidates. There were four general elections under the Government of India Act 1919. The position as regards the contest on party lines and programme was better in the second and third elections in which the Justice Party and the Swaraj Party fought on party alignments. But the programme of the Swaraj Party was a negative one viz., wrecking the constitution, and it could not, therefore, provoke the enthusiasm that would have arisen had it put forward a constructive programme or appealed to the electorate on its record. The only party in India that did so was the Justice Party in Madras. The wide area of the constituencies, the difficulties of communications,
the ignorance of electors about the duties and obligations of elected representatives, and the apathy of voters to economic or political questions, mainly from their lack of education, resulted generally in the absence of any contact of representatives with their constituencies. They seldom troubled to visit them between one general election and another. The practice of canvassing the opinion of constituencies on important issues before the legislature, therefore, never developed. As representatives had to depend mostly on their personal resources to meet the expenditure of maintaining contact with their constituencies most of them found it financially impossible to do so.

On the introduction of the new constitution in the beginning of 1921, Ministers were selected and Governments formed. Except in Madras where the Justice or Non-Brahmin Party fought the elections on a party programme, there were no well-organised parties in any province, though in the Punjab the Moslems under the leadership of the late Sir Fazli Hossain acted together in the first Council and joined some Hindus and Sikhs representing rural areas in the second Council and called themselves the Punjab National Unionists. In the first Council, Hindus and the Sikhs generally opposed Government, while in the second Council the main group in opposition consisted of the Hindus and the Sikhs of the Swaraj Party. In the Punjab Council, the division of parties was communal rather than political, though the conflict of urban and rural interests also sometimes influenced party alignments. The Sikhs who owed their allegiance to an outside religious organisation almost always opposed Government, and they had the support of the majority of Hindu members in the Opposition. The stability of Government in the first Council at least was mainly dependent on the official and nominated bloc. But gradually Moslems developed a greater sense of discipline and cohesion and secured the support of a few Sikhs and Hindus as well. This helped the formation of
the Punjab National Unionist Party that fought the elections under the present Constitution on a party programme and formed the Ministry.

In Madras, the Justice or Non-Brahmin Party was formed to fight the Brahmins and challenge their political domination in the presidency. The majority of Brahmins non-co-operated in 1921. This gave their opponents an advantage; elected in the largest number to the non-Moslem seats they formed a single majority party. Ministers were selected from the Justice Party and received full and loyal support from their followers. The Party was well organised. The Ministry informally, as there was no provision in the Act, developed the practice of following the lead of a “Chief Minister” who was the leader of the party and selected his colleagues. On coming into power, the Ministry consolidated the position of the party by securing recognition of the claims of non-Brahmins to the public services, by passing an Act to reorganise the Madras University, and by encouraging nascent industries. In matters of law and order, the Ministry helped the reserved side of Government by passing special measures to fight the non-co-operation movement. The Act democratising the constitution of the Madras City Municipal Corporation also stands to the credit of the Justice Party. The Government in the province of Madras, from the very beginning, functioned as a unitary one, the two halves of Government holding joint meetings and deciding all questions of policy in common understanding. This was largely possible because of the solid support the Ministry had independently of the official bloc and of the initiative taken by the Governor, Lord Willingdon, who always encouraged such joint deliberations. After 1923, the Opposition was somewhat strengthened by the presence of the Swarajists aided by independent non-Brahmins who were dissatisfied members of the Justice Party. Nevertheless, the Party retained its majority and formed the Ministry. In 1926, the Swarajists gained further strength and formed the
largest party in the Council, but as they refused to form a Ministry the power was still retained by the Justice Party. It did not, however, show the same cohesion as before. There were differences amongst Ministers, and some resigned on the question of co-operation with the Simon Commission to enquire into the working of the Indian Constitution. The Moslems were few, and their influence in the Madras legislature was negligible, nor did they organise themselves on communal lines.

In Bengal, as in most other provinces, the elections were fought without any party label and the candidates depended mostly on their personal influence and popularity for their success. Sir Surendra Nath Banerjea, the ex-leader of the Congress, who gave his unstinted support to the Montagu-Chelmsford reforms when the constitution was in making and seceded from the Congress with a number of colleagues because the Congress decided to reject the constitution, was selected as one of the Ministers by the Governor, Lord Ronaldshay (Marquess of Zetland). Sir Surendranath, as the father of Indian nationalism, had great prestige, and till his secession from the Congress and acceptance of office he had great influence as a political leader. In Bengal his position was unique; he was the hero of the student community. But his popularity and influence suffered greately because of his acceptance of office. In a House of 140, officials, nominated and European elected members, who always supported the Ministry, were 40; out of the balance about 30 members, almost all Hindus, formed the Opposition, and nearly 70 supported the Ministry. Amongst the supporters of Government there was a tendency to distinguish between the reserved and the transferred departments. Elected members were more critical about the policy and measures of Government for the maintenance of law and order. The Criminal Law Amendment Act which was brought into operation to check terrorism, and the steps taken by Government in the police department to
fight the non-co-operation movement, which led to the arrest and imprisonment of a large number of prominent Congress leaders including Mr. C. R. Das and Mrs. Das and some other ladies in connection with the boycott of the visit of His Royal Highness the Prince of Wales to Calcutta towards the end of 1921, made the provincial Government as a whole unpopular and placed the Ministers in an extremely difficult and delicate position. They had to support the action of the Governor and of their colleagues in the reserved side of the Government and to stand by the policy for which they had no direct responsibility. The Ministers, however much they disliked some of the actions of the police, could not publicly say so. European non-official members, who formed a solid bloc of 18, were very keen on the maintenance of law and order and on fighting terrorism and the non-co-operation movement. They naturally resented the boycott of the Prince's visit. The Ministry could ill-afford to alienate the support of the Europeans, who rendered valuable help in the working of the new Constitution, especially as Hindu and Moslem support was rather uncertain and was liable to be weakened by communal issues and on questions of retrenchment and taxation. Elected Indian members, both Hindus and Moslems, not having a party backing and being unaccustomed to shoulder responsibility, were often reluctant to incur the displeasure of the electorate by supporting Government in unpopular measures, and expected the Ministers to oppose these. As the Ministers could not afford to fall in line with the wishes of their non-official Indian supporters, they became critical of the actions of Ministers. The bitter attack on the Ministry by the nationalist press and the general support of the non-co-operation movement made the ministerialists very nervous at times, and they tried to maintain their popularity by criticising vehemently the reserved side of Government, by voting against measures introduced by it or moving cut motions on its budget demands. The police
and the jails were the favourite subjects of attack and afforded considerable opportunity to the non-official Indian members, both on the Government side and in the Opposition, to indulge in invectives against the bureaucracy. Ministers had to use their personal influence with their supporters to prevent them from voting against the reserved side of Government. But it always caused a serious strain on the loyalty of their supporters. The hill exodus of Government during the summer months was a favourite subject of criticism. A popular Government was expected to give up the practice of going to the hills, and a popular legislature to discourage any attempt of Government to continue the arrangement. Almost every year the budget demand for the expenses of the exodus to Darjeeling met with opposition from a large number of Indian non-official members. It was a demand of the political department which belonged to the reserved side of Government. The abolition of Divisional Commissioners was also another matter often urged by the majority of the Indian members of the House. Government had to oppose the proposal on administrative grounds and also because the provincial Government had no control over the cadre of the Indian Civil Service; the Secretary of State's sanction was necessary before the post of the Commissioners could be abolished or their number reduced. But Indian public opinion generally remained unconvinced, and the inability of the Ministers to make the reserved side of Government yield to non-official opinion often supplied the extremist press with an additional argument against the reforms.

During the seventeen years of the working of this Constitution, there were innumerable occasions when elected Indian members, both Hindus and Moslems, were inclined to be severely critical of some of the measures introduced by the reserved side of Government for suppression of terrorism and against secret criminal conspiracies. As the Executive Council...
non-responsible to the House, they felt reluctant to accept responsibility for the actions of the Executive Council by lending it necessary support, though there were instances when the supporters of the Ministry did help Government in placing on the statute book some most reactionary legislation to check terrorism in Bengal. The Bengal Criminal Law Amendment Act was first brought into operation in 1921; it contained drastic provisions regarding the arrest and detention of persons who were supposed to have complicity in terrorist conspiracies. This Act had to be amended from time to time to meet the exigencies of the situation and the new technique of the conspirators. A large number of young men, almost all Hindus, were taken into custody under this Act and tried by the special tribunal constituted under it. Innumerable Hindu educated middle class families were affected by this measure, and as such it was highly unpopular. It became almost impossible for a Hindu public man to survive in public life if he showed any inclination to support this measure. In elections, a candidate's conduct as a member of the legislature regarding political prisoners generally decided his fate at the polls. But when conspiracies became widespread and political assassinations became rampant from 1930 to 1934 and Government had to introduce very stringent measures to check crime, even a good number of Hindu members, who were amongst the supporters of the Ministry, did not hesitate to face the responsibility in proper spirit. It must be noted, however, that this cost most of them their seats in the elections under the new Government of India Act of 1935.

The Moslem members of the legislature gradually abjured their nationalist attitude and formed themselves into a separate bloc in the Council and generally stood by the Moslem Ministers and also at times followed the advice of the Moslem member of the Executive Council. This development took place from 1926, the year of serious Hindu-Moslem riots in Calcutta. In the first Council
under the Montagu-Chelmsford reforms Moslems like most of the Hindus voted as individuals and not as a party. In the second Council (1924-1926), the Khilafat movement and the Hindu-Moslem pact sponsored by Mr. C. R. Das greatly influenced the attitude of the Moslem members; a large number of them followed the lead of Mr. Das, and helped him in wrecking Dyarchy by voting against an entirely Moslem Ministry. The Hindu-Moslem riots of 1926 and similar riots all over India, the abolition of the office of Khalifa by the Angora Assembly in 1924 rendering the Khilafat movement an extinct political force so far as the Indian Moslems were concerned, the death of Mr. C. R. Das, all these contributed to the deterioration of communal feeling in Bengal along with the rest of India. From 1926 onwards the Moslem members of the Bengal legislature showed a more separatist tendency than before. Another factor that greatly contributed to the separatist attitude of Moslems was the policy adopted by the Swaraj Party in the Council over the Bengal Tenancy Act Amendment Bill and the Rural Primary Education Bill. An amendment of the Bengal Tenancy Act was urged by the tenants’ representatives in the legislature from 1922 on. The Maharajadhiraja Bahadur of Burdwan was then the member-in-charge of the revenue department. As the premier landlord in the province, he took a long view of the situation and was anxious to meet the tenants’ demands by conceding more rights to them, and by introducing provisions in the Act to check abuses of privilege by landlords. The Act had been in operation since 1885, and this was the first attempt at a comprehensive amendment of the law. A careful survey of all the rights and obligations of both landlords and tenants was necessary before the amendment could be undertaken. A committee was appointed to enquire into the matter and to suggest amendments. It was a long drawn out process, and no Bill could be introduced before 1928. In the meantime, there was more than one change in the personnel of the
Revenue Member. The Swaraj Party, at the instance of Mr. Subhas Chandra Bose, entered into a pact with the landlord members of the House, and the voting on the Bill was largely on a 'pro-Hindu and pro-landlord line. Moslem members were greatly interested in the enlargement of the rights and privileges of tenants. But they were out-voted by Government, supported by the Hindu landlords and the Swarajists consisting mostly of Hindus. The small number of Moslems who belonged to the Swaraj Party were under political and other obligations to it and had to go with the party against their own inclinations. Similarly, the division over the Rural Primary Education Bill also was more on communal than on political lines. Hindu landlords, big and small, opposed the idea of the imposition of the education cess on land to meet the cost of free primary education. Moslem members were keen on the measure, as it would have helped the spread of literacy amongst the Moslem community. But the opposition of Hindus wrecked the Bill twice at the Select Committee stage between 1925 and 1926 and it was finally passed into law only because Hindu members walked out of the House in 1930 by way of protest against the Government decision to pass it in spite of Hindu opposition to some of its provisions. Thus, between 1926 and 1930, the communal division in the legislature became more marked. This reflected the communal feelings in the country, and it may be largely attributed to the growth of political consciousness among Moslems, as fostered by separate electorates, and to their disapproval as a community of the civil disobedience movement and terrorism. Government were not slow to take advantage of the feeling in forging measures to meet the situation created by the civil disobedience movement and the terrorist outrages. The Moslem members of the legislature generally supported the executive Government in their action, whereas the majority of Hindus often opposed them.
The first important legislation introduced by Government in the Bengal Council under the Montagu-Chelmsford reforms was the amendment of the Calcutta Municipal Act of 1899. Sir Surendra Nath Banerjea as Minister-in-charge of the department of local self-government took the first opportunity of overhauling the Calcutta Municipal Act, which he had disapproved as a member of a previous legislature when he resigned his seat on the Corporation along with 27 colleagues in protest against Government action. In the new Bill which he introduced, Surendra Nath proposed completely to democratise the Corporation by lowering the franchise, and doing away with all governmental control. He himself described the new constitution of the Corporation as “veritable Swaraj.” Official opinion was against this relaxation of Government supervision and control, but the Governor Lord Ronaldshay was determined to support the new Ministry, and the Indian Civil Service, true to its traditions, instead of opposing gave all possible help to the measure in order to make it a perfect one. Mr. Payne, the I.C.S. Chairman of the Corporation, and Mr. S. W. Goode, the I.C.S. Secretary to the local self-government department, made valuable contributions in this direction. The non-official European community of Calcutta, though reluctant to make the great experiment of handing over the municipal administration of the city, in which they had so large an interest, to purely non-official Indian hands, agreed to the proposal with a good grace. Their attitude was no doubt largely determined by that of the Governor and of the officers belonging to the Indian Civil Service with whom they were in close contact. Difficulties arose, however, over the demand of Moslems to be allowed to elect their representatives through separate electorates on the analogy of the new Government of India Act. This claim of Moslems was supposed to have been favoured by the European members and Moslem members of the Government. Thus, though not outwardly at least inwardly, the Ministry which
consisted of two Hindus and one Moslem was divided, and there was difference of opinion amongst the members of the Executive Council including two Europeans, one Hindu, and one Moslem. It is to be noted that the division was frankly on communal lines, the Europeans supporting the Moslem claim for separate representation in the Corporation. Non-official Europeans also put forward a similar claim on behalf of Moslems. This placed Sir Surendra Nath Banerjea in a difficult and awkward position. Hindu opinion was definitely against the proposal; moreover, the Bill, as originally conceived and introduced by Government, did not contain any such provision. Moslem feelings were roused, and they stuck to their claim. They were all the time conscious that they could count on the sympathy and support of the Europeans, both official and non-official. At one stage, the prospects of the Bill looked gloomy and the Minister-in-charge felt despondent. But the matter was settled by putting a nine year limit to communal representation, i.e., the first three elections should be held on a separate roll after which it would become automatically joint. This compromise was suggested by the leader of the European party in the House and accepted by Sir Surendra Nath Banerjea. It satisfied Moslems, but Hindus were never reconciled to the measure, and it took away much from the popularity of the new Municipal Act and provided a handle for the extremist section of Hindus to attack the Ministry, especially the author of the Act.

Members of the new legislatures all over India were very keen on retrenchment, especially on the reserved side. The high pay of the Imperial services and their various allowances were attacked. These services were under the direct control and protection of the Secretary of State, so the Councils had neither jurisdiction nor responsibility regarding them. Proposals for drastic reduction in the pay and emoluments of these services, reduction in their number replacing the Imperial service by officers
of the provincial service, and abolition of some of the
posts reserved for the Imperial services, were the common
forms of attack in all the provincial Councils. The replies
by the members of the Executive Council, who had no
responsibility to the legislature, however cogent and
convincing, merely irritated the popular representatives,
who naturally considered themselves as the custodians of
the country's interests and were anxious to play their proper
role often without appreciating either the effect of their
proposals on the efficiency of the administration or the
inherent limitations of the constitution. Non-official
members, as a rule, were keen on supporting additional
expenditure on the transferred or nation-building depart-
ments such as education, sanitation, agriculture and
industries, and the usual charge against the Ministers was
that of inactivity in this respect and of inability to
obtain adequate funds for their own departments. The
members refused to realise that Ministers required time
to survey their problems, and to get suitable schemes framed
with the help of the expert advisers of Government. The
difficulties of Ministers in some of the provinces as in
Bengal and Bombay were considerably increased by scarcity
of resources. Under the financial arrangement known as
the Meston Award these provinces started with a heavy
deficit.

Most of the provincial Governments were, therefore,
faced with the unpleasant and unpopular duty of curtailing
expenditure and imposing new taxes not for expansion of
the work of the nation-building departments but for
normal expenditure.

It may, however, be mentioned here, to illustrate some
of the difficulties of Ministers under Dyarchy, that
elected representatives were naturally reluctant to support
taxation measures, unless the revenue was going to be
earmarked for beneficial activities in the nation-building
departments. Both sides of the Government had a
common purse, and it was open to them to allocate,
the revenues for expenditure according to the needs of the departments and requirements of administration. The Finance Member refused to violate this canon of sound finance. In Bengal, quite a big portion of the revenue raised by new taxation was required to strengthen the police and fight terrorism; these were most unpopular objects, though important from the administrative point of view. With a good deal of hesitation, members of the new legislatures faced the responsibility. In Bengal, a verbal assurance was given that only the minimum amount required to meet the normal budget deficit would be taken out of the additional revenue, and the balance would be allotted for development of the nation-building departments. In fact, however, the major portion of the revenue was exhausted in meeting the additional expenditure of the reserved departments. The taxation measures and the expenditure of the additional revenue in meeting the normal budget deficits added greatly to the unpopularity of the Reforms of 1919 and of those who helped its working. The extremist press and the Congress Party took full advantage of the popular feeling to justify the boycott of the Constitution and their subsequent policy of wrecking it.

In the 1923 elections, the Congress decided to enter the legislatures not to work the Constitution but to wreck it. There was a split in the Congress; a section led by Mr. C. R. Das and Pandit Motilal Nehru formed the Swaraj Party in it; the others under the leadership of Mahatma Gandhi were labelled "no-changers". They were opposed to the idea of Council entry, but being outvoted in the Congress submitted tacitly to the majority decision though they did not actively participate in the elections. The Swaraj Party captured quite a large number of Hindu seats in the Bengal and in the Central Provinces Legislative Councils and some seats in all other Councils. In Bengal, they had 47 seats in a House of 140, and formed the largest single group. With the help of nineteen Independents, they
succeeded in throwing out the entire budget demand of the reserved departments, which, however, had to be restored by the Governor. The Party was less successful against the transferred departments, but threw out the entire demand for the Ministers' salaries. The two Moslem Ministers (the third Hindu Minister having been already unseated in a bye-election) carried on for a few months without emoluments but had to resign when the second attempt failed to get the salary demand passed. The Constitution had to be suspended, and the Governor carried on the administration of the transferred departments with the help of the Executive Councillors. Another attempt to restore the Constitution had been defeated by a combination of the Swarajists and some of the disappointed Liberals, headed by an ex-Hindu Minister.

In the Central Provinces, the Swarajists having captured a large number of seats succeeded in suspending Dyarchy temporarily. But they had no success in any other province. Though they captured a few seats in all other legislatures, they could do little and Dyarchy had a very good trial in those provinces, especially in the Punjab and Madras. The tactics adopted by the Swaraj Party in Bengal in carrying out their policy of wrecking Dyarchy were hardly constitutional. The Party under Mr. C. R. Das was well organised. Its prestige was undoubtedly high because of the personal sacrifice of its leader who had given up his lucrative practice at the bar and become a whole-time worker in propagating the policy and principle of the Party. As Congress men and as non-co-operators, the Swaraj Party members commanded considerable influence with the student community, many of whom were induced to sacrifice their career and join the movement; most of them unfortunately soon became useless members of society from their lack of education and training for any useful career. A large number of student volunteers were, however, handy in enforcing the policy of the Swaraj Party. The control over the Corporation of
Calcutta with its enormous resources, reformed under the Calcutta Municipal Act of 1923, and the temporary unity between Hindus and Moslems, brought about by the Khilafat movement, secured for the Swaraj Party in Bengal a unique position and influence, though not complete electoral support. There was no other organised political party in the province. Individuals or a group of individuals, however worthy and intelligent, and whatever their record of services might have been, found it difficult to withstand the attack of a militant and well-disciplined party with no hesitation in adopting unclean tactics to attain its object. The whole political atmosphere of the country was demoralising and those trying to swim against the current and depending on constitutional methods were soon overpowered and exhausted. Towards the beginning of 1925, even some of the ardent supporters of Mr. Das realised the futility of the wrecking policy, and would have welcomed a change. But Mr. Das was too deeply committed to it, and his personality overshadowed all others. Towards the closing days of his life which ended in June 1925, he himself was veering round to a constructive policy and gave expression to his views in his presidential address at the Faridpur Conference. "I see signs of a real change of heart everywhere" he said to a representative of the Statesman:—"I see signs of reconciliation everywhere. The world is tired of conflicts and I think I see a real desire for construction and consolidation. Provided some real responsibility is transferred to the people, there is no reason why we should not co-operate with the Government. But two things are necessary—first, there should be a real change of heart, secondly, Swaraj in the fullest sense must be guaranteed to us at once, to come automatically in the near future." Mr. Das in his famous Faridpur address said: "A few suggestions may be made having regard to what is nearest to the hearts of the people of Bengal—(1) general amnesty of all political prisoners, (2) a guarantee of the fullest recognition of our
right to the establishment of Swaraj within the Commonwealth in the near future, and in the meantime till Swaraj comes, a sure and sufficient foundation of such Swaraj should be laid at once, (3) we on our part should give some sort of understanding that we shall not, by word, deed or gesture, encourage revolutionary propaganda and that we shall make every effort to put an end to such a movement.”

While the Swaraj Party under Mr. C. R. Das and Motilal Nehru was trying to wreck the Constitution and partially succeeded in Bengal and the Central Provinces, Mr. Das was experiencing great difficulty in keeping the terrorists in Bengal in check. He defended some of the leading anarchists and originators of the movement in the Alipur Bomb case and saved them from the gallows. As a generous and dynamic personality who had sacrificed his princely income at the bar in support of his ideal and a leader who could make the Congress give up the barren policy of non-co-operation so ardently advocated by no less a person than Mahatma Gandhi, Mr. Das commanded the respect not merely of those who followed the principle of non-violence in the freedom movement but also of those who believed in and actively practised violence. Mr. Das was able to induce them to suspend their activities for the time being and to give him a chance of winning Swaraj by following the constitutional means of non-co-operation within the legislature. The British bureaucracy preferred this to violence and at times showed appreciation of Mr. Das’s fight. Lord Birkenhead, as Secretary of State for India, paid high tribute to the discipline and organisation of the Swaraj Party and called upon it to direct its energy to constructive politics. Mr. Das was inclined to accept the invitation and outlined his proposals in the Faridpur speech. At the centre, the policy of barren opposition in theory gave place to that of responsive co-operation in practice. Pandit Motilal Nehru accepted a seat on the Skeen Committee appointed to consider the
problem of obtaining a large number of suitable Indian candidates for the King's Commission and their training. The aim of the Committee was to devise ways and means to start an Indian Sandhurst. Lieutenant-General Sir Andrew Skeen was its Chairman.

Soon after entering the Indian Legislative Assembly with the avowed object of obstructing from within, the Swaraj Party tabled an amendment to a resolution moved by Dewan Bahadur Ranga Chariar in 1924. The amendment, moved by Pandit Motilal Nehru, ran as follows:—

"This Assembly recommends to the Governor-General in Council to take steps to have the Government of India Act revised with a view to establish full responsible government in India, and for the said purpose, (a) to summon at an early date a representative Round Table Conference to recommend, with due regard to the protection of the rights and interests of important minorities, a scheme of a constitution for India; and (b) after dissolving the Central Legislature, to place the said scheme for approval before a newly elected Indian legislature for its approval and submit the same to the British Parliament to be embodied in a Statute." The resolution led to the appointment of the Muddiman Committee in 1924. The Committee submitted its report which was considered by the Legislative Assembly in September 1925. Pandit Motilal Nehru moved an amendment to the effect that (1) Government should make a declaration in Parliament embodying such fundamental changes in the constitutional machinery and administration of India as would make the government of the country fully responsible, (2) a Round Table Conference, representative of all interests including the minorities, should be summoned to draw up a constitution which, after it had been considered by the Indian Legislative Assembly, should be placed before the British Parliament to be passed into an Act.

Mr. Vithalbhai Patel was elected the first non-official President of the Assembly, and he helped rather than
hampered the working of the Constitution. In Bengal, when in 1926 the education budget was thrown out by the Swaraj Party, resulting in the serving of notices on various officers of the department who thus could not be paid their salaries, and in the unavoidable closing down of many educational institutions, the Council agreed to reconsider the budget demands and passed them without any opposition. In Madras, in 1928, the Justice Party Ministry could not have remained in power without the tacit co-operation of the Swarajist members. Thus the Party that entered the legislatures to wreck the Constitution settled down to work it except that it did not itself form the Ministry.

**Development of Ministerial Responsibility**

By 1930 there was again a reaction in favour of the Congress boycotting the legislatures; the Congress members resigned and withdrew from both the central and the provincial legislatures. The Liberals again got the chance of coming back to power and continued in power till the beginning of 1937. It will be interesting to study the working of the Montagu-Chelmsford reforms in these years in the provinces and at the centre with reference to certain specific points, e.g., (1) the relation of Ministers with the Governor, (2) the relation of Ministers to one another, (3) the influence of party on the Ministry, (4) the attitude of the permanent officials to the Ministry and the effect of the new system on the public services generally, (5) the control and supervision of the Secretary of State and of the Government of India over the provincial Governments.

The relations of Ministers and Governors may be described as generally quite harmonious. Governors as a rule were helpful to their Ministers, and seldom, if ever, tried to over-rule them. In Bengal, between 1921 and 1936, it is difficult to refer to a single instance when there was any serious misunderstanding between Governor and Minister. The first Ministry has to its credit the
difficult and democratic Calcutta Municipal Act of 1923, by which the Corporation of Calcutta was handed over to popular control and official check or supervision was reduced to the minimum. The resources and the executive machinery of the Corporation of Calcutta were captured by the Swaraj Party and exploited to the full for political purposes and propagation of the Party principles. Important appointments including those of the Chief Executive Officer and Deputy Chief Executive Officers were distributed as rewards for political services to members of the Swaraj Party, but it was not possible for Government to interfere without violating the spirit of the Calcutta Municipal Act, and Government not only did not interfere but approved some of these appointments which were subject to their sanction almost without objection. The political department of the Government had no reason to be pleased with these appointments, and would have preferred not to sanction them; but the Governor, appreciating the difficulty of the transferred departments in conforming always to the opinion of the police or political department, backed the Ministers in their policy of non-interference with the autonomy of the Corporation. The appointment of Mr. Subhas Chandra Bose as Chief Executive Officer, of Haji Abdur Rashid Khan as Deputy Chief Executive Officer, and of Babu Abinash Chandra Chakravarty as Assessor of the Calcutta Improvement Tribunal, may be cited as instances. Throughout the history of the administration of the Corporation of Calcutta under Dyarchy, there were several occasions when Government interference regarding appointments, distribution of contracts, and management of the primary schools by the Corporation, could have been fully justified. But Government always preferred to err on the side of leniency and tried to uphold the autonomy of the Corporation even at the risk of being adversely criticised by a section of the public, the Government of India and the Secretary of State. This would not have been possible
but for the help and co-operation of the Governor and of the reserved side of Government. It was only when the Corporation began to indulge in open eulogy of political murders and pursued the policy of appointing persons of doubtful ability and questionable character as teachers of primary schools, and when it was discovered that some of these schools were being utilised for propagation of anti-British feeling and anti-Government slogans, that suggestions were made for more strict Government control, and if necessary, for supersession of the Corporation. These measures were seriously urged from 1930 to 1933 by the police department and the Central Government in the interest of law and order, because the political atmosphere in Bengal, as in the rest of India, was greatly disturbed by the civil disobedience movement and political assassinations. The Ministry was quite prepared to discharge its responsibility in maintaining peace and tranquillity in the province, but did not subscribe to the view that supersession of the Corporation would be conducive to that end. On the contrary, according to the Ministry, it would have alienated the sympathy and support of the educated Indian community from Government at that critical moment, and their action would have been interpreted as an attempt to suppress local self-government and re-establish official control over the civic administration of the second city in the Empire. Educated Bengal would have taken it as a serious infringement of their civic rights and an insult to the whole intelligentsia of the country, so that instead of improving the political atmosphere supersession of the Corporation would have done great harm. In this view the Ministry was fully supported by successive Governors, and the idea of superseding the Corporation was dropped. As an alternative, Government suggested a non-official committee with the concurrence and co-operation of the Corporation to enquire into the working of the Corporation generally so that both Corporation and Government might have an opportunity
of ascertaining facts and removing defects. But on political grounds the Corporation refused to co-operate, and Government had no alternative but to introduce a measure prohibiting the appointment, without the sanction of Government, of persons convicted of subversive offences and providing for surcharge against the sanctioning authority of any expenditure of Corporation revenues not authorised by the Act.

Another important instance in which the Ministry received the full backing of the Governor was the question of a grant to the University of Calcutta in 1922 to enable it to meet a deficit which was alleged to have been brought about largely by expenditure beyond its resources for expansion and maintenance of the post-graduate department. Public opinion was sharply divided, and this division was fully reflected in the Council. The majority of the supporters of the Ministry favoured the withholding of the grant unless the University was prepared to curtail its expenditure, publish its budget and assure Government that there would be no further new expenditure on the expansion of the post-graduate department till the finances of the University were set in order. The University was in imminent danger of being forced to close down, unless Government agreed to come to its rescue. The University was, however, reluctant to accept a conditional grant as that would have involved, in its opinion, an infringement of its autonomy, and according to it Government had no right to interfere, even indirectly, in the administration of the University. The Governor was its Chancellor. He was anxious to uphold its dignity, prestige and independence, but he appreciated the difficulty of the Ministry in agreeing to a subsidy in the absence of some assurance how the money would be spent, and so supported the Ministry without allowing it to interfere unduly in the affairs of the University.

From the beginning of Dyarchy in Bengal, there was a natural desire on the part of the Ministry to
Indianise the teaching appointments in the Calcutta Medical College and in the Campbell Medical School, as well as to throw open some of these appointments to members of the medical profession amongst whom there were many eminent physicians and surgeons. This policy could not be given effect to without releasing some of the posts hitherto reserved for the officers of the Indian Medical Service. Here the Ministry had to fight vested interests, and it had very little support from the Surgeon-General and other superior officers of the department. The Director-General of the Indian Medical Service had obligations to members of the Service, of which he was the head, and was expected vigilantly to guard its interests. It was difficult to count on the sympathy of Whitehall unless one was powerfully backed by the Governor-General and the Governor. It must be admitted, however, that in this policy of Indianisation of teaching appointments in medical institutions, and appointment of members of the independent medical profession as visiting surgeons and physicians, and later from 1932 onwards in their appointment as professors and teachers in the Medical College and in the medical schools, the Ministry received all reasonable support from the Governor and co-operation from the Surgeon-General. This resulted in reduction of the number of Indian Medical Service officers serving in Bengal in civil employments and improvement in the prospects of Provincial Service Officers in relation to those superior posts; great opportunities were then offered to competent members of the independent medical profession to hold teaching appointments in medical institutions.

The terrorist outrages in Bengal, between 1930 and 1934, had an adverse effect on the entire administration. Officers had to take special precautions for their safety, and their movements were greatly restricted. A large number of Bengali youths were arrested under the Criminal Law Amendment Act and the Terrorist Outrages Act, and detained indefinitely. Dacca, the principal city and centre
of education in Eastern Bengal, was the scene of regrettable
incidents including the murder of the Inspector-General
of Police at the gate of the Government Medical School.
About 21 students of the institution were suspected of
sympathy with terrorist conspiracies and some of them to
be actively implicated in them. The Superintendent of
the school proposed that they should all be rusticated.
The Minister in charge of the medical department con­sidered it unreasonable to punish so many students merely
on suspicion or on police allegations. The Surgeon-
General and the Secretary of the local self-government and
medical department, a European I.C.S. Officer, strongly
supported the proposal. The Superintendent, who was
also the Civil Surgeon of Dacca, was a senior I. M. S.
officer and a good disciplinarian. The police department
urged drastic measures. The Governor, however, supported
the Minister, and the proposal was dropped. Instances
can be multiplied to show that the Ministry invariably
received the full backing of the Governor on many critical
occasions, and that averted constitutional crises.

In this connection, it should be noted that in some of
the provinces Ministers felt that they were not being
taken into confidence on all matters, and some Governors,
at least in the earlier stage of Dyarchy, continued to hold
separate meetings of the Executive Council and the
Ministers. Sir K. V. Reddy, who was Minister in Madras,
and Sir C. Y. Chintamoni, Minister of the United Provinces,
commented on this before the Muddiman Committee. In
Bengal, there were only joint meetings during the first
three years; then the system of holding separate meetings
was revived, but it was finally dropped in 1931. Ministers
and Members would note on all the original files circulated
to them before any important matter was brought up for
decision at the joint meeting. It is, however, to be noted
that some cases of the political and police department
were disposed of between the Member in charge of that
department and the Governor unless they involved
important questions of policy which might come up before the legislature for discussion and criticism or require new expenditure. At least from 1931 onwards, the Bengal Ministers never felt that important questions affecting the reserved side of Government were really kept away from them. Cases involving new expenditure were always placed before the joint meeting for decision. In Bengal both sides of the Government tried to share each other's responsibility without any distinction or reservation.

Ministers did not function on the principle of joint responsibility but as individuals responsible to the House, though there were occasions when a Minister resigned because his colleague decided to go out on a political or administrative issue. Sir C. Y. Chintamoni resigned his office of Minister of the United Provinces on the ground of disagreement with the Governor over an appointment; his colleague Pandit Jagatnarayan resigned along with him. On the contrary, however, there are several instances when individual resignations did not involve dissolution of the entire Ministry, which was reconstructed by the appointment of new Ministers. This happened in Madras, when two of the Ministers resigned on the question of co-operation with the Simon Commission in 1927, and also in Bengal. The Hindu Minister in Bengal resigned in 1930 on the issue of the Bengal (Rural) Primary Education Bill and the Ministry was reconstructed by the appointment of a new Hindu Minister. But generally the relations amongst the Ministers were quite harmonious, and they often tried to pull together and except on extreme communal questions were seldom divided amongst themselves. In the Punjab and in Bengal, where communal questions were often acute, Ministers could stand united even against extreme communal pressure and act as a Cabinet. Hindu feeling in Bengal about political prisoners and Sikh and Hindu feeling in the Punjab over the Gurudwara problem, which was the main inspiration of the Akali agitation in the
province, often ran high. The Hindu and the Sikh Ministers in these two provinces, though subjected to severe communal pressure, worked in close co-operation with their Moslem colleagues and the European and Indian members of the Executive Council.

The position of the Party in power varied from province to province. In Madras, the Justice Party was well organised and systematically followed the lead of the Chief Minister, an office created not by Statute or official recognition but by convention, and accepted both by Party and Governor. It was a party formed with a view to fight the Brahmins and to secure political power and influence for the non-Brahmins. The policy of the Party was influenced accordingly, and the Ministry did its best to consolidate its position by the distribution of patronage and by giving appointments to non-Brahmin candidates. This policy was quite successful in increasing the influence and cohesion of the Party, although gradually it produced discontent in the Party itself, leading to the secession of some of its members by 1928 who formed themselves into the Unionist Nationalists. This undermined the influence of the Party and made the Ministry in 1928 more dependent on the official bloc than on its own strength. The Ministry in Madras, however, tried throughout to control the Party instead of yielding to its extravagant demands. The success of the Justice Party Ministers in Madras was largely due to the influence and personality of the “Chief Ministers”, the Raja of Panagal and later the Maharaja of Bobilli.

In Bengal, the party system in the proper sense of the term did not develop till after the introduction of the 1935 Act. Most of the supporters of the Ministry were their personal adherents, and they seldom acted on party principles. An attempt was made in the first Council to consolidate the supporters of the Ministry, Hindus, Moslems, and Europeans, through the membership of a common political club, known as the Constitutional Club,
where the members of the Cabinet and the supporters of Government used to meet and discuss freely legislative and administrative problems. The budget as introduced in the Council and important schemes for the expansion of education, irrigation, sanitation, and industries in the province were usefully considered in the Constitutional Club, an admirable plan for the growth of normative constitutional conventions. But this system was short-lived and did not survive the first Council. In the second Council, the majority of Hindus were Swarajists or persons who had Congress leanings and were under the direct influence of Mr. C. R. Das; the Moslem members were divided, and they supported or opposed the Moslem Ministers (there was no Hindu Minister) on personal grounds. Thus, the attempt to build up a political party on non-communal basis by the Ministers did not meet with much success, although the Opposition was well organised and was composed both of Hindus and Moslems. The supporters of the Ministry, with rare exceptions, did not try to bargain for their votes. It has to be observed, however, with regret that the process of wrecking and working Dyarchy provided an ample opportunity for political corruption, and charges and counter-charges of such corruption were freely made by both sides. Fortunately, it was a passing phase in Bengal parliamentary life and disappeared as soon as the game of Ministry baiting was over with the withdrawal of the Swaraj Party from the legislature in 1930. In the Legislative Councils of other provinces, except in the Central Provinces, the Ministries had comfortable margins of votes in their favour, and there was not much room for their supporters to bargain.

The attitude of the permanent officials to the new Constitution was on the whole helpful. They kept aloof from party politics. The changes in the political condition of the country brought about by the Reforms of 1919 were considerable. For the first time the electorate was invested with political power, and it realized
its ability to influence, though in a limited sense, the administration of the country. The budget of the transferred departments had to be passed by the House; the Governor had no right to certify it as he had of the reserved departments, but in case of the total rejection of the budget he could sanction only that amount which was essential to keep the departments going. Politicians came into power as Ministers through the ballot box and support in the legislature. They were seldom men with administrative experience, though they often possessed political imagination and a general knowledge of the problems of the country. But Ministers had their political commitments and could not always act with the same independence as members of the permanent services, who were not merely officers of Government but were also administrators, accustomed to act on their own initiative and responsibility. Members of the permanent services were trained under an entirely different tradition from that of parliamentary democracy, and one should not have been surprised had they shown some intolerance for criticism of Government policy or Government action and considered meetings of the Legislative Council as a waste of time and energy or were inclined to object to some of the proposals of Ministers as administratively unsound. But, on the whole, the permanent officials showed much greater elasticity of mind and adaptability to the new circumstances and environments than might have been expected. They were quite helpful to Ministers, appreciated their viewpoints and their difficulties as politicians, and did their best to implement the policy laid down by Ministers. Secretaries were, as a rule, loyal to Ministers. This was testified by several Ministers and ex-Ministers before the Muddiman Committee. Instances of Secretaries disagreeing with Ministers and of taking cases to the Governor for decision were extremely rare. Ministers generally disliked the practice of Secretaries seeing the Governor on departmental
business and the suspicion that the interview was being used to report matters over the heads of Ministers was seriously entertained in some cases, but it is difficult to say how far the feeling was justified. Cases of honest difference of opinion between Ministers and Secretaries were mostly settled through personal discussion, and the intervention of the Governor was seldom necessary. In such cases, personal factors were always important, and much depended on the personality of the Governor, the Minister and the Secretary.

The Central Government’s Control

The Central Government’s control over the Provincial Governments may be generally divided into three categories, viz., financial, legislative and administrative. Under the Reforms Act of 1919, control under all these heads was considerably relaxed but by no means withdrawn. The control was exercised by the Central Government in most cases on their own behalf and in some cases on behalf of the Secretary of State for India. It will, therefore, be wrong to assume that the provinces under the Montagu-Chelmsford reforms were granted effective autonomy. All that can be said is that under the Reforms Act of 1919 there was greater decentralisation of power and responsibility, and the control or direction exercised by the Central Government was always in the nature of advice rather than mandate. In practice, however, the provinces were still under the triple control of the Centre, though they were allowed a limited freedom in certain matters.

The financial arrangement between the Central and the Provincial Governments before the Reforms was based on a system under which the Central Government shared the proceeds of certain heads of revenues with the Provincial Governments on the principle of estimated needs of the provinces, the Government of India disposing of the
surplus. This system may be described as one of "divided heads", and it necessarily involved greater control of provincial finance by the Government of India. It was abolished by the Government of India Act of 1919. The scheme introduced was that certain heads of revenue which were more of a local nature such as land revenue, irrigation, alcoholic excise, forests, court fee stamps, registration fees, etc. were allotted entirely to the provinces, while the Government of India retained salt, customs, stamp duties, income-tax, receipts from railways and from posts and telegraphs, etc., revenues which were more of an all-India character. The Provincial Governments were also allowed to raise taxes from certain sources mentioned in the schedule of the Government of India Act, and these came to be known as scheduled taxes; the residuary power of taxation remained in the hands of the Government of India. The fiscal relations between the Central Government and the Provincial Governments were laid down in the rules made under the Act. These rules were known as the Devolution Rules. The new taxes which a province might levy were not specified in these Rules. Previous sanction of the Governor-General in Council imposing new taxes, (except those mentioned in the schedule) or taxes affecting the public debt of India or the customs duties or any other central tax, was necessary under the Act. The Devolution Rules also required the Provincial Governments to make fixed annual contributions to the Central Government—contributions which in case of emergency could be increased with the sanction of the Secretary of State. In fact, however, these contributions were never enhanced; on the other hand, they were abolished in 1927-28. Though with the establishment of responsible government in certain spheres of provincial administration the control over the expenditure on the transferred services had definitely passed over to provincial legislatures, the Secretary of State did not completely divest himself of responsibility for such expenditure. It is to be noted
that no proposal for appropriation of funds in a province could be made except on the recommendation of the Governor. The Devolution Rules required that previous sanction of the Secretary of State should be obtained for proposals of expenditure in respect of the transferred subjects before they were included in the demand for grant, such as for the creation of permanent appointments normally held by members of an all-India Service.

In the reserved departments the expenditure was under the control of the Secretary of State who had relaxed his authority by delegation of powers conferred on him by the Act. This delegation used to be made by executive orders in the shape of a Provincial Audit Resolution. Here also the pay and allowances of the all-India Services, and other expenditure such as the expenses of Governors, the revision of establishments involving an annual expenditure on irrigation and other public works estimated to cost more than Rs. 50 lakhs, were subject to the sanction of the Secretary of State. The Government of India in practice were the controlling authority, and they forwarded the proposals of the Provincial Governments to the Secretary of State with their recommendations and criticisms. Under the Government of India Act of 1919, it was no longer necessary to submit the provincial budgets to the Secretary of State for sanction before they were presented to provincial legislatures, but the Secretary of State controlled provincial solvency by controlling the provincial borrowing capacity. The provinces after 1920 were granted the privilege of raising loans in the market instead of borrowing through the Central Government as they used to do before. But no loan could be raised by any Provincial Government under the Act of 1919 outside India without the sanction of the Secretary of State and within India without the approval of the Government of India, and their borrowing powers were limited to certain specified purposes, e.g., famine relief, capital expenditure on works of lasting
public utility, etc. The Central Government could also control the finances of provinces by insisting on the maintenance of certain minimum balances to their credit beyond which they were not allowed to withdraw, and this gave an indirect, though very effective, control to the Government of India over the expenditure of provincial finance.

In matters of legislation, previous sanction of the Government of India was required under the Statute before a Bill could be introduced in the provincial legislature, with the exception of a small specified class of legislation. This provision applied not merely to provincial Bills but also to the amendments of such Bills.

In the sphere of administration, though the Central Government had no direct power of interference with the transferred subjects in the provinces, they still retained the power of controlling the all-India Services attached to the transferred departments and had the statutory right of being supplied with information by the provinces regarding the transferred subjects, as in the case of reserved subjects, and the Central Government’s right of maintaining a general control and supervision over the entire administration of the country left the authority of that Government to some extent unimpaired and effective, if they wanted to exercise such control. In practice, however, the Central Government never, as a rule, interfered with the administration of the transferred departments. For instance, even when the policy of the Calcutta Corporation and some other local bodies in Bengal became actively anti-British and the Government of India on administrative grounds would have preferred action being taken against those bodies by the Provincial Government, they only asked for information and indicated the danger of a policy of non-interference regarding the affairs of such local bodies, but they never suggested action against them and left the matter entirely to the discretion of provincial Ministers who had to decide on their line
of action after taking into consideration public opinion and the views of their supporters in the legislature.

As regards the reserved departments, the Central Government tried to maintain a close supervision over such subjects as police, the functioning of the criminal intelligence department, and the maintenance of law and order generally in the provinces. The central Intelligence Department also acted in co-operation with the provincial intelligence branch of the C.I.D.

In addition, the Government of India acted as the co-ordinating authority amongst different Provincial Governments regarding the management and control of several institutions and organisations in which the provinces were jointly interested such as the Government of India Research Institute, the Agricultural Institute at Pusa and Coimbatore, the policy of development of communications as outlined by the Road Board. After the introduction of the Reforms, the Government of India organised conferences of provincial Ministers for the co-ordination of efforts and evolution of a uniform all-India policy in some of the transferred subjects, and this method proved very useful.
CHAPTER II

INDIA AND THE BRITISH COMMONWEALTH

The designation British Commonwealth of Nations is not of modern origin, but of modern application. The expression was used by the late Lord Rosebery in 1884. At present, the British Empire includes the self-governing units and the dependent parts. Great Britain and the Dominions form, within the Empire, a group known as the British Commonwealth of Nations. The expression Dominion owes its origin to the Colonial Conference of 1907, and it is “chosen as a means of distinguishing the parts of the Empire enjoying responsible government from the dependent Empire.”

Section 11 of the Statute of Westminster 1931 provides that notwithstanding anything in the Interpretation Act 1889 the term “colony” will not in future Acts include a Dominion or any Province or State forming part of a Dominion. The word Dominion means the following Dominions: the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland. The Dominion of Canada and the Commonwealth of Australia have federal forms of government; the Canadian provinces and the Australian States enjoy responsible government within federal limits, “the principles applicable to the Dominions in general normally apply to them also, whether in the sphere of executive government or legislation or judicature.” The Union of South Africa is a unitary State with a partiality for federal sentiment; the other Dominions are purely unitary States.

The British Commonwealth of Nations includes the mass of territories of the King which fall into “co-equal and autonomous sovereignties”. It is often used as synonymous with the term British Empire. The Constitution Act of the Irish Free State 1922 makes no distinction
between the British Empire and the British Commonwealth of Nations. But to understand the constitutional issues of the British Empire, the significance of the expressions British Commonwealth of Nations and Dominion must be grasped fully and effectively. The report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 declares in respect of the British Empire that “free institutions are its life-blood; free co-operation is its instrument; and peace, security and progress are among its objects.” This is applicable to the concept of the Commonwealth. It will be illogical to apply the above description to the dependent parts of the Empire, although a colony may, with the growth of conventions, assume the character of a Dominion. Sir Robert Borden describes more truly the British Commonwealth as an Empire-Commonwealth. This Commonwealth has developed not from design but through mutual trust and co-operation. The different units have diverse communities, but there is amazing unity in striking diversity and there is autonomous governance to the fullest extent within the continued bond of co-operation. It is, therefore, not true to say that “the British Empire of 1914 has now become the British Commonwealth of Nations,” nor would it be a correct juridical characterisation that the British Commonwealth may be regarded as “a League of Nations owing a single allegiance and possessing international relations that are still in a state of development.”

Characteristics of the Commonwealth

The characteristics of the Commonwealth are parliamentary government, the supremacy of civil power, the rule of law and the protection of racial and religious minorities. But the unity of the Empire is preserved in the following ways, as provided for in the preamble to the Statute of Westminster 1931:

(1) The association of the members of the British Commonwealth of Nations is free;
(2) members of the Commonwealth are united by a common allegiance to the Crown;
(3) any alteration in the law touching the succession to the Throne or the Royal Style and Titles shall require the assent of the Parliaments of the Dominions and the Parliament of the United Kingdom.

The supremacy of the Imperial Parliament is affected by the Statute of Westminster, but it is not deleted. The Parliament of the United Kingdom can enact law for the Dominions only at their request and with their consent. Even the Statute of Westminster was enacted in the Parliament of the United Kingdom at the request and with the consent of the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

Equality of status, so far as Britain and the Dominions are concerned, is said to be the root-principle. This equality of status presupposes that every Dominion Government is entitled to exercise every function of national and international right. The essential principle of the Empire-Commonwealth is "perfect autonomy of the parts and unity of the whole." It is obvious that the concept is contrary but not contradictory.

The Dominions may rank as sovereign States, but the unity of the Empire is not, and cannot be, ignored. It is true that before the Great War of 1914-18 the Dominions established their distinctive existence, but the bond of the Empire was pronounced. The Dominion negotiators might negotiate and sign treaties; they might have definitely established that in matters of commercial interest special treaties could be negotiated for any colonies which required them without damaging the interests of the other parts of the Empire, but Imperial unity was valued both in form and in spirit. The events of the War of 1914-18 brought about remarkable changes in the concept of Dominion Status. The Dominions were given direct repre-
sentation in the Imperial War Cabinet in 1917-18; they were represented in the Peace Conference, and they put their signatures on behalf of the Dominions whereas the British delegates signed for the British Empire. Sir R. Borden of Canada secured the great point that the treaty must be ratified for the Empire only after it had been approved by the Dominion Parliaments. The Dominions earned the right to be members of the League of Nations and also the right to stand for election as non-permanent members of the Council. The Dominions were granted the rank of distinct States under the Statute of the Permanent Court of International Justice (1920).

In course of time, the Dominions obtained further rights which threatened Imperial unity. The Imperial Conference of 1923 held that a treaty which affected one part of the Empire only should be signed by a representative of that part and should be ratified on its request. The Imperial Conference of 1926 clearly enunciated that treaties should reveal clearly for what parts of the Empire they were concluded and should be signed by representatives of those parts and ratified on the request of Governments of such parts as desired this to be done and that no part of the Empire might place upon any other part any active obligation without its consent.

The Position of India

Amongst the overseas possessions of the British Crown, there are territories which are not annexed to its dominions and those which are integral parts of the British Empire. Mandatory Powers under the League of Nations or Protected States are not properly speaking British territories. They are dependencies of the Crown but their inhabitants are not full subjects of the British Crown. The Protectorate, however, can be transformed into a Crown Colony through the increase of the extent of responsibility of the protecting Power in internal administration. In the British
territories, there is the classic distinction between settled and conquered or ceded colonies. Canada was partly settled and partly ceded; Australia and Newfoundland stood on the basis of settlement; South Africa was partly ceded and partly conquered; there was settlement and cession in respect of New Zealand. The Irish Free State stands in a special category.

India is partly ceded and partly conquered. It is the right of a settled colony to enjoy responsible government. The settlers carry with them the law of England, and they continue to enjoy all the public rights as subjects of the British Crown. The prerogative of the Crown towards them is limited as they are entitled to an elected assembly, legislating on all matters of domestic concern. A country conquered by British arms becomes a dominion of the King in the right of his Crown; it becomes subject to the Parliament of Great Britain. The laws of a conquered country remain in force until they are altered by the conqueror. Its inhabitants are rightless as against the Crown; the Crown may make what arrangements it pleases. Once the representative legislature is granted to a conquered colony, the Crown can no longer legislate or impose taxation by prerogative unless such power is reserved. Thus the distinction between a settled colony and a conquered colony disappears in respect of public rights and duties.

India occupies an anomalous position. It is not a colony in the British sense of the term; it does not stand in the list of Dominions. India stands as a distinctive unit of the British Empire; it is crawling towards membership of the British Commonwealth of Nations. The Imperial War Conference of 1917 resolved that the constitution of the Imperial Conference should be so modified as to permit India to be fully represented in the Imperial Conference of 1918. India took her place in the Imperial War Cabinet of 1917-18. The Conference of 1917 placed on record their view that “any readjustment of the constitutional relations of the component parts of the Empire, while
thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, and of India as an important portion of the same; should recognise the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations; and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.” The decision was definite, and India was recognised as an important portion of the Imperial Commonwealth. The Imperial Conference of 1921 did not follow the task of readjustment of the constitutional relations of the component parts of the Commonwealth. It was left to the Imperial Conference of 1926 to declare that the members of the Commonwealth were autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs. Although India earned full representation in the Imperial Conference, its decisions were evidently not meant for India’s benefit. The position is untenable, the more so when we find that India, on the same footing as the Dominions, was given a separate membership of the League of Nations in 1919 and a distinct place in the negotiation of the Treaty and its signature. India is given distinct representation on the Labour Organisation of the League. In the Peace Conference of Paris after the War of 1914-18, it was adjusted that Powers with general interests, viz., the United States, the British Empire, France, Italy and Japan were to attend all sessions and Commissions, and that Powers with special interests, including the Dominions and India, were to attend sessions at which questions concerning them were discussed. The policy of Lloyd George was formed after consultation with the Empire Delegation. This status was preserved in the mode of signature of the treaty of peace.
In 1941 through necessities born of the War India was represented in America by Sir G. S. Bajpai as Agent-General for India, a position nearly analogous to that of an ambassador. In 1941, Sir A. Ramaswami Mudaliar represented India in the British War Cabinet and on the Pacific War Council in London. Dominion Status is thus granted without the virtue of Dominion autonomy.

India, it is said, has the fiscal convention to fix its fiscal policy as desired by the Indian Government and legislature free from British control; it can purchase stores without regard to British interests; there is an Indian High Commissioner in London; there is need for ratification of international agreement in India. But important facts cannot be overlooked. For external purposes the Government of India is no more than an agency of the Government of the United Kingdom; for internal purposes the traditions of ministerial responsibility cannot work out within the framework of the present Constitution Act, unless the Governor-General or the Governor wills it so. The tragedy is that India sits in the Imperial Conference to fashion the status of the Dominions as a disinterested participant. That anomaly should go.

The promise of Dominion Status as the goal is neutralised by the utterances of Mr. Amery, Secretary of State for India, in the Commons and outside. His theme was propounded on many occasions, and it was this. England can look back with justifiable pride to the romance of past achievements; England has always looked forward to the day when India shall administer her own affairs and control her own destiny. Over a wide field responsible government exists in India. For the rest Great Britain is pledged to help India to attain as soon as possible after the war the same position of freedom and equality as is enjoyed by the Dominions. But England cannot forget her pledge to the minorities and to British interests in India. Moreover, internal unity, generally accepted as the constitutional framework upon which self-government must
rest, can only come by free agreement of those immediately concerned. He raised doubts in Indian minds when he emphasised the Balfour formula of distinction between the status and functions of the Dominions—a formula which did not receive confirmation in the Imperial Conference from 1926 to 1930. Accordingly, India patiently waits for an unqualified declaration from the British Government as to the status of India.

It is too late in the day to argue that the grant of responsible government could be withheld because of the differences of language, race and creed prevailing in India. Lord Durham’s recommendations in the nineteenth century were made in spite of all these differences in Canada which had practically led the movement for Dominion autonomy in the British Commonwealth. It is equally untenable that Dominion Status, to be effective, is to be achieved through evolution and cannot be attained by a stroke of legislation. The Irish Free State got it by an enactment and not by evolution. It is perfectly logical that the full stature of Dominion nationhood cannot be attained by a comprehensive Statute, essentially rigid. But India, at present, is far removed from Dominion Status, although it has the cloak of a Dominion as an international unit. If “there is nothing static about the British Empire”, India should not be denied opportunities of playing her part in the Commonwealth of Nations. “In labouring for our own country on the right principle”, wrote Mazzini, “we labour for humanity. Our country is the fulcrum of the lever we have to wield for the common good.” Indians are, therefore, impatiently searching for a solution of the Indian constitutional problems.

India and the Crown

It is held that the Crown is one and indivisible throughout the Empire and the Commonwealth. The Statute of Westminster, in the preamble, recites that
members of the Commonwealth are united by allegiance to the Crown. It is argued that the Crown being the treaty-making party for the Commonwealth, all Dominions are bound by the terms of all treaties. The Locarno Treaty of Mutual Guarantee 1925 provides that “the present Treaty shall impose no obligation upon any of the British Dominions, or upon India, unless the Government of such Dominion, or of India, signifies its acceptance thereof” (Article IX). That is in accord with the constitutional position of the Dominions. But the indivisibility of the Crown may be strictly construed so as to signify that with such reservation in a treaty the Dominions would be freed from positive obligations but would be bound passively. Accordingly, the advocates of Dominion autonomy suggest that the intra-Commonwealth relationship is cemented through personal union with the King and that the bond is that all the Dominions have the same King, the divisibility of the Crown being recognised in practical politics. The position is strengthened by the following factors: (a) the Statute of Westminster accepts the constitutional position recognised by the Imperial Conferences held in 1926 and 1930; (b) the freedom of the Dominions from control by Great Britain in the conduct of foreign relations; (c) the request and consent of the Dominions as conditions precedent to any Imperial Act extending to the Dominion.

It is significant to note that the Inter-Imperial Relations Committee of the Imperial Conference of 1926 definitely stated: “In our opinion it is an essential consequence of the equality of status existing among the members of the British Commonwealth of Nations that the Governor-General of a Dominion is the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in the Dominion as is held by His Majesty the King in Great Britain, and that he is not the representative or agent of His Majesty’s Government in Great Britain or of any Department of that Government.” The Conference
of 1929 recognised that it was not proper for the Crown to issue any instructions to the Governor-General as to reservation of Bills; he must reserve only on ministerial advice or on some other constitutional ground. The Conference of 1930 accepted this recommendation. The question of disallowance was obsolete. The position is this that the Dominion establishes itself in touch with the Crown and that the Crown is to act on the advice of the Dominion Ministers. The Statute of Westminster establishes the constitutional position of equality in external affairs where the Crown will be acting for the Dominion as distinguished from the Crown of the United Kingdom. All this points to the divisibility of the Crown. The same King has different facets; he acts on the advice of the British Ministers with regard to the United Kingdom and the dependent parts of the British Empire; he acts on the advice of the Dominion Ministry with regard to the said Dominion. “The whole aim and the whole result of the Conferences of 1926, 1929 and 1930” has been the substitution of the British Monarch for the British Government in the Dominions and the establishment of personal union with the King functioning at the will of the Dominion Government and as “a symbol and emblem of the unity of the British Commonwealth of Nations.”

The Commonwealth is based on “free association”. Though every Dominion must remain the sole judge of the nature and extent of its co-operation, it was believed that no common cause would be thereby imperilled, because the British Empire is “not founded upon negations” but on “positive ideals”. The British concept is an emphasis on expediency; the Continental view is one of absolute right. If a Dominion desires to secede, it would not be restrained by arguments of legalists. It is not a sound constitutional theory that drastic revision of structural organisation of the State should derive sanction from the constituent power of the Constitution Act. To change a monarchical into a republican form of government by
way of seceding from the Empire Commonwealth is a fundamental change which should not be adopted through constitutional forms. A comprehensive structural reorganisation should be effected with the assent of a constituent assembly, especially convoked for that purpose. Prof. Laski argues that it is better that such effort should be plainly revolutionary, because “atheism, after all, should not be preached from the pulpit of a cathedral”. It is, therefore, not a constitutional issue if the Statute of Westminster gives a member of the Commonwealth the right to secede. The preamble shows that such a right cannot be enjoyed by unilateral action; it requires ratification by the Imperial Parliament. But if a member feel the urge to secede, it is better that he should revolt and secede rather than submit a measure of secession, duly passed by the Dominion Parliament, for the assent of the King who, on the basis of Dominion conventions, will not refuse assent, if pressed by the Ministry. The argument of General Smuts that the King could not, with due regard to his duty, assent to a measure of a Dominion Parliament seeking to destroy the connection with the Crown is undoubtedly theoretical; the contention of the school of Hertzog that the Dominion has the right to secede is not constitutional as the Commonwealth is based on the ideal of “free co-operation”; and it is not governed by speculative and abstract principles. Prof. Keith believes that the Statute of Westminster does not give the right to secede, but he writes: “If the Irish Free State should determine to declare itself a Republic, the British Government would not make war to prevent it.”

It is, however, no longer open to dispute that the effect of the Status of the Union and the Royal Executive Functions and Seals Acts, which were passed in South Africa in 1934, is to give validity in law to the triple doctrine of—

(1) The divisibility of the Crown,
(2) The right of neutrality, and
(3) The right of secession.
The right of secession and neutrality was in fact recognised by Mr. Neville Chamberlain when the Treaty of 1938 released Eire from obligations to Britain in case of war. The Dominions feel handicapped in the matter of severing allegiance to the Crown in external affairs primarily for the reason that secession can only be imperfect if it is not recognised by the British Parliament. In British law, all persons born within His Majesty's dominions and allegiance are British subjects. The Irish Free State could by the Irish Nationality and Citizenship Act 1935 sever allegiance as the bond of connection between Irish nationals and the Crown. But Irish citizens outside the Free State are British subjects. "The Dominion laws outside Dominion territory though given extra-territorial effect by the Statute of Westminster 1931, Section 3, cannot override competing British legislation. Thus secession can only be completed by Imperial action."

The authority of the Crown over India was formerly exercised through the East India Company. Under the Government of India Act 1858, the government of India was transferred to the Crown acting through a Secretary of State. Queen Victoria was proclaimed as Queen Empress of India in 1877 under the Royal Titles Act 1876. Under the Government of India Act 1919 the government of India was vested in the Governor-General in Council, but the Central Government continued to be an agent of the Secretary of State as he had powers of superintendence, direction and control over all acts, operations, and concerns which related to the government or revenues of India. The controlling influence of the Secretary of State instals the authority of the British Government in Indian affairs, and to that extent it waives the prerogative of the Crown. The dominion and authority of the Crown in India is derived partly from the Imperial Statute and partly from prerogative. The prerogative of the Crown, unless expressly limited by Statute, is as extensive in the colonial possessions as in Great Britain. India being a conquered
country, statutory rights are granted by the grace of the Crown. The property and revenues of India must be deemed to inhere in the Crown, subject to specific statutory enactment.

The need for creation of autonomous provinces to be federally united under the Crown inaugurated the return to resumption of powers by the Crown. Under the Government of India Act 1935 the government of India was declared to be exercisable by His Majesty the King-Emperor of India, except in so far as may be otherwise provided by or under the Act or as directed by His Majesty. Clause 2 of Section 2 of the Act declares that the rights, authority and jurisdiction belonging to His Majesty the King-Emperor of India include any rights, authority or jurisdiction heretofore exercisable in or in relation to any territories in India by the Secretary of State with or without his Council, the Governor-General with or without his Council, any Governor or local Government.

Under the new Act, the Governor-General of India and the Governor of a province are appointed by His Majesty by Commission under the Royal Sign Manual. The Governor-General of India or the Governor of a province is not a Viceroy, that is, he is not a general agent of the Crown with power to exercise all the prerogatives of the Crown; he has such powers and duties as are conferred or imposed on him by or under the Act or such other prerogative as may be assigned to him. The powers and duties may be ample and adequate, but nevertheless "definite, enumerated and defined." In the matter of appointment the Dominion practice is partly accepted, but the transformation of the Governor-General into a purely titular dignity which is in consonance with Dominion autonomy has yet to take place in India. The Governor-General of India can be and is appointed as "His Majesty's Representative" for the exercise of the functions of the Crown in its relations with the Indian States. His Majesty's Representative will have such powers and functions as His
Majesty may be pleased to assign to him. "Viceroy" is a term of courtesy and not of law, and it is not applicable to any one who is not a personal representative and a general agent of the Crown. Section 3 of the Government of India Act 1935 recognises this, although the Governor-General of India and the Crown's representative are allowed to use the title and style of Viceroy.

The resumption of the government of India by the Crown may lead unwary critics to believe that the control of the Imperial Parliament is definitely curtailed, if not eliminated, pursuant to Dominion precedents, and that India may progress along the lines of responsible government by waiving the influence of British Ministers. Section 14 read together with Section 54 of the Constitution Act of 1935 provides for the arrangement that the Governor-General or a Governor is under the general control of the Secretary of State; in other words, the responsibility is to His Majesty's Government in Great Britain and to Parliament. In the case of a Governor, the chain of responsibility includes the Governor-General. Section 13 together with Section 53 provides that the Instruments of Instructions to the Governor-General and the Governor are to be clothed with Parliamentary sanction. The issue of the Instrument of Instructions by way of royal prerogative is taken away, and the authority of the Imperial Parliament is asserted to the prejudice of the inherent rights of the Crown and of the flexibility of the Indian Constitution. Section 308 indicates the procedure for amendment of certain provisions of the Act, and it invokes the authority of Parliament in all matters; the Secretary of State acts as the channel. Section 309 points out that any power conferred by the Act on His Majesty in Council shall be exercisable by Order-in-Council which is to be issued with the sanction of Parliament and not in virtue of the royal prerogative. Section 110 keeps the power of the Imperial Parliament to legislate for British India or any part thereof unaffected; the legislatures of India are forbidden to make
any law affecting the Sovereign or the Royal Family or the succession to the Crown, or the sovereignty, or dominion or suzerainty of the Crown in any part of India, or the law of British nationality or the Army Act, the Air Force Act or the Naval Discipline Act or the law of Prize or Prize Courts; the legislatures cannot abolish the prerogative right of His Majesty to grant special leave to appeal from any court, subject to Section 206 (2). It is only Section 108 which broadens the competency of the legislatures to legislate with the previous sanction of the Governor-General or the Governor in his discretion. The said section provides that the Governor-General can give sanction to any Bill which is repugnant to any provisions of any Act of Parliament extending to British India, but the Instrument of Instructions asks him to reserve such Bill for "the signification of our pleasure." Here "our pleasure" is the pleasure not of His Majesty alone but of His Majesty in Council.

The supremacy of the Imperial Parliament in respect of India is so pronounced that the growth of Dominion conventions in the matter of assertion of the autonomy of the Dominion Parliament is extremely narrow, and accordingly the scheme of making the Government of India responsible to the Crown, as enunciated in the Non-Party Leaders' Appeal to the British Prime Minister, Mr. Churchill, in January 1942, gathers force for accelerating the evolution of responsible government in the Dominion of India. Dominion Constitutions have evolved on the lines of responsible government not by virtue of Imperial Statutes or Orders-in-Council but by the force of conventions and political wisdom of the people, and also by the use of the common law and especially that part of it which deals with the King's prerogative. The kingship is the basis of our constitution and is really part of our constitutional life, because the government of India is vested in the Crown. If the Government of India be really responsible to the Crown without the overriding control
and directions of the Secretary of State; if there is exaltation of the office of India’s High Commissioner in London on the lines of the Dominion High Commissioners, if His Majesty follows the constitutional practice of making the Government of India responsible for their acts without the intervention of the British Cabinet, thereby making the responsibility to the Crown real and effective, the evolution of Dominion autonomy in India becomes possible which may be sanctioned by an Imperial Statute after the War in the same way as the Statute of Westminster 1931 gave legal effect to the constitutional usages of the Dominions and some of the decisions of the Imperial Conferences of 1926 and 1930. The present Governor-General’s Executive Council has this statutory advantage that its majority decisions will be binding except in the case of matters threatening the security of the country. The Governor-General may help the evolution of responsible government if he behaves as a Dominion Governor-General, and makes the Executive Council responsible for their actions and if he does not exercise his powers of disallowance, certification and reservation without the advice of his Council unless he feels that public opinion swings in a different direction. That was how Dominion autonomy was developed, and this should be the way for India.

The British Commonwealth is a non-national designation. To put it in the language of Prof. Zimmern, the adjective British is a purely political adjective; it is not an adjective of race; it is not an adjective of nationality; it is not an adjective of territory. A Dominion is not the same thing as a nation; it negates the theory of the nation-state. It is a political entity which brings together different kinds of people, different nations, different religions and different cultures. The concept of Dominion Status for India takes its stand on the basis that the State by virtue of its fertilising and regenerating process will produce a nationality to which we owe political duties. It denies
the postulate that a nationality should constitute a State. India needs this political theory of nationality. It is in the cauldron of the State that the fusion should take place. The evolution of Dominion autonomy in India will contribute to the cohesion of the different elements of the Indian nation. Lord Acton rightly observed that the theory of nationality with emphasis on diversities is a retrograde step in history, and hence the concept of Dominion nationhood which labours for common political action is a crying need.

The relations between the Dominions and India are, however, not happy. The principle of inter-Imperial equality can hardly work with satisfactory results if the colour bar is maintained on racial grounds. The Imperial Conference of 1917 induced the Dominions to recognise that "they may be subjected at pleasure by the Indian Government to similar conditions of exclusion to those which they impose". The Imperial Conference of 1918 recognised that "Indians lawfully domiciled in the Dominions should be permitted to bring into them their wives and minor children assuming that such marriages were de facto monogamous." The Conference of 1921 further accepted the principle that Indians lawfully resident should not be denied the ordinary right of citizenship. South Africa under the leadership of General Smuts has opposed the extension of political rights to Indians and pursued a policy of colour exclusion to safeguard the Union against the competition of Indians in the economic field. After the Imperial Conference of 1923, a Class Areas Bill was passed to segregate Indians in urban areas. Under the agreement of 1927 the Governments of South Africa and of India recognised that the Union had the right to use all just and legitimate means for the maintenance of Western standards of life. The Government of India maintain an agent in the Union. Prof Keith points out that "Canada unquestionably affords better treatment under treaty and informal agreement to Japanese than is
granted to Indians. Japanese up to 150 a year newcomers are permitted entry, while Indians are entirely refused entry save for mere visits.” In British Columbia Indians are excluded from the federal franchise. In the Commonwealth of Australia, the position of Indians is better; the franchise is accorded to them. New Zealand excludes Indians from the franchise; the Irish Free State maintains “the British doctrine of freedom of entry, and no discrimination save that the franchise is restricted to Irish citizens.” The problem is made difficult for the League of Nations as immigration is considered essentially a matter of domestic jurisdiction.

In the Union of South Africa Indians are treated as outcastes, and they are considered unfit to mingle their blood with that of Europeans, “many of whom have some strain of negro blood.” It is accepted that peoples between whom marriage is forbidden on the score of racial inferiority cannot remain members of the same Commonwealth. “The Union law refuses to treat as a wife, according to law, a woman merely married in India by Hindu rites which admit polygamy”.

The Trading and Occupation of Land (Natal and Transval) Bill 1943, approvingly considered by the South African Parliament, worsens the position. The Bill takes away the existing rights of Indians who own and occupy property. The Bill originated in an intensive agitation fanned by the city council of Durban in league with the White Rate-Payers’ Association. The intention of the Bill is to peg down the acquisition of properties by Indians from Europeans in Durban, confining them to water-tight compartments. It imposes segregation and casts a slur on the honour of India. The Bill violates the Cape Town Agreement between India and the Union. The Durban City Council has consistently refused to provide housing needs for middle class Indians in the past 25 years. Since 1922 the Durban Council has not sold a single residential
site to Indians, while hundreds of acres have been sold to Europeans from its own unalienated lands.

The Government of India through their High Commissioner made urgent representations to the Union Government. They suggested that without restrictive legislation the situation could be met by bringing the pressure of public opinion to bear upon seller and purchaser alike. In a press statement it was revealed that while fully appreciating the Union Government’s declared intention to undertake immediately an enquiry into housing sites and civic amenities for Indians in Durban, the Government of India could not ignore the apprehensions aroused in Indian minds by the extension of statutory restrictions upon the Indian community. Opinion in India unanimously protested that the legislation was repugnant, unnecessary and inopportune. With that opinion the Government of India are in full accord. There is thus a demand in India for the application of the Reciprocity Act to South Africa. The Act authorises the Government of India to subject foreigners to the same disabilities as Indians suffer in those foreigners’ countries. Restrictions on Indians in South Africa are imposed by law, by local regulations and social custom. General Smuts describes his Government as His Majesty’s Government in the Union of South Africa, and as such Indians born in South Africa should not, in his opinion, look to India for help. But until Indians get full rights as citizens, the moral obligation for their welfare with rest with the Indian Government.

All these controversies are not helpful for the strengthening of the British Commonwealth with India as one of its constituent units. Prof. Keith urges with emphasis that “differentiation against British Indians in such territories, is clearly a national wrong which must render loyalty to the Crown ultimately impossible, and the redress of these grievances is an essential work of statesmanship.”
The Interim Arrangement

The War broke out in September 1939, and declarations from the British authorities poured in that no statutory changes in the Constitution were possible, whereas the need for Indian co-operation was great for the interim arrangement during the war. The Governor-General made a declaration on the 18th of October 1939 that His Majesty's Government was ready to establish “a Consultative group”, representative of all major political parties in British India and of the Indian provinces, over which the Governor-General would preside, which would be summoned at his invitation, and which would have as its object the association of public opinion in India with the conduct of the war and with questions relating to war activities.

The Indian National Congress rejected the plan; the Muslim League asked for complete clarification of the plan and authorised its President to give assurance of co-operation, if he was fully satisfied. The British Government were only eager to explore every possibility “within the ambit of the Government of India Act”. On the 2nd of November 1939 Lord Linlithgow issued invitations to Mahatma Gandhi and the Presidents of the Congress and the Muslim League “with a view to putting forward, in agreement, proposals which could be considered for some expansion of the Governor-General's Council at the centre.”

The basic principles of the proposals were the following:
(a) the expansion of the Governor-General's Executive Council by the inclusion of representatives of important groups would be quite distinct from the much wider question of constitutional reform at the end of the war;
(b) the arrangement would be within the general scheme of the existing law;
(c) the position of the new Councillors appointed from political parties would be identical, in privileges and obligations, with that of the existing members;
(d) it would be an ad hoc arrangement for the period of the war.
The Congress refused the offer as it was "unfortunate and wholly unsatisfactory." They complained of India being declared a belligerent country without the consent of the Indian people; they asked for clarification of war aims and the method of their application to India, without which it was impossible for them to consider any subsidiary proposal; they propounded that the Indian people must have the right of self-determination in framing their own constitution through a constituent assembly without external interference. The Congress position was put forward in a statement issued by the Working Committee on the 14th September 1939, and such a stand was endorsed by the All-India Congress Committee on the 10th of January 1940. The Governor-General tried to soften public criticisms by stating that the objective of His Majesty's Government for India is full Dominion Status—Dominion Status, too, of the Statute of Westminster variety, that they were ready to expand the Executive Council of the Governor-General by the inclusion of a small number of political leaders, and that they would spare no effort to reduce to the minimum the interval between the existing state of things and the achievement of Dominion Status. The old contention that full responsibility at the centre must be postponed because of inherent divisions and difficulties was not harped upon; there was an invitation to face those difficulties and to find out a solution of them.

On the 7th of August 1940, the Governor-General made a statement indicative of sympathy with the national aspirations of the Indian people. The statement related to the expansion of the Governor-General's Council, the establishment of a War Advisory Council with the representatives of Indian States and different interests in British India, the setting up, after the conclusion of the war, with the least possible delay, of a body representative of the principal elements in India's national life in order to devise the framework of the new constitution which should originate from
Indian conceptions of the social, economic and political structure of Indian life, and the attainment by India of free and equal partnership in the British Commonwealth.

The Governor-General on the 20th November 1940, in his address to the central legislature, said that “the major political parties concerned are not in present circumstances prepared to take advantage of the opportunity offered to them.” The British Government move very slowly, and although there are noble declarations that the British mission in the world is not to govern but to help other people to govern themselves, it often becomes difficult to find their liberalism flowering at the right moment. Before the War broke out, they refused to listen to any demand for changes of the Government of India Act in the matter of federation; when the War was declared, they showed extreme short-sightedness in refusing to transfer power to Indian hands; when the War was on the point of enveloping India, they showed some anxiety to placate Indian opinion without parting with real and effective power. The policy of distrust provokes discontent which widens with the process of time. It is unfortunate that the British Government passed through various stages of negotiation and bargaining without visible effects.

The Governor-General’s August offer in the matter of expansion of the Executive Council at the centre had no constitutional significance; it was more or less an administrative arrangement to pursue war efforts more effectively. Mr. Amery gave us definitely to understand that “the new members of the Viceroy’s Executive Council will be heads of great departments of the State.” There was no question of collective responsibility, but it was expected that “their individual responsibility and collective influence will be something very real and far-reaching.” Lord Linlithgow, however, trusted that “in this process new bonds of union and understanding will emerge and thus pave the way towards the attainment by India of that free, equal partnership in the British Commonwealth which remains the
proclaimed and accepted goal of the Imperial Crown and British Parliament,” but it was authoritatively pointed out that the August offer “prejudiced no constitutional issue” and it “committed no one who co-operated in it to anything beyond his individual co-operation in the war effort.”

The Governor-General’s offer which conceded only one principle, that the Executive Council would consist of a majority of Indian members, was rejected by the Congress which asked for a provisional National Government immediately at the centre commanding the confidence of the elected elements in the central legislature and working in the closest co-operation with the responsible Ministry in the provinces. This was expressed in a resolution by the Congress Working Committee at its Delhi session on the 7th of July 1940. The Muslim League asked for more places than the Governor-General was prepared to concede, and it also demanded guarantees against the Congress changing its mind and joining the Council later without an agreement with the League. The Hindu Mahasabha put its claims high as a rejoinder to the Muslim demand.

In view of the Congress objection and the hesitant attitude of other parties, the Governor-General suspended his plan of expansion of the Executive Council and the formation of a War Advisory Council. But in July 1941 the August offer of the Governor-General was given effect to as in view of the increasing pressure of war, the Governor-General could not, in justice to India herself, postpone any longer, because of the absence of support from the great political parties, the creation of additional departments in the Executive Council. The basic principle of the August offer was “the desire to associate political leaders of India more directly with the Government of India during the war”, but it was changed, or rather frustrated, as the expansion of the Executive Council was in effect “administrative convenience through the appointment of individuals of real standing and importance in the country.” The Governor-General got no help from political parties.
A National Defence Council was also established in July 1941 to bring about a liaison amongst the Central Government, the Indian States and the Provincial Governments to pursue war efforts more effectively. The expansion of the Executive Council and the establishment of the Defence Council were no constitutional experiments; they were steps in the direction of accelerating war efforts, and in the absence of co-operation from political parties they could not yield the desired results.

The Non-Party Conference, consisting of representatives from all political parties except the Congress and the Moslem League, held three sessions in Bombay, Poona and Delhi in 1941-42, under the chairmanship of Sir Tej Bahadur Sapru. In the Delhi session on the 21st and 22nd of February 1942, the Conference urged the immediate adoption of the following measures by His Majesty’s Government: (1) A declaration that India shall no longer be treated as a Dependency to be ruled from Whitehall and that henceforth her constitutional position and powers will be identical with those of the other self-governing units of the British Commonwealth. (2) During the period of the war the Governor-General’s Executive Council shall be reconstituted as a truly National Government functioning on the basis of joint and collective responsibility and consisting entirely of non-officials enjoying public confidence and in charge of all portfolios subject to responsibility to the Crown, and in regard to Defence without prejudice to the position of the Commander-in-Chief as the executive head of the Defence forces. (3) The British Government should recognise the right of India to direct representation through persons chosen by the National Government in all Allied War Councils wherever established and at the Peace Conference. (4) The National Government should be consulted in all matters precisely on the same footing and to the same extent as His Majesty’s Government consult the Dominions.
The National Liberal Federation of India in its Madras session held in December, 1941, also adopted a similar resolution urging Indianisation of the Governor-General's Executive Council which should function as a Cabinet with joint responsibility and suggested that the Indianised Government of India should be treated as a Dominion Government by convention as far as possible within the framework of the Government of India Act of 1935.

Before formulating the above proposals, Sir Tej Bahadur Sapru and his associates sent a cable in 1941 to Mr. Churchill, Prime Minister of Great Britain, urging the non-officialisation of the Governor-General's Executive Council and restoration of Ministerial rule in those provinces which are being administered under Section 93 of the Act of 1935. Should the majority party in those provincial legislatures refuse to accept Ministerial responsibilities, non-official advisers, responsible to the Crown, should be appointed. These demands inspired the formation of the Non-Party Conference.

The Non-Party Conference and the National Liberal Federation met the allegation that political India had not formulated its demands in a practical shape to the British Government. The scheme is valuable as it provides a basis for the march of India towards Dominion autonomy within the existing framework of the Constitution which is reactionary on many fronts and in many ways. It seeks to concentrate creative forces on the political plane without violent disturbance of the constitutional machinery. It is a process, not an end. But the scheme throws responsibilities both on the British Government and on Indian leaders. It is to be noted that the constitutional form of government can only work well with mutual goodwill and trust and that parliamentary government is largely the product of history and conventions. If there is genuine desire to part with power on behalf of the British Government and political wisdom of the national leaders of India to direct the chariot of the State along the lines
of responsible government, the theoretical imperfections of the scheme can be got over. It has been done in other parts of the Commonwealth. The genuine desire must be conveyed in an unequivocal, solemn declaration by the British Premier, coupled with a change of heart to implement it.

Mr. Jinnah challenged the fairness of the Sapru plan and criticised it in a statement dated 5th of May, 1941 that the Non-Party Conference was "engineered by the agents of the Congress and the Hindu Mahasabha leaders, although well-known and prominent Congress leaders remained in the background, and that Sir Tej Bahadur Sapru consciously or unconsciously has allowed his name to be associated with this move." The Standing Committee of the Non-Party Conference refuted the charge in a statement.

To students of constitutional history it will be highly interesting that the Sapru plan of reform assumed the character of a national demand before Sir Stafford Cripps was sent out by the British Cabinet to negotiate on certain draft proposals with the different political parties. Except the Muslim League, all political parties veered round the Sapru scheme, and the Congress in course of its negotiations with Sir Stafford Cripps practically insisted on the cardinal features of the Sapru plan, in so far as the Congress was agreeable to constitutional understandings without involving legal changes in the constitutional structure of India. The vindication of the Sapru plan at such a critical period of India's history is a tribute to the Liberal school of politics in India, but the refusal of the British Government to accept the scheme bears testimony to the ascendancy of reactionaries in British politics.

The failure of the Cripps mission in India was foreshadowed in the events connected with the Atlantic Charter which was a joint declaration by President Roosevelt and Mr. Churchill from somewhere in the Atlantic. The terms of the Charter were disclosed by
Mr. Attlee, Lord Privy Seal, in his broadcast on the 14th August, 1941. The Charter, it was stated, contained principles to be adopted for a better future of the world. It declared, amongst many other things, the determination of the United States and the United Kingdom to "respect the right of all peoples to choose the form of government under which they will live." Mr. Churchill made a statement in the House of Commons on the 9th of September 1941 to the effect that the Charter did not modify in any way the various statements of policy which had been made from time to time about development of constitutional government in India. This qualification by Mr. Churchill engendered discontent and distrust amongst politically minded Indians, especially when it was found that Mr. Cordell Hull, the United States Secretary of State, described the Atlantic declaration as being universal in its practical application and that Mr. Attlee, Deputy Prime Minister, declared the principles to be applicable to all countries including Asiatic. Sir Tej Bahadur Sapru in pursuance of a resolution of the Standing Committee of the Non-Party Leaders' Conference of India which met in Allahabad on November 1 and 2, 1941, issued a statement severely criticising the nullifying interpretation of the Atlantic Charter by Mr. Churchill. The Hon'ble Mr. M. S. Aney, Overseas Member, made a statement in the Central Legislative Assembly in October 1941, accepting the interpretation of Mr. Churchill and significantly remarked that "constituted as they were in this House, it was not for them to comment upon these pronouncements or criticise them."

The Pledge of Dominion Status

The Constitution Act of 1935 accepted the pledge contained in the preamble to the Act of 1919 of the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in British India as an integral part of the Empire, but there
was a deliberate omission of reference to Dominion Status. It is also to be noted that no pledge given by any Secretary of State or any Governor-General has any legal bearing on the matter; the only thing by which Parliament is really bound on the question of the political objective is the Act of 1919. The omission of "Dominion Status" from the Act of 1935 caused "a painful feeling in India".

The working of the Reforms of 1935 in respect of provincial autonomy without any element of responsibility in the centre spread suspicion about the intentions of the British Government. Doubts entered Indian minds whether the enlarged conception of Dominion Status, as sanctioned by the Statute of Westminster 1931, was meant to be applied to India. This doubt was clarified by the memorable pronouncement of Lord Linlithgow on the 10th of January 1940, which stated that "their objective for India is full Dominion Status—Dominion Status too of the Westminster variety." These repeated declarations fixed the ultimate political objective for India, but they did not bring about actual transference of power, nor did they release India from the control of Whitehall.

It is interesting to observe that the Morley-Minto reforms tried to "blend the principle of autocracy derived from Mogul Emperors with the principles of constitutionalism derived from the British Crown and Parliament." Lord Morley, however, gave a disclaimer that "if this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I for one would have nothing at all to do with it." But through the labours of Mr. Montagu, Secretary of State for India, a new policy was initiated. Mr. Montagu announced on the 20th of August 1917 the policy of "the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government, as an integral part of the British Empire." This declaration was incorporated in the preamble to the
Government of India Act 1919. On the occasion of the inauguration of the Indian legislature at Delhi in February 1921 His Majesty the King Emperor gave the following message through the Duke of Connaught: “For years, it may be for generations, patriotic and loyal Indians have dreamed of Swaraj for their Motherland. To-day you have the beginnings of Swaraj within my Empire, and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy.” The Instrument of Instructions to the Governor-General of India, dated the 15th March 1921, contained: “For above all things it is our will and pleasure that the plans laid by our Parliament . . . may come to fruition to the end that British India may attain its true place among our Dominions.” In 1924, the observations of Sir Malcolm Hailey, Home Member of the Government of India, that there was difference of substance between responsible government as promised to India by the pronouncement on the 20th of August 1917 and Dominion Status as enjoyed by the British Dominions, showed “a new current of thought in official circles in India.” In 1929, Lord Irwin, Governor-General of India, with the permission of the British Government, stated that “it was implicit in the declaration of 1917 that the natural issue of India’s constitutional progress, as then contemplated, was the attainment of Dominion Status.” This appeased political India to a certain extent.

The Indian National Congress had abundant faith in Dominion Status. The Nehru Committee’s plan of constitutional reform, which was ratified by the all-Parties Convention in Calcutta in 1928, accepted the partnership of the British Commonwealth of Nations. The Gandhi-Irwin Agreement of 1931 was geared to the principle of Dominion Status. In the Round Table Conference in London in 1931, Mahatma Gandhi as the sole representative of the Congress was willing to accept Dominion Status.
It is to be noted that the Round Table Conference was called on the basis of the announcement made by His Majesty's Government on the 31st of October 1929 which accepted Dominion Status as the political objective for India. The participation of the Congress in the second session of the Round Table Conference is, therefore, significant. Even in 1937, Mahatma Gandhi proclaimed that “so far as I am concerned if Dominion Status were offered in the terms of the Statute of Westminster, that is the right to secede at will, I would unhesitatingly accept it.” The Congress, however, later declared its faith in complete independence. In the pledge of Independence Day, the 26th January, Congress people take the vow that it is the inalienable right of the Indian people to claim independence and that India must sever the British connection because the British Government has ruined India economically, politically, culturally and spiritually. Mahatma Gandhi has always stated that an agreement with Britain is possible if the substance of independence is conceded. But subsequent events have made him an ardent critic of the British connection, and he has not even hesitated to declare that there can be no solution of the Indian problem unless the British withdraw. The Congress stands committed to the goal of independence, and it is definitely stated on behalf of the Congress that Indian freedom cannot exist within the orbit of Imperialism and Dominion Status or any other status within the Imperial structure and that Dominion Status is not in keeping with the dignity of a great nation. Congress demands are that India’s constitution must be based on independence, democracy and national unity and that sovereignty in India must rest with the people. Pt. Jawharlal Nehru as President of the Congress said: “I cannot conceive of a genuine independence within the Empire for India. I conceive of a free India coming to a friendly agreement with Britain.”

1 Mr. Gandhi’s letter to Mr. Henry S. L. Polak, January, 1937.
2 Congress Working Committee’s Resolution, March 1, 1940.
The Cripps Mission

On March 11, 1942, the British Prime Minister made an important statement on India in the House of Commons and revealed that Sir Stafford Cripps, the Lord Privy Seal, would visit India on behalf of the British Government in order to secure the necessary measure of assent to proposals which the Cabinet had evolved to meet the political situation in India with the object of securing her full participation in the Allied war efforts. The basic features of the draft proposals are as follows:

(1) The creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown, but equal to them in every respect in no way subordinate in any aspect of its domestic and external affairs. There will be no restriction on the power of the Indian Union to decide in future its relationship to the other member-States of the British Commonwealth.

(2) Upon the cessation of hostilities, the constitution-making body shall be elected by the entire members of the lower Houses of the provincial legislatures, as a single electoral college, by the system of proportional representation—the number thereof being one-tenth of the number of the electoral college. Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of representatives of British India as a whole and with the same powers as British Indian members.

(3) Any province of British India that is not prepared to accept the new constitution will have the right to secede from the Indian Union, and should the non-acceding provinces desire, the British Government will be prepared to agree upon a new Constitution giving them the same full status as the Indian Union.

(4) A treaty will be signed between His Majesty's Government and the constitution-making body to cover
all necessary matters arising out of the complete transfer of responsibility from British to Indian hands.

(5) Until the new Constitution is framed and during the emergency of the War, His Majesty's Government must inevitably bear the responsibility for, and retain the control and direction of, the defence of India as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the peoples of India.

The draft proposals of the British War Cabinet are open to the following criticisms:

(1) The treaty between the British Government and the constitution-making body in India will make provision, in accordance with the undertakings given by His Majesty's Government, for the protection of racial and religious minorities. The said undertakings, unless defined precisely, may sterilise the flow of self-government.

(2) A province of British India can, on its own action and without reference to the desire of the Union, secede from the proposed Indian Union. The constituent assembly becomes meaningless if its constitution is not binding on all the units taking part therein. The very presence of a unit in the constitution-making body should bind the unit to the decision of the constituent assembly if such an assembly is to function as a plenary body.

(3) The proposed constitution-making body will be determined by the legislatures, elected through separate electorates, communal reservations and unsatisfactory franchise. Such handicaps reduce the importance and sanctity of the constituent assembly.

(4) The entry of an Indian State into the proposed Indian Union is problematical, if the Indian Union is to have real self-government. The Governor-General of India can hardly function as the Crown Representative in respect of Indian States in the event of the establishment of the proposed Indian Union, for (1) the Governor-General
will be under the influence of the Indian Government; (2) the Governor-General of a Dominion is the nominee of the Dominion concerned, not of the British Government. The native territories in South Africa and the native States in India can hardly be transferred to a completely independent Government, which claims the right of secession, without their consent. It is to be noted that the duties of the British Crown with regard to Indian States cannot be varied by an independent Indian Union, even if the Indian States become its component parts.

(5) The draft proposals seek to lay down the steps to be taken for the fulfilment of promises in regard to the future of India. The scheme of reform embodied in it is to take effect on the cessation of hostilities. On a most favourable interpretation the draft proposals envisage, in respect of immediate arrangement, the non-officialisation of the Governor-General’s Executive Council, except the Defence portfolio (so far as it relates to the control and direction of the defence of India as part of their world war effort). It comes to this, that before the cessation of hostilities the co-operation of the peoples of India will be sought within the ambit of the existing Constitution Act, and towards that end the Governor-General will decide the method and manner of expanding the Executive Council. There was no assurance that the Governor-General’s Executive Council would be permitted to function as a national Cabinet through constitutional understandings. There was evident hesitancy on the part of the British Government to part with power before the cessation of hostilities through conventions on the analogy of the Dominion practice.

(6) If the Indian Union be merely recognised as a Dominion under the Statute of Westminster 1931 without safeguarding the treaty referred to, the sovereignty of the Parliament of the Dominion of India will remain supreme. Except for the right of establishing a formal republic independent of the British Crown, a Dominion Parliament,
unless fettered by its own decisions or any restraining provision incorporated in the Statute of Westminster, is sovereign.¹

It will be instructive to remember that the Anglo-Irish Treaty of 1921, which formed the basis of the Irish Free State Act 1922, was not safeguarded in the Statute of Westminster. In the absence of such a safeguarding clause, the Irish Parliament became free to legislate without regard to the Treaty or to the Constituent Act. It has been established by the Privy Council decision (in Moore vs. Attorney General for Irish Free State, 1935) in disregard of the Irish Supreme Court. Lord Sankey in delivering judgment in the above case laid down: (a) the Treaty and the Constituent Act respectively form parts of the Statute law of the United Kingdom, each of them being parts of an Imperial Act; (b) before the passing of the Statute of Westminster, it was not competent for the Irish Free State Parliament to pass an Act abrogating the Treaty because the Colonial Laws Validity Act forbade a Dominion legislature to pass a law repugnant to an Imperial Act; (c) the effect of the Statute of Westminster was to remove the fetter which lay upon the Irish Free State legislature by reason of the Colonial Laws Validity Act. Before 1931, there was the supremacy of the Imperial Parliament, the supremacy of the Privy Council and the supremacy of the British Crown even in respect of the Dominions. The Statute of Westminster 1931 abolishes all kinds of supremacy in a substantial manner. Similarly, the legislative power of the Indian Parliament can only be supreme if the Treaty proposed to be negotiated is ratified by the Imperial Parliament without any safeguarding clause in the Statute of Westminster. But if such a treaty is safeguarded, which

¹ The Union of South Africa and the Irish Free State utilised the sovereignty of the Dominion Parliaments to the maximum length. The Union of South Africa passed the Status of the Union and the Royal Executive Functions and Seals Acts 1934, authorising the Governor-General in Council to exercise the powers of the King in Council, and the Irish Free State severed all connection between the Civil Service, the Army and the Judiciary and the Crown.
is a likely eventuality, in terms of the draft proposals of the British War Cabinet, the sovereignty of the Indian Parliament will be *pro tanto* diminished.

The draft proposals, especially with regard to the immediate arrangement, did not meet with the approval of the Indian National Congress. In the opinion of the Congress, “it is the present that counts, and even proposals for the future are important in so far as they affect the present.” No political parties asked for immediate legal changes in the constitutional structure, but they pleaded for definite assurances and conventions which would indicate that the interim Government would function as a free Government, the members of which would act as the members of a Cabinet in a constitutional Government. The Congress, the Liberal Federation, the Hindu Mahasabha and a host of individual leaders such as Sir Tej Bahadur Sapru and Dr. M. R. Jayakar asked for a National Government within the limitations of the present Act. The required assurance was not given. The Moslem League, however, gave the world to understand that Moslems would never have agreed to a tyrannical rule by the majority. On the failure of negotiations with the Congress, Sir Stafford Cripps announced that the draft proposals stood withdrawn, and as such the British Cabinet was no longer bound by the promise of reforms conveyed therein. India was thrown back to the August offer of 1940.

Prof. R. Coupland (of Oxford University) who was attached to the Cripps mission wrote in his book, *The Cripps Mission*: “The decisive factor was the clash between Congress and British views as to the character of the proposed National Government.” Mr. Louis Fisher, the American author and journalist, who was in New Delhi at the time of negotiations with Sir Stafford Cripps in 1942, wrote in the American press: “Azad, Nehru and Rajagopalachari have told me that Cripps offered them a National Government not subject to the Viceroy's veto. They have put that in writing. I do not think they would
lie and attribute to Cripps statements he never made”. Mr. Amery, Secretary of State for India, in reply to an American interviewer, stated the following in order to silence public criticism: “I can deny categorically that Cripps was overruled from London. What he did offer for the war period, over and above full freedom after the war, was the fullest possible share in the Central Government of India under the existing Constitution.” All this helps the understanding of the failure of the Cripps mission which devastated India’s political hopes and aspirations to a great degree.

The Cripps mission has come and gone; the British proposals of constitutional reforms at the end of the war were offered and withdrawn, but the episode left very unfortunate repercussions on Indian politics. The Cripps mission led to (1) the stiffening of the attitude of Mahatma Gandhi and the Congress; (2) the insistence of the demand by Mr. Jinnah and the Moslem League for Pakistan; (3) the dissociation of Mr. C. Rajagopalachari, a very prominent member of the Congress Working Committee, from the Congress with a number of his disciples in Madras; (4) the growth of a sense of frustration in non-Congress political parties.

(1) The political creed of Mahatma Gandhi favoured the British connection and acknowledged Hindu-Moslem unity as the apex of the citadel of Swaraj. The Cripps mission came as a shock to Mahatmaji; he studied in it a deliberate refusal on the part of the British Government to transfer power to Indian hands. Then he began to advocate that the British should withdraw from India “in an orderly manner” and that there can be no Hindu-Moslem unity so long as India is not freed from the yoke of alien rule. He abandoned his policy of non-embarrassment of the British, born of confidence in the British sense of justice, and urged the immediate withdrawal of British power from Indian soil. This withdrawal of British power is interpreted as the transfer of power from
British to Indian hands. The new creed of Mahatma Gandhi influenced the Congress course of action. The Congress strove hard for the seizure of power through the formation of a national Cabinet in the centre, and the Poona offer in 1941 was made to the British Government in evident disregard of the creed of its leader and mentor, Mahatma Gandhi. In course of negotiations with Sir Stafford Cripps on the draft proposals of the British War Cabinet, the Congress wistfully looked for the formation of a national Cabinet, based on constitutional understandings. But the failure of the Cripps mission drove the Congress again into the net of Gandhi’s leadership. The Congress again stuck to Gandhi after a temporary break which was occasioned in quest of power. The Congress Working Committee adopted a fateful resolution on the 14th of July 1942 at its Warda session under the guidance of Mahatma Gandhi. It opened up a new policy for the Congress, fraught with the gravest consequences to the Congress and the country. The Congress argued on the following lines in that resolution:

The Congress believes that the freedom of India is necessary not only in the interests of India but also for the safety of the world. It pursued a policy of non-embarrassment to the British since the outbreak of the present world-war as it believed that (1) real power would be transferred to popular representatives, so as to enable the nation to make its fullest contribution towards the realisation of human freedom throughout the world and (2) negatively nothing would be done which was calculated to tighten Britain’s hold on India. These hopes were frustrated by the abortive Cripps proposals. The Congress Working Committee definitely states that a way out of the communal tangle is made impossible by the presence of the foreign power. It pleads for the withdrawal of British rule from India and formation of a representative provisional Government which will later evolve a scheme by which a constituent assembly can be convened in order to prepare