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THE CENTRAL LEGISLATURE IN BRITISH INDIA:

1921 TO 1947

THESIS PRESENTED FOR THE DEGREE
OF PH.D. IN THE UNIVERSITY OF DURHAM

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June 1964.

PREFACE

This work is the outcome of nine academic terms' research in the University of Durham and several libraries in London beginning from October, 1961. The main sources for it have been the official reports of the debates of the Legislative Assembly and the Council of State and numerous other relevant official and non-official records and documents published during the period under review. The other significant sources have been some of the Indian newspapers and periodicals available in London. As it will be seen in the following pages, the main emphasis of this work has been on the working of the Central Legislature during the inter-war period. There are relatively fewer references to the period from 1940 to 1947. This is because the main developments in the practices and procedures in the Legislature took place during the inter-war years and the later period was more or less uneventful. By 1940, the Central Legislature as it stood was out of date and the more important political developments outside overshadowed it.

It is my pleasant duty to make a few grateful acknowledgements. I express my sincere gratitude to Professor W.H. Morris-Jones, University of Durham, under

whose scholarly and sympathetic guidance I had the privilege of doing this work. I would like to thank Dacca University for granting me study leave for doing this research. I am also grateful to the Commonwealth Scholarship and Fellowship Commission in the U.K. whose financial grants enabled me to live in this country with my family. I found it necessary to interview some of the ex-members of the Central Legislature who are still alive in Britain (the names have been added to the Bibliography) and I am grateful to them for kindly sparing their time to talk to me. I would like to thank particularly Sir Jeremy Raisman, the former Finance Member, Viceroy's Executive Council who kindly read Chapter VIII and made useful suggestions. I am also thankful to the library staffs of the India Office library and the India House library for their co-operation and help.

Lastly, I express my gratitude and thanks to my wife for her encouragement and company at all stages.

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LIST OF ABBREVIATIONS

L A Deb	-	L gislative Ass moly Deb t s
C S Deb		Coun il of State D bates
I L C		Imperial Legislative C uncil
M/C R port		Montagu Chelm f d R port

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CHAPTER IDEVELOPMENT OF THE CENTRAL LEGISLATUREFROM 1861 TO 1920

The Mutiny of 1857 made the British realise that the great gap between the ruler and the ruled should be bridged for the better administration and peace in the country. It was felt by some of the British administrators that the association of Indians with the law-making process of the country was essential.¹ The Legislative Councils under the Act 1853 had six 'legislative members' but none of them were Indian. It was hardly possible for the Government to know the Indian views on the legislative measures except through indirect sources. To remove this defect, the Indian Councils Act, 1861, enabled the Governor-General to associate the people of the land with the work of legislation. In addition to the ordinary members of the Council, not less than six and not more

a/ 1. In 1860, Sir B. Frere, a member of the Executive Council, made the following comment: 'The addition of the native element has, I think, become necessary owing to our diminished opportunities of learning through indirect channels what natives think of our measures and how the native community will be affected by them... It is a great evil of the present system that the Government can rarely learn how its measures will be received or how they are likely to affect even its European subjects till criticism takes the form of settled and often bitter opposition.' Quoted in M/C Report, para. 60.

than twelve additional members (of whom at least one half should not hold office under Government) could be appointed by the Governor-General. The non-official additional members were appointed for a two-year term. For the first time in the British period, the Indian members were associated with the legislative bodies. It is for this reason that the Indian Councils Act, 1861, is regarded as an important milestone in the constitutional history of India. But as a matter of practice the function of these bodies remained very restricted. Their function was strictly limited to legislation and the members were forbidden to ask questions or criticise executive policy.

The Indian members nominated to the Central Legislative Council from 1861 to 1891 were either Indian Princes or big landowners or rich merchants or retired officers. By modern standards of representative institutions, they could hardly be called the spokesmen of the Indian people at large. The proceedings of the Council indicate that the Indian members had hardly shown sufficient interest in the debates except on rare occasions. Their speeches were, as a rule, short, read out of the manuscripts prepared before the actual debate. They showed keener interest only in the discussion of the Bills relating to property, taxation and inheritance. Most of the Bills

were passed without discussion, and often at a single sitting. The initiative in respect of sending the Bills to the Select Committees or moving amendments to the Bills was also taken mostly by the official members. The Indian members did not present any opposition to the Government. In 1878, the Vernacular Press Bill was passed in the Council at a single sitting on the plea of urgency.¹ It was one of the most discreditable measures passed by the then Viceroy. Curiously enough, not a single Indian member opposed this Bill on the floor of the Council, though it was universally condemned outside as the 'Black Act'.² An Annual financial statement (which we can describe as budget) was laid on the table. It was not permissible to discuss the budget except when a new tax was proposed. From 1861 to 1892, there were only 16 new taxation proposals and on those occasions the budget was discussed. The Governor-General used to preside over the meetings of the Council. Any Bill passed by the Council could be vetoed by the Governor-General who could also promulgate ordinances tenable for a period of six months.

1. Proceedings of the I.L.C. Oct.16, 1878.

2. Ibid. (A fairly elaborate account of the protests raised against the Vernacular Press Bill is found in Surendra Nath Banerjea's "A Nation in the Making". pp. 58-63.)

The non-official Indians did not show eagerness to attend the meetings of the Council. Sir Henry Maine wrote in a minute in 1868 that the offers of seats in the Legislative Council were often declined and members who were nominated showed the "utmost reluctance to come and the utmost hurry to depart."¹ According to Sir H. Maine, the reason for such reluctance was the abominable weather in Calcutta.² But in reality it was, perhaps, the narrow scope which made the Council sessions rather unattractive and useless. In the absence of adequate facilities to influence the Executive it must have been too dull for the Indian 'Maharajas' or 'Nawabs' to sit in the Council Chamber. It could also be argued that the Indian members were not the typical lawyer-politicians who succeeded them in later years. The post-Mutiny period was rather politically dull, It could also be said the Indian Legislators were not interested in politics as it came to be understood later. But this transitional stage was soon to be replaced by a group of more western educated politicians. The 'sham' character of the Legislative Councils was soon to be revealed. A very cynical comment

1. Sir H. Maine's Minutes (1862-69). (Minute no.69, Feb. 1868) - p. 167.

2. Ibid.

about the Councils was made by Mr. Subramania Iyer in his address to the first session of the Indian National Congress: 'The functions of these Councils are limited to registering the decrees of the executive government and stamp them with legislative sanction.'¹ The position of the legislative councils from 1861 to 1892 could also be described by another quotation: 'The character of the legislative councils was simply this, that they were Committees for the purpose of making laws, committees by means of which the Executive Government obtained advice and assistance in their regulation and the public derived the advantage of full publicity being ensured at every stage of law-making process... Such laws were in reality the orders of the Government, but, made in a manner which ensured publicity and discussion, they were enforced by Courts and not by the Executive; they could not be changed but by the same deliberative and public process that by which they were made, and could be enforced against the Executive or in favour of individuals whenever occasion required.'² It was rightly observed by the M/C Report that the operation of the Councils under the Act, 1861

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1. Quoted in Constitutional History of India by Punnaiah, K.V. - p. 95.
 2. Cowell - History of the Constitution of the Courts and legislative authority in India, p. 95.

marked the close of a Chapter in the Indian constitutional history.¹

While the Imperial Legislative Council functioned more or less as a 'Durbar' of the Viceroy, the political opinion in the country outside was gradually changing. The Indian National Congress formed in 1885 was already pressing for further expansion of the legislative bodies. The shortcomings of the nominated Indian representatives were even realised a little earlier. In a letter to the Secretary of State in 1881, Lord Ripon suggested that the indirect election to the legislative councils through the local bodies should be introduced so that the Government could run in accordance with growing public opinion.² But the Secretary of State regarded that suggestion as premature and ignored it.³ Under the pressure of Congress demands, Lord Dufferin made certain important recommendations for liberalising the legislative bodies which were finally embodied in the Indian Councils Act, 1892. It enlarged all the legislative councils and the Central Council was to consist of at least ten additional members,

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1. Para. 65, M/C Report.
 2. Quoted in Gopal - The Viceroyalty of Lord Ripon, 1880-1884, p. 85.
 3. Hartington's letter to Ripon written almost a year later. Quoted in Gopal - Opp. Cited - p. 85.

the maximum number being fixed at 16. Not more than six of the additional members could be officials. In order to maintain an official majority, not more than ten non-officials were admitted.¹ Four of those were allotted to recommendations by the non-official members of the four provincial councils and one to the Calcutta Chamber of Commerce. The remaining five seats were nominated by the Governor-General on the recommendations by the Municipalities, University Senates and the other commercial bodies. This was but a cautious acceptance of the principle of election. The members were given the right to ask questions,² and to discuss though not to vote upon the budget. To this extent, the Legislative Councils recognized that their function thenceforth was more than merely legislative or advisory.³ But no member was allowed to move any resolution. The Budget was to be discussed as a whole and not item by item.⁴

The shortcomings of the 1892 Reforms were obvious. The non-official members constituted a permanent minority

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1. Banerjee, A.C. - Indian Constitutional Documents, Vol.11, p. 99.
 2. S.N. Banerjea appreciated the right of asking questions in his address to the Congress session at Poona in 1895. Congress Presidential Speeches (1885-1917) Edited by Natesan - p. 195.
 3. Para. 69, M/C Report.
 4. The proceedings of the Council show that the financial statement was given in a greater detail than before the 1892 Reforms.

before the official bloc. It was impossible for a non-official member to press any demand against official opposition. Questions asked on the whole had been rare and supplementary questions could not be put. For example, only 13 questions were asked in the two years 1905 and 1906. The subjects of the questions were Services, Railways, revenue and exchange. There were very few questions on political grievances, but from 1905 onwards there were some questions on the partition of Bengal. Sometimes information could be denied if the answer to any question involved the officials in lengthy preparation. On the 10th March, 1905, Mr. Gokhale's question was not answered by the Government on the plea that it would involve unnecessary pressure on the officials.¹ Amendments to the Bills moved by non-officials were also very rare. Divisions were seldom pressed except in extreme cases - and then only perhaps to put on record the Indian opposition to any particular measure. In the event of any unanimous opposition by the Indian members, the Government exercised its official majority to pass legislative measures. On many occasions, the Government passed Bills disregarding the strong opposition of the Indian members. For example, in 1905,

1. Proceedings of the ^{L.C.} ~~Indian Legislative Council~~,
10th March, 1905.

the Indian Universities Bill was passed though it was stoutly opposed by the Indian members. The divisions held on the Bill show that only one Indian member voted in its favour.¹

The authors of the M/C Report claimed that the experience of the 1892 Reforms was on the whole favourable.² They gave two main reasons for it. Firstly, criticism had been generally temperate and informative. Secondly, participation in public affairs even in a restricted sphere gave the Indian members certain insight into administrative matters. But the presence of some able persons in the Councils was perhaps the more important factor for their success. In the Imperial Legislative Council, men like Mr. G.K. Gokhale, Sir P.S. Mehta, Ashutosh Mukherjee, Rashbehary Ghose and Nawab Salimulla of Dacca made their position felt and respected by the Government. It was during the working of the 1892 Reforms that Indian politicians began to show greater interest in the debates of the Council. Their speeches generally lasted longer than those of their predecessors in the earlier Councils. There was a distinct attempt by the Indian members to ventilate the grievances through the

I. L. C.
1. Proceedings of the ~~Indian Legislative Council~~
10th Feb., 1905.

2. Para. 27, M/C Report.

constitutional procedures provided - by asking questions, moving amendments to Bills and criticism ^{of the} ~~of~~ ^{Government through} the financial procedures. Most of the leading members in the Councils were the prominent lawyers in the country. They showed genuine ability in expounding public policies on the floor of the house. Gradually, a new type of ~~politicians~~ emerged who were more at ease in modern style of debate. It would be a mistake to belittle the value of the work of these and other members only because their attempts did not always bear fruit. It is certain that if the majority of them had been failures, if they had lacked capacity or of a sense of responsibility, if they had not acted in the best interests of the people there would have been no Morley-Minto Councils in the after years.¹

In a confidential letter on June 20, 1902 to Lord Cross, the Secretary of State, Lord Curzon described the 1892 Reforms as a great success. He was particularly happy with the Imperial Council where the members, according to him, were respectful of procedures.²

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1. Chintamani, C.Y. - Indian Politics since Mutiny - p. 46. H.H. the Aga Khan records in his memoirs that the Viceroy's Legislative Council in those days was a 'small select body of influential people, wielding real authority' and his tenure as a member there gave him the political training. The Memoirs of Aga Khan - p. 73.
 2. Text of the letter is reproduced in Lord Cross's "Political History" which was privately printed.

Behind this story of complacent success, there was a growing demand for liberalising the legislative bodies.¹ Firstly, the inability to influence the administration on important matters such as Indianisation, reduction of military expenditures and taxes, admission of Indians in the Executive Councils caused frustration to the non-official members. The Government failed to pay attention to non-official opinion on some very vital issues which later took the shape of political grievances. In 1875 the Government imposed excise duty on cotton goods produced in India to counter-balance the duty imposed on British-made cotton goods. During the discussion of the budget this matter was from time to time raised in the Council but the Government did not take any significant step to redress this grievance. The ineffectiveness of the Indian members was further illustrated by the Government's policy of large scale imprisonment and deportation during the agitation against the partition of Bengal. The policy of repression was continued even after the vehement criticism in the legislative bodies. Secondly, there were important political developments outside the Councils which put enormous pressure on the

1. Even in the letter mentioned in the opposite page Lord Curzon commented that the 'natives clamoured for more'.

Government to think about remodelling the administration. The National Congress outside was gradually gaining ground as a powerful organisation for discussing political grievances. There was a great famine and plague epidemic in Bombay which killed a large number of people. The alleged inefficiency and negligence of the administration came to be known to the public. During this period, Bal Gangadar Tilak came to prominence as a leader of Hindu orthodoxy and a vehement critic of Government. There were certain revolutionary crimes in this period, one of them resulting in the killing of Mr. Rand, the Plague Commissioner. The Viceroyalty of Lord Curzon (1898-1905) was full of certain controversial events such as the Partition of Bengal, the curtailment of the powers of the Calcutta Corporation, the University Reform and the Official Secrets Act which contributed to political unrest in the country. The partition of Bengal roused a storm of opposition in the country. During this period the terrorist activities of the extremists increased considerably. The agitations against partition also brought Congress to the forefront. Most of the anti-partition demonstrations were led by distinguished Congress leaders.¹

1. India Office Tract, 1037 ("All about partition") pp.56-86
Quoted in History of Freedom Movement by Pakistan
Historical Society - p. 18.

Lord Minto's Viceroyalty which began in November 1905 confronted a very deep and widespread political discontent. He rapidly recognised the need for further constitutional advance and conciliation in order to satisfy the moderate leaders of the country.¹ A Committee under the Chairmanship of Sir Arundel Arundel which is also known as the Arundel Committee was appointed to consider the question of increasing the Indian element in the legislative councils.² In 1906, Lord Minto sent a despatch to Lord Morley giving his reasons for further constitutional advance. The reasons he gave could be condensed into one single sentence: the political spirit had reached a stage in India when further participation of the political opinion of the country in its government could no longer be resisted.³ The despatch was followed by a long and voluminous correspondence between the Viceroy and the Secretary of State and, after that, Lord Morley introduced the Indian Councils Bill on February 17th, 1909, which became an Act of Parliament on May 25 the same

1. Bannerjee - ^{A.C. Op. Cit.} ~~Ind~~ - p. 285.

2. Countess of Minto - India: Minto and Morley, 1905-1910. p.414.

3. MacDonald, R. - The Government of India - p. 69.

year. The Reforms of 1909 were not intended for the introduction of a parliamentary system. Lord Morley categorically stated in the House of Lords that he would have nothing to do with the reforms if they directly or indirectly led to the establishment of a parliamentary system in India.¹ In opening the first session of the Imperial Legislative Council under the Reforms, Lord Minto said: "We have distinctly maintained that representative government in its western sense is totally inapplicable to the Indian Empire ... We have aimed at the reform and enlargement of our councils, but not the creation of Parliaments."² To put in the words of the M/C Report, the Reforms were intended to establish a kind of constitutional autocracy blending the principle of absolutism derived from the Mughul Emperors or Hindu Kings with the principle of constitutionalism derived from the British crown and the Parliament.³ Though the Reforms were welcomed on general terms but they fell short of Congress expectations.⁴ As far back as in 1889, Congress demanded that at least half of the members in the Council

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1. Mukherjee, P. - Indian Constitutional Documents - p.330.
 2. Proceedings of the Imperial Legislative Council, 25th January, 1910 also Rothermund, D. - "Constitutional Reform vs. National Agitation in India 1900-1950" in Journal of Asian Studies, August, 1962
 3. Para. 73, M/C Report.
 4. Chitrol, V. - India, Old and New - p.127.

should be elected.¹ Speaking at Caxton Hall in 1909, Surendra Nath Banerjea said that the Reforms did not come up to the expectations of the Congress in many important matters.² But some of the most influential leaders in India, for example, Gokhale, set very high hopes on the reforms as they expected that the authorities would pay greater attention to public opinion in the country.³

The salient features of the 1909 Reforms could be summarised under several heads. Firstly, the legislative councils were enlarged. The Imperial Legislative Council would consist of 60 members (nominated and elected) at the maximum and not more than 28 of them could be officials. The Governor-General nominated 3 non-officials to represent certain special communities. Secondly, the principle of election which remained implied in the 1892 Reforms was embodied in the Indian Councils Act, 1909.⁴ Thirdly, the power of the Councils was broadened by the authority of moving resolutions and asking supplementary questions. The resolutions were expressed as recommendations to the executive government. Divisions could also

1. Bannerjee, A.C. - Op. cit. - p.269

2. Quoted in B.P. Singh Roy - Parliamentary Government in India - p. 56.

3. See his Budget speech at the Imperial Legislative Council on the 29th March, 1909.

4. Morris-Jones, W.H. - Parliament in India - p.48 also Chapter VIII (Electoral System and Elections).

be held on the budget and other resolutions ~~on matters~~ on matters of general importance. The right to ask supplementary questions served the purpose of an inquest into the affairs of the government.¹ Lastly, it could be said in all fairness that the Morley-Minto Reforms constituted a decided step forward in the constitutional evolution of India.²

The most controversial measure introduced by the Morley-Minto Reforms was the separate electorate for the Muslims. In addition to the general unrest in the country, Lord Minto had to face the discontent among the Muslims in India. The main grievance of this community was their inadequate representation in the legislative councils under the 1892 Reforms.³ The Muslims constituted about 23% of the total population but the percentage of the 'elected' Muslim members from 1893 to 1903 was only 12%. A similar anomaly existed also in the Provinces. In Bengal the Muslims constituted nearly 52% of the population but only 5.7% of the elected representatives were Muslims.⁴ Perhaps

1. & 2. Para. 79, M/C Report.

3. Pakistan Historical Society - Opp. cited - p.64-65 also the Memoirs of Aga Khan - p.92-93. ("Our experience from the time of the Cross-Lansdowne reforms in 1892 onwards had pointed out that there was no hope of a fair deal for us (Muslims) within the fold of the Congress Party or in alliance with it").

4. These figures have been taken from History of Freedom Movement (Vol.111) Pt.1. pp.64-65.

it was the failure of the Muslims to get adequate representation in the Councils, that caused an amount of frustration or distrust about the vast Hindu majority in India. On October 1, 1906 a Muslim deputation under the leadership of Aga Khan met the Viceroy and demanded a separate electorate for the Muslims and ultimately that was granted.¹ This raised a vehement criticism by the Hindu leaders of Congress.

An excellent review of the working of the Morley-Minto Councils given in the M/C Report could be summarised under the following heads.² Firstly, the franchise was extremely restricted and as such it failed to give adequate political training. Secondly, the elected members were predominantly lawyers. Thirdly, the official bloc which maintained characteristic rigidity caused irritation to the non-official Indians. Fourthly, the presence of a very small number of elected members contributed to the 'unreality in the proceedings'. Fifthly, the Indian Legislative Council showed an apparent lack of interest in legislative business. In the eight years, 1910-17, the Council passed 131 laws of which no fewer than 77 or 59% were passed without any discussion whatsoever.

1. See also Chapter III (Electoral System and Elections)

2. Chapter IV. M/C Report.

Sixthly, the right of asking questions and moving resolutions was more frequently used. The number of resolutions moved from 1909 to 1917 was 168; of which 24 were accepted by the Government. Seventhly, the elected and nominated Indian members developed a certain/amount of common outlook on all major issues. Lastly, for the first time the Indians were admitted as members of the Executive Councils at the centre and the provinces.

The chief contribution of the Morley-Minto Councils was the experience it imparted to the Indian members.¹ The quality of speeches in the Councils improved; there was less reading of manuscripts prepared earlier without any reference to the actual debates. There was less repetition of points and the non-officials were on the whole precise in their speeches. In the old Councils, members made their speeches sitting but the Morley-Minto Councils changed the rules requiring the members to stand up to make any speech. Under the Rules, of the Imperial Legislative Council (1862-1920), the President could suspend any of the rules and procedures to expedite the passage of a Bill. But this power was less frequently used under the 1909 Reforms. So by and large more discussion of Bills was possible. The non-official members also showed great eagerness to

1. Morris-Jones, W.H. - Op. cit - p. 49.

discuss measures of technical importance. Apparently, the legislative record of nearly 59% of the Bills passed without discussion seems to be unimpressive. But this figure ignores the fact that a lot of discussion was also done in the Select Committees. Non-official members tried to discuss very elaborately certain Bills of great importance; for example, the Indian Court Fees Bill, 1910; Indian Factories Bill, 1911; Indian Patent and Design Bill, 1911; the Criminal Tribes Bill, 1912; the Indian Companies Bill, 1912, which were also modified by their amendments. To give one specific example, as many as 30 non-official amendments were moved to the Indian Factories Bill, 1911, and 7 of them were accepted by the Government.¹ Private Members' Bills had been rather scanty. Only 5 private Bills were passed by the Council up to 1917.² Nevertheless it shows that even within a very narrow sphere non-official Indians could initiate legislative policy. As a result, a legislative tradition had grown side by side with the bureaucratic tradition.³ Public interest about the role of the Indian Members was also increasing. If any repressive measure was supported by the elected members, the nationalist press used to come

1. Proceedings of the ^{I.L.C.} ~~Legislative Council~~ 21st March, 1911.

2. Para. 93, M/C Report.

3. 'Kerala-putra' - The Working of Dyarchy - p.6.

out with strong criticism.¹ The more elaborate discussion of the budget and other financial measures helped the Indian members to learn more about the intricacies of the administration. A lot of information about administrative policies was also elicited by way of questions.

In spite of the general step-forward in the constitutional evolution of the country, the Morley-Minto Councils soon failed to satisfy the 'political hunger' of the country. It was because the fundamental purpose of the Reforms was not to train Indians in self-Government but only to enable the government to realise better the wants and sentiments of the governed.² In a sense, Morley-Minto refused to face the basic question posed by the Indian nationalism: What is the goal of British Rule in India?³ Morley's insistence on retaining the official majority further circumscribed the ambit of the Indian Legislative Council. The control of Whitehall over the Indian Government was not even slightly relaxed, and, as a result, even the provincial governments could not respond to the

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1. On March 9, 1913 the daily Bengalee came out with an editorial condemning the elected members who opposed the amendments and supported the Criminal Conspiracy Bill, 1913. Similar comments about various controversial measures supported by the Indian elected Member are available in the files of the daily Bengalee from 1910 to 1917.
 2. Despatch of the Secretary of State, Cmd.4426, 1908.
 3. Mehrotra, S.R. - The politics behind the Montagu Declaration of 1917. An article in Politics and Society in India, Edited by Philips, C.H. - p.73.

pressure of the Indian representatives where they constituted a majority. For some time after the introduction of the Reforms, the Councils gained the utmost prominence in the country as the moderate leaders believed they could be used as effective instruments to make the Government amenable to non-official views. But the failure of the Government to make greater concession to non-official opinion caused them frustration. Writing of his experience in the provincial as well as the Indian Legislative Councils, one member said in 1917 that resolutions and questions were on many occasions arbitrarily disallowed by the President.¹ He also complained that the rules and regulations were too inelastic to allow the Indian members to exert their position and, as a result, there was growing frustration and a sense of helplessness among Indian representatives.² Certain repressive measures were passed in defiance of the Indian opposition. The worst of them was the Rowlatt Bill passed in 1919. As many as 150 amendments were moved to modify the character of the Bill but the government refused to alter the measure in any substantial form. Gradually the role of the Indian members

1. Pantulu, S. - 'Post War Reforms' in Indian Review, March 1917.

2. Ibid.

came to be one of criticism only which was often futile. The World War I accelerated the political impulse of the country; India's political horizon was widened. There was no more enthusiasm left for the Morley-Minto Councils. In October, 1916, nineteen members of the Indian Legislative Council submitted a memorandum to the Government outlining the need for post-war reforms. The memorandum could be called the mandate of the country and it was supported by the Congress leaders.¹ It was in these circumstances that the proposals of the 1919 Reforms were being shaped. The famous declaration of August 20, 1917 outlined the general goal of British Rule in India. In elaborating the declaration, Lord Chelmsford announced that any advance in India would also mark further advance in the Legislatures.²

Up to 1920, the Indian Legislative Council played, for all practical purposes, the role of an advisory body. It could not press any proposal against the official majority. Nor could it be successful in censuring the Executive. The financial powers were virtually restricted to the discussion of Budgets. With a non-official majority and all the paraphernalia of a modern legislature, the new Central Legislature created under the 1919 Reforms came to exercise greater power. It marked a new milestone in the

1. Indian Review, May, 1917 (Memo. of the Nineteen Members.)

I. L. C.
 2. Proceedings of the ~~Legislative Council~~ ~~of India~~ ~~at~~ ~~the~~ ~~5th~~ ~~September~~, 1917.

growth of Indian Legislatures which was the avowed purpose of the Montagu-Chelmsford Reforms. The autocratic power of the Government of India and the local governments was veiled, not impaired by the legislative councils of the Morley-Minto period, but the change wrought by the Montagu-Chelmsford Reforms was so substantial as to amount to a political revolution¹. The new Legislatures were no longer mere consultative committees with certain powers, they were legislatures with larger political opportunities².

1 Sir Frederic Whyte's article 'Political evolution in India' in Foreign Affairs, January, 1926, p 224

2 Ibid

CHAPTER IITHE CENTRAL LEGISLATURE AND INDIAN POLITICS1921 to 1947

Gandhi's non-co-operation movement was a direct affront to the legislatures created under the Montagu-Chelmsford Reforms. The boycott of the new legislatures was so successful under the propaganda carried by Congress and the Khilafatists that only about 25⁰/₀ of the electors voted in the 1920 elections¹. Many competent persons who would have been assets to the new deliberative bodies stayed out. As a result, only the moderates who refused to toe the line with Congress and the Khilafatists entered the Legislatures. The newly elected legislators found themselves in a difficult position. Outside the legislatures they were bullied as 'title hunters and job hunters'². Inside the legislatures, the Government showed readiness to respect non-official views and, in their turn, the elected representatives were also expected to show co-operation with the Government to make the Reforms a success. But the elected representatives had to be

1 Cotton, H E A - Parties and Policies in India published in Contemporary Review, Feb., 1921. See also Chapter III

2 Ray, P C - 'India at the Cross-Roads' in Contemporary Review, Feb, 1922

extremely cautious in extending co-operation to the Government as there was a great possibility of mis-understanding outside. The greatest contribution of the moderate politicians was the acceleration of the 1919 Reforms. Without the support of those politicians, the history of constitutional politics in India could have taken an entirely different shape.

With the decline of non-co-operation movement and the arrest of its leaders, the immediate threat to the legislatures was over. Gandhi had no faith in the legislatures as the training ground for self-government¹. But some of his colleagues, such as C R Das, Pandit Malaviya, Lajpat Rai, V J Patel, B C Pal and Motilal Nehru saw the prospect of utilising the new legislatures for putting pressure on the Government for making further political concessions. So it was almost a revolt when these leaders came out with a programme of entering the Central and provincial legislatures. The schism started between the two groups inside the Congress, one following Gandhi's boycott of legislatures and the other favouring the withdrawal of boycott and entering the Legislatures. This difference culminated in the formation of a Swaraj Party in 1923 under the leadership of Mr C R Das and Motilal Nehru, which put forward a programme of entering the legislatures². The 1923 election was a thumping

1 Nanda, B R - Mahatma Gandhi - p 201

2 See also Chapter III and Chapter V

victory for the Swarajists in the Central as well as provincial legislatures

With the 48-strong Swarajists headed by Motilal and Patel and some outstanding Independents like Jinnah and Rangachariar, the centre of gravity of Indian politics shifted to the Central Legislature in 1924. The immediate role of the Swarajists was to set forth the political grievances¹. Their main role was to keep up the spirit of resistance to foreign rule at the time when the non-co-operation had collapsed and nationalist politics was at a low ebb². It was also felt by the nationalists that certain good things could be achieved through the legislatures³. On his election as the President of the Assembly, V J Patel openly admitted on the floor of the House that the working of the Reforms convinced him to give up non-co-operation and enter the legislatures. He outlined a number of achievements by his predecessor Sir Frederick Whyte⁴. The Swarajists were for all practical purposes the legislative wing of the Indian National Congress. Their political actions inside the Central Assembly - such as rejection of Budget and censures

1 See Chapter IX

2 Nanda, B R - The Nehrus - p 341

3 See Chapter VI for discussion of the beneficial measures which could be achieved through the legislatures

4 L A Debate 1925 (Simla) pp 24-25

of Government - always got utmost publicity in the country outside. Public opinion outside was fully aware of the limitations of the new legislatures, but they seemed to be deeply impressed by the force with which the political demonstrations were made. Summing up the Swarajists achievements in the Second Assembly, the daily Hindu wrote 'It has to its credit solid achievements in the direction of asserting and in some cases at any rate, receiving recognition of the rights of the subjects. It was this Assembly, again, that repeatedly rejected by majorities of 63 to 56, the Government Demands for Grants - and subsequently throw out the Finance Bill by 60 votes to 57, acting on the principle of grievances before supply¹ Such reactions of the press confirm how far the Central Legislature was alive to the political mood outside. The British press was also watching at this stage with great interest, what was happening in the Central Legislature. The Times, for example, came out with editorial comments on all major events in the Central Assembly.

The years from 1924 to 1926 offered an excellent opportunity to the Government to take a forward step in constitutional development of the country for the Swarajists would have been ready to co-operate with the Government. A response to the demand for a Round Table Conference in

1 The Hindu, September 9, 1926

1924 would have strengthened the hands of those politicians who wanted to use constitutional methods for the political emancipation of the country. Motilal Nehru's amendment demanding a Round Table Conference in February 1924 was far more conciliatory than had been expected of the Swarajist leader.¹ He said: 'We have come here to do something which we have not been doing so far. Sir, we have come here to offer our co-operation, non-co-operators as we are, if you will care to co-operate with us, if you don't, we shall, like men, stand upon their rights, continue to be non-co-operators.'² The reasons for not responding to the Swarajists demands to the Assembly are yet to be fully revealed. Some would blame Lord Reading, the then Viceroy for the lack of creative imagination to initiate a constructive movement.³ It is revealed in his biography that the constitutional debate in 1924 was taken seriously by him.⁴ He wrote to Lord Oliver, the Secretary of State for India explaining the need for some 'cautious move' forward to 'offer some inducement for good will and co-operation'.⁵ Lord Oliver seemed to be reluctant to concede any wider scheme of reforms.⁶ At this stage there

1 The Times, February 9, 1924. See also Chapter IX

2 L A Debate 1924 - p 370 (8th February, 1924)

3 Spear, P - India A Modern History, p.365

4 Rufus Isaacs, First Marquess of Reading by his son the Marquess of Reading, p 295

5 Ibid

6 Ibid, p 296

was also some speculation about a 'conference' between the Indian leaders and some British statesmen to settle the questions of further constitutional advance.¹ But eventually only a departmental enquiry popularly known as the Muddiman Enquiry was held into the working of the Reforms to explore the possibilities of further advance within the precincts of the 1919 Act.² It was a great disappointment for the Swarajists and Motilal refused to serve on the Committee but some of the Independent leaders like Mr. Jinnah and Sir Sivasawami Iyer were among the other members. The Report of the Committee was not unanimous and when it came for the consideration of the Assembly in 1925 the Swarajists rejected it.³

The frustration over the questions of constitutional advance led the Swarajists to stage a walk-out from all the legislative bodies on March 8, 1926. It was but a political demonstration marking the Swarajists' impatience with the Government. In September 1926, the Swarajists had to go back to the legislatures to stop the Government from rushing certain important bills. In the Central Assembly, the Government introduced the Currency Bill which would

1. Nanda, B.R. - The Nehrus - p.231.

2. The Times, February 20, 1924 commented that it was utterly impossible to go beyond this enquiry.

3. See Chapter IX.

fix the exchange ratio of Rupees. It was a matter of national importance and the Swarajists came back to the Assembly to adopt a motion postponing further consideration of the Bill till the next session¹. There were some important developments at this stage which brought defection among the Swarajists. The main point of controversy was the utility of the Legislatures. Lajpat Rai resigned from the Swaraj Party as a protest against its policy of 'walk-out' from the Legislatures since he held that it was more harmful to the Hindus than any other class or community². He further argued that the 'walk-out' of 40 to 50 Swarajists in the Assembly deprived only 4 or 6 Muslim constituencies of the services of their representatives, while in the case of the Hindus it had deprived the latter of about 6 or 7 times that number³. The dissident group came to be known as the Responsive Co-operators who later formed an Independent Congress Party with a Central Board consisting of Pandit Malaviya, Lajpat Rai and Raja Narendra Nath for conducting elections⁴. In the autumn of 1926, the position of the Swarajists

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- 1 The Congress leaders were forced to change their mind and go back to the Central Assembly under the pressure of the Bombay businessmen. Vide A. J. Coatsman's article 'India on the eve of ~~Practical~~ Autonomy in the Asiatic Review, April, 1938
 - 2 The Hindu, September 2, 1926
 - 3 Ibid
 - 4 The Hindu, September 16 and September 23, 1926
 5. ~~The Times, September 2, 1926.~~

was very unhappy. There was some feeling that they would disappear at the coming elections.¹

The communal harmony achieved by the Khilafatists and Gandhi's followers in 1920 and 1921 did not last long. The Hindus in general were doubtful of the extra-territorial patriotism that the Khilafat agitation implied.² There was a sort of rebellion in Malabar by the Muslim Khilafatists who were better known as Moplahs. The rebels defied law and order and terrorised the public. It is said that the Hindus were forcibly converted to Islam. This offended the Hindu opinion and several resolutions were moved in the Central and provincial legislatures calling upon the Government to restore law and order in Malabar. It was not too difficult for the Government to bring the situation under control but the incident contributed to the Hindu-Muslim discord especially in South India.³ In 1923, there were several riots in the Punjab and Bengal. One of the worst riots took place in Kohat where the entire Hindu population fled away in terror.⁴ Such communal riots killing the Hindus as well as Muslims continued to increase in number and intensity in various places the climax being reached in 1926 in Calcutta where 40 riots took place in that year killing 197 and injuring 1,600 persons.⁵ From

1. The Times, September 2, 1926.

2. ~~India in 1923-24, p.248.~~

3. Durrani, K.K. - The Meaning of Pakistan - p.110.

4. India in 1923-24, p. 248

5. Report of the Indian Statutory Commission ~~(1930)~~ 1930, para.277.

1923 to 1927, nearly 450 persons were killed and 5,000 injured in various communal riots ¹ The communal tension outside had also its impact on the proceedings of the Central Legislature From the late 1920's the number of questions asked by the Hindu and Muslim members eliciting information about communal riots was increasing

By the end of 1926, the Hindu-Muslim bitterness was worse The Committee appointed under Gandhi's chairmanship in January 1925 to inquire into the communal questions did not produce any good result ² Earlier in 1924, a scurrilous pamphlet called 'Rangilla Rasul' (debauched prophet) written by a Hindu author created bitterness in Lahore as it was directed against Prophet Muhammad The matter was discussed in the legislatures and eventually the Central Legislature passed an enactment in 1926 in order to stop such publications inciting religious bitterness ³ One horrible incident in 1926 was the murder of Swami Shraddhanand, the leader of the Arya Samaj by a Muslim fanatic It should be noted here that the 'Arya Samaj' was one of the leading Hindu communal organisations which started a 'shuddhi', and 'sangathan' (reconversion to Hinduism of those who had become Muslim or Christian) movement. At this stage, the Muslims also retaliated

1 Lal Bahadur - The Muslim League, p 163

2 Chintamani, C Y - Indian Politics since Mutiny - p 140

3 Vide L A Debates Proceedings on the 20th, 24th and 25th August, 1926

with 'Tabliq' and 'Tanzim' movement to keep the Muslims on the right track ¹ Two very outstanding leaders of the Assembly - Pandit Madan Mohan Malaviya and Lala Lajpat Rai were directly associated with the activities of 'Arya Samaj' They looked upon the legislatures as the principal arena for serving the Hindu interests and, therefore, their followers never seriously thought of boycotting the legislatures The 1926 elections were dominated by the intense communal feeling ² Pandit Malaviya and Lajpat Rai constantly harped upon Hindu interests as opposed to Muhammedan interests ³ Religious fervour was roused at the elections ⁴ The difference between Hindu and Muslim groupings in the newly elected Legislatures was sharp in 1927 In the Central Legislature a Hindu communal group known as the Nationalists under Pandit Malaviya emerged ⁵ There was also a Muslim communal group known as the Central Muslim Party under Sir Zulfiquar Ali ⁶

1. The 'Tabliq' and 'Tanzim' organisations used to publish their views in the Indian languages - mainly Urdu and Bengali A Bengali pamphlet published in 1927 (India Office Catalogue No BEN D/609) gives an idea about the nature and activities of such organisations

2 The Times, October 1, 1926 Also Chapter III

3 & 4 The Hindu, December 16, 1926 (Motilal Nehru's press interview on the causes of the defeat of the Swarajists in the U P) See also Chapter III

5 ~~The Times, 10/10/26, 11/10/26, 12/10/26~~

5+6 See ~~also~~ Chapter V

It will be interesting to note at this stage the failure of the Swarajists in wrecking the new legislatures. The policy laid down at the Coconada session of the Congress in 1923 specified that the Swarajist members of the Central and provincial legislatures must take no part in ordinary business unless the Government accepted the party's ultimatum which provided for the release of all political prisoners, the repeal of all repressive laws and the convention of a Round Table Conference to frame a new Constitution for India ¹. Now this uncompromising attitude presented a dilemma when the Swarajists entered the new legislatures in January 1924. Except in the C P, no other provincial legislature had ^{an} absolute Swarajist majority. So the wholesale obstructionist policy could be pursued only in one province. Bengal was the other Province where the Swarajist leader C R Das could find a working majority in alliance with other members to obstruct the Government. Emphatic protest against the policy of not participating in the ordinary legislative business was made by the Swarajists in those Provinces where they were in a minority and they pointed out that such a policy would deprive them of all chance of influencing the administration ². The dissenting voice to the negative policy of obstruction was mainly expressed by the South Indian politicians who

Moral + Material Progress of
1 India in 1924-25 - pp 298-99

2 The Times, January 15, 1924.

wanted to co-operate in any action or policy which they believed to be clearly and entirely in the interests of India.¹ So the Swarajists had to modify their policy and they took part in the ordinary sessions and sat in the Committees and some of them wanted to accept offices.² V.J. Patel, the Deputy Leader of the Swaraj Party was elected President of the Assembly. Motilal, the leader of the Swaraj Party in the Central Assembly agreed to serve on the Indian Sandhurst (Skeen) Committee. Gradually, it was impossible to disguise the fact that they were in effect associating themselves with the machinery of the new reformed constitution.³ It was felt by some that the Congress should not control the policy and programme of the Swaraj Party inside the Indian Legislatures and they should have full liberty to act in the best interests of the country.⁴ By the end of 1926, the Swarajists newspapers were no longer calling for non-co-operation and obstruction.⁵ In the fourth legislatures (1927-30) under the Reforms, the Swarajists were reduced in number and those places were taken by the Responsivists. To their leader, Lajpat Rai, it meant that the country had repudiated the policy of

1. Coatman, J. - Years of Destiny, p.94.

2. Gopal. S. - The Viceroyalty of Lord Irwin 1926-1931, p.13.

3. ^{Final Material Progress of} India in 1924-25 - p.297.

4. Mukand Lal, 'Who should control the Swaraj Party in the Legislatures' in Modern Review, July 1926. The writer was a member of the Bengal Legislative Council.

5. The Times, November 26, 1926.

6. ~~The Hindu, November 26, 1926.~~

indiscriminate obstruction and 'walk-outs' ¹ That the machinery of the Reforms could not be exclusively ignored was proved by the fact that the Swarajists made a hard contest to obtain the control of the 'puppet legislatures'

There was a section in the Congress outside which felt that the role of the Swarajists in the legislatures was of little significance for the political emancipation of the country ² Such opinion was gradually gaining ground and at last the appointment of an all British Statutory Commission (Simon) to enquire into the Reforms made the nationalists realise that the real battle for the constitutional advance of the country should be fought outside There was a formal denunciation of the Simon Commission in the Central Assembly, on February 16th, 1928 ³ Behind the preparation of this denunciation was the intention to make the occasion the starting point for an agitation throughout the country on the most extreme lines ever yet attempted in India ⁴ On February 16th, 1928, the public galleries of the Central Assembly were crowded for watching the debate on the Simon Commission and 134 out of 145 members were present ⁵ One incident shows how seriously the non-official leaders took this occasion for demonstratin

1 The Hindu, December 16, 1926

2 Caveeshar, S S - India's Fight for Freedom, p 146.

3 See also Chapter IX

4 The Times, February 13, 1928

5 The Times, February 17, 1928

political grievance Mr Harchandri Vishindas (a non-official member from Sind) died when he was being brought to the House in an ambulance car. The member was very ill in Karachi and only came to Delhi in response to an urgent call by the Nationalist Party whip so that he could vote against the Commission ¹

It was felt by some that the no-confidence resolution of the Assembly did not necessarily reflect the political opinion outside ². This belief was partly confirmed by the attempt of some of the Muslim leaders to co-operate with the Commission. Two sessions of the League were held at the same time in December 1927, one in Calcutta and another in Lahore ³. The Calcutta Session was presided over by Mr Muhammad Yakub, the Deputy President of the Assembly, Sir Muhammad Shafi presided over the other session in Lahore. It was on the question of offering co-operation to the Simon Commission that the two Leagues differed. The Calcutta session passed the following resolution almost unanimously with only two delegates dissenting (one of them was Mr Tamzuddin Khan who later became President, Pakistan Constituent Assembly and Speaker, National Assembly,

1 The Times, February 17, 1928 -

2. Sir Reginald Craddock - 'Indian Reforms and the Simon Commission' in The Contemporary Review, April 1928

3 Rajput, A B †Muslim League † Yesterday and Today, p 49

Pakistan) 'The All-India Muslim League emphatically declares that the Statutory Commission and the procedure, as announced, are unacceptable to the people of India. It, therefore, resolves that the Mussalmans throughout the country should have nothing to do with the Commission at any stage or in any form' ¹ Mr Jinnah was ~~the~~ active supporter of the Calcutta session. The resolution of the Calcutta League was welcomed by the Congress press ² On the other hand, the Lahore League passed a resolution repudiating the decision of the Congress in Madras not to co-operate with the Commission ³ One of the prominent leaders of the Lahore session was Sir Zulfikar Ali Khan who led his dissident Muslim group in the Central Assembly to vote in favour of the Simon Commission on February 16, 1928 ⁴ The Justice Party in South India also felt that it would be to their advantage if they co-operated with the Commission. By the end of September 1928, all but one of the nine Legislative Councils in the major provinces had decided to appoint their Committees to work with the Commission ⁵ The Council of State also passed a resolution favouring its co-operation with the Simon Commission during the autumn session of 1928 and elected

1 Indian Annual Register,
I.A.R. (July-Dec, 1927,) p 438

2 The Hindu, December 31, 1927

3. Indian Annual Register (July-December), 1927 p 456

4 See Chapter IX,
Moral + Material Progress of

5 India in 1928-29, p 27

three members to the Central Legislative Committee for co-operation with the Simon Commission. Eventually, only two Legislatures, the Central Assembly and the C P Legislative Council did not revise their previous stand. The Central Legislative Committee was completed by members nominated by the Government from among the members of the Assembly ¹

The place of the Central Legislature in Indian politics was not strictly that of a national Parliament. One can hardly overstress the influence of outstanding leaders of the Central Assembly like Motilal, Jinnah, Lajpat Rai, Malaviya, Jayakar and Moonjee. Their views in the Legislature undoubtedly reflected the general trend of opinion outside. But their influence could not be universal. The provinces of British India with their regional, racial and linguistic differences had distinct features. Each of the provinces had its own local leaders who often overshadowed the personalities of the Central Legislature. Pandit Motilal Nehru was undoubtedly one of the most important Indian political leaders. His influence in some of the northern Indian provinces such as U P, Bihar and Orissa could be considerable. But his influence in Bengal, Bombay and Madras was overshadowed by that of local leaders ². To the Bengali Hindus there could be no greater

Motilal Nehru's Progress of
1. India in 1928-29, p 28

2. Coatman, J. ^{of the} ibid, p 94

leader than C R Das popularly known as 'Deshbandhu' (Friend of the Country), who was leader of the Swaraj Party in the Bengal Legislature. Bengal was rather poorly represented in the Central Legislature as none of her representatives there were outstanding. After the death of C R Das in 1925, the prominent Bengali congressmen like J M Sen Gupta, Sarat Chandra Bose and Dr B C Roy continued to serve the provincial legislatures and dominated the local scene. To the Justice Party in South India, Motilal's Swaraj Party was a Brahmin threat to the non-Brahmins. In the Punjab, the Unionist leader Sir Fazl-i-Husain was more prominent than any one else. Yet the Central legislature was the only forum for All-India politics. There were many matters of All-India character which could be discussed in this body only¹. It was an important meeting place of all the divergent forces of Indian politics.

The record of Indian politics from 1924 to 1930 marked a distinct swing towards constitutionalism and then a steady decline towards extra-constitutional mass actions. There was a gradual drift to the left wing movement which believed more in direct-action.² The left wing younger generation of Congress was represented by Jawaharlal Nehru and Subash Chandra Bose. The Calcutta Session of Congress

1 In his opening address to the Central Legislature on the 9th February, 1921, the Duke of Connaught said that it was intended to serve the whole of British India whereas the provincial legislatures would meet the requirements of individual provinces. See also Chapters VII & VIII

2 See Wilson, F W. The Indian Chaos - p 87.

in December 1928 had given to the British Government, to use the words of Jawaharlal Nehru, an offer of one year's grace and a polite ultimatum.¹ By December 1929, the period of grace came to an end. But the offer of minimum national demand embodied in the 'Nehru Report' was not conceded. The Lahore Congress which started its session on December 31, 1929 was a momentous event. It was a gathering to declare a revolt.² It took certain decisions which changed the course of events for the subsequent years. Firstly, the Congress members on the Central and provincial legislatures were called upon to resign. Secondly, the Congress resolved for complete Independence for India. Thirdly, the All-India Congress Committee was given full authority to launch civil disobedience. The items of the programme included a) breaking of the salt law b) boycott of foreign clothes and other British goods, c) non-payment of land revenue, and d) boycott of liquor and opium. The call of 1920, as Gandhi wrote, 'was a call for preparation. The call of 1930 is for engaging in final conflict'.³ At this critical hour, the Viceroy made a speech to the Central Legislature on the 25th January 1930 apparently to rally support for the coming

1 Nanda, B R - Mahatma Gandhi - p 279

2 Gopal S, - op cit , p 53

3 Nanda, B R - Ibid , p 290

Round Table Conference¹ But one thing was made clear that the Dominion Status for India was not coming too soon. This shattered all hopes of any peaceful settlement between the British Government and Congress and so Civil Disobedience was started in full vigour.

The years 1930 to 1934 saw the big nationalist struggle in the shape of civil disobedience which under the leadership of Congress reached its height and then gradually declined. During this period, attention of the people moved away from the legislatures. The elections of 1930 were boycotted by Congress, so the legislatures were dominated by the moderates from 1931 to 1934. Though the general trend of the nationalists was in favour of mass agitation, there were some strands of opinion which were reluctant to leave the legislatures. Out of 38 Swarajists in the Central Assembly, only 21 resigned. In the provincial legislatures also, all the Congressmen did not resign at the first call. J. Nehru said that Congress legislators who retained their seats had resigned from the A I C C². The Nationalists under Malaviya did not first resign from the Central Legislature to join Civil Disobedience. But soon the passage of the Textile Industries (Protection) Bill which gave preferential treatment to the British textile products disappointed them. When Malaviya's amendments to

1 Vide address of the Viceroy, L A Debates 25th January, 1930, pp 277-282

2 Indian Annual Register, Vol I, 1930, p 340

modify the Bill were lost, he walked out with his associates on the 31st March, 1930¹ This reluctance of the Responsivists to leave the legislatures was further expressed by Mr N C Kelkar, a prominent Maharashtra leader and Member of the Central Assembly, in his Presidential address to the session of the Hindu Maha Sabha He observed 'Non co-operation with the Legislative Councils by the Hindus would not only be futile but suicidal So long as no parallel Government is established, the boycott of Councils would be a self-imposed injury for which there is no remedy'² It was felt outside that the Congressmen should not leave the legislatures to those who were 'subservient to the bureaucracy'³

The Muslims stayed away from Civil Disobedience They did not boycott the elections of 1930⁴ Only in the North West Frontier Province, the Muslims under the leadership of Khan Abdul Gaffar Khan participated in Civil Disobedience⁵ There was a great response on behalf of the Muslim leaders to take part in the Round Table Conferences It seems that the Muslim leaders at this stage

1 L A Debates 1930, p,2718

2. The Indian Review, Nov , 1932 p 810

3 Modern Review, Dec , 1933 Also U P Native Newspaper United March 25, 1933 p 6

4 See also Chapter III

5. Ram Gopal - Indian Muslims (1858-1947), pp.226-27

6 ~~'Congress & Muslim Society', 1930, - a Bengali pamphlet gave elaborate reasons for not taking part in Congress movements~~

were more attracted by the prospect of contributing to the growth of a new constitution ¹ This attitude became very clear when the Muslim League later agreed to give a trial to the 1935 Reforms for 'what they were worth' The main reason for not taking part in Civil Disobedience was the feeling that Congress movements were detrimental to the Muslim interests ² It was the Nehru Report which roused the Muslim suspicion about the Congress motives Mr Jinnah was disappointed about the recommendations of the Nehru Report and tried to bring the dissident Muslim groups together The All India Muslim League Committee wanted to introduce certain amendments to the Report On behalf of the League, Mr Jinnah moved these amendments at the All-Parties Convention but they were lost ³ This rejection deeply shocked Jinnah personally, to him it was the 'parting of the ways between the Hindus and Muslims' ⁴ In the legislative bodies suspicion about the Congress motives was increasing The demands for more Muslim representation in the services and welfare of the community in various spheres of life were frequently pressed The

1 Shafaat Ahmed Khan - Indian Federation, p 13.

2 'Congress & Muslim Society', 1930 - a Bengali pamphlet gave elaborate reasons for not taking part in Congress movements

3 Indian Annual Register (July-Dec), 1927, p 456

4 Bolitho, Hector - Jinnah, Creator of Pakistan, p.95

Muslim support to defeat the Government was no longer readily available. To the Muslim leaders, Civil Disobedience Movement was intended to frighten the Government to grant Dominion Status with the communal settlement proposed in the Nehru Report which was unacceptable to the Muslims.

The Congress leaders' decision to contest the 1934 elections of the Central Assembly had a mixed reception. On the liberal side, the Leader congratulated the Congress leaders for their 'wise and patriotic decision' to re-enter the legislatures.¹ It also pointed out that Congress efforts of direct action outside had been a dismal failure.² One delegate opposed the Congress resolution to enter the legislatures in its Bombay session of 1934. He pointed out that it was a mere waste of time to go to legislatures and it was a grave mistake to hope that the programme would carry them nearer their goal.³ The newspapers representing the left wing of Congress also opposed the decision.⁴ Their main reason was the 'failure' of the Swarajists in the past.⁵ One Hindu communal organ 'The Rishi' welcomed the Congress' decision on the condition that it must agitate against the

1 U P. Native Newspaper Reports - Week ending April 17, 1934

2 Ibid

3. Indian Annual Register, 1934, Vol II p 252

4 U P Native Newspaper Reports - week ending April 28, 1934

5 Ibid.

communal award¹ It also recommended that Congress members in the legislatures should work in co-operation with the Hindu Maha Sabha² To the Congress leaders themselves, the purpose of contesting the 1934 elections was 'to use every weapon put into their hands'³ It was quite clear that Congress Party wanted to enter the Central Assembly to pass its verdict on the proposed constitutional reforms⁴ The entry of Congress in the election contest after a long period of civil resistance and abstinence from Parliamentary activities attracted great public attention⁵ With the emergence of a strong Congress group inside the Central Assembly, Delhi again was becoming the centre of political activities⁶ The Assembly opened on January 21, 1935, when 40 members of Congress Party in Gandhi caps occupied the opposition benches⁷ Public galleries were filled to capacity when the Viceroy had arrived to address the Assembly on the 24th January The changed political mood which had brought non-co-operators into constitutional places was hinted at even in the galleries where there were many adherents of Congress⁸

1. Op cit

2. Op cit

3. The Times, March 10, 1934

4. The Pioneer 9 October 28, 1934

5. C. Rajagopalachari - 'The Congress Campaign' in the Indian Review, Aug., 1936

6. The Times, January 16, 1935 See also Chapter V

7. The Times, January 22, 1935

8. The Times, January 25, 1935

The dominant mood of the country at that time was the controversy over the Communal Award announced by the British Government on the 17th August, 1932. As the Award retained separate electorates and gave weightage to the Muslims in various provincial legislatures, the Muslims were satisfied with it. The Bombay session of the Indian National Congress held in October 1934 decided that its attitude to the Communal Award would be neutral ¹. But there was a powerful section among the Congressmen known as the Congress-Nationalists who were bitterly opposed to the Award. Pandit Malaviya, leader of the Congress-Nationalists, went to the Congress Session in Bombay and moved amendments opposing the Congress resolution of neutrality to the Award. But his amendments were lost ². Later the Congress-Nationalists contested the 1934 elections as a separate party and in the new Assembly the eleven Congress-Nationalists formed a new party with M. S. Aney as its leader. Outside the Assembly the Congress-Nationalists started a regular campaign against separate electorates and the Award. The All-India Anti-Communal Award Conference sponsored by them was held on 23rd February 1935 and appointed a Committee to carry on active agitation against the Award ³. The Muslims, on the other hand, held a Communal Award Conference in New Delhi on the 24th March, 1935, this body reiterated its faith in the Award as the

1 Indian Annual Register, 1934 (Vol II) - p 252

2 Indian Annual Register 1934 (Vol II), ²⁴⁴⁻⁵ (There were cries of 'shame' from the Bengal group of Congress delegates when results of Malaviya's amendments were declared)

3 Indian Annual Register 1935 (Vol I), p 325

only way to an agreed settlement of the communal problem and condemned the sponsors of anti-Award movement.¹

The newly elected Assembly reflected all these forces of nationalism and communalism. On February 4th, 1935, began the historic debate on the Report of the Joint Parliamentary Committee which continued for three days.² It was an important occasion for the struggle of divergent views on the floor of the House. As many as 9 amendments were moved to the motion expressing various views of which three represented the principal trends of Indian body-politic. Bhalabhai's motion represented the Congress views - (a) rejection of the Report 'root and branch' and (b) 'neutrality to the Award'. Jinnah's motion ^{implied} ~~accepted~~ - (a) trial of the Constitution for what they were worth and (b) acceptance of the Communal Award which rallied the support of practically all the Muslims. ^{Parma} Bhai Nand, representing the Congress-Nationalist views, demanded rejection of the Report as it was based on an arbitrary and unjust communal award.³ Eventually, Jinnah's amendments were accepted by the House.⁴ This Assembly was different from its predecessor in composition and outlook. It was now clear to more people than ever before that the real battle for the political emancipation of the country could be fought more vigorously

1 Op cit p 328

2 L A Deb , 1935 - pp 262 See also Chapter IX

3 L A Debates 1935 (4th February), p 269

4 See also Chapter IX

among the people outside the floor of the House. The Central Assembly was from the political point of view now only a sounding board for the Congress leaders. Its main role had been to criticise and censure the Government from time to time in order to justify further constitutional advance. ~~The~~ Congressmen were no longer speaking of wholesale obstruction as they did in the 1920's. They supported, directly or indirectly, many measures which were intended to serve the interest of the country. Though they did not command a majority, the Congressmen could find many issues on which other groups came forward to censure the Government.¹

The Congress leaders repudiated the 1935 Act but they decided to contest the elections of the provincial legislatures under it in 1936. The main purpose of entering the legislatures was not to co-operate in any way with the Act but to combat it and end it.² In the general elections held in the winter months of 1936-37, the Congress found itself in an absolute majority in the legislatures of the five provinces, namely Madras, U P, C P, Bihar and Orissa. With the support of pre-Congress groups, the Congress could also command a majority in Bombay. It was the largest single party in the North West Frontier Province, and in Assam. With this position, the

¹ See Chapter V

² Vide Indian Annual Register, 1936 (Vol.II), pp.189 for Election Manifesto of Congress Party

Congress refused to accept office in any province unless the Governor gave an assurance that he would not use his special powers in defiance of the provincial cabinet. So minority ministries were formed in the provinces where Congress members were in a majority. The constitutional deadlock was, however, settled in a declaration by the Governor General on 22nd June, 1937. After this declaration Congress ministries were formed in 8 provinces: Bombay, Madras, Orissa, North West Frontier Province and the U P, C P, and Bihar. The acceptance of office by the Congress leaders was rather paradoxical as they were pledged to combat the constitution. Some kind of dual control was imposed on the Ministries. Firstly, they were under the control of Congress 'high-command' outside¹. Secondly, they were also supposed to work within the precincts of the Constitution. The supreme example of control by the Central Congress authorities outside was at last manifested when the Congress ministries resigned in the Autumn of 1939 under their directives². Earlier in 1939, the Congress called upon its members in the Central Legislature to refrain from attending its session.

The outstanding reason for the withdrawal of Congressmen from the legislatures and ministries was the declaration of war³. It would have been feasible, tactical and wise

1 Coupland, R - Indian Politics (1936-42), p 125

2 Ibid

3 B P Singh Roy - Parliamentary Government in India, p 243

to give the Central Legislature an opportunity to declare by resolution the hostility of India to the Axis ¹ But the Viceroy declared India's participation in the War and the Suspension of the Federal Scheme in his address to the Central Legislature on the 11th September, 1939 ² The explicit purpose of the address was to rally support for the war effort But to the Congress leaders, it was an open defiance of the public opinion to drag India to war Earlier on the 15th February, 1938 Congress had given its verdict passing a resolution in the Legislative Assembly stating that Indian troops should not be despatched outside without consulting the Central Legislature ³ When Indian troops were sent out to Egypt and Singapore without consulting the Central Legislature, the A I C C took serious exception to this This action was, however, defended by Lord Birkenhead on the plea that the party-leaders of the Central Assembly were consulted privately about the despatch of troops ⁴ The deadlock created by Congress-resignation stood as a challenge to India's 'forced' participation in the war In November 1940, the Government met a formidable situation when the Congress-members dramatically returned to the Assembly chamber to reject the Supplementary finance bill for an additional

1 Whyte, Sir Frederick - India a bird's eye view, p 131

2 Vide address of the Viceroy on 11th September, 1939
L A Debates 1939 - pp 431

3 L A Debates 1938, p 664

4. H L Debates 1939 (Vol II), p 214

revenue of two crores of rupees to meet the war expenditure. As the Muslim League remained neutral, the Congress members were successful in rejecting the Bill and thereby re-affirming its stand on the war policy of the Government.¹ In the momentous debate on the Finance Bill, the Government tried to persuade the Congress leaders and other political groups to accept the War as a threat to India's security. Had it been possible to get the Bill passed, it would have been easier for the Government to show to the outside world that India's war efforts had the sanction of her elected representatives. The denunciation of the excessive war expenditure by the Congress-members had earned appreciation from outside.²

From 1940 to 1943, Congress members absented themselves from the sessions most of the time. The absence of the Congressmen reduced the Central Legislature to a formal position. Its main job was only to discuss the normal routine business. The absence of Congressmen gave an easy time to the Government legislation. The rump that existed could not resist the Government from rushing some controversial measures, such as Defence of India Act and Excess Profits Act. Political demonstrations were rare. Interest in the proceedings so declined that several times proceedings of the House had to be postponed. It was felt in some

1 Vide L A Debates, 11th to 13th, 16th, 18th, 19th & 20th November, 1940

2 The Leader, November 15th, 1940
Also The Modern Review, December 1940 - pp 85-86

quarters that the interests of the country were not best served by the policy of abstention.¹ The Congress-Nationalists stuck to the policy of attending the sessions regularly as they felt their abstention would be harmful to the country. The Muslim^{League}/also continued to attend the sessions.

The position of the Legislatures during the war years was further dwarfed by the important political developments outside. The most significant development in the Indian political history after the declaration of war was the Muslim League's demand for Pakistan in 1940. This resolution emphatically rejected the scheme of Federation embodied in the 1935 Act and put forward the alternative plan of Pakistan for the future constitutional set up of India. Henceforth, the struggle on communal issues was increasing in tension. The Muslim League leaders made it a point to raise the Pakistan issue on the floor of the House whenever constitutional grievances were brought forward. Two other great events which took place outside the Legislature had also their impact on it. One of them was the Cripps offer. The concluding stages of the Budget session, 1942, were deprived of their interest by the presence of Sir Stafford Cripps in Delhi.² His Mission was not discussed in the Legislature as all parties agreed that

1. The Modern Review, July 1940, p.16 (Notes).

2. Sir Frederick James - The Indian Legislature in War-time, The Asiatic Review, July 1945.

it would be embarrassing to do so while negotiations were in progress.¹ After the failure of the Cripps mission, Congress decided upon a mass disobedience on August 8, 1942 known as 'Quit India' movement. It was an attempt of direct action against the 'British Raj', which soon took the shape of a 'rebellion'.² In order to exhort the Indian politicians to support the government in suppressing the 'rebellion' the Home Member introduced an important debate on the 15th September 1942 which lasted for four days.³ The debate provided an opportunity for the Government to justify its 'preventive action' in dealing with the situation. None of the parties openly justified the Congress action. The Congress-Nationalists tried to explain why such a step was taken by Congress. The Muslim League joined the Government to deplore this movement as it was intended not only to force the British Government but to force the Muslims to surrender to Congress terms and action. The Budget session of 1943 was overshadowed by Mr. Gandhi's fast and the excitement it caused.⁴ An adjournment motion was moved on the 15th February 1943 to draw the attention of the Government to the great concern

1. Sir Frederick James - op cit.

2. An elaborate account of the 'Quit India' movement is given in Govind Shah's '42 Rebellion'.

3. Vide L.A. Debate, on 15th to 17th and 18th September, 1942

4. Sir Frederick James - op cit.

caused by Gandhi's fast, and eventually it was ~~walked~~ out.¹ At this time, the food crisis of Bengal was causing great concern to the legislators. During the November sessions 1943, most of its time was spent on the discussion of the food situation.

With the return of Congress Party in the autumn of 1944, the Assembly regained its vigour and passed several censures ^{motions} of the Government.² As no elections had been held after 1934, the Legislature was already out of date. The elections of 1945 were a great victory for Congress and the Muslim League in the Central as well as provincial legislatures. Congress ministries were formed in Assam, Bihar, U.P., North West Frontier Province, Bombay, Madras and C.P. and Orissa. The Congress Party in the Assembly saw a new leader in Mr. Sarat Chandra Bose. The Congress hold over the House was proved by the election of Mr. G.V. Mavalankar as its President. During the interwar period, the Viceroy usually made important political pronouncements to the newly elected members of the Assembly. But on the 28th January, 1946, while the Governor General came to address the newly elected members, he stated categorically that he would not make any striking political

1. L.A. Debates 1943, p.265.

2. See also Chapter IX.

pronouncement.¹ He also asked the House not to make any discussion which would reduce the prospect of a settlement of the constitutional issues or increase the bitterness already abroad in the country.² Indeed, the Legislature did not play any effective role in the political development of the country from the beginning of the war. The impending Constituent Assembly was expected to assume the position of a forum for political discussion. With the formation of the Interim Government in the autumn of 1946 the Assembly lost the status of a hostile critic as the Executive had the support of all the major political parties. There were many bigger issues and excitements outside - prospects of partition, transfer of power, communal killings etc. Yet the Central Legislature was not entirely a neglected institution. Many important measures in the spheres of fiscal, commerce, industry, post-war development, international agreements etc. were being discussed in the Legislature. In fact, it was sustaining the Government at a critical juncture.

1. L.A. Deb., 1946 - p.167.

2. Ibid.

CHAPTER III

NATURE OF THE ELECTORAL SYSTEM AND ELECTIONS

Prior to the introduction of the 1919 reforms the franchise had been extremely restricted. In the Indian Legislative Council there were eighteen members who were elected to speak for sectional interests and nine who might be said to represent, however remotely, the views of the people as a whole.¹ The largest constituency which returned a member directly to the Indian Legislative Council did not exceed 650 persons and most of these constituencies were decidedly smaller.² The non-official members ^{of the legislature} in each province used to form an electoral body to elect its representative to the Central Legislature. In these electoral bodies, the average number of voters was only 22, while in one case the actual number was 9.³ ~~Mr.~~ Montagu was convinced of the need for broad-based franchise. But he seemed to be unwilling to recommend any radical extension of the franchise. In his recommendation he said that the broadening of the franchise should be determined with reference rather to practical difficulties than to any ^{or} ~~any~~ prior consideration.⁴ He was afraid of sudden 'breakdown of the machinery' through the 'sudden extension of franchise'.⁵ Eventually, a committee was appointed

1. M/C Report, para. 83.

2. Ibid " "

3. Ibid " "

4. Ibid " "

5. Ibid " "

under the chairmanship of Lord Southborough to investigate questions of franchise and make necessary recommendations.

The Franchise Committee (Southborough) also proved to be hesitant in extending the electorate. One main objection to the extension of franchise was the 'heavy administrative burden' it would impose on the administrative agency dealing with elections. ⁽¹⁾ The Committee was also worried about the 'great strain' which an extended franchise ⁽²⁾ would impose on the large number of inexperienced electors. Finally, the Committee came out with a proposal for indirect election for all general and commercial seats of the Legislative Assembly by the members of the provincial legislative councils. ⁽³⁾ The recommendations of the Committee are summarised in the Table ^I reproduced on the next page.

Only three types of constituencies i.e. European Commerce, Indian Commerce and landholders were allowed to elect representatives directly by the electors. For the Council of State also, the Committee recommended indirect election by the same electors for the Legislative Assembly except for two European Commerce constituencies. The Committee was aware of the obvious shortcomings of indirect

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1. Report of the Franchise Committee (Southborough), 1919,
para 34 - p.15.
 2. Ibid para 34 -p.15
 3. Ibid para 34 -p.14

TABLE - I

Province	General			Muhammadan			Sikhs			Total
	No. of Seats	No. of Electors	No. of Seats	No. of Electors	No. of Seats	No. of Electors	No. of Seats	No. of Electors	Total Electors	
Madras	7	80	2	13	-	-	9	-	93	
Bombay	4	60	3	27	-	-	7	-	87	
Bengal	5	66	3	34	-	-	8	-	100	
U.P.	6	68	3	27	-	-	9	-	95	
Punjab	2	22	4	30	1	9	7	-	61	
Bihar & Orissa	6	56	2	17	-	-	8	-	73	
C.P.	4	46	1	7	-	-	5	-	53	
Assam	1	27	1	12	-	-	2	-	39	

This Table has been taken from the Report of the Franchise Committee (Southborough), 1919.
para. 34.

elections . It hoped that in future the indirect election would be superseded by direct method but at the moment they saw ^{no} alternative but to face the defects inherent in ^{the} indirect system'.¹ The Joint Select Committee of Parliament did not accept the recommendations for an indirect system of election.² Finally, the Electoral Rules made under the Government of India Act, 1919 provided for direct elections to the Central Legislature . The size of the electorate was also much wider compared to the original recommendations by the Southborough Committee .³

One striking feature of the electoral system under the 1919 Act was the bewildering variety in respect of electoral qualifications which were based on I-

a) Community,

11b) residence and

- a) ownership or occupation of a building or
- b) assessment to or payment of income tax or
- c) assessment to or payment of municipal or cantonment rates or taxes on local cesses
or
- d) the holding of land, or
- e) membership of a local body .

1. Op. cit. para 34

2. Report of the Joint Select Committee, para 19

3. See Table II + III for an idea about the total electorate for the two Houses in the Central Legislature . In the bigger provinces such as Bombay, Bengal, Madras and the U.P., the total average electors for the Central Assembly was nearly 250,000 whereas in the smaller provinces such average was about 50,000 .

TABLE IV

SUMMARY OF LEGISLATIVE ASSEMBLY ELECTIONS FROM 1920 to 1945. (1)

Year of Elections	No. of seats Without contest	No. of seats filled After contest	No. of Candidates for contested seats	Total Electorate	Total Electors in contested constituencies	No. of votes polled in contested constituencies	Percentage of votes polled
1920	104	39	65	236	9,09,603	711,576	25
1923	105	29	76	202	909,979	818,746	41.9
1926	105	34	71	206	1,125,602	835,437	48.07
1930	104	65	39	103	1,212,172	568,491	26.1
1934	106	32	74	177	1,415,892	1,135,899	53.54
1945	102	46	56	129	1,610,692	1,033,346	52.25

(1) This table is based on the information extracted from various election results published by the Government of India.

TABLE 1A

SUMMARY OF COUNCIL OF STATE ELECTIONS FROM 1920 to 1930. (1)

Year of Election	No. of seats without contest	No. of seats filled After Contest	No. of Candidates for contested seats	Total Electorate	No. of Electors in contested constituencies	Percentage of votes polled in contested constituencies
1920	34	10	24	17,644	14,347	55
1925	34	10	24	32,126	9,704	34
1930	34	15	19	40,513	11,105	33.4

(1) The last election of the Council of State was held in the winter of 1936 but no record of that election is available in England.

But there was no uniformity in respect to any of these qualifications. The variety of qualifications was laid down in detail in Schedule II of the Legislative Assembly Electoral Rules and Regulations. Without narrating the details of variety in electoral qualifications, certain features can be discussed. It was realised by the authors of the M/C Report that in a country like India, owing to unequal distribution of population and wealth, variety in electoral rules was inevitable. ⁽¹⁾ The Southborough Committee also did not seek to 'attain uniformity' in the standard of property qualifications in all the provinces. ⁽²⁾ Qualifications in Muhammadan constituencies were different from those of non-Muhammadan constituencies. Education and property qualifications in Muslim constituencies were generally lower than those of the other constituencies because of the relative backwardness of the Muslim community. Property qualifications in the landholders constituencies were the highest. Residence qualifications was not obligatory in European constituencies. Every person registered on the electoral roll of a constituency was entitled to vote at an election of a member or members for that constituency. ⁽³⁾ But no person could be registered as

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1. M/C Report para 226.
 2. Ibid - para 10
 3. Rule 10 (1). Electoral Rules

an elector in more than one constituency and consequently no person could vote at any general election in more than one general constituency. (1)

Qualifications for candidates usually follow closely those for electors as it is normally held that any voter is good enough to be a candidate. But the Assembly and Council of State Electoral Rules imposed certain special disqualifications. A person was not eligible for election as a member of the Legislative Assembly or Council of State if such a person:-

- (a) was not a British subject or
- (b) was a member of the Legislative Assembly and had made oath or affirmation as such member; or
- (c) having been a legal practitioner had been dismissed or was under suspension from practising as such by order of any competent court, or
- (d) had been adjudged by a competent ^{Court} to be of unsound mind; or
- (e) was under 25 years of age; or
- (f) was an undischarged insolvent; or
- (g) being a discharged insolvent had not obtained from the Court a certificate that his insolvency was caused (2) by misfortune without any misconduct on his part.

1. Rule 10. Legislative Assembly Electoral Rules.

2. Rule 5 (1) ., op.Cit.

No female was entitled to sit in the Council of State or vote for election to it. It was open to the Council of State to remove either or both of these carriers by passing a resolution . In 1936, the Council of State passed a resolution giving women the right to vote in the election of its members. ⁽¹⁾ But the right to sit as its member was never granted to women. Women were eligible to stand, as candidates for Assembly Constituencies in any province where they might be elected to the provincial legislature. The first woman was elected to the Assembly from Madras in 1945.

In order to avoid frivolous candidates, there was a provision of nomination and deposit. On or before the date appointed for nomination of candidates, each candidate either in person or by his proposer and seconder together, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, had to deliver to the Returning Officer a nomination paper completed in specified form. ⁽²⁾ On or before the date of nomination, each candidate had to deposit the sum of 500 rupees in cash or in Government Promissory Notes of equal value and no candidate was deemed to be only nominated unless such deposit was made. ⁽³⁾ The deposit was liable to be forfeited by the

1. C.S.Deb., 1936 - p. 354

2. Rule 11 (3) Op.Cit

3. Rule 12 (1) Op.Cit

Government if the candidate did not receive more than one-eighth of the total number of votes polled. The number of persons whose deposits were forfeited at various Assembly elections has been given below:-

Year of Election	No. of candidates who forfeited their deposits
1920	no record available
1923	no record available
1926	21
1930	7
1934	27
1945	52

The number of candidates who forfeited their deposits does not necessarily indicate that they were bogus candidates. There were always some candidates with overwhelming local prestige and great political stature against whom even a serious candidate associated with a party could get only a negligible number of votes. On the other hand when Congress swept the polls in 1934 and 1945 many experienced independent politicians forfeited their deposits. The popularity of the Muslim League in 1945 was also so great that there was little scope even for the most influential landlord to be successful at election. For example, an experienced politician and influential landlord

like Sir A. H. Ghuznavi forfeited his deposit contesting as an independent against a Muslim League nominee.

There were seven types of constituencies in the Assembly electorate non- Muhammadan (Urban & Rural), Muhammadan (Urban & Rural) Sikh, General, Landholders, Europeans and Indian Commerce. Such a variety of constituencies was due to the special consideration given to the Muslims, Sikhs, Europeans, Landholders and Indian Commerce for representation. Special representation was always a controversial issue. Communal representation of the Muslims was a topic of great controversy in Indian politics.

The authors of the M/C Report commented that any system of communal electorates would be a very serious hinderance to the development of democratic institutions in India. ⁽¹⁾ But the case of separate Muslim representation was ultimately conceded as a 'regrettable necessity' which would continue till conditions altered towards the realization of a common citizenship. ⁽²⁾ The Southborough Committee ^{too} ~~as well~~ recommended continuance of the communal representation and provided for the preparation of separate Muhammadan and non-Muhammadan electoral rolls. ⁽³⁾

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1. M/C Report. para 227
 2. Ibid para 231
 3. op. Cit, para 15

Under the Morley-Minto Councils, the Muslims in many constituencies had double votes. But the M/C Report strongly recommended that Muslims should no longer be allowed to vote in general electorates as well as in their special ones.⁽¹⁾ The recommendations was accepted. But the more difficult task was to determine the proportion of Muhammadan and non-Muhammadan seats. Without taking the risk of raising any fresh controversy, the Southborough Committee followed the agreement reached by Congress and Muslim League at Lucknow in December 191 regarding the proportion of representation.⁽²⁾ It was recommended by the Committee that out of 80 elected seats 23 would go to the Muhammadans.⁽³⁾ For the Council of State, the Committee proposed 7 Muhammadan seats out of 23 elected members.⁽⁴⁾ Finally the Electoral Rules made under the Act arranged the distribution of seats in the Assembly and Council of State which may be summarised in the following tables (set out on the next page).

Up to 1947, Muslim representation as indicated in these tables did not undergo any significant change. One

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1. M/C Report - para. 5
 2. Op. cit. - para. 15
Report of the Franchise Committee (Southborough)
 3. Vide - Appendix IX - p.82.
 4. " " "

TABLE VI

DISTRIBUTION OF SEATS IN THE ASSEMBLY

Province	Total (ex-officio nominated and elected)	Non-Muhammadan General seats including for the Punjab	Muslim General seats	% of Muslim seats to total Indian general seats	Other European General	General electe seats	Indian Special elected seats	Land-holders	Total elected	Percentage of Muslim seats to total elected seats.
Madras	18	10	3	23	1	-	1	1	16	18.8
Bombay	20	7	4	36.4	2	-	2	1	16	25.8
Bengal	21	6	6	50	3	-	1	1	17	35.3
U.P.	18	8	6	42.9	1	-	-	1	16	37.5
Punjab	15	5	6	54.5				1	12	50
Bihar & Orissa	14	8	3	27.3				1	12	25
C.P.	6	3*	1	25				1	5	20
Assam	5	2	1	33.3	1				4	25
Burma	5				1	3			4	
Delhi	1					1			1	
Ajmer-Merwara	1					1			1	
N.W.F.P.	1									
Berar	1									
Gov. of India	14									
Associated Chamber of Commerce	1									
Indian Christian	1									
Depressed classes	1									
Anglo-Indian Labour interests	1									
TOTAL	145	49	30	37.9	9	5	4	7	104	28.8

* Excluding one non-Muhammadan in Berar.

TABLE VI

DISTRIBUTION OF SEATS IN THE COUNCIL OF STATE

Province	Total (ex-officio nominated and elected)	General Seats	Muslim Seats	Sikh Seats	European Commerce	Total Elected
Madras	7	4	1	-	-	5
Bombay	8	3	2	-	1	6
Bengal	8	3	2	-	1	6
U.P.	7	3	2	-	-	5
Punjab	7½	1	1½	1	-	3½
Burma	2	1	-	-	1	2
Bihar & Orissa	4½	2½	1	-	-	3½
C.P.	2	1	-	-	-	1
Assam	1	½	½	-	-	1
N.W.F.P.	1	-	-	-	-	-
Berar	1	-	-	-	-	-
Government of India	10	-	-	-	-	-
TOTAL	59	19	10	1	3	33

65(b)

General seat was given to N.W.F.P. from 1934 which in fact returned a Muslim candidate. There was no representative from Burma in 1945 as she was already separated from India.

Special representation to various interests - such as Landholders, Commerce, Europeans and Sikhs was also a controversial issue. ~~Lord~~^{Mr.} Montagu took it for granted that landholders deserved special representation for a number of reasons. They generally represented 'ancient and well-born families' and by 'influence, position and education' they were fitted to take a leading part in public affairs.⁽¹⁾ To Lord Montagu, the landed aristocracy represented the 'natural and acknowledged leaders in the country'.⁽²⁾ The Southborough Committee did not face any serious opposition to grant^{ing} special representation to the landed aristocracy. But in 1932, the Indian Franchise Committee (Lothian) faced an opposition to this idea. The irrelevance of the landholders representation was pointed out in a minute of dissent by three Indian members, namely Mr. S.B. Tambee, C.Y. Chintamani and Mr. Bakhale. One main point of objection to it was that many landlords were regularly returned by the general elections for the Central and provincial legislatures and as such their special representation was unnecessary. The Committee half-

1. Op. cit. para. 147.

2. Op. cit. para. 147.

-heartedly agreed to the idea of retaining the existing number of seats but did not accept the demand of the landlords to increase their special representation.⁽¹⁾ Finally, the Federal Assembly, envisaged under the 1935 Act, retained the earlier 7 seats for the landholders.

It was recommended in the M/C Report that 'special electorates' would be required for representation of the plantation and mining interests and chambers of Commerce.⁽²⁾ One main justification for more special representation of commerce and industry was to bring in some members with specialised knowledge in these fields. In the Legislative Council under the Morley-Minto Reforms, there were only two elected commerce seats. While recommending a larger number of seats for commerce and industry, the Southborough Committee pointed out that representation through associations had worked well in the past and should therefore, be recommended for the future.⁽³⁾ The constituencies of commercial seats were associational instead of being territorial like other general constituencies. Since the introduction of Reforms, there was a growing demand for greater representation of Indian and European Commerce. But it became a debatable issue.

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1. Report of the Indian Franchise Committee (Lothian) - p.237.
 2. M/C Report - para. 232.
 3. Report of the Indian Franchise Committee (Southborough) para. 23.

The demand was put forward on the assumption that representation of commerce and industry could not be obtained through general territorial constituencies. Special representation of European commerce was stressed as the European businessmen were reluctant to stand for election by mixed European and Indian voters. ⁽¹⁾ The eagerness for more commerce representation in the Assembly was because the measures affecting finance and other commercial matters of all India character were discussed in it.

There were, however, numerous arguments put forward against special representation of commerce and industry. Firstly, there was always a number of businessmen on the Assembly as well as the Council of State elected through ordinary territorial constituencies. So separate representation for the interests was considered unnecessary. The proceedings of the Central Legislature also reveal that the House did not face any dearth of expert opinion when matters relating to commerce and industry were debated on the floor. ⁽²⁾ Secondly a common objection was that special representations created cleavage among the non-officials in the House as well as

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1. Memo to the ~~the~~ Statutory Commission, ¹⁹³⁰ Vol. IV - p.197
 2. See chapter VII and VIII for further details in this connection.

the electorate. It could also encourage the representatives to judge issues from narrow and selfish points of view. The minute of dissent to the Franchise Committee (Lothian) Report pointed out that members elected by special electorates might not be able to make 'a wholly dispassionate examination of particular economic issues'.⁽¹⁾ Thirdly, the idea of granting separate electorates for European Commercial bodies was criticised as unnecessary. It was suggested in the minute of dissent that no separate European electorates should be created and in each province all associations representing commerce, trade and industry should be combined into one special commercial electorate.⁽²⁾ But the Committee (a majority of the members) found it unable to accept that view and the existing provision of separate European representation was recommended 'until a mutual understanding was reached'.⁽³⁾

The procedure of conducting the elections was very much the same as in the Western countries. If the number of candidates nominated was greater than the number of vacancies in a particular constituency, a poll was taken.⁽⁴⁾ But in case the number of such candidates was equal to the number of vacant seats, all the candidates were declared to

1. Report of the Indian Franchise Committee (Lothian) - p.236.

2. Ibid. - p.237.

3. Ibid. - para. 320.

4. Rule 14, Legislative Assembly Electoral Rules.

(1) be elected. ^{level} Votes were given by ballot and in general constituencies in person subject to the condition that ^{the} Viceroy in Council or local government of a province could direct in certain special cases that votes might be given otherwise than in person. (2) In practice, voting by post was only allowed for the Council of State elections. Voting by proxy was illegal in all circumstances. In the plural member constituencies, every elector held as many votes as there were members to be elected but no elector could give more than one vote to any one candidate except in the presidency of Bombay where any elector could accumulate his votes upon one candidate or distribute them amongst candidates as he pleased. (3) An exception to this rule was also made in Bengal European constituency where the election held according to the principle of proportional representation by means of single transferable vote.

Votes were counted by or under the supervision of the Returning Officer, and each candidate, his election agent and one representative of each candidate had a right to be present at the time of counting. (4) When the counting of votes was completed, the Returning Officer forthwith declared the candidate or candidates, as the case might be, (5) to whom the largest number of votes was given, to be elected.

1. Op. Cit.	para 300	o. cit.
2. Rule 14	(4)	Op. Cit.
3. Rule 14	(5)	" "
4. Rule 14	(6)	" "
5. Rule 14	(7)	" "

When an equality of votes existed between candidates and the addition of one vote entitled any of the candidates to be declared elected, the determination of the person or persons to whom such an additional vote should be given was determined by lot to be drawn in the presence of the (1) Returning Officer and in such manner as he might determine. The Returning Officer used to send the result of election as soon as possible to the Secretary of the Legislative Department, Government of India and later the name or names of the successful candidates were published in the Gazette.

Part VII of the Electoral Rules and Regulations gives various details of dealing with the corrupt practices in elections. There was also special legislation (2) providing for criminal punishment of certain election offences. The malpractices in connection with elections were bribery, treating (giving food or conveyance or entertainment to induce anybody to vote), undue influence or personation at an election, false statements or illegal payment in connection with an election and failure to keep election accounts. (3) To try ^{the} election disputes, the Governor-General appointed an Election Tribunal consisting of three Commissioners who could declare any election of a returned candidate null and void if they found ^{that} any of the offences

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1. Rule 14(8), Op. Cit.
 2. Vide Indian Election Offences & Inquiries Act, 1920.
 3. Ibid Ibid

(1)

affected it. All the records of election disputes from 1921 to 1945 are not available. However, Hammond's volume on election cases from 1921 to 1935 reveals that only 11 disputes were concerned with the Assembly and Council of State elections. Most of those disputes were concerned with inaccuracies in nomination and ballot papers, the powers of Returning Officers and mistakes in counting. There were only three cases dealing with the publication of false statements and improper voting personation. There was no case of bribery. In 1935, the election of Ebrahim Haroor Jaffer as a member of the Assembly was declared void as he was found guilty of publishing false statements against his rival. (2)

There is a common feature in all these disputes. In every case, the petitioner was defeated by marginal votes. It might be suggested that the candidates defeated by marginal votes wanted to take a second chance by filing a case on the plea that the election was unduly influenced by corrupt practices. ~~one of the~~ ^{out of 11,} In five cases the elections were declared void.

Alleged corrupt practices in elections were discussed from time to time in the Central Legislature. An important

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1. Rule 36 (2) (a) opp. cit.
 2. Hammond - Indian Election cases 1921-35. p. 216.

debate was held in the Council of State on the 27th Feb., 1935 when Raja Ghaznafar Ali Khan strongly urged the Government to take the earliest steps to get rid of various malpractices in elections.¹ Among other things, he pointed out the following corrupt practices:-

- a) false personation
- b) entertaining the voters and
- c) excessive election expenditures.

He emphasized the malpractices found particularly in the Punjab. He said: "My experience is that some candidates spend thousands of rupees nearing a lakh on their elections. Most of the money is spent on providing conveyances, motor cars, lorries, etc. for the voters and also providing food for them when they come to the polling stations".² Excessive expenditure was an offence as the Governor-General always used to fix maximum scales of election expenses and the amount was returned to the successful candidate. Giving food and providing conveyance was a matter of controversy. While discussing the above resolution some non-official members pointed out that in rural areas some provision should be made to provide conveyance as the voters had to travel a long distance. On the 28th March, 1936, there was another discussion about election mal-practices in the)

1. C. S. Deb. 1935 - p.350.

2. *Ibid*

2. ~~Ind. Deb. 1936 - p. 3110. The number of candidates who were in the Council of State was in some of the provinces, such as Bengal, Assam, Bihar and Orissa, etc. and the number was considerable.~~

Assembly. Sardar Saran Singh pointed out that some of the polling officers were 'actually purchased by the candidates' and the marking went on not to express the will of the voter but to express the pleasure of the officer who marked the ballot papers for illiterate voters.² In order to help the illiterate voters to cast their votes properly without being unduly influenced by the Returning Officer, there was a provision in some of the provinces to use coloured ballot boxes. Each candidate had to select one particular colour for his ballot box. The Franchise Committee (Lothian) strongly recommended the use of coloured boxes in all the provinces.

Tables IV and V present summaries of general elections for the Assembly and Council of State. They suggest certain special features which require some elaboration. There was always a good number of seats filled without contest. The number of members returned unopposed in 1920, and 1930 were 39 and 65 respectively in the Assembly. On both these occasions, the Congress boycotted the elections and, therefore, many persons with local influence were returned without contest. Only 29 members were returned without contest in 1923 and that was the smallest number of unopposed members in the Assembly from 1920 to 1945. One obvious reason for this was the contest of Swarajists and other nationalist Independents who were determined to oust the Moderates. In 1926, some of the members returned without opposition

were Swarajists. The Congress contested 134 elections and out

1. L.A. Sel. 1936-P. 3417

2. Ibid.

32 members returned unopposed eight were Congress and Congress-Nationalist nominees. There was ~~sweeping~~ victory for Congress and Muslim League in 1945 and out of 46 uncontested members 36 belonged to Congress and Muslim League. Detailed analysis of uncontested seats (Table VI) reveal that European constituencies seldom held election as almost all the members regularly returned without contest. Indian Commerce constituencies also returned most of their members unopposed except in 1920 and 1934. One main reason for the lack of contest was the absence of party politics in those bodies. Except in 1920, the landholders constituencies also returned nearly half the seats without contest. It might be suggested that the most influential landlords used to get through without contest.

If we make a comparative study of uncontested seats in Muhammadan and non-Muhammadan constituencies, we find that except in 1926 and 1945, nearly half the Muslim seats were returned without contest. The number of uncontested Muslim seats in 1926 and 1945 were 7 and 8 respectively in the Assembly. It is difficult to ascertain the ^{exact} reasons for a greater proportion of unopposed seats in the Muhammadan constituencies. Some reasons can, however, be suggested. Before 1945, there was no country-wide attempt by the Muslim political organisations to contest the Central Legislature elections. Most of the Muslim members were returned as Independents. In the absence of party-politics, there was greater scope for the influential Independents to get through

TABLE VI

DETAILED ANALYSIS OF SEATS FILLED WITHOUT CONTEST IN THE ASSEMBLY ELECTIONS

Year of Election	Non-Muhammadan Constituencies (Total - 48)	Muhammadan Constituencies (Total - 30)	General Constituencies (Total 23) (Total 2)	Sikh Constituencies (Total 7)	Landholders Constituencies (Total 7)	European Constituencies (Total 7) (Total 8 - 9)	Indian Commerce (Total 4) in Uncontested seats.	Total
1920	11	17			7	1	3	39
1923	9	7		1	9	3	-	29
1926	10	7		3	9	4		34
1930	32	18		6	7	2		65
1934	7	12		3	9	1		32
1945	23	8	1	2	8	4		46

In 1930 one Indian Commerce Constituency did not hold any election.

without contest in some of the constituencies. There were some provinces, for example, Punjab, U.P. who mainly returned unopposed members. One might also suggest the relative backwardness of the Muslim community for such a tendency. It might be that the constituencies returning unopposed candidates did not actually have any rival who could come forward to contest the local influential lawyer, landlord or businessmen. The proportion of the Muslim candidates for contested seats was also generally lower than those of non-Muhammadan constituencies in most of the provinces. Such dearth of candidates in Muhammadan constituencies was, perhaps, due to the relatively smaller number of Muslims in the professions. Generally, most of the Muslim candidates were landed aristocrats.

Except in 1930 and 1945, only about one fifth of the total non-Muhammadan seats (48) were returned without contest. Owing to Civil Disobedience Movement, two-thirds of the non-Muhammadan seats were returned without contest in 1930. Nearly half the seats in the non-Muslim constituencies were returned without contest in 1945 owing to the overwhelming popularity of Congress. The proportion of candidates in the non-Muslim contested constituencies was also generally higher than in the Muslim. There was no dearth of Hindu candidates for the contested non-Muhammadan seats even in 1920 and 1930. In 1920, 144 candidates, contested 37 non-Muhammadan seats. In Madras alone, 37

candidates ran for nine Hindu seats.¹ Although the percentage of voting was low in 1930 and many seats were returned without contest, there were 46 candidates for 16 seats. In the U.P. alone, 17 candidates ran for only 4 seats.² It suggests that some of the constituencies did not respond to the Congress call to boycott the legislatures in 1920 and 1930. One main reason for fewer uncontested seats and the presence of more candidates for contested seats was perhaps more party politics in the non-Muhammadan Constituencies. In 1923, 1926 and 1934 Swarajists contested the Moderates and Independents and, therefore, reduced the number of uncontested seats. The abundance of equally qualified candidates also, perhaps, made it difficult to avoid contest in the non-Muhammadan constituencies. With the emergence of political parties, there was, however, a gradual decline in the number of persons contesting seats.³ In 1920, as many as 236 candidates ran for 65 seats only. At the next election in 1923, for 76 seats there were 202 candidates. In 1934, 177 candidates contested 74 seats. Finally, in 1945, there were 129 candidates for 56 seats. It seems the emergence of political parties discouraged the influx of too many Independents taking a chance at election.

1. Election Results, 1920 (Cmd 1261) - p. 1921
 2. " " 1930 (Cmd. 3927) - p. 1931
 3. See Tables IV & VII

The percentage of votes polled was not uniform during the period under review. As a result of Non-Co-operation Movement in 1920, many electors did not vote in the first election. So the percentage of votes polled in contested constituencies was only 25. Again in 1930, Civil Disobedience Movement dissuaded people from voting. Only 26.1% of the votes were polled. It was a big rise compared to 1920 when 41.9% of votes polled in 1923 elections. The 1926 elections had nearly 48.7% votes. After the big fall in 1930, the percentage of votes polled rose again up to 53.54 in 1934. This rise was obviously due to the participation of Congress. The 1945 election did not show any rise in the percentage of votes polled. These figures, of course, indicate two tendencies. Firstly, there was a gradual increase in the number of votes polled. It indicates that there was a general increase of interest in voting. Secondly, the number of votes polled was very much influenced by the participation or withdrawal of Congress from the elections. It was because Congress openly preached against the legislatures in 1920 and 1930 and dissuaded people from voting. The mass movements in these two years were also, perhaps, more exciting, for the people than taking part in elections. The political conditions did not seem to have influenced the Council of State elections. In 1920, ^{in contrast} ~~unlike~~ the Assembly, 55% of votes were polled. The elections of 1925 and 1930 polled 34% and 33.4% votes respectively.¹

1. The records for Council of State elections in 1936 ~~and~~ ~~1937~~ are not available. ~~at~~ ~~the~~ ~~moment~~.

It is difficult to ^{explain} ~~ascertain~~ the ^{declining} ~~regressive~~ character of voting in the Council of State elections. It was, probably, because the Council of State electors did not take effective interest in voting. The ineffective political parties in the Council of State could also be explained as the reason for this lack of interest. It could also be because of the reason the Council of State was gradually declining in importance.⁽¹⁾

Though the percentage of votes polled was increasing steadily, one can find from the available figures (See Table, ^{IV} ~~IV~~) that there was always a large portion of electors absent from voting. The maximum percentage of votes polled was 53.54 in 1934. Even in 1945, in spite of widespread political activities, the percentage of votes polled did not exceed 52.25. It is quite likely that a certain percentage of votes were held invalid as the ballot papers were not always properly marked by the illiterate voters. No record of invalid votes is, however, available. There are reasons to believe that the number of invalid votes could be considerable. The percentages of votes polled from 1920 to 1945 were far below the percentage of the electorate who voted in British General Elections during the contemporary period. The following Table will further illustrate this point.

1. See also Chapter X.

TABLE - VII
BRITISH GENERAL ELECTION

Year of Election	Percentage of electorate who voted
1922	71
1923	71
1924	77
1929	76
1931	80
1935	75
1945	76

INDIAN LEGISLATIVE ASSEMBLY ELECTIONS

Year of Election	Percentage of votes polled
1920	25
1923	41.9
1926	48.07
1930	26.1
1934	53.54
1945	52.25

Even compared to some of the British Colonies, the percentage of votes polled in India was lower. In 1926 and 1931, the percentages of votes polled in Ceylon were 54.69 and 57.96 respectively.¹ The first election on adult franchise in Jamaica polled 58.7% votes in 1944.² What was the reason for such a large percentage of electors remaining absent from voting? One common answer to the question was the

1. Namasivayam - Legislatures in Ceylon - p.56.

2. Quoted in the above mentioned book.

political apathy of voters caused by disbelief in voting or disgust in politics. It is true that an average voter could have apathy towards election. But it cannot be accepted wholly that large numbers of electors remained absent only on account of apathy.

Apart from political apathy, some material factors could also be responsible for the absence of a considerable number of electors from the polls. Firstly, the preparation of electoral rolls was itself defective. In India, the electoral rolls remained in force for three years and they were prepared carelessly by persons who did not receive any remuneration for their work. There was no house-to-house enquiry in practice except in rare cases for preparing electoral rolls. So, many persons entered on the rolls could also have been already dead at the time of election. In Bengal, the number of dead electors at the time of General Election in 1926, was estimated to be some 6 or 7 per cent of the total electorate (including provincial legislatures).¹ The same figure could also be true in respect of most of the other provinces. There was also a possibility of double entry of the electors. Normally, Indians living in towns have also some establishment in the villages where they were born. As a result, an individual might have been entered, for example, in the Calcutta Urban

1. Datta, G.M. - On the use of vote (Pamphlet) - p.7.

Constituency as well as in Dacca Rural Constituency. In case of double entry, one elector could vote only once. It can, therefore, be said the figures available in the electoral rolls did not actually indicate the real number of electors. The mistakes in the electoral rolls could also disqualify an elector from voting. Many electors who came to vote were not actually allowed to do so on account of those inaccuracies. Sometimes, the names of the electors were wrongly spelt and sometimes the father's name was wrongly entered. Such inaccuracies were due to illiteracy among the electors as well as to the negligence of those who prepared the rolls. As Electoral rolls were maintained in English, it was an additional difficulty for an ordinary elector to see that his name was correctly entered. The Returning Officer did not allow such electors to vote as their identity was rendered doubtful. Such electors were obviously regarded as absentees.

Secondly, an unsuitable polling season, **hour** and date could also present a material difficulty for not being able to vote. The General Elections were mostly held in November and December. This was not a very suitable season for election in an agricultural country like India. This was the harvesting season in most of the provinces. Except in the urban areas, the people were normally busy in harvesting. Even the landlords were busy in this part of the year collecting rents etc. Usually voting continued

from 7 a.m. to 6 p.m. In the urban areas, the office employees had to vote either before they went to work or after they returned from it. But such hours could also have been unusually crowded. It might have been that some voters returned in disgust without voting. The fixing of an appropriate polling date was of considerable importance in the rural areas. If the polling date fell on a weekly market day (Hat), it was difficult to attract the ordinary electors to vote. The reasons were obvious. Weekly market days were, important in rural areas for buying and selling commodities. It would also have been difficult to bring average electors to the polling stations if the date fell on any of the religious festivals.

Thirdly, the lack of modern communications presented a very difficult problem. Most of the rural areas in India do not have metalled roads and journey by bullock carts or country boats could also be very slow. Even in well-populated districts, the voter mostly travelled six to eight miles each way to record his vote and in thinly populated tracts often twice as far.¹ Mostly such long journey presented a material difficulty to the voters as they had to walk on foot. There was no official arrangement for providing any conveyance for the voters. Normally, the Muhammadan constituencies were bigger in area and the voters had to travel longer distances. The average difference in

1. ^{of the} Report/Statutory Commission, 1930 - Vol.I. para. 209.

attendances between urban and rural voters in Bengal was some 6.7 per cent and generally the attendance of urban voters was higher.¹ We might guess that the same difference existed in most of the provinces. It is obvious that lower attendance in the rural areas was mainly due to the long distance of the polling stations and the absence of appropriate means of communication.

Another special feature of the electorate is that it remained extremely restricted throughout the period under review. The main reason for such a restricted size of the electorate was high property qualification. It is strange to note that during 25 years the size of the electorate in a ~~country of largely and rapidly increasing population~~ ^{country of largely and rapidly increasing population} like India increased by only about 7,000 electors. The smallness of its size in 1920 might be considered a result of the boycott by Congress. But in 1923, in spite of the Swarajist participation, the size of the electorate increased by only 376 electors. Apart from the high property qualifications, some more reasons could be behind this phenomenon. Firstly, the defective method of preparing the electoral rolls. As the persons preparing electoral rolls did not normally go to the house of every individual, there was a possibility of leaving a substantial number of qualified persons out. On the 27th February, 1935, Raja Ghaznafar Ali Khan discussed at length in the Council of State the carelessness of the persons who

1. Datta- op.cit. p.46.

prepared electoral rolls.¹ To cite examples, he mentioned that Pandit Malaviya's name was not found in the electoral roll of Benares.² He further said: "I may assure you that the names of a very large number of people who are really entitled to vote do not appear on the electoral roll."³ The available figures suggest that in ten years the electorate of the Council of State more than doubled (See Table III). It was, perhaps, easier to prepare the Council of State electoral roll as the number of persons qualified to be electors was limited. Also the persons qualified for taking part in Council of State elections were of local prominence and fairly rich. So it was, perhaps, difficult not to enlist such persons by negligence. Secondly, it seems that the political parties did not take interest in the electoral rolls. Had the Congress Workers been vigilant, the persons left out of the electoral roll by mistake or negligence could have been entered later. Lastly, the apathy of individuals could also be responsible for their not taking interest in being entered on the roll. The size of the electorate would have been increased by 7 times if the Federal Assembly envisaged under the 1935 Act had come into operation.⁴

1. C.S. Deb., 1935 - p.359.

2. Ibid

3. Ibid

4. Report of the Indian Franchise Committee (Lothian) 1932 - para. 413.

Table VIII gives a comparative study of voting in some of the major kinds of constituencies.¹ The percentage of voting was not uniform in all the constituencies. Some of the constituencies polled ^{very} ~~an~~ highest percentage of votes whereas the others showed the reverse. Throughout the period under review, the landholders and Indian Commerce Constituencies polled the highest percentage of votes. Next came the Sikh Constituencies. The percentage of voting in landholders and Indian Commerce Constituencies was not seriously affected even in 1920 and 1930. Some reasons can, however, be offered for this. Firstly, the special electorates were very narrow. They were mainly wealthy and better educated and not normally liable to be much affected by mass political movements. Secondly, it might be suggested that the special electorates took a more active part in elections as their representatives were supposed to defend their interests on the floor of the House. It is very interesting to note that voting in contested Muslim constituencies was steadily increasing whereas the non-Muhammadan constituencies seemed to falter. It can be explained as a growth of interest in voting among the Muslim electors.² Even in 1920, the percentage of Muslim voting was a little higher than that of the non-Muhammadans. In 1930, the percentage of voting

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1. Most of European Constituencies returned candidates without contest. So this Table has not shown the percentage of voting in European Constituencies.
 2. But it should be borne in mind that a large proportion of Muslim seats were returned without contest. See Table VV.

TABLE - VIII

COMPARISON OF VOTING IN VARIOUS TYPES OF CONSTITUENCIES OF THE LEGISLATIVE ASSEMBLY.
 (EUROPEAN AND GENERAL CONSTITUENCIES NOT SHOWN HERE.)

Year of Election	Muhammadan Constituencies		Non-Muhammadan Constituencies		Landholders' Constituencies		Indian Commerce Constituencies		Sikh Constituencies	
	Total Electors in con- tested constitu- ences.	% of Total Votes polled in con- tested constitu- ences.	Total Electors in con- tested constitu- ences.	% of Total Votes polled in con- tested constitu- ences.	Total Electors in con- tested constitu- ences.	% of Total Votes Polled	Total Electors in con- tested constitu- ences.	% of Total Electors in con- tested constitu- ences.	Total Electors in con- tested constitu- ences.	% of Total Votes polled
1920	79,879	28.3	598,723	24.8	3878	44	2,703	45.7	14,538	27
1923	137,382	48.1	695,556	44.1	3858	49.5	79	94.9	17,733	53.0
1926	207,392	48.6	715,762	405	2565	80.5	No contest		3,219	52.1
1930	64,680	52.9	330,241	204	819	70.9	305	87.65	20,188	50.1
1934	140,746	55.5	894,247	48.5	3168	75.4	2,325	87.7	19,256	60.5
1945	320,461	59.24	645,502	47.52	5493	68.99	No contest		25,897	73.42

in Muhammadan Constituencies was more than double the percentage of non-Muhammadan constituencies. It suggests that Muhammadan electors were not affected by the Congress Civil Disobedience Movement. There was a sharp rise in the percentage of voting in the non-Muhammadan Constituencies in 1934. A very remarkable rise could have been expected in 1945 but strangely enough the percentage of voting in non-Muhammadan constituencies fell by about 1 per cent. It was 47.52% compared to 48.5% in 1934. Such a relatively static nature of voting in the non-Muhammadan constituencies, in spite of vigorous Congress activities, seems strange. No conclusive evidence is, however, available to explain this pattern of voting.

A comparative study of the votes polled in various provinces is also interesting. (Tables VIII and IX). It is impossible to trace one uniform pattern from the figures available in Tables VIII and IX. The low figures in almost all the provinces in 1920 suggest that Non-Co-operation Movement equally influenced all the provinces. The percentage of non-Muhammadan voting in 1920 was 24.8 and that of the Muhammadans 28.3. The lowest percentage of voting was recorded in the non-Muhammadan constituencies. For example, in Bombay only 6% of the non-Muhammadan votes were polled. But the Civil Disobedience Movement in 1930 did not affect all the provinces as much as it did in 1920. Particularly, the two Muslim-majority provinces - Bengal and the Punjab

TABLE IX

PROVINCIAL VOTES POLLED IN CONTESTED CONSTITUENCIES AS A PERCENTAGE
OF ELECTORS ENTITLED TO VOTE

Year.	Madras	Bombay & Sind	Bengal	U.P.	Punjab	Bihart & Orissa	C.P. & Berar	Assam	Delhi	Hyer Merwara	Burma N.W.F.
1920	29.3	13.66	28	23.16	35.4	30.40	23.3	22.1	10	-	-
1923	36.3	38.4	39.0	42.2	49.3	52.0	57.0	37.5	30.0	74.5	23.3
1926	48.44	46.18	42.12	51.76	62.79	52.57	75.2	54.25	65.0	66.42	13.77
1930	31.07	13.7	41.5	16.9	55.4	21.5	40.9	-	22.9	35.9	17.7
1934	58.9	59.99	28.7	60.1	65.5	64.5	58.5	45.89	38.62	76.6	29.99
1945	60.33	62.06	43.25	57.55	61.94	40.85	52.65	42.21	44.35	-	69.66
		Sind 53.51				Orissa 41.29					

TABLE X (1)

PERCENTAGE OF VOTING IN DIFFERENT CONTESTED CONSTITUENCIES:

IN VARIOUS PROVINCES: 1920 - 1945

Class of Constituency	1920	1923	1926	1930	1934	1945	Remarks
Madras: Non-Muhammadan	27%	42.8%	41.33%	30.4%	58.4%	58.18%	
" Muhammadan	6%	52.6%	61.0%	56.0%	62.7%	82.89%	
" Europeans	-	-	-	-	-	-	
" Landholders	53%	41%	82.0%	73.0%	688.07%	82.27%	
" Indian Commerce	41%	-	-	-	89.04%	-	
Bombay: Non-Muhammadan	6%	39.3%	48.24%	10.0%	60.38%	61.58%	In 1945, Sind elected re- presentatives separately as the Province was already separated from Bombay.
" Muhammadan	7%	33.8%	39.51%	58.4%	55.52%	69.24%	
" Europeans	-	-	-	-	-	53.51%	

TABLE X (CONTD)

Class of Constituency	Percentage of votes polled to total no. of Electors in Contested Constituencies					Remarks
	1920	1929	1926	1930	1934	
Bombay: Landholders	49%	51.2%	-	-	76.98%	63.28%
" Indian Commerce	49%	94.9%	-	-	83.09%	-
Bengal: Non-Muhammadan	25%	39.4%	39.4%	-	26.7%	33.15%
" Muhammadan	23%	39.4%	46.48%	40.3%	34.1%	57.66%
" Europeans	-	-	-	-	-	-
" Landholders	50%	24.4%	76.1%	-	60.4%	63.42%
" Indian Commerce	94%	-	-	87.0%	94.6%	-
U.P. Non-Muhammadan	26%	43.1%	51.4%	14.2%	56.7%	50.12%
" Muhammadan	27%	51.1%	57.53%	43.7%	63.1%	72.86%
" European	-	-	-	-	-	-

87 (c)

TABLE X (CONTD)

Class of Constituency	Percentage of votes polled to total no. of Electors in Contested Constituencies					Remarks
	1920	1929	1926	1930	1934	
U.P. Landholders	18°/o	29.2°/o	-	-	-	-
Punjab: Non-Muhammadan	26°/o	61°/o	62°/o	41.°/o	64°/o	61.33°/o
" Muhammadan	46°/o	64°/o	64°/o	62°/o	75.9°/o	52.63°/o
" Sikh	27°/o	53°/o	52°/o	50°/o	60.6°/o	73.42°/o
" Landholders	60°/o	84°/o	87°/o	-	-	65.79°/o
Bihar & Orissa: Non-Muhammadan	30°/o	42.1°/o	52.3°/o	8.7°/o	64.1°/o	37.69°/o
Bihar Muhammadan	18°/o	55.2°/o	59.04°/o	53.9°/o	73.3°/o	75.83°/o
" Landholders	44°/o	67.4°/o	-	62.7°/o	85.7°/o	77.99
C.P. & Bewar Non-Muhammadan	25°/o	44.1°/o	75.65	-	58.2°/o	52.65
C.P. Muhammadan	-	-	-	41.0°/o	62.9°/o	-
C.P. & Bewar: Landholders	7.3°/o	-	37.8°/o	-	-	-

In 1945 Orissa held separate elections as the province.

Bihar & Orissa held separate elections as the province.

Bihar & Orissa held separate elections as the province.

Bihar & Orissa held separate elections as the province.

Bihar & Orissa held separate elections as the province.

TABLE X (CONTD)

Class of Constituency	1920	1925	1926	1930	1934	1945	Remarks
Assam:							
Non-Muhammadan	24%	-	56.40%	-	45.8%	-	
Assam:							
Muhammadan	19%	44%	52.43%	-	-	42.21%	
Assam:							
European	30%	-	-	-	-	-	
Delhi (General)	10%	30%	65%	22.8%	38.62%	44.35%	
Burma: Non-European	-	23.3%	13.77%	17.7%	29.99%		
Burma: European	-	-	-	-	-	-	
Ajmer-Merwara (General)	-	74.5%	66.42%	35.9%	76.6%	-	
N.W.F.P. (General)					73%	69.66%	
TOTAL	25%	41.9%	48.07%	26.1%	53.54%	52.25%	

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showed the highest percentage of voting - 41.5 and 55.4 respectively. This was because greater percentage of Muslims voted in that year . The communal bitterness among the Hindus and Muslims was an important reason for the Muslim electors not responding to the Congress call for boycotting the elections .

In the six Assembly elections, the Punjab polled the highest percentage of votes in average . It was because of steady voting among the Muslims, landholders and the Sikhs in that province . Compared to 1930, elections in 1934 marked a general increase in voting in all the provinces except in Bengal . Only 26.7% votes were polled in non-Muhamammadan Constituencies , the total percentage being 28.7% . There was a general apathy among the Hindus in Bengal in that election . This was because they were not very enthusiastic about the election owing to their dissatisfaction with the 'weightage' given to the Muslims under the Communal Award . All the non-Muhammadan seats were won by the Congress-Nationalists who contested the election with a promise to fight the Communal Award . In one constituency, only 3.8 per cent electors voted . The Hindu Mahasabha politicians were more active in Bengal who attempted to organise political agitations against the Award . Burma seemed to be the province which showed least enthusiasm in the Assembly elections . In 1920, 1923, all the seats were returned unopposed . Even in/ 1926, and 1934, when interest in ...

1. See also Chapter 11

2. Election Results, 1934 (Cmd. 4939) - P. 9
1935

the Assembly elections increased generally and political parties were active, only a limited percentage of votes were polled in Burma.¹ The Statutory Commission attributed her lack of interest to the "remoteness of the Central Legislature and the feeling that Burma was powerless to obtain sympathetic consideration of her special interests in a body in which her representatives were so few."² Ajmer-Merwara - a small province electing only one representative showed an unusually large percentage of voting in 1923, 1926 and 1934.³ N.W.F.P. showed great enthusiasm in her first Assembly election in 1934 polling nearly 73% of the votes. In 1945, the province polled the highest percentage of votes - 69.66 among all the provinces.

The question of women's franchise did not receive any serious attention from the Southborough Committee though it admitted that it received numerous petitions from women of the educated classes urging the cause of female suffrage on the same property qualifications as for men.⁴ It was considered premature by the Committee to "extend franchise to Indian women at that juncture."⁵ Among the pleas of the Committee for not recommending female suffrage were the

1. See Tables IX & X.

2. Report, Op.Cit. Vol. I - para. 247.

3. See Tables IX & X.

4. Op.,cit. para.7.

5. Ibid .

seclusion of women and the peculiar social conditions in India amidst which voting rights for women would have been out of tune. The Joint Select Committee on the Draft Rules made under the 1919 Act considered it desirable to leave the question to the Indian Legislatures.¹ If any provincial legislative Council decided by a resolution in favour of women's franchise, women were to be put on the electoral register of that province. The Legislative Assembly, and the Council of State also had the power to grant women the right to vote in their elections by passing a resolution but only for those provinces which had already granted women the legislative franchise. Madras was the first province to enfranchise its women passing a resolution in the first session of the Legislative Council in 1921. Bengal, U.P., C.P. Assam and the Punjab did not grant franchise to women until 1926. Bombay granted women's franchise in 1922. The Legislative Assembly passed a resolution in 1922 giving the franchise to women in its election.² In 1923, women in India voted for the first time ^{for} for the elections of provincial legislatures and/members of the Legislative Assembly only in Madras and Bombay. It may be noted here that the Women's Indian Association played an important role in gaining female franchise. Some leading women such as

1. Report ^{of the} Joint Select Committee - ^{Clause} ~~para.~~ 14.

2. L.A. Deb. 1922 - p.2102.

Mrs. Sarojini Naidu, Mrs. A. Besant, Lady Shafi and Mrs. Hussain Imam took important parts in the movement demanding suffrage for Indian women.

One main task of the ^{Franchise} ~~Lord~~ (Lothian) Committee appointed in December 1931 was to extend the franchise including that of the women. In his letter of instructions to the Committee the Prime Minister stated that His Majesty's Government attached special importance to the question of securing more adequate enfranchisement for women.¹ The proportions of men and women enfranchised (including provincial legislatures) in 1932 could be summarised in the following table.²

Madras	1 to 10
Bombay	1 to 19
Bengal	1 to 20
U.P.	1 to 29
Punjab	1 to 29
Bihar and Orissa	1 to 62
C.P.	1 to 25
Assam	1 to 114

Later, the number of women voters increased generally, but its percentage to the total electorate of the Central Assembly was only 7.1 in 1945. The main reason for the high disparity between the proportions of men and women

1. Report ^{of the Franchise (Lothian)} ~~Joint Select~~ Committee - para. 204.

2. Op cit ^{ibid} - para. 204.

voters was the high property qualification . As a rule, the women members of an Indian family do not have independent ownership of property .¹ Seclusion of woman normally practised by certain communities could be another reason for low figure of women electors . In their recommendations, the Franchise Committee (Lothian) proposed lower property qualifications for women than for male electors .² It was also proposed that the wife of a voter possessing some property qualification would automatically be eligible to vote .³

A comparative study of women electors in various provinces shows certain interesting features .⁴ Madras had always the highest figure of women electors . The percentage of female votes polled in that province was also the highest . The women of Madras and Bombay were socially advanced compared to the other provinces . This was the reason for the higher percentage of voting among the women electors . The rest of the provinces in general did not show much enthusiasm in women's franchise . There was a general increase of women electors in all the provinces but the percentage of voting did not increase to any significant extent as it did in Madras .

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1. Report of the Statutory Commission, 1930 - para 246
 2. Report of the Franchise Committee (Lothian) - para 215
 3. Ibid.
 4. See Table - XI

TABLE XI

DETAILED ANALYSIS OF WOMEN VOTERS

Province (1)	No of Women electors enrolled (2)	No. enrolled in contested constituencies (3)	No. who voted (4)	Percentage of Col. (3) and (4)	Year of Election	Remarks
Madras	18,375	13,179	2,910	22.1	1926	Record of women voters in 1923 is not available
Madras	19,491	10,338	1,191	11.5	1930	
Madras	28,322	28,048	8,165	29.11	1934	
Madras	43,281	18,678	7,967	42.65	1945	
Bombay	4,404	2,810	343	12.2	1926	"
Bombay	5,644	2,617	84	3.2	1930	
Bombay	8,829	7,260	2,119	29.19	1934	
Bombay	9,248	4,856	1,522	31.34	1945	
Bengal	16,360	198	Not recorded	separately.		In Bengal Women's Franchise was given in 1926 but no record of women electors in 1926 is available.
Bengal	20,262	9,359	898	9.6	1934	
Bengal	31,826	31,820	2,716	8.54	1945	

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TABLE XI (CONTD.)

WOMEN VOTERS

Province. (1)	No. of Women electors enrolled (2)	No. enrolled in contested constituencies (3)	No. who voted (4)	Percentage of Col. (3) and (4)	Year of Election	Remarks
U.P.	6,071	4,627	210	4.5	1926	
U.P.	7,424	3,175	106	3.3	1930	
U.P.	8,651	4,764	700	14.7	1934	
U.P.	11,347	7,498	2,046	27.29	1945	
Punjab	2,065	1,217	150	12.3	1926	
Punjab	3,413	2,193	165	7.5	1930	
Punjab	3,491	2,547	578	22.7	1934	
Punjab	4,869	3,066	932	30.40	1945	
Bihar & Orissa	1,676	810	25	3%	1930	
Bihar & Orissa	2,906	1,867	348	18.6%	1934	
Bihar	4,856	1,390	310	22.3%	1945	

TABLE XI (CONTD)

WOMEN VOTERS

Province. (1)	No of Women electors enrolled (2)	No. enrolled in contested constituencies (3)	No. who voted (4)	Percentage of Col. (3) and (4)	Year of Election	Remarks
Orissa	437	337	82	24.33	1945	
Burma	5,193	Not recorded	separately		1926	
Burma	5,960	"	"		1930	
Burma	6,134	6,028	1,111	18.43	1934	
C.P. & Berar	931	40	0	-	1930	
C.P. & Berar	1,388	1,367	237	17.3	1934	
C.P. & Berar	2,843	1,586	508	32.03	1945	
Assam	No separate	record was kept			1926	
Assam	No separate	record was kept			1930	
Assam	706	604	112	18.54	1934	
Assam	1,330	170	6	3.53%	1945	
Ajmer-Merwara	94	No separate	record available			
Delhi	913	913	237	25.95%	1934	
Belhi	2,395	2,395	Not available		1945	

The available figures indicate that Bengal and Assam did not take any significant interest in women's voting. These two provinces recorded the lowest percentage of women's votes (See Table XI). It is difficult to ascertain the reasons for poor percentage of female voting but the general reasons for the absence of voters discussed in earlier paragraphs could also be applicable to women voters. Inadequate facilities for communication could be more difficult an obstacle to women electors who wanted to vote.

What did the election contests mean to an average voter? Were the ordinary voters conscious of the political issues? The Simon Commission commented that "to the general body of voters electoral contests were largely contest of persons."¹ As always a good number of Independents were elected before 1945, the comment could be accepted to a certain extent. But the available records of six elections would disprove any such broad generalization. Though the political parties were not properly organised in the earlier years, it can not be said they were without any election programme. The Swaraj Party was a fairly disciplined political body, supported by the Indian National Congress. It contested 1923 elections on a very clear cut political programme. The core of its programme was to fight for national independence inside the legislatures but the other important points could

1. Op. cit. - para. 211.

be summarised below:

- a) To refuse supplies and throw ^{out the} Budget unless and until the system of Government was altered.
- b) To throw out all proposals for legislation by which bureaucracy proposed to consolidate its powers.
- c) To move resolutions and introduce and support measures and Bills which were necessary for the healthy growth of national life and consequent displacement of the bureaucracy.
- d) To help constructive programme of the Indian National Congress.
- e) To follow a definite economic policy to prevent drain of public wealth from India.
- f) To protect rights of labour, agriculture and industry and adjust the relations between landlords and tenants, capitalists and workmen.¹ The programme of the Swaraj party did not change in 1926 election, but a group of dissident Swarajists formed a new party known as the Responsivist Co-operation Party which came out with a separate political programme. Hardly there was any difference between the programmes of the two parties except that unlike the Swarajists, the Responsivists wanted to accept offices and work the Reforms for what they were worth.² When Congress contested elections in 1934, there was not any significant

1. Gwyer and Appadorai - Speeches and Documents on the Indian Constitution - p.5.

2. Gwyer and Appadorai - Ibid - p.5-6.

change in the election programme. It more or less pursued the old Swarajist policy with an additional promise to repeal all repressive laws and obtain release of all political prisoners.¹ The Congress election programme in 1945 also reaffirmed the earlier programmes and called upon the voters to vote for the Congress candidates.²

The victory of the Congress ~~men~~ in 1923 and 1926, in 1934 and 1945 suggests that the general voters were influenced by the political issues propounded by the parties. As ~~it~~ has already been indicated, the rise and fall in the percentage of voting largely depended on the participation or withdrawal of Congress from elections. It can, therefore, be said that ~~the average~~ ^{many} voters were ~~not~~ ^{being} ~~directly~~ influenced ~~by the~~ ^{by the} ~~political~~ real political issues though at times the contest of persons could be more important in some constituencies. There can be no doubt that the people were brought in close touch with the Congress policies by the mass political movements in the 1920's, 1930's and 1940's. The political activities and communal tensions gradually mounting during the War years also brought the electorate closer to the burning political issues in the country. This is illustrated by the growing popularity of the Muslim League and its success in most of the by-elections held during the War period.

1. Dr. Pattabhi - op. cit. p.571.

2. Indian Annual Register, Vol. II, 1945 - p.112.

Election campaigns and propoganda could also, at times, take ugly shape. Communal considerations could always creep in; so also personal slandering and irresponsible promises which had no direct bearing on the real political issues. In 1923, for example, the Swarajists in their election campaign promised to remit all taxes if they were returned to the Legislature.¹ There was a historic contest between Sir Surendra Nath Banerjea, one of the distinguished Indian leaders at that time, and Dr. B.C. Roy who was then only a new entrant in politics for a seat in Bengal Legislature and to everybody's surprise ~~Sir~~, Banerjea was defeated. Election campaign in their constituency was but personal slandering against ~~Mr.~~ Banerjea which went to the extent of blaming him for the arrest of Mr. Gandhi and other Congress leaders during the non-co-operation movement.² The elections of 1926 were more notorious in this respect. There were frequent clashes between the Swarajists and the Independents.³ In Southern India, the 1926 elections were, for all practical purposes, a fight between the Swarajists (who were predominantly Brahmins) and the non-Brahmins represented by the Justice Party.⁴ There were also reports of Swaraj Party candidates being attacked

1. The Statesman and Friend of India. No.25, 1923.

2. Ibid.

3. The Hindu Nov.4, 1926.

4. The Daily Mail, Nov. 23. Quoted in the Hindu Nov.25, 1926.

by the Justice Party supporters.¹ The 1926 elections also marked the rise of Hindu-Muslim differences. Practically all the Muslim seats were contested by the Independents. There was defection among the Swaraj Party on the communal questions and the acceptance of office under the government.² Narrating his election experience in 1926, Motilal wrote to his son (Jawaharlal Nehru) that he was denounced as a "beef-eater", and anti-Hindu and pro-Muhammadan.³ Giving his reasons for the defeat of the Swaraj Party in the U.P., Motilal said: "The Political programmes of various parties had nothing to do with the elections. It was a fight between the forces of nationalism and those of law ~~and~~ order of communalism reinforced by wealth, wholesale corruption, terrorism and falsehood." 'Religion is in danger' was the cry of the opponents of the Congress, both Hindus and Muhammadans.⁴ Communal antagonism ran so high in the 1934 elections for the Central Assembly ~~when~~ ^{that} all the Hindu-Mahasabha candidates won seats in Bengal defeating the Congress candidates. Except for the two seats, all the Muhammadan

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1. The Hindu, September 9, 1926. It was reported that Mr. M.K. Acharaya, a Swarajist candidate for the Central Assembly was assaulted by the non-Brahmins.
 2. See Chapter II for further discussion on this point.
 3. Nehru, J. - A bunch of old letters - p.119-50.
 4. The Hindu, December 16, 1926.

seats were won by the Muslim League candidates in 1945 as the Hindu-Muslim differences culminated in the demand for a separate Homeland for the latter during that period. The elections in India were, therefore, not free from the communal considerations which ~~dominated~~^{characterized} Indian politics during the whole period under review.

CHAPTER IV

POWERS, PRIVILEGES AND PROCEDURES

IN THE CENTRAL LEGISLATURE

The Central Legislature in British India which was also known as the Indian Legislature consisted of the Governor-General and the two Chambers namely, the Council of State and Legislative Assembly.¹ Its powers and authority were defined by the 1919 Act, and the rules made under it. The Indian Legislature was empowered² to make laws

1) for all persons, for all Courts and for all races and things within British India;

2) for all subjects of His Majesty and servants of the Crown within other parts of India;

3) for all native Indian subjects of His Majesty without and beyond as well as within British India;

4) for the Government officers, soldiers, airmen and followers in His Majesty's Indian forces, wherever they were serving in so far as they were not subject to the Army Act, or the Air Force Act;

5) for all persons employed or serving in or belonging

1. See 63. Government of India Act, 1919. See ^{also} Appendix I

2. See 65 (1) " " " " "

to any naval forces raised by the Governor-General in Council, wherever they were serving in so far as they were not subject to the Naval Discipline Act; and

6) for repealing or altering any laws which for the time being were in force in any part of British India or applying to persons for whom the Indian Legislature had power to make laws. But it was not, unless so authorised by the Act of Parliament, empowered to make any law repealing or affecting

a) any Act of Parliament passed after the year 1860 and extending to British India (including the Army Act, the Air Force Act, any Act amending the same): or

b) any Act of Parliament enabling the Secretary of State in Council to raise money in the U.K. for the Government of India.¹ The powers in respect of finance and other means of influencing the Administration were also defined, by the Act, and the rules made under the provisions.² Normally, a Bill was deemed to have been passed by the Indian Legislature if it had been agreed to by the Assembly and the Council of State. But no Bill passed by the two Chambers could become an Act without the formal assent of the Governor-General.

1. See 65 (2). Ibid.

2. See also Chapters VI and VIII.

The normal duration of an Assembly and a Council of State was three years from the date of their first meeting. But either of the two Houses or both could be dissolved by the Governor-General before their term came to an end. The Viceroy could also extend the term of the House in exceptional circumstances.^b In 1929, the term of the third Assembly was extended up to December 1930. The Legislative Assembly elected in 1934 continued under the extensions given by the Governor-General up to 1945 when fresh elections were held. The Council of State elected in 1936 continued up to 1947. These extensions were granted from year to year as it was impracticable to hold normal elections during World War II and also because of the suspension of Federal Scheme envisaged ^{under} and the 1935 Act. Such extensions were published in the Gazette Extra-ordinary, Government of India.

The summoning of the two Chambers was also the responsibility of the Governor-General. A summons was issued to each member by the Legislative Department giving the date and place of the session. It was not obligatory under the Act to hold any ^{specified} ~~minimum~~ number of sessions each year. But as a matter of practice two sessions of the Legislature ~~were~~ were held each year. One used to be held in Delhi from about the end of January until the middle of March and sometimes up to April. It was popularly known as the Delhi session.

^b. Sec. 63-D, Government of India Act, 1919 .

The other session was held in Simla from about the end of August or beginning of September till the end of October. This was known as the Simla Session.¹ If for any reason, the session of the Legislature was delayed, it could not be questioned by the non-officials. On the 6th November 1940, a member wanted to discuss the unusual delay of the second session of the year.² But the motion was disallowed by the Governor-General. Sometime, a special session was convened at Delhi to deal with outstanding official business. As a rule, non-official days were few or non-existent in the special sessions as most of the time was spent in discussing official business. Debates adjourned in Delhi Session were normally resumed for discussion in the later sessions.

After the commencement of the session, the Legislature sat on such days as the President might have directed.³ But it should not be interpreted as ^{a matter for} the sole authority of President. He was in this respect guided by the amount of business to be transacted. A session of the Assembly or Council was normally terminated by a notice of prorogation from the Governor-General, Delhi Sessions were

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1. From 1940, no session was held in Simla. The second session of the year was also held in Delhi.
 2. LA.Del. 1940 - p.183.
 3. Standing Order 3. Manual of the Legislative Assembly.

normally longer due to the discussion of a large number of Official Bills and the Annual Budget. On the whole, the length of sessions increased from 1921. (See ^{Appendix} ~~Table~~ II).

But the rate of increase was not continuous. The longest period during which the Assembly sat was 97 days in 1933.

^{This was due to} ~~It~~ was a lengthy Special Session held in November to discuss certain important Bills. After the introduction of provincial autonomy from 1937 there was a gradual decline in the length of the Central Legislature's sessions.

Especially from 1939 onwards, the sessions were generally short. There could be two reasons for this. Firstly, after the introduction of provincial autonomy, many subjects which were earlier Central responsibility became provincial concerns. As such, motions relating to the provincial subjects were ^{not normally} ~~discussed~~ in the Assembly. Secondly, the absence of the Congress also resulted in less discussion on the floor of the House. Thirdly, during the War the Government passed a large number of ordinances to meet the emergencies which under normal circumstances would have been discussed as Bills in the legislature.¹ At the end of the War, the number of working days in the Legislature again increased. The Council of State's Sessions used to commence at the same time as the Assembly or a few days later, but it did not meet so frequently as its volume of

^{also}
1. See/Chapter VII

work was less than the other House. The business of each session began with the oath or affirmation of allegiance to the Crown by the newly elected members. Before taking his seat, a new member had to make an oath in the following ~~favour~~^{form}, namely:-

"I, A.B. having been elected/nominated a member of this Assembly do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His Heirs and Successors, and that I will faithfully discharge the duty upon which I am about to enter.¹

The non-observance of oath or affirmation disqualified a member from the membership of House. If it was a newly elected Assembly, the House then proceeded to elect a President. Unlike the present day practice of beginning Parliamentary session with a Presidential address, the Governor-General did not open the session of the Indian Legislature. But in the first week of each session, the Viceroy made a point of addressing a joint session of the two Houses. The attendance required for such address was communicated to President by a Message which was read on the floor of the House. But since 1935, the practice was not regularly followed.² Normally, the Viceroy's Speech was an ordinary discussion of administrative policy. But sometimes his Speech could forecast future constitutional developments and thereby inspire the attention of the non-officials in the

1. Rule 25, Legislative Assembly Electoral Rules.

2. On some occasions the Viceroy addressed the Legislative Assembly only.

House as well as the political circles outside. The Viceroy used to arrive in procession with the President to deliver the speech and no further business was normally transacted following the address.

Next in priority was to answer questions put by the non-officials. As a matter of practice the first half^{hour} was devoted to answering these questions. But the swearing-in of members used to take sometimes about ten minutes. Also, the Leader of the House, from time to time, mentioned the deaths of some ex-members of the House. On such occasions, the leaders of different groups joined the Leader of the House in expressing their regrets. But the President could not extend the question hour to compensate such loss of time. On the 8th August 1938, a member requested the President to extend the question hour by ten minutes as the swearing-in of the members had taken up ten minutes. But the President refused the request saying that he was unable to do that having regard to Standing Order 10.¹ After the question hour, non-official motions for adjournment were brought to the notice of the House. Unless ruled out of order by the Chair or disallowed by the Governor-General, the President announced the time for the discussion of the motion for adjournment. It was usually at 4 p.m. On an official day the business of the House was arranged entirely according

1. L.A. D. 1938 - pp.39-40.

to the convenience of the Government . Sometimes, elections of certain Committees were held immediately after the question hour . Normally, such elections were a matter of routine and did not take much time . After this, resolutions and Bills were discussed for the rest of the day . During the Delhi session, ^{allotted} certain days were/exclusively for the discussion of the Annual Budget and the Finance Bill and normally no other business was allowed on such days . Under the rules, the meetings of the Assembly commenced at 11 a.m. and no time was prescribed for the ¹ conclusion of a sitting . But normally the meeting of a day concluded at 5 p.m. with a luncheon break at 1 p.m. which continued upto 2-30 p.m. .

The presence of at least 25 members was necessary to constitute a meeting of the Assembly for the exercise of its powers failing which the President could adjourn the House till the next day . ² Such occasions on the whole were not too many . From 1930 to 1933, the President had to adjourn the House on a couple of occasions when the number of members required for a quorum were not present . When the Congress members absented themselves from the Assembly most of the time from 1940 to 1943, several times the sitting of the House could not be held for the want of quorum . On the 28th February, 1940, for example, a non-official resolution could not be discussed for want of quorum ³ after the Congress members had walked out .

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1. Standing Order 25, Manual of the Imperial and Provincial Assemblies
 2. Standing Order 26, Ibid.
 3. L.A. Deb., 1940 - p.848

From 1921, the members of Government took their seats on the right and the Opposition on the left of the Chair. The seating arrangement of the House was, however, subject to President's control. In the first Assembly, the political groupings were negligible and as such seating arrangements did not present any problem. In the second Assembly, the front seats were distributed according to the proportionate strength of the political groups. In 1927, when the session moved to the new Assembly Chamber, fewer front seats were available which presented a problem.¹ Eventually, a solution corresponding to the proportionate strength of the political parties was achieved. By way of ^{Convention} ~~connection~~ nearly half of the front seats were allotted to the important official members who presented Government views to the House. When the President had not fixed the order of seats, the members could sit in any way they liked. But once a seat was selected and occupied by a member, he could not change that without prior permission of the Chair.

From 1921 to 1926, the sessions of the Central Legislature were held in the building of the old Imperial ^{legislative} Council. In January 1927, the session of the Legislature moved to the new Council House which is now the Parliament House of India. The foundation of the present building was laid on February 22, 1921 by the Duke of Connaught and Lord Irwin ceremoniously

1. The Hindu, January 13, 1927 discussed the problem.

opened it on January 18th, 1927. The building is circular and of about 600 feet diameter. It has, besides the usual office accommodation, three semi-circular Council Chambers which were used for holding the sittings of the Legislative Assembly, the Council of State and the Chamber of Princes. All these Chambers have lobbies and galleries, which were used for press and other visitors as is done today. From all these rooms, there was direct access to the Central Hall which was the Library and a common meeting place for the members.¹

A list of business or an agenda covering about one week was announced by the Leader of the House at the beginning of the week. A copy of it for each member was laid on the table and the Leader of the House used to make a short speech on it but no discussion was allowed following this. On the 8th September, 1927, Srinivasa Iyengar was trying to make a speech as a protest against the agenda announced.² But he was ruled out of order by the Chair.³ If for any reason it was necessary for the Government to make any change in the weekly agenda, the Leader of the House notified such change

1. A description of the building and some of the main rooms is available in the Hindu January 20, 1927. The Central Hall is now used for the President's Address and as the M.P.'s lounge. See also Morris-Jones, W.H. - Parliament in India - p.132-133 and Mogre, S.S. - Practice and Procedure of Indian Parliament - p.186.

2. L.A. Deb. 1927 - p.4179-81.

3. Ibid.

by a statement. Such changes were ~~made~~^{made}, as a matter of practice, after consultation with the leaders of political groups. An arrangement of this kind saved the Government from hostile criticism by the opposition members. Controversial Bills, for example, were discussed in the early days of the session as many non-officials were often unable to attend the later days of the session. The convention of arranging business of the House with some consultation of the leaders of political groups thus facilitated detailed discussion of important Bills.

Though the Government maintained the official days mostly for transacting official business sometimes the Government allowed some non-official business to be discussed on the official days. In Delhi session 1921, Sir Sivaswami Aiyar's 15 resolutions on the Esher Committee's Report were discussed on an official day. On the 26th August 1925, when Pandit Motilal demanded an extra non-official day, Sir Alexander Muddiman, the Leader of the House, told the Assembly that the rest of that day could be taken up for non-official business.¹ President Patel then made the following observation:

“It must be a matter of satisfaction to the House that the Government will be prepared to take over non-official business on an official day.....”

1. L.A. Deb. 1925 - p.258

This is a new departure for which the House must be grateful.¹
 The convention of allowing non-official business partially
 on an official day more or less continued during the whole
 period." (See AppendixII).²

Non-official days allotted in the Assembly were limited
 on the whole. (See AppendixI). This was, from time to time,
 brought to the notice of the House by putting questions to
 the Government about the pending non-official business. In
 1924, Pandit Malaviya made a strong plea for more non-
 official days.³ It was entirely within the discretion of the
 Governor-General to allot as many days as he liked. The
 list of the non-official days suggests that the Executive
 had been fairly rigid in allocating non-official days. It
 could be due to the pressure of official business that more
 non-official days could not be allowed. Non-official days
 once allotted could not be abruptly taken over by the
 Government without the consent of the House. One interesting
 incident may be mentioned in this connection. On the 9th
 February 1926 which was a non-official day, the Commander-
 in Chief wanted to make a statement. President Patel then
 made the following comment:

"I understand that His Excellency the Commander-in-Chief

1. Op. cit.

2. $\frac{1}{2}$ day shown in AppendixII indicates that these days were
 shared for official and non-official business.

3. L.A. Deb. 1924 - p.2991.

desires to make a statement. Before I allow His Excellency an opportunity to make that statement, I desire to make it absolutely clear that this is one of the few days allotted by the Viceroy for the purpose of non-official business and if I allow this opportunity to His Excellency to make a pronouncement, which is really a part of official business, I do so with the consent of the House and I hope the Government will not cite that as a precedent in the future".¹

The desire to have a separate establishment for the Indian Legislature was first expressed in a resolution by Mr Subrahmanyam in 1922.² Further discussion of the motion was adjourned but its principle was generally appreciated by the House. After his election to the Chair, Patel took up the question of having a separate department of the Assembly headed by a Secretary, but he had to face serious opposition from the Government on various pleas. On his election for the second term as the President, Patel took up the matter seriously. He forwarded a scheme for the separation of the Secretariat which he read out before the Assembly on the 5th September 1928.³ Eventually, a scheme approved by the Assembly was accepted by the Government. According to the

1. L.A. Deb. 1926 - 9th February. p. 972

2. Ibid 1922 - p.772.

3. Ibid 1928 - p.420-27.

new scheme, the Secretariat of the Assembly would not be under the control of any member of the Executive Council but a separate department in the portfolio of the Governor-General and the principal officers would be appointed by the Governor-General in consultation with the President. The Secretary roughly corresponded to the Clerk of the House of Commons. He was in close contact, on the one hand, with the President of the Assembly and on the other the Leader of the House, but he was subordinate to neither.¹ The Marshall of the Assembly, usually a retired officer of the Indian Army, corresponded to some extent to the Serjeant-at-Arms of the House of Commons. The Council of State was also serviced by the Assembly Secretariat but it had its own Secretary and assistants appointed by the Governor-General.

Any discussion of procedure and privilege of the Indian Legislature would remain inadequate without some reference to the President of the Assembly. The position was unique in more than one sense. For the first four years, the Assembly's President was Sir Frederick Whyte, an ex-Member of the House of Commons, appointed by the Governor-General. On the 22nd August, 1925, V.J. Patel was elected the first Indian President of the Assembly and he was re-elected in 1927. During his two terms, President Patel asserted the position of the Chair and dignity of the House. It was

1. Government of India Despatch to the Secretary of State vide L.A. Deb. 1928 (Sept. 17) p.922.

observed by the Simon Commission that the President of the Assembly¹ claimed and employed powers of influence which would be quite contrary to the stricter limits of the Speakership.² This comment seems to have overstressed the difference between the Presidentship of the Assembly and the Speakership of the House of Commons without giving sufficient reasons for it. ^{It is true, however, that} in the early years of the Assembly, the President could exert his influence in the development of procedures and precedents of the House. Sir Frederick Whyte once pointed out that the President was in a sense more powerful than his counterpart in Westminster and the position was in certain respects similar to the President of the U.S. Congress.² Though the business of the House had to be conducted according to the rules of the Indian Legislature, the President had a fair degree of latitude to influence the procedure of the Assembly. He was the sole authority for maintaining order and interpreting the Rules and Standing Orders on the floor of the Chamber.

The President could, from time to time, help the House in establishing conventions to facilitate the conduct of business. There was no system of starred and unstarred questions in the Delhi Session, 1921. Later, Sir Frederick advised the House to put star marks against the questions on

¹ Para. 249, Report of the Statutory Commission (1930) 930
vol. 1.

² Letter published in The Times of India, May 12, 1921

which the non-officials wanted to ask supplementary questions. The arrangement was agreed by the Executive and the non-officials and continued throughout the period. Sir Frederick also set up an important Convention by allowing amendments in the form of substantive propositions to replace the original resolutions. On the 24th August, 1925, Patel made a congratulatory address to Sir Frederick in which he mentioned that such liberal interpretation of the Rules was important for the healthy growth of popular Assemblies.¹ During President Patel's term an important convention was reached about the procedure of introducing a Bill. According to Standing Order 37, a member could make a short speech for about ten minutes while introducing a Bill. In August, 1926, an agreement was reached at the instance of the President that no Bill would be opposed at the stage of introduction.² In pursuance of this convention, no member was allowed to make any speech at the stage of introducing a Bill. Such conventions definitely signified the powers inherent in the Chair.

It can not, however, be said that the power and authority of the President ~~and~~ developed unchecked by controversy. Patel considered himself as the servant of the House while he was its President. On a number of occasions he

1. L.A. Dec. 1925 (Simla) p.25.

2. " " 1926 - 18th August 1926. p.66.

angered the Executive while vindicating the independence and authority of the Chair. On the 8th March, 1926 (when the Swarajists walked out) President Patel advised the Government not to proceed with any controversial Bill as the representative character of the House had been lost owing to the absence of the Swarajists.¹ He further warned that if the Government wanted to take any undue advantage of the absence of the Swarajists he might resort to extraordinary powers to adjourn the House sine die.² The statement created a great sensation in the official circle. The Anglo-Indian press was out to criticise the President's statement. It was a statement of great constitutional significance about the authority of the Chair and some Independents under Mr. Jinnah took it as a reflection on them.³ Patel, however, issued a modified statement in the following morning which saved the Chair from any immediate clash with the Executive.

The most serious controversy arose when on the 11th April, 1929, the President ruled out of order the Public Safety Bill. In his ruling, the President remarked: "I am further satisfied that in any case, the Chair has inherent

1. L.A. Deb. 1926. - p. 238-39

2. Ibid

3. Patel, G.I. - V.J. Patel - Life & Times, vol.II - p.722.

power to rule out a motion on the ground that it involves an abuse of the forms and procedure of this House, as this motion, I hold, does . I , therefore, rule it out of order ."¹ As a result of this ruling, the Government was unable to proceed with the second reading of the Bill . The immediate reaction to this came from the Viceroy when in his address to the Legislature on the 12th April, 1929, he criticised the ruling of the President.² In a letter to the Viceroy, Patel strongly protested against the criticism he made and he strongly held that step as a violation of the independence of the Chair .³ At the beginning of the next session, the Viceroy, however, made a formal assurance in his speech of maintaining the dignity of the House and the Chair . But eventually the Viceroy amended Rule 17 A to limit the authority of the Chair in preventing or delaying the discussion of any motion . This step was strongly criticised by the non-officials and an assurance was obtained from the Government that in future the House would be consulted if any change was made in the Rules and Procedures of the Assembly .⁴ In contrast to the position in the Assembly, the President of the Council of State was appointed by the Governor General from among its members and its history had been uneventful .

1. L.A. Deb., 1929 - p.2991

2. L.A. Deb., 1929 - pp. 2993-95

3. Patel, G.I. - op.cit. pp.989-99 .(The text of the correspondence has been reproduced in the book) .

4. L.A. Deb.,1929 (3rd Sept.)- p.162

It was a matter of principle that the President of the Assembly should be above party-politics and impartial in conducting the business of the House. As a President appointed by the Viceroy, Sir Frederick did not present any problem in this respect. But most of the Indian Presidents were party-men. Patel's election was received with mixed feelings as he was already a distinguished Congress man and Deputy Leader of the Swarajists. But on his election Patel unhesitatingly declared:

"In the discharge of my duties I shall, I assure you, observe strict impartiality in dealing with all sections of the House irrespective of party considerations. (Cheers). From this moment, I cease to be a party-man. I belong to no party. I belong to all parties. (Hear, Hear)¹. On his second election to the Chair, Patel reaffirmed his earlier declaration: "From the brief experience that I had as the occupant of this Chair I have found, as I stated when I was addressing you last, that any one who aspires to fill this great office with any hope of success must lay aside all that is personal, all that is of party, all that savours of political predilection, and ~~and~~ ^{leave} to subordinate everything to the great interests of the House as a whole ... He may have his political opinions, he may retain them; he may have his prejudices; but in his general decisions and in his

1. L.A. D. 1925 - p.37.

treatment of individual members no trace of them should find any place... All I can promise is that I shall ever endeavour to the best of my capacity to regulate my conduct in the Chair on the lines which I have just indicated.¹

There is no doubt that Patel's observations were very reassuring and these will go down as important statements in the legislative history of India. Though the official members looked upon him with an amount of distrust, there is no specific evidence of Patel's partiality to his own party-men on the floor of the House. The sneaking propaganda against the Chair was because some of his rulings went against the Government.² But could he divest himself of all connections with his political associates inside as well as outside the Legislature? Even after his election to the Chair, Patel did not give up Khaddar which was the universally used cloth of the Congressmen. His Presidential wig and robe were made of Khaddar.³ According to his biographer, Patel was the constant link between the Viceroy and the Congress outside. It is also revealed in his biography that Patel used to send contributions of his salary to Mr. Gandhi "to be spent in such manner or for such purpose as he might approve!"⁴ Motilal used to be in company with Patel when he

1. Quoted in Moore, S.S.-- op.cit. - p.86.

2. Patel, G.I. - op.cit. Chapter 37 elaborately discusses the propaganda made by the Government and Anglo-Indian Press against the Chair.

3. Patel, G.I. - op.cit. - p.607.

4. " " " " - p.105.

met the Home Member to discuss any arrangement of business.¹ Lastly, on the eve of the Civil Disobedience Movement in 1930, Patel resigned his office in a lengthy letter to the Viceroy in which he stated the failures of Reforms and mentioned that he was giving "moral support to the movement" by his resignation.² It was, therefore, difficult for an avowed party-man like Patel to dissociate himself completely from his political affiliation though he might have been impartial in his conduct of the business of the House.

It was customary in those days for the Viceroy to address the session of the Assembly and Council with great pomp and show. The Viceroy used to come in his robes and the members of the Executive Council appeared in official dress. The Presidents of the Assembly and Council had to sit down in the middle of the House and to rise in their seats when the Viceroy entered. There was a great display of military ~~force~~ ^{from} outside the House. When Patel became President, he informed the Viceroy that the annual practice under which he addressed the House was highly derogatory to the dignity of the Chair. ~~It~~ ^{This} raised a protest in the official circle but finally the Viceroy conceded that all pomp and show would disappear at the time of his address.³

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1. Wilson, F.W. - The Indian Chaos - p.84.
 2. Text of the letter has been reproduced in his biography mentioned above.
 3. An elaborate account of the incident is available in his biography.

Another important incident occurred over the question of allowing strangers and press representatives to the galleries. Normally, it was done in accordance with the rules made under the direction of the President. But an unfortunate controversy about the authority of the Chair over Assembly precincts arose following the bomb incident on the 8th April, 1929 in the Assembly Chamber. At first, the Home Member claimed ~~the~~ full control over the security of the Assembly Chamber. But Patel took serious exception to this idea and closed the galleries. At last, the Viceroy intervened and it was settled that the President would have full control over the security-staff for the inner precincts of the Assembly Chamber, but the outer precincts would remain under the control of the police as usual. Patel's term as President was full of such important events which ultimately proved to be of advantage to the dignity and authority of the Chair. The succession of Presidents which took place after his resignation maintained the gains which Patel had made.¹

The President was a full-time officer of the Assembly and he was required to devote all his time to the duties of his office. It was laid down in the Legislative Assembly (President's salary) Act, 1925 that 'the elected President of the Legislative Assembly must not during the service of his office practice any profession or engage in any trade or

1. Morris-Jones. W.H. - op. cit. p.267.

undertake for remuneration any employment other than his duties as President. The salary of an appointed President was fixed by the Governor-General at Rs. 50,000/- a year. In 1925, the President's Salary Act fixed the salary of an elected President at Rs. 4,000/- a month. The Deputy President received Rs. 1,000/- a month for the periods during which he was engaged on work of the Assembly. His function was to preside over the meetings of the Assembly in the absence of the President and when presiding, could exercise all the powers of the President. As a matter of practice, the President did not take part in debate and, this was done in order to maintain his position as an impartial judge. But the Deputy President had the right to take part in debate and vote. It could happen that for some unavoidable reason the President as well as the Deputy President could be absent or unable to preside. In order to meet such inconvenience, the President, at the beginning of each session, could nominate from among the members a panel of not more than four chairmen any of whom could preside in the absence of or at the request of President and Deputy President.¹

Normally, the President did not have the right to vote. But if any division resulted in a deadlock, the President could exercise his casting vote in order to obtain a decision. This right could be exercised at his discretion and no

1. Rule 3, Indian Legislative Rules.

discussion was allowed on his vote. On the 12th March, 1936, a member proceeded to discuss the casting vote of the President on Mr. B. Das's Criminal Law Amendment Bill whereupon the President ruled him out of order.¹ At times, the President could conveniently use his casting vote to stop the Executive rushing through any repressive measures. On the 24th September, 1928, the division held on the second reading of the Public Safety Bill resulted in a deadlock: 61 against 61.² President Patel gave the vote against the motion and made the following observations:

"My own opinion is that, if any party or any individual member seeks to put such an extraordinary measure on the Statute-book, he must persuade the House and get a majority in his favour. The Honourable the Home Member has failed to secure a clear majority in his favour and cannot expect the Chair to give his casting vote in favour of the motion. I, therefore, give my casting vote for the Nos"...³

It was not permissible to discuss the ruling of the Chair.⁴ Any reflection on the conduct of the President was also out of order. On the 5th April 1929, ~~Dr. H.S. Gous~~ made a remark reflecting on the Chair which he had to withdraw.⁵

1. L.A. *Deb.* 1936 - p. 2408 (5) L.A. *Deb.* 1929 - p. 2892-93.

2. " " 1928 - p. 1383 (6) ~~1383~~ ~~1383~~ ~~1383~~ - p. ~~1383~~.

3. Ibid - p.1384.

4. Ruling 274, Decisions of the Chair - p.183.

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There was an attempt to discuss the conduct of the Chair by way of an adjournment motion on the 11th February 1935.¹ The Chair then ruled that the matter could be discussed only by a formal motion of no-confidence.¹ On the 20th November 1944, a member gave a notice of no-confidence motion against the Chair.² On the following day he was told by the President that for introducing a motion of that sort prior sanction of the Government was necessary.³ Apparently, the member did not proceed further with his notice. This is the only known attempt on behalf of a member to propose a formal motion of censure against the Chair. As a matter of fact, there was no explicit provision under the Act for moving a formal resolution to remove the President as it is found in the present Constitution of India.

Under Sec. 67(7) of the Act, the members of the Indian Legislature enjoyed freedom of speech and were not liable to any proceedings in any Court for ~~their~~ speech or vote in either Chamber or for anything published in any official report of the proceedings of the Chamber. Such a privilege is always essential for members of any legislative body and it was a great advantage to the Indian members, as it enabled them to criticise the administration without fear. But this freedom

1. L.A. Deb., 1935 - p. 628

2. Quoted in Mopre, S.S. - op.cit - p.89.

3. L.A. Deb. 1944 - p. 1128 (The man who wanted to move censure motion ~~was~~ earlier expelled from the House ^{for the day} on the 3rd November 1944 for defying a Presidential ruling).

of speech was not without restrictions on the floor of the House. The members were bound by the Rules, Standing Orders and Rulings passed by the Chair. It was forbidden for any member while speaking (i) to refer to any matter sub judice, (ii) to make personal allegation against a member, (iii) to make use of offensive language regarding the conduct of Indian or local legislatures, (iv) to reflect upon the conduct of His Majesty the King, or the Governor-General or any Governor or any Court of law, or (v) to utter treasonable seditions or defamatory words.¹ A member could at once be called to order for using unparliamentary language and he could be censured by the House, or might have to offer apology to its satisfaction. Expressions ruled as unparliamentary were published in the 'Decisions of the Chair' so that the members could avoid these. It seems the proceedings of the House were very orderly on the whole. From 1926 to 1940, only on 21 occasions the Chair had to rule certain expressions as unparliamentary.² Once a member commented that the 'tea-sellers of Peshwar were more respectable than a certain member.'³ That statement was condemned by the House and the member had to withdraw it.

In spite of its hesitation to make any substantial concession towards the legislative privileges, the Reforms

1. Standing Order 28(2) and 29 (2) of the Legislative Assembly and Council Rules.

2. 'Decisions from the Chair' - p.133-35. One writer records that the Assembly was pathetically docile in following the procedures on the floor of the House. See Howard, E. - Indian Legislature, The Asiatic Review, April, 1926.

3. L.A. D.C. 1938 (22nd Aug.) - p. 749

Enquiry (Muddiman) Committee, 1924, made certain modest but positive suggestions towards it. According to the recommendations of the Committee, the Legislative Members Exemption Act, 1925, was passed. It provided that members of the legislative bodies constituted under the 1919 Act were exempted from the liability to serve as jurors or assessors. Secondly, no person was liable to arrest or detention in prison under civil process:-

a). If he was a member of a legislative body constituted under the Act, during the continuance of any meeting of such a body.

b). If he was a member of any Committee of such body, during the continuance of any meeting of such a Committee.

c) If he was a member of either Chamber of the Indian Legislature, during the continuance of a joint sitting of the Chambers, or of a meeting or Conference or Joint Committee of the Chambers of which he was a member and during the fourteen days before and after such meeting or sitting.¹

The privilege of freedom from arrest did not go unchallenged by the Executive. From time to time, one or two non-officials were held under detention as political prisoners and could not attend the Assembly sessions. Such detention was at once brought to the notice of the House in the shape of motions for adjournments and the Executive was severely criticised on such occasions. On the 21st January,

1. Vide Legislative Members Exemption Act, 1925.

1927, Motilal introduced a very important debate by way of adjournment motion to discuss the detention of one Mr S.C. Mitra which prevented him from attending the session.¹ The motion was adopted by 64 votes against 46 as a protest against the violation of privileges.² Another similar motion was passed against the Executive on the 22nd January 1935 for preventing Mr S.C. Bose from attending the Assembly Session.³ In that debate, the Executive held that the member was detained under the special provisions and in the strict sense of the term the Assembly did not enjoy any privileges as it was understood in Westminster. It seems there was always a conscious effort on behalf of the non-officials to follow the practices of the House of Commons in establishing the privileges of the House. May's Parliamentary Procedure was the most common reference book quoted by the non-official members in all the debates concerning the privileges. Quotations from books ^{The} and constitutional history of Britain were also frequent.

There was no statutory privilege protecting the Legislature against ^{offensive remarks} ~~insinuation~~ by the Press. But in practice the House could take certain steps against the Press if it published any objectionable statement. On the 14th

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1. L.A. Deb. 1927 - p.18.
 2. Ibid - p.40.
 3. Ibid 1935 - p.97-98.

September 1928, Motilal pointed out to the House that the Times of India and the London Daily Telegraph published certain comments which were highly derogatory ~~against~~^{to} the honour of the House.¹ Then President Patel cancelled the press passes of Mr. Rice of the Telegraph and Mr. Byrt of the Times of India and made it clear that neither of those journalists would be permitted to re-enter the press gallery until they and their respective proprietors had apologised for their conduct.² Later, the proprietors of the two newspapers apologised to the President and their press passes were re-issued. In September 1936, the Arvata Bazar Patrika published certain 'malicious and scandalous libel' against the Chair as a result of which the press pass of its representative was cancelled.³ It was also held as a breach of privilege if the Press published any question or resolution before its admission to the House.⁴

The members of the Central Legislature were not entitled to draw any salary from the Government on account of their services. Even prior to the 1919 Reforms, ~~the~~ non-official members of the Legislative Councils were not entitled to any remuneration. But ~~the~~ official members always enjoyed

1. L.A. Deb. 1928 - p. 739

2. Patel. G.I. - op.cit. - p.992.

3. There was an adjournment motion in the Legislative Assembly moved in this connection on the 8th Oct. 1936.

4. See Ruling on the 27th March, 1933 (L.A. Deb, 1933) - p. 265
Vide Decisions from the Chair - p. 188

the salary in the usual scales commensurate with their ranks and seniority outside the Legislature . The non-official members of the Central Legislature received a daily subsistence allowance of Rs.20/- in addition to an extra conveyance allowances . The two allowances were made up to a sum of Rs. 45/- per day which was free of income tax . For the members of the Council of State certain special extras were paid with regard to travelling allowances . There were some disputes between the two Houses¹ in respect of such facilities . In addition to the allowances, the members were entitled to 'free haulage' of their cars or carriages while they were in Delhi . This advantage was not looked upon with favour by the Assembly . A Committee of the House² appointed in 1940 recommended its abolition . In addition, provision of accomodation was offered by the Government. But members could also make their own arrangements for accomodation . There was not other facilities such as free postage or free use of telephone etc. The members had to rely on their own resources entirely for such expenditures . There was never any serious pressure on the Government to grant ~~to grant~~ extra facilities to the members . On the whole, the non-officials did not press demands for facilities; they were reluctant to have expenditures incurred on their behalf .

1. See also Chapter X .

2. L.A. Deb.,1940 - p.1582

In spite of the endeavours of the non-officials, the privileges of the Indian Legislature could not extend much beyond the limits of the Act. Unlike the House of Commons, it did not have punitive and disciplinary powers. Throughout the period under review, the question of privilege remained very vague and ambiguous. The Executive, on the whole, was reluctant to make any significant gesture on the question of privilege. Whenever the question of privilege was raised in the House, the official members used to treat others with scorn and discourtesy as they were well aware of the fact that the Legislature did not have any privilege, as it was understood at Westminster. A very substantial step in the direction of extending the privilege of Legislature was made when a Committee of Privileges was appointed on a motion by Mr Yaku² on the 20th September, 1927.¹ The motion had the support of all political groups and the distinguished leaders like Pandit Motilal, Mr. Jinnah, and Pandit Malaviya were included in the Committee. It was also proposed that some Executive Councillors should be taken into the Committee but the Home Member refused to co-operate with the deliberations of the body. Among other things, the Committee was supposed to inquire into the following points:-

a) detention of a member of the Assembly by an Executive Order,

b) recent search in the House of a member of the Assembly,

c) the question of allowance and residence ^{for} the members.¹ It has not been possible to trace what happened to the deliberations of the Committee. It was hoped that the 1935 Act would make certain substantial provisions regarding the privileges but eventually it fell short of expectations. The Act did not give any elaborate power to prescribe disciplinary ~~of~~ punitive measures to protect the legislative privileges except the right to exclude or remove a person violating the legislative rules or behaving in disorderly manner on the floor of the Chamber.²

~~A ~~substantial~~ ~~requirement~~ ~~is~~ ~~provided~~ ~~by~~ ~~the~~ ~~con~~ ~~rules~~ ~~and~~ ~~procedures.~~ ~~But~~ ~~The~~ ~~1919~~ ~~Act~~ ~~authorised~~ ~~the~~ ~~Governor~~ ~~General~~ ~~in~~ ~~Council~~ ~~to~~ ~~make~~ ~~rules~~ ~~with~~ ~~the~~ ~~sanction~~ ~~of~~ ~~the~~ ~~Secretary~~ ~~of~~ ~~State~~ ~~for~~ ~~the~~ ~~conduct~~ ~~of~~ ~~business~~ ~~in~~ ~~the~~ ~~Indian~~ ~~Legislature.~~ ~~3~~~~ ^{Government of India Act,} The 1919 Act authorised the Governor-General in Council to make rules with the sanction of the Secretary of State for the conduct of business in the Indian Legislature.³ The first protest against this power of the Governor-General was made in 1929 when Mr. S.C. Mitra sought to move a resolution to censure the Government for making new Legislative Rules without consulting the House.⁴ It was an important occasion for the Legislature to demand the right to be consulted in framing its rules and procedures. On behalf of the Government, the Law Member of the Viceroy's Executive Council gave an assurance that in future except in emergencies, the Legislature would be consulted ^{in the} while

1. L.A. D.C. 1927 - p.4666.

2. Sec. 28, 'Government of India Act, 1935.

3. See also Morris-Jones, W.H. - op.cit. p.245-46.

4. Sec. 129A, the Act, 1919.

4. L.A. D.C. 1929 (3rd Sept.) - p.155.

making^{of} new Rules.¹ The resolution was not, however, moved as the President advised not to do so after an assurance of the Government.² Henceforth, a convention was established to consult the Legislature when new rules were made. On the 8th February 1937, the Law Member of the Viceroy's Executive Council introduced a motion to consider the new Legislative Rules.³ The motion was followed by an interesting three-day long debate in which the Government accepted a number of non-official amendments to the proposed Rules. The Standing Orders of the Indian Legislature could be changed by the Assembly with the consent of the Governor General.⁴ When a motion to amend the Standing Orders was adopted, the draft amendments were referred to a Select Committee and later the Report of the Committee was considered by the House following the same procedure as that of a Bill.⁵

1. B.A. Deb. 1929 (3rd Sept.) - p.155.

2. Ibid - p.163.

3. L.A. Deb. 1937 - p.55

4. Sec. 133, Manual of the Legislative Assembly.

5. Sec. 134, 135, 136 and 137, Ibid.

CHAPTER V

THE COMPOSITION AND POLITICAL GROUPINGS
OF THE TWO HOUSES

Mr. Montagu was opposed to the idea of maintaining an official majority in the legislative bodies. He recommended that the non-official element should be increased in the Legislative Assembly in order to make it more effective.¹ The original idea was to create a Legislature of about 100 members, two-thirds of whom would be elected and the rest nominated.² Later, the Act provided for one hundred and forty members in the Legislative Assembly of whom only forty would be non-elected.³ But in practice the actual number was fixed at 145 of whom 104 were elected and the rest nominated. Excess of the statutory figure in practice was possible according to the Rules made under the Act.⁴ Elected members in the Assembly were allotted to the different provinces as follows:- Madras 16, Bombay 16, the U.P. 16, Bengal 17, the Punjab 12, Bihar and Orissa 12, the C.P. 5, Assam 4, Burma 4,

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1. M/C Report - para.273.
 2. Ibid.
 3. 63-B, Government of India Act, 1919.
 4. Vide Legislative Assembly Electoral Rules.

Delhi 1, Ajmer-Merwara 1.¹ Among the ⁴⁰ ~~four~~ nominated members in the Assembly, 26 were to be officials and one person nominated as a result of an election held in Berar.² The Council of State consisted of sixty members, of whom 33 were elected and the rest nominated.³ Of the non-elected members, not more than twenty could be officials, and one was to be nominated as the result of an election in Berar.⁴ Elected seats in the Council of State were allotted to the different provinces as the following:- Madras 5, Bombay 6, Bengal 6, U.P. 5, Punjab 4 or 3, Bihar and Orissa 3 or 4, C.P. 1, Burma 1, Assam 1.

It was entirely the responsibility of the Governor-General to nominate the official and non-official members to both chambers of the Indian Legislature. No detailed specifications of the type of officers to be nominated were mentioned in the Act. In practice, of the 26 officials in the Assembly the Viceroy used to nominate 14 Government of India Officials and 12 official representatives from the provinces. During the first Assembly, the nominated members included the President and therefore only 13 were Government of India Officials. From 1925 onwards the President was regularly elected from among the non-officials and, therefore, the

1. Op cit.

2. 63-B, Government of India Act, 1919. (The representative of Berar was for all practical purposes an elected member)

3. Rule (3). The C.S. Electoral Rules.

4. Ibid. (2) and (3)

number of Government of India officials was raised to 14. Members of the Executive Council were among the nominated Government of India representatives in both the Chambers. Usually, a majority of the Executive Councillors were members of the Assembly.¹ Important officers of the rank of Secretary or Director were also among the Government of India spokesmen. Official policies were initiated and defended mainly by the Central Government representatives. Representatives of the provincial governments were not very active in making speeches. Their presence was more useful to the Government when divisions took place.² In the Council of State, the nominated members including the President numbered 27 and not more than 20 could be officials. But in practice the Viceroy refrained from nominating the full number of officials allowed by the Act and nominated more non-officials instead.³ 13 Government of India officials and 6 representatives of the provincial governments were nominated in the first Council of State. But in the second Council of State, the Government of India nominees were reduced to 10 and the number of nominated officials was increased from 6 to 9.⁴

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1. The Executive Council of the Viceroy normally consisted of seven members of whom 5 were members of the Assembly and the rest of the Council of State. But a Member of the Executive Council could address any Chamber of the Indian Legislature without being its member, though he could vote only in that Chamber of which he was a member.
 2. Interviews with various official members give the impression that the official representatives of the provinces were expected to protect the interests of the respective provinces by lobby-work and not so much by taking part in formal debates.
 3. Memo. of the Government of India to Statutory Commission, 1928 - p.38.
 4. Ibid.

During the third, fourth and fifth Councils, the nominated non-officials further increased to 13.

The official bloc.

The official members always presented themselves as a bloc. According to the Simon Report, it was never found 'practicable to adopt the proposals of the Joint Select Committee that officials should be allowed a free right of speech and vote.'¹ In 1922, Lala Girdharilal Agarawarlar asked if the official members were free to vote in whatever way they liked.² Sir William Vincent, the Home Member replied that the official members of the Indian Legislature other than Members of the Executive Council and officers of the Central Government were free to vote save when the Government thought it necessary to have their support.³ In practice, freedom of speech and vote had been very rare even for the representatives of provincial governments. From 1921 to 1947, only on 29 occasions did the Government remain neutral in the divisions and most of these were on questions of social reform. In some of these divisions, the representatives of provincial governments took part. But they could do so only with the permission of the Leader of the House. A solid bloc of votes was not only decisive for the Government on divisions in both Houses, but it also

^{Report of the}
1. Indian Statutory Commission, Vol. I. 1930 - para 257.

2. L.A. Deb. 1922 - p.1576.

3. Ibid.

'helped to rally support ^{for} of Government' from among the non-officials who were unattached to any political group. So the presentation of an official bloc was absolutely necessary for the Government from the practical point of view.

At the head of the official bloc was the Home Member of the Viceroy's Executive Council who was appointed as the Leader of the House.¹ In all important debates, the Home Member used to express the Government's view first, and then the other official members followed him. Since the Viceroy could not sit in the Legislature, the Home Member could be described as performing the functions of a Prime Minister on the floor of the House.² He used to exert great influence on the overall administration of the country.

Nominated non-officials.

Nominated non-officials in the Indian Legislature had certain special purposes to serve. The nominated seats were supposed to be treated as a 'reserve' in the hands of the Governor-General 'for the purpose of adjusting inequalities and supplementing defects in representation.'³ Actually the Governor-General used to nominate some persons who would represent certain special interests - such as - labour, depressed classes, Indian Christians, Anglo-Indians, the

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1. In the absence of the Home Member, any other senior Member of the Executive Council could be appointed Leader of the House.
 2. Edwin Howard's article - 'Indian Legislature' published in the Asiatic Review, April, 1926.
 3. Memo. of the Government of India to ^{the Statutory} ~~(Sanction) Comm~~ ^{mission} p.38.Vol.?

N.W.F.P. and European commerce. Besides, 'prominent representatives of the country' unable to enter through elections were also nominated.¹ It seems that preference was given to persons with landed interests and moderate political views. In the Council of State, nominated non-officials were only the 'important citizens' from the provinces. More than half of the nominated non-officials had titles conferred by the Government. They did not command sufficient influence on the floor of the House. In some cases, the Viceroy preferred to nominate the same persons to represent special interests for a long period. For example, Mr. Joshi and M.C. Rajah represented labour and depressed classes respectively for nearly 25 years. Dr. De Souza represented the Indian Christians during the fourth and fifth Assemblies. Lt. Col. Gidney represented the Anglo-Indians for more than 20 years.

How far were the representatives of special interests effective in practice? It was never possible for the proposals of any representative to succeed without considerable support from the non-officials. In 1934, M.C. Rajah, the representative of the depressed classes, introduced a Bill authorising the untouchables to enter the temples.² But the Bill could not proceed as a substantial portion of

Memo.
1. Op cit. *Ibid*

2. L.A. Deb. 1934 - p.456 (1st Feb. 1934).

Hindu members was opposed to it.¹ Mr Joshi was perhaps the most vocal among the nominated non-officials. From 1921, many measures affecting labour were passed. It was the practice to include Mr Joshi in the Select Committees which considered Bills relating to labour. He was always active in putting forward his criticisms and on many occasions his proposals were accepted by the House. His influence among the non-officials was considerable as he supported all the major demands for constitutional advance. He was not committed to any of the political groups in the Assembly. He voted freely according to his conscience in favour of the Government as well as against it. Without the provision of a labour-spokesman, the House would have been deprived of all the ideas which only a career Trade Unionist like Mr. Joshi could offer. M.C. Rajah did not have effective influence among the non-officials. From time to time, he made speeches demanding fuller rights and privileges for the untouchables. But he was always pro-Government and did not support some of the important political demands. Representatives of Indian Christians and Anglo-Indians were fairly vocal in asserting minority demands. Their main efforts were concentrated in securing more jobs for the communities they represented.² It is

1. Op cit. (The Bill was killed by adopting a motion to circulate it for eliciting public opinion on it).

2. The biography of Lt. Col. Gidney shows that he helped numerous persons of his community with jobs while he was a member of the Central Assembly. Vide Life of Sir Henry Gidney by K.E. Wallace - P. 63

interesting to note that they voted with the Muslim members when they wanted to censure the Government for neglecting the minorities . Otherwise, they normally sided with the Government/when divisions were held . The/nominated representative of European Commerce was also vocal in defending the commercial interests held by the Europeans . He was usually supported by the other spokesmen of commerce and the businessmen in the House . It can fairly be said that the nominated representatives of the special interests tried to ventilate their particular grievances on the floor of the House and that was (with a few exceptions such as Mr. Joshi) the best they could do in a Legislature dominated by the lawyers and the landholders .

Elected Members:

A considerable number of the elected members of both chambers were re-elected at the general elections . The following tables may help to illustrate this :

TABLE - XI

A)	<u>Assembly</u>	<u>NO. of re-elected members</u> (out of 105 elected)
	Second (1924 -26)	12
	Third (1927 - 30)	39
	Fourth(1931-34)	38
	Fifth (1935-45)	37
	Sixth(1946-47)	36

(B)	<u>Council of State</u>	(<u>Out of 33 elected</u>)
	2nd	(1926-30) 9
	3rd	(1931-36) 7
	4th	(1937-47) 16
(C)	<u>Legislative Experience in the last Assembly (1946-47)</u>	
	Members with 25 years of experience.....	2
	Members with 22 years of experience.....	2
	Members with 19 years of experience.....	3
	Members with 15 years of experience.....	7
	Members with 11 years of experience.....	16
	Members with 3 to 6 years of experience.	6
	Members with experience in Provincial Legislatures only.....	20
	Not known.....	49

The average number of members re-elected in the five elections 1923, 1926, 1930, 1934 and 1945 was 31 which constituted slightly more than one-fourth of the total elected representatives. This figure does, however, indicate that at every election a large number of new members was elected. On average the total number of new members elected to the Assembly during the five elections was 71, the maximum being 92 in 1923. This high percentage of the new members returned seems to be unusual in comparison with some other Parliaments abroad during the same period.¹

1. The percentage of new members in the House of Commons from 1918 to 1935 was 30% (Ross, J.F.S. - Parliamentary Representation p.39). In Ireland, 23% new members were elected to the Dail from 1922 to 48 (MacCraken - Representative Government in Ireland - p.87).

The unpredictable nature of elections was the main reason for the emergence of a high percentage of new members. As the Swarajists swept the 1923 elections, only 12 members of the first Assembly could retain their seats in the Second Assembly. Most of the newly-elected members in the Second Assembly (1924-26) were the Swarajists. The percentage of the new members elected in the following four elections was nearly 69. The proportion of the party-men and the Independents among the new members of the Assembly varied from time to time. In the third and fourth Assemblies, most of the new members were Independents whereas in the fifth and sixth Assemblies they were mostly members of the political parties. It should, however, be borne in mind that many of the members who were new to the Assembly had already been members of the provincial legislatures; so they were familiar with legislative procedure. In fact, some of the outstanding members of the Central Assembly, such as - M.R. Jayakar, Satyamarti, Pandit Pant, Sir A. Rahim, Dr. A. Suhrawardy, Fazlul Huq and Liaquat Ali Khan moved from the provincial legislatures.

The position of the re-elected members in the Council of State was different from that of members in the Assembly. The average number of re-elected members in the second, third and fourth Councils was 11 which amounted to nearly one-third of the total elected element. From the figures available in Table ^{XII} it seems that in the last Council nearly half of the total elected members were re-elected. The

relative predominance of the re-elected members in the Council of State was due to the Conservative character of the House. Owing to high property qualifications for the electors, the Council of State was the stronghold of the large landholding interests. A study of the House reveals that the biggest landlord in a particular constituency always had a fair chance of re-election.

The presence of the re-elected members explains the continuity of parliamentary experience from 1921 to 1947. It is not possible to trace the legislative experience of the members of the first Assembly except in a few cases. Though there were some outstanding political figures in the second Assembly, most of its members were young and inexperienced in politics.¹ During the third, fourth, fifth and sixth Assemblies a nucleus of experienced politicians was always present. Detailed analysis of parliamentary experience in 1946, as stated in Table, ^{XII} shows that about 50% of the elected members had some previous Legislative experience (including provincial legislatures). About 20 of the experienced politicians had entered the Legislative Assembly in 1935, 7 members in 1931 and 3 in 1927. Only four members survived over 23 years of legislative experience. There were only two members, Sir Muhammad Yamin Khan and Mr. K.C. Neogy, who had entered the Assembly in 1921. Some explanation of the small number of long

¹Final + Material Progress of
1. India for 1923-24 - p.273.

experienced members in 1946 can, however, be offered. Firstly, a considerable number of the members had died or permanently retired from politics. Secondly, an obvious reason was the gradual emergence of political parties and their sweeping victory which eliminated the Independents. On the nominated side, however, the continuity of experience was greater as a large number of officers were nominated more than once.

Title holders among the Members.

There was no rigidly defined aristocracy in the Indian Legislature but there was a substantial number of members who had titles of dignity conferred by the Government. The following Tables show the members with titles in both the Chambers.

TABLE - XIII

Legislative Assemblies	Title holders among the elected members (105)	Title holders among the nominated members (14)	Total no. of Title holders	Professional background of title holders	
				Landowners	Other Profession (Law, Edn., business etc.)
First L.A.	26	10	36	33	3
Second L.A.	15	7	22	18	4
Third L.A.	13	8	21	13	8
Fourth L.A.	30	10	40	38	2
Fifth L.A.	13	7	20	16	4
Sixth L.A.	11	10	21	16	5

TABLE

XIII. (Contd.)

Council of State	Title holders among the elected members (33)	Title holders among the nominated members (6-9)	Total no. of title holders	Professional background of the title holders	
				Landowners	Other Professions (Law, Edn, Business etc.)

First C.S.	17	5	22	19	3
Second C.S.	15	8	23	17	6
Third C.S.	13	9	22	18	4
Fourth C.S.	11	8	19	14	5

Certain features about these title-holders are noticeable. They were chosen from the wealthier and influential element in various walks of life. The number of persons with titles in six Assemblies varied from 20 to 40. Nearly two-thirds of the members of the Council of State possessed titles. Most of the titleholders, as it has been shown in the Tables, were landlords. The political outlook of this group was *Conservative*. It is interesting to note that none of the Congress leaders in the Assembly had any titles conferred by the Government. Division lists indicate that a majority of the title-holders always voted with the Government. It is difficult to ascertain accurately if titles were conferred as a reward for their loyalty in the legislature. Many of the members already possessed titles before entering the Legislature. But some moderate politicians such as Sir H.S. Gour, Sir A.H. Ghuznavi, Sir ^w~~C~~Wajee Jehangir, Sir Yamin Khan, Sir M. Yakub, Sir A.

M.

Rahim, Sir Leslie Hudson, Sir Ziauddin, Sher Muhammad Khan, C.I.E., O.B.E., Sir P.C. Sethna, Sir A. Froom, Sir A. Chethyar, Sir Frederick James, were awarded their titles while they were members of the Legislature. One interesting point is that the first and fourth elections, which were boycotted by the Congress, returned the maximum numbers of title holders. The minimum number of such persons were returned in 1946 - 11 only (of whom 5 were the U.P. Muslims). Most of the title-holders were Independants and pro-Government. But some of them, for example, Sir H.S. Gour, Sir A. Rahim, Sir M. Ziauddin and Raja Bahadur H.B. Sarda, on many occasions sided with the Congress and censured the Executive.

The Occupational Background of Members.

How far did the Legislature represent all the occupational groups in the population? To answer this vital question an analysis of the Members' occupations and their relation with the occupational classes must be attempted. As there was no official 'Who's Who' of the Indian Legislature, it has been extremely difficult to collect detailed information about the members. The information set forth in Table XIV was collected mainly from the Indian 'Who's Who' published by The Times of India Press, Thacker's Indian Directory, supplemented by private inquiries. On the information available, it is apparent that two groups were predominant in both the Chambers - the landowners and the lawyers.

The predominance of landed interests appears to have been greater in the Council of State. The number of businessmen increased slightly during the later period but representation of other occupations did not increase. It should, however, be remembered that land was the common source of income of all classes of Indians. A business man could also have landed interests. A lawyer in the town had also landed properties in his village home. The following table is an attempt to classify the non-officials according to their main source of income.

TABLE - XIV

Occupational Background of the non-officials (including the nominated members)

Legislative Assembly - Total non-official members
(elected and nominated) 119

First Assembly, 1921-23

Landholders	40
Lawyers	46
Businessmen	16
Trade Union	1
Education	2
Medicine	<u>2</u>
	107 (the rest not known)

Second Assembly - 1924-26.

Landholders	38
Lawyers	42
Businessmen	17
Journalists	8
Trade Unionist	<u>1</u>
	106 (the rest not known)

Third Assembly - 1927-30

Landholders	40
Lawyers	38
Businessmen	16
Journalists	8
Trade Unionist	2
Medicine	2
Education	<u>2</u>
	108 (the rest not known)

Fourth Assembly, 1931-34

Landholders	38
Lawyers	31
Businessmen	20
Other occupations	<u>15</u>
	104 (the rest not known)

Fifth Assembly 1935-45

Landowners	40
Lawyers (depending in income from land)	21
Lawyers	11
Businessmen	30
Other occupations	<u>17</u>
	<u>119</u>

* This table has been taken from Morris-Jones, *Widely - op. cit.* p. 126

XIV (contd.)

Sixth Assembly - 1946-47

Landholders	35
Lawyers	28
Businessmen	20
Other occupations	<u>18</u>
	10) (the rest not known)

(B) Council of State

(Total non-officials - 40 to 42)
(Including the nominated non-officials)

First Council of State (1921-25)

Landholders	20
Businessmen	9
Lawyers	<u>7</u>
	36 (the rest not known)

Second Council of State (1926-30)

Landholders	23
Businessmen	10
Lawyers	6
Other occupations	<u>1</u>
	40

Third Council of State (1931-36)

Landholders	20
Businessmen	7
Lawyers	<u>9</u>
	36 (the rest not known)

Table XIV (Contd.)Fourth Council of State (1937-47)

Landholders	19
Businessmen	9
Lawyers	<u>10</u>

38 (the rest not known)

Though the Indian Census Reports tried to classify the landowners, or landholders under the head 'cultivation', they constituted an important and powerful occupational group totally distinct from the ordinary tillers of the soil. In actual practice, a landlord would never care to be classified under 'cultivation' because of the considerable amount of social prestige associated with the status of a landlord, small or big. They did not take any direct part in the actual work of agriculture. Landholders were the 'non-cultivating proprietors taking rent in money or kind.'¹ In contrast with the vast number of genuine agricultural workers, they constituted a very narrow social class. In 1931, about 168, 830, 114 persons were engaged and dependent upon cultivation.² Of these only 4, 150, 758 were rent receiving landlords.³ There was a peculiar hierarchy among the landholders which depended on wealth, heredity and personal attainments. The hierarchy seemed to be present

1. Indian Census Report - Vol. II 1931 - p.206.

2 & 3. Ibid

(The total population in 1931 was 350, 529. 557).

even among the members of the Legislature. There was a section of big landlords whose distinction was apparent by their hereditary titles such as N~~w~~ab, Raja, Maharaja etc. Some of these hereditary titles were conferred by the British Government. But most of this group had also non-hereditary titles conferred by the Government. The role of this group had been conservative in social economic and political spheres. All the landholders uniting with the official members could, perhaps, negative any proposal. But the landholders were not united among themselves. Had they been united, they could easily have constituted a political group of about 40 which would have held the balance of power in the Assembly. In 1931, a landholders' group of only 8 members was formed.¹ Another attempt to form such a group was made in 1935.² But none of these attempts was successful. The landholders, in fact, joined various political groups.

One great weakness of the landholders in the Assembly was that they were unable to capture its leadership. Compared to Motilal, Jinnah, Patel, Bhulabhai, Malaviya and Lajpat Rai, none of the leading landlords had any popular following outside their own constituencies. The Nationalist Press was critical of their Conservative role. None of the important political leaders in the Assembly were landlords strictly speaking. Apart from the lack of any definite

1 & 2. See Appendix. III

political programme, most of the landed aristocrats did not possess the essential debating capacity. But there were some exceptions. D.K. Lahiri Choudry, A.H. Ghuznavi and Raja Sir Vashudev were among the vocal landlords in the Assembly. Owing to the absence of any significant political groupings there, the landlords were in a better position in the Council of State. Leading members like Umar Hayat Khan, Ram Saran Das, Raja Motichand and Kumar Nripendra Narayan Sinha were all important landlords in the country. But the two most important spokesmen in the House - Sir P.C.Sethna and Hussain Imam - were businessman and lawyer respectively.

The very fact that landlords always achieved substantial representation shows that they had considerable local influence. The popularity of the Congressmen seemed insufficient to affect them and some of the Swarajists were themselves landlords. In 1946, many landlords were returned on the tickets of the Congress and the Muslim League. As a result of the predominance of the landowning gentry, the Legislature contained no representatives of the other occupations connected with agriculture. It can also be said that other agricultural groups did not have the time, money and education to enter politics. The landowning class, on the other hand, had time to spare for politics. They also possessed the minimum education necessary. It seems that wealthy landlords sometime entered politics only to add to their social prestige by virtue of their position as members of the Legislature.

Numerically, the lawyers were almost equal to the landholders in the Assembly. In Indian politics, lawyers had ^{many years} ~~always~~ played an important role. Their success had been spectacular, and was due to the excellent debating capacity of the lawyer-politicians. Their profession taught them how to argue and they knew how to expose the weak-points of the Government on the floor of the House. Political leadership was in fact monopolised by all the distinguished lawyers like Motilal, Jinnah, Jayakar, Rangachariar, Gaur, Patel, Sir A. Rahim, Bhulabhai, Liaquat Ali, Mavalankar and a host of others. The lawyers seemed to be the most articulate element of the nation. Certain additional ~~additional~~ reasons can be suggested to explain their predominance. Unlike the members of other liberal professions, they had the opportunity to take part in politics. It was not permissible for any Government or semi-Government official to take part in politics directly or indirectly. But the lawyers were not subject to these restrictions. Some of them had other sources of income (mostly land) and were consequently free to devote themselves to politics. Some of them, for example, ~~Mr. D. D. D.~~ Patel, Yamin Khan, Sir M. Yakub, Liaquat Ali Khan and Sir A. Rahim gave up their legal practices to engage in full-time political activities. Motilal was no longer dependent on a legal career when he joined the Assembly as he was already a rich man by virtue of his long and

flourishing practice. Mr. Jinnah also gave up his practice in his later years in the Assembly.

The scanty representation of other professions indicates that they were less ready to move into politics. It was also, perhaps, due to their inability to win the support of the electorate. Dr. Ziauddin and Professor N.G. Ranga^a were the leading members who moved from University teaching. There were only few journalists. Ranga Iyer and K.C. Roy were the two most prominent journalists. Arthur Moore, the Editor of the Statesman, was the leader of the European group for some time in the fourth Assembly. The political approach of the journalists seemed to be identical with that of the lawyer politicians. They presented themselves as a progressive element in the Assembly. There were always some members of the medical profession in the Legislature. Dr. Moonjee and Dr. Deshmukh were the two important doctors who played a significant role in the Assembly. Mr Chaman Lal was an important Trade Unionist elected in the third and the sixth Assemblies. Dr. Gaur, M.R. Masani, S. Aiyar, Lajpat Rai, Malaviya, B.C. Pal, Gavind Das were the only well-known writers and authors in the Legislature.

Most of the businessmen in the Assembly were Europeans. The leadership of the Europeans mostly belonged to the merchants. The number of businessmen was increasing gradually and reached 30 in 1944. But in 1946 there appears to have been some decline. It was always difficult to isolate

businessmen from landowners as these two professions in many cases went together. The attitude of the businessmen to the government was ambivalent. They were always ready to co-operate with Government proposals favourable to the growth of trade and commerce. The rejection of the Budget and other measures affecting stability of currency and exchange was not ordinaryily favoured by them. Sir Cowsajee Jehangir and Sir Ibrahim Rahimtollah^{and} H.P. Mody were the outstanding businessmen in the Assembly. Their political approach was predominantly moderate. Some important measures affecting commerce, industry and finance were proposed by the merchant members. The European traders found common ground with their Indian counterparts on many issues.¹ One particular feature about the^{Indian} businessmen in the Indian Legislature was clear. They did not like the Swarajists' tactics of non-co-operation though they voted with them on many important constitutional issues.

On the strength of the above analyses, it can be concluded that representation in the Central Legislature was mainly confined to certain social classes. The representative character of the Legislature was, therefore, unsatisfactory. But it would be incorrect to interpret it as the instrument of vested interests. As it has been said before, the leadership of the House belonged mainly to the lawyer-politicians. So the landowners were unable to use it for their aggrandisement. Though the land-holders

1. This view was confirmed by Sir Frederick James in an interview with the present writer. Sir Frederick represented a European Commerce constituency for nearly 13 years

were 'idle dependents' of the people occupied in agriculture, they tried to press for such reforms as would contribute to the welfare of the tenants, as well as the landlords. Some of the landlords in the Assembly were associated with the Council of Agricultural Research which was appointed in accordance with the recommendations of the Royal Commission on Agriculture in 1929. India is essentially an agricultural country and even the city dwellers are not entirely removed from the land. As agriculture was a provincial subject, there was not much discussion in the Central Legislature on the subject. But, whenever there was any proposal relating to agricultural progress, it had the universal support of the non-officials irrespective of their professions. The predominance of the lawyers was manifested in the over-stressing of certain issues.¹ but never in any kind of narrow and selfish pursuits.

In the absence of detailed information, it is difficult to determine the educational background of all the members. Certain inferences may, however, be made. Lawyers, doctors, educationists and journalists would have had University degrees. Some of them were even educated abroad. No record of any illiterate member is available. In an interview with an ex-Member it was revealed that some Members from Sind could not speak ⁱⁿ English. One or two Members from time to time made speeches in Urdu or Hindi

1. Lawyers' obsession with legal reforms will be discussed in Chapter VII.

which were later translated into English for publication in the volumes of Debates. Though the data are inadequate, one can say the number of University graduates was considerable. The members not capable of making speeches in English seldom moved a Bill or resolution. One exception seemed to appear in 1937, when a member spoke in Urdu while moving a resolution.¹ Inability to make a speech in English did not necessarily imply illiteracy. English versions of the Urdu speeches indicate that the members concerned followed what the others discussed and they concentrated on the relevant points.

Political groupings inside the Legislature.

Information about the political groupings inside the Indian Legislature is still very inadequate.² There was no mention of the political affiliations of members in the Election Reports prior to 1934-35. Debates also do not always give clear indications as to the different political groups. Some information, can, however, be obtained from newspapers, records of the political parties, biographies of important leaders and sometimes from private enquiries. Rudimentary though they might be, the available records show that there had always been some kind of political groups inside the Legislature. The elections in 1920 were boycotted by the Congress as a result of which members were elected

1. L.A. Deb. 1937 (Delhi) - pp.2592.

2. Appendix^{III} (A summary of the political groups and their strength in various Assemblies).

as Independents.¹ But a considerable number of the members were liberals who had certain common views. In 1922, the Liberals of the Assembly formed a group, known as the 'Democratic Party' under the leadership of Dr. H.S. Gour.² Imperfect though it was in its working, it marked the genesis of party activity in the Indian Legislature. Its main objective was 'the development of a party organisation as an essential requisite of parliamentary government and as a means of obtaining for India the status of a self-governing Dominion at the earliest possible date.'³ The Democratic Party claimed to have ~~nearly~~ 48 members which amounted to nearly half of the elected element. It had some features of a modern parliamentary party. Mr. M.K. Reddi and P.P. Ginwala were its Secretary and Chief Whip respectively. The other two 'parties' which claimed their existence ^{at least} in name only were the 'Nationals' and the 'Unionists'.⁴ The real strength and leadership of these two groups are not known. It was hardly possible to distinguish the 'Nationals' from the 'Democrats' except that the latter claimed to be more progressive. The Unionists attempted to weld the interests of minority

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1. It has been gathered from an ex-member ^(Indian) of the Central Legislature that there was no supporter of the Congress even in individual capacity in the first Assembly.
 2. The Hindu, Jan. 26, 1922.
 3. Ibid.
 4. The Times, July 26, 1923.

communities into one common platform.¹ None of these 'parties' had any discipline.² Proceedings of the Assembly reveal that parochial interests could induce any member to speak against the party-motions.

The role of the Democratic group was that of a mild opposition pressing for some political concessions and other reforms in the sphere of administration. Following the formation of the 'party', there were 145 divisions in the first Assembly of which 57 went against the Government. Earlier in 1921 when there was no such groups only 24 divisions were held, 11 of which went against the Government. It seems likely that the presence of an organized group gave rise to more frequent divisions. It should be noted, however, that the Democratic party could not carry any division against the Government without the support of other non-officials. Such support could be extended either by voting against the Government or by abstention. The division lists in 1922 and 1923 reveal that the Party were unsuccessful in attracting a sufficient number of the Independents. The most crucial division of the first Assembly was held in 1923 on the non-official motion to reduce the salt duty. By 59 votes to 44, the non-official motion was adopted.³ This was the maximum number of non-

¹ The Times,
1. Op cit.

2. Edwin Howard's article - op.cit.

3. L.A. Deb. 1923 (Delhi) - p.375.

officials voting against the Government from 1921 to 1923. If all the followers of Dr. Gour voted in favour of his motion, it can be assumed that only about 11 independents joined the Democratic group. On the Government side, we notice only about 15 non-officials voted, including the nominated. It seems that about 55 non-officials (elected and nominated) did not vote or remained absent from the House.

Though the details of its strength are not available, it is apparent from some of the division lists that members of the Democratic party were not unanimous on many issues. Dr. Gour's Bill to define the limitation of Hindu creditors was negatived by 34 votes to 27.¹ No official member voted in this division. On the 22nd March, 1923, Dr. Gour's Special Marriage Bill was passed by 37 votes to 27.² In neither of these two divisions was the total number of Democrats claimed in 1922 present. This might be due either to the absence of a substantial portion of the Democrats or their reluctance to support their leader's proposal. In either case, it shows the lack of party discipline. Lack of unity on certain political issues was also exhibited on some occasions. For example, on the

1. L.A. Deb. 1923 - p.2578.

2. Ibid. W. 3926-27

11th July, 1923, Mr. Seshagiri Ayyar, a nominated non-official, moved a resolution urging the Government to release Mr. Gandhi and other political prisoners.¹ Dr. Gour disapproved of the non-co-operation tactics of the Congress leaders, and although he did not strongly oppose the release of Gandhi, he and a number of other Democrats remained neutral and did not vote. But some of Dr. Gour's associates vigorously supported the resolution and condemned the Government's policy of repression.

With the entry of the Swarajists in the second Assembly, the position of the political groupings changed greatly. The Swarajists were the 'pro-Council' wing of Congress and they contested elections in 1923 with ^{certain} political programmes. 'Determined to wreck the Constitution from within,' the Swarajists soon emerged as a strong political group of 48 under the leadership of Motilal Nehru. As Professor Rushbrook Williams wrote, 'their strength consisted in the fact that they were compact and well-disciplined.'² Apart from the Swarajists there was a large body of Independents in the Assembly. It is interesting to note that about 40 of those Independents came out as a significant group, under the leadership of Mr. Jinnah. In the Delhi session, 1924, the Swarajists and Mr. Jinnah's followers formed a coalition known as the Nationalist Party.³ This was, however, a

L. A. Rev. 1923 - p. 4561

1. ~~Op. cit.~~ ^{Final Political Program}
2. India 1923-24 - p. 266
3. Dr. Patabhi - op. cit. Vol. I - p. 258

temporary union only to secure a working majority in the Legislature. Some of the Swarajists did not like this coalition. One Swarajist leader commented to a representative of an English daily paper, 'Oh! we have agreed to whittle down our principles and policies in some respects in order to carry the Independents with us.'¹ The character of the union was temporary because the Independents did not 'believe in the cult of non-co-operation as the Swarajists did.'² The greatest victory of the coalition, was the passage of the 'National Demand' by 76 votes to 48 on the 18th February, 1924.³ A rift in the coalition was marked when Mr. Jinnah refused to support the Swarajist policy of rejecting the Budget in 1925. Lack of unity was also evident during the election of the President of the Assembly in September 1925. The Swaraj Party's choice for the post fell on V.J. Patel. But Mr. Jinnah wanted either Ram Chandra Rao or Mr. K.C. Neogy to run for the post.⁴ Eventually, he led most of his followers to vote in favour of Mr. Rangachariar who contested the Swarajists' nominee.⁵

1. The Statesman, February 7th, 1924.

2. Ibid.

3. L.A. Deb. 1924 - p. 769

4. Patel, G.†. - V.J. Patel, Vol. II - p. 645.

5. Ibid.

Motilal was a great disciplinarian who tried to maintain effective control over his party.¹ But there were signs of disaffection among the Swarajists by the end of 1925. They arose on the question of accepting office or coöperating with the Government. There was a section of the Swarajists - such as - Malaviya, N.C. Kelkar, Lajpat Rai, Aney and Baptista who honestly believed that some co-operation should be offered to the Executive if it would contribute to the welfare of the country. Some of the Nationalist newspapers were recommending some co-operation with the Government as early as 1924. Once the daily Hindu commented that the policy of wholesale obstruction was like a 'blind alley' which would not lead the Swarajists anywhere.² The growing strength of this feeling was shown when on the 8th March, 1926, the proposal to adjourn the discussion of 'Demand No. 16 - Customs' was negatived by 43 votes to 29.³ It was actually Mr. Jinnah's motion supported by Motilal. But even some of the Swarajists did not vote and some of Jinnah's followers voted against the motion

The defection among the Swarajists in the 1926 elections brought some changes in the political groupings of the 3rd Assembly in 1927. The Swarajists were reduced to 38 compared

1. Parikh, N.D. - Sardar Vallabhai Patel - p.368. (The Times forecast as early as January 30th, 1924, that Motilal might find it difficult to handle the Swarajist Party in the Assembly.)

2. The Hindu - March 27th, 1924.

3. L.A. Deb. 1926 - p.2137.

with 48 in 1924.¹ The Responsivist group had about 18 members and they elected Malaviya and Jayakar as the leader and deputy leader respectively. In the Assembly, the Responsivist group was known as the Nationalist Party. Malaviya's followers constituted the Hindu communal group in the Assembly and there was no Muslim member in the Nationalist Party. They vigorously contested all questions relating to the rights and privileges of the Muslims. For example, when the question of better Muslim representation in the Services was raised, Malaviya, Lajpat Rai and Jayakar opposed it on the grounds that appointments should be made on the basis of merit and not on communal consideration.

Though the Nationalists sat as a different political group in the Assembly, they were readily available to support Motilal's motions of censure on the Government. Malaviya and Jayakar's censure motions were also supported by the Swarajists. Division lists reveal that the two Groups did not seriously differ on any major issue. A few examples will illustrate this point. In 1927, the Swarajists and Nationalists voted together to reduce the demand under the head of the Executive Council. It may be noted here that about 10

1. The Swarajist Party in the third Assembly (1927-30) consisted of only 7 Muslim members as compared to 12 in the second Assembly (1924 to 1926). See the Swarajists lists published in the Statesmen, Feb. 7, 1924 and the Hindu, Jan. 27th, 1927.

Independents joined them in this Division. The two groups also voted together on the 12th March, 1927 to negative the official motion to fix the exchange rate of Rupee at 1s.6d.¹ One of the biggest divisions was held on the 18th February, 1928, when the Swarajists and Nationalists along with some Independents supported ^{hajpat Rai's} Malaviya's motion rejecting the Simon Commission.² The reluctance of the Responsivists to support the Swarajist policy of obstruction was proved when most of them abstained from voting on the division to pass the Finance Bill ^{the 27th March,} on/1927.³

The political groupings in the Third Assembly did not remain steady throughout. After the frustration over the Simon Commission, the Swarajists showed much less interest in the proceedings of the House. Even the important divisions in 1929 ~~and 1930~~ did not attract many of their members. The election of a new Assembly was due in 1929 but the term of the old one was extended to 1930. There was also less discipline among the Swarajists in the House. The earlier strictness enforced by Motilal 'seemed to have gone.⁴ Only Malaviya's group attended the sessions regularly.⁵ But their strength was inadequate without the support of the Independents. Mr. Jinnah's group was also reduced by the

1. L.A. Deb. 1927 - pp. 2734-37

2. " " 1928 - p.870

3. " " 1927 - p.2730

4. The Leader, Feb. 28, 1929.

5. Ibid.

emergence of the Central Muslim Party which did not see eye to eye with the Nationalists. On all major issues the Central Muslim group was rather pro-Government. As the Leader commented, the Central Group 'practically surrendered their conscience to the Government'.¹ One practical effect of this disintegration among the political groups was a number of victories for the Government. ^{Most of} The Swarajists did not attend the Assembly in 1930 in obedience to the 'boycott resolution' passed by the Congress Working Committee in ^{January} 1930.² But the Nationalists did take part in the Delhi session 1930 and walked out after a defeat on the Cotton Textile Bill.³

The fourth Assembly did not contain Swarajists or Responsivists as they boycotted the elections in 1930 and took part in the Civil Disobedience Movement outside. But the House contained a large number of experienced politicians who had sat as Independents in the earlier Assemblies. About 40 of these members formed a group known as the Nationalist Party ^{with} ~~which~~ Dr. Gour as its leader.⁴ This group was to establish an opposition party to represent nationalistic views. The politicians in the Nationalist group were mainly liberal in their political outlook. There was a close resemblance

^{The Leader, ©}
1. Op. cit.

2. Dr. Pattabhi - op. cit. - p. 369. See also Chap. V

3. L.A. Deb. 1930 - 2715.

4. The Leader, Jan. 15, 1931.

between the old Democratic party of the first Assembly and the Nationalists of the fourth Assembly. Essentially, the Nationalist Party was trying to fill in the gap left by the Swarajists. It was described as the 'most numerous and well-organised' group.¹ But it did not include such experienced parliamentarians and leaders as Sir A. Rahim, Sir Cowsaje Jehangir, Mr. Ramaswami Mudaliyar, H.P. Mody, S.C. Mitra, Sir Zulfiqar and Sir Yamin Khan. Soon these remaining Independents organised as a group under Sir A. Rahim's leadership. There was also an attempt by Sir Yamin to form another group of about a dozen Muslims which failed eventually.² It is interesting to note that a landholders group with only 8 members was formed under the leadership of Raja Sir Vashudeva.³ Three members of the group were already in the Nationalist Party. It was the first time that the landholders had tried to form a separate political group.

The lack of discipline among these political groupings is evident from the division lists. ^(See Appendix IV) From 1931 to 1934, the House divided as many as 160 times, but on 127 occasions the Government won. Attendance was poor and a substantial number of Independents seem to have remained absent. Party politics was in a hopeless state without any unity of purpose. 4

1. Op cit. Jan.25, 1931.

2 " " "

3. " " February 11, 1931.

4. Vide Sesbadary Iyengar - The last session of the Central Legislature - Indian Review, May 1932.

Without the support of Sir A. Rahim's group, it was not possible to carry any motion against the Government. Even the Nationalists were divided amongst themselves. On the 21st and 22nd November, 1932 two divisions were held on the Criminal Law Amendment Bill and some of the Nationalists such as - Mr. Yakub, Mr. Anklesaria, B.N. Misra and Dudoria voted with the Government.¹ The lack of discipline in the Nationalist Party was further shown on the 16th December, 1932, when Dr. Gour and Ranga Iyer's plea to support the Ottawa Trade Agreement was opposed by 25 Nationalists and Independents.² Rai Bahadur H.B. Sarda led the dissident group of the Nationalists and their main plea was against the preferential treatment given to British traders by the Agreement.

There were many reasons why the Independents were unable to function successfully as a group. Firstly, Sir A. Rahim was himself a moderate leader ready to co-operate with the Government on certain issues. So were his followers. Secondly, from time to time he was absent from the House owing to his appointments in England in connection with the new constitutional proposals which were already in the making. Thirdly, a good number of his Muslim followers were essentially pro-Government. It was difficult to persuade

1. L.A. Deb. 1932 - p.2321 & p.2401 (~~29th~~ and ~~25th~~ Nov.)

2. " ^{among themselves} p.3025 (The Nationalists were conducting a Divil War almost daily even in the open Chamber. See Seshadary Iyengar. Op. Cit.)

them to vote for any motion intended to censure the Executive.¹ Fourthly, the Independents did not subscribe to any common policy. For example, S.C. Mitra and D.K. Lahiri were definitely anti-Government on all major issues whereas Ghuznavi, H.P. Mody, Cowsajee were normally ready to support official policies. Sir A. Rahim vigorously opposed the passage of the Indian Press Bill which was ultimately passed by 55 votes against 24.² Nearly half of the Nationalists were absent though Dr. Gour called upon the House to negative the measure. Sir^A Rahim was supported by only about 5 Independents in this division. The Bill was criticised by the Nationalist press as well as by the political parties outside. Its passage by a large majority for the Government could therefore be interpreted as proving the ineffectiveness of the political groupings inside the Legislature. It can fairly be assumed that such a controversial Bill could not have got through so easily if the earlier political groups and leaders had been present in the House.

The party affiliations in the fifth Assembly were much more clear cut than before. The Congress took part in the 1934 elections and the final results gave the Congress 44 seats, Pandit Malaviya's Nationalists 11, Independents 22, European Group 11.³ The Nationalist newspapers outside

1. Beshadary Iyengar - op.cit.

2. L.A. Deb. 1931 - pp. 1491-92 (3rd Oct.)

3. ^{Moral} ^{Material} ^{Progress} ^{of} India 1933-34 - p.38.

claimed the results as a 'sweeping Congress victory'.¹ If we compare the strength of Congress with that of the Swarajists in the second and third Assemblies, the achievement of Congress (excluding the Nationalists) in 1934, was not unprecedented. Excluding the Responsivists the third Assembly had only 38 Swarajists and in 1924 there were 48 Swarajists. It can, therefore, be said their strength was greater than it had been in the third Assembly. Credit should be given to Congress for maintaining its prestige in spite of the acute dissensions among its leaders during the months preceding elections. Election victories gave 'sufficient testimony' to the superiority of Congress 'over that of other parties'.² Congress victories were 'sweeping' in South Indian Provinces, the U.P., Bihar, C.P. and Assam.³ The strength of Congress in the Assembly should not be viewed, however, without considering its alignment with the Congress-Nationalists who 'were with the Congress on all points except on the question of the communal decision'.⁴ Official circles attributed the election success of Congress to the Civil Disobedience Movement as it 'kept the Congress constantly before the eyes of the electors'.⁵ To the

Moral & Material Progress of
1. India in 1933-34 - p. 38

2. Ibid.

3. Dr. Pattabhi - op. cit - p.571.

4. Ibid.
Moral & Material Progress of

5. India in 1933-34 - p.39.

Nationalist press outside, the new Assembly was far better and more effective than the previous one. The Leader commented: 'It is a tremendous improvement upon the ramshackled and varicose-veined gathering that preceded it.'¹

The Congress Party in the new Assembly had a new Leader - Mr. Bhulabhai Desai. He 'brought to the Assembly the same prestige and glamour as Motilal himself.'² The Congress-Nationalists elected Mr. M.S. Aney as their leader. Mr. Jinnah resumed his previous position as Leader of the Independents. But this time the composition of his followers was different. Of the 22 Independents, 18 were Muslims. Raja Kollengade in combination with A.H. Ghuznavi attempted to form a landholders group styled as the Progressive Party.³ The exact strength of the group cannot be ascertained. It was an attempt to revive the old Landholders group of the fourth Assembly. The Congress-Nationalist Party like the Nationalist group in the third Assembly was entirely a non-Muslim group. Mr. Jinnah's group stood in sharp contrast with Aney's followers on all the communal issues. Assuming that Europeans and nominated non-officials would support official policy, the Government could 'normally rely on 50 votes'.⁴ On the other hand, the Congress and Congress-

1. The Leader, Feb.15, 1935.

2. Ibid.

3. The Pioneer, Jan. 26, 1935. - p.97.

4. *Hand & Material Professor Or* India in 1939-35 - p.97.

Nationalists combined ^{were} on 55. So the results of the divisions very much depended upon the attitude of the Independents. If the Independents remained neutral, the two groups could easily press divisions against the Government.

The first test of the strength of the Congress Party was on the motion to adjourn the House to discuss the prevention of Mr. S.C. Bose from attending the Legislative Assembly. After some debate the House adjourned by 58 votes to 54.¹ About six Congress members were not present in the House which reduced the combined strength of the Congress and Congress-Nationalists to about 49. About 9 elected Independents voted in favour of the motion and 17 Independents remained neutral. The Government was supported mainly by the Europeans and nominated non-officials. Of the 54 votes on the Government side only 10 were those of elected Indians. Though styled as Independents they were essentially pro-Government members. 7 of them were leading landlords and had titles conferred by the Government. The division indicated that disregarding the Independents, Congress had better support in the House than the Government.² It also indicated that Independents, as before, could not unite on any common policy. Some Independents such as Fazlul Huq, Shaukat Ali and D.K. Lahiri voted in support of the motion whereas their leaders, M.A. Jinnah and Sir A. Rahim remained

1. L.A. Deb (22nd Jan) 1935- p.77.

2. The Leader - Jan.25, 1935.

neutral. On the other hand, some of Jinnah's followers such as Sir Yakub, Nawab Siddique Ali and Anwarul Azim voted against the motion. Congress readily realised their weakness against any future move of combined force of the rest of the officials supported by the Government members. They decided, therefore, to admit such members as had not been returned on Congress tickets but were ready to subscribe to its policy.¹

Another test of the Congress Party's strength was the election of the President of the Assembly. Mr. T.A.K. Sherwani was put up as a Congress candidate for the Presidentship. There was also an Independent candidate - Sir^{A.} Rahim. On the day of the election, the 26th January, 1935, the galleries were packed to capacity. Some distinguished Congress leaders such as Dr. Ansari, Vallabhai Patel, Rajagopalachari and Mrs Naidu were present.² It was undoubtedly a hard contest. But the Independent candidate had a better chance as he attracted the support of the official members, nominated non-officials and European members. Out of 142 members, 132 were present and all voted. It was, perhaps, difficult for the Muslim members to make a choice on communal consideration as both the candidates were Muslims and of equal prominence. Finally, Sir^{A.} Rahim was

1. The Pioneer - Jan. 23, 1935.

2. Ibid Jan. 27, 1935.

elected by 70 votes to 62.¹ It was not a very comfortable majority but certainly better than that of 1924 when V.J. Patel was elected President by 58 votes to 56.² Mr. Shewani's defeat was undoubtedly a temporary set-back for Congress. It also became clear how many Independents they could attract on a contested voting. By the end of 1935, the ~~momentum~~ strength of Congress in the Assembly was weakened by the death of three members - Abhyankar, Sherwani and Sasmal. The integration of the Congress-Nationalists would have improved the situation for Congress, but the Congress policy of remaining neutral on the question of the communal award further antagonised them.

Relations between Congress and Independents (mainly Muslims) under Jinnah were strained when the Report of *Joint Parliamentary Committee* P.C. came up for consideration. The Communal Award had universal appeal for the Muslims inside the Legislature as well as outside. As Mr. Jinnah said, it should be accepted as there was no alternative settlement to it and no constitution would be possible without its acceptance.³ The Congress-Nationalists also proved to be anti-Muslim, actively contesting the question of the Communal Award. As Bhai Parma Nand

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1. The Pioneer, Jan. 27. 1935
 2. G.I. Patel - V.J. Patel - p.646.
 3. L.A. Deb. 1935 - p.570-71 ()

declared the Award was 'anti-Hindu, anti-national and anti-democratic',¹ The comment was certainly infuriating to the Muslims. Another point of difference was on the question of rejecting the 1935 Constitution root and branch. On the 7th February, 1935, Mr. Desai's motion to reject the Joint Parliamentary Committee's Report entirely was defeated by 72 votes to 61.² Most of the Independents voted against Desai. On the other hand, Mr. Jinnah's proposal to accept the proposed Reforms with reference to provincial autonomy was adopted by 74 votes to 58.³ The defeat of Congress on the Joint Parliamentary Committee's Report was interpreted by the Anglo-Indian press as indicating the 'implicit intention of the political groups to work the Reforms for what they were worth.'⁴

What impact did the change of political affiliations have on the relations between the non-officials and the Executive? This is very relevant to the present discussion. Some aspects of the question have already been touched in the preceding paragraphs and other chapters.⁵ The attitude of the non-officials was expressed mainly in the divisions and censures passed against the Executive.⁶ The first and

1. Op cit - p.269.

2. Op cit - p.518.

3. Op cit.

4. The Pioneer - Feb.14, 1935.

5. See Chapters - VI, VII, VIII & IX.

6. See Appendix ^N for the list of divisions.

fourth Assemblies did not contain the Congress leaders and other distinguished politicians. Moderates always believed that co-operation should be offered to the Executive in order to achieve something. On the other hand, the Executive could also be confident of co-operation on many issues. It can fairly be said that the Executive had a smooth passage during the first and fourth Assemblies. In the first Assembly from 1921 to 1923, the House divided as many as 169 times and the Government was defeated on 76 occasions. Most of these divisions were minor differences with the Government. Serious censures had been very rare during the said period. The same is also true of the fourth Assembly from 1931 to 1934. Out of 160 divisions during the period only 23 went against the Government. But the position was different in the second, third and fifth Assemblies. Swarajists were too ready to differ with the Government.

In the second Assembly (1924 to 1926), more than half of the divisions went against the Government. Owing to defections among the Swarajists in the third Assembly (1927-30), most of the divisions could not be pressed against the Government. After the moderate interlude from 1931 to 1934, the fifth Assembly saw the emergence of a well-disciplined Congress Party. From 1935 to 1939, the Assembly divided as many as 225 times and on 132 occasions the Government was defeated. But the picture changed during the period from 1940 to 1943 while Congress members absented themselves from

the House most of the time. In the absence of Congress, the proceedings of the House lost reality. Only 5 divisions were pressed against the Government from 1940 to 1943. The Congress-Nationalists and the Muslim League were the only opposition during this period. In the autumn of 1944, the Congress Party moved from boycott to attendance and from then the House regained its strength. Out of 40 divisions held from 1944 to 1945, as many as 31 went ^{against} ~~as members~~ of the Government. The elections of 1945 further strengthened the Congress position in the sixth Assembly (1946-47) with as many as 59 members in its fold. During the Budget session in 1946 several crushing defeats were inflicted on the Government.

One conclusion can safely be made here - the Congress dominated Assemblies could put up a more vigorous opposition to the Government than the Houses dominated by the moderates. It was mainly because the moderates were not well organised. They did not have any following outside. On the other hand, the Congressmen were a well-disciplined body, with a large following outside. In the early days, the Swarajists used to collect necessary information and data for their speeches in the Legislatures in their individual capacities as serious students of politics. Later, a Swarajaya Office was set up for this purpose.¹ The main purpose of such preparation of the Congress Party was to inflict as many

1. This information has been supplied from India to the present writer by an ex-member of the Assembly.

defeats on the Government as possible. Outside the Assembly precincts, the Congress members often used to meet in private houses to discuss their policies in the Legislature.¹ The Congress Party in the Central Legislature always had a room in the Assembly building where the members used to meet to discuss their attitude to the coming legislative programmes. The Congress Party Whips were very active in persuading the non-official members belonging to other groups to vote in support of its motions.²

There were 30 elected and 3 nominated Muslim members in the Assembly. The elected Muslims were chosen by the Muslim constituencies.³ How far could the Muslim members, elected on a communal basis, be uncommunal on the floor of the House? Like the Hindus, the Muslims in the Assembly during the inter-war period could be classified into two groups - the Nationalists and Communalists. Certain interesting features are noticeable among the Muslim Communalists. In the early period, they were not organised as a group and expressed opinion mainly as individuals. They sometimes opposed the idea of self-government for India. In 1921, the Autonomy Resolution was opposed by two Muslim Members - Prince Akram Hussain and Khan Bahadur Zahiraddin.

1. This impression is gathered from a number of press comments in the Hindu, the Leader and the Pioneer.

2. The biography of Rafi Ahmed Kidwai who was^o the Chief Whip of the Swarajist Party from 1924-29 reveals that his tact and intelligence helped his Party to win over many divisions censuring the Executive. Vide - Chopra, P.N. - Rafi Ahmed Kidwai - His life and work - p.23-24. In an interview with the present writer, Sir Frederick James who was a member of the Central Assembly from 1931 to 1945 confirmed ~~that view~~ *Congress Whips were very vigilant in the Assembly.*

3. Two Muslims were elected in 1934 from two general constituencies in Delhi and N.W.F.P.

Prince Hussain's plea was India's incapacity for self-government. Zahiraddin's plea went further. He argued that the Hindu Muslim problem should be settled before Independence as they were not yet one people. As he put it, the 'branches in some cases might have intermingled, but the two trunks have remained separate as ever.'¹ In another resolution he was more bitter. He said: 'I am a Muhammadan. 'Swaraj' will mean Hindu Raj.'² A statement could not be more communal in 1921 when the Muslim Khalafatists and the Congress were making a common cause against the Government. But there were also nationalist minded Muslims like Yamin Khan, Yaku~~q~~, Ismail and Kabeerudda who supported all major constitutional demands from 1921 to 1923. In the subsequent Assemblies, there were some leading Muslim politicians. Mr. Jinnah was the acknowledged leader of the majority of the Muslim members in the second Assembly. He supported the Congress on many issues. The 12 Swarajist Muslims in the second Assembly followed the party programmes and supported all nationalist demands. There was a Hindu-Muslim tension during the 1926 elections and the Swarajist Party won only 7 Muslim seats. The growing Hindu-Muslim differences outside were reflected

1. L.A. Deb - 1921 - p.1256 (20th Sept. 1921).

2. L.A. Deb.- 1921 - p.1528 (23rd March, 1921):

in the emergence of a Muslim group under Sir Zulfiqar Ali Khan in 1927. This was the first organised Muslim communal group in the Assembly. Its policy was to support the Government for the benefit of the Muslim community. Communal debate, on the whole, had been rare in the Indian Legislature. But from the late twenties, there was a sharp rise in the number of questions about the rights and privileges of the Muslims. Most of those questions were about Muslim representation in the Services. Such issues were also raised by the Muslim members during the Budget sessions. The debate on the Simon Commission strained the relations between Mr. Jinnah's followers and Sir Zulfiqar's group. Sir Zulfiqar led his group to support co-operation with the commission. The division list on this motion indicates that the Muslim members were almost equally divided. 12 Muslims who supported Mr. Jinnah, denounced the Commission and 15 welcomed it.¹ From time to time, Hindu members moved resolutions to ban the slaughter of cows. This was irritating to the Muslim members. Motions dealing with communal riots always led to unpleasantly-heated discussions. For example, on the 16th July, 1930, Mr. K.C. Neogy moved a resolution condemning communal riots in Dacca. As usual, the motion raised controversy among the members with Hindus and Muslims blaming each other for the riots. Eventually, the motion was negatived by 49 votes to 20.² Most of the Muslim members

1. L.A. Deb. 1928 - p.505-6. *See also Chap. IX*

L.A. Deb. 1930 - p. 598
 2. Azim Hussain - Fazli Hussain - p.193.

voted against the motion and none in favour of it.

In the fourth Assembly, the Muslims mainly gathered around Sir A. Rahim's leadership. But it is interesting to note that the Muslim members were also subject to the manipulation of Sir Fazli Hussain - a member of the Executive Council.¹ In critical moments, Sir Fazli could exert his influence over Muslim members of the Assembly, and swing the balance in favour of the Government.² The Hindu communalists opposition to the Communal Award united the Muslims in 1935. Mr. Jinnah's group alone had 18 Muslims and other Muslims except the three Congressites would join him on any issue affecting Muslim interests. The debate on the ~~Joint~~ ^{Parliamentary Committees} P/C. Report indeed raised communal bitterness in the House. Almost all the Muslims solidly backed Mr. Jinnah's amendments. When Bhulabhai Desai's motion rejecting the ~~Joint~~ ^{Parliamentary Committees} P.C. Report was put to the vote on the 7th February, 1935, only three Muslims voted in favour of it.³ On the same date, when Mr. Jinnah's amendment to accept the Communal Award was put to the vote, no Muslim member voted against it.⁴ Those two divisions sufficiently ~~explain~~ ^{illustrate} the implied support of all the Muslim members for the Award. After the ~~Joint~~ ^{Parliamentary Committees} P/C. Report debate, there was, however, no serious communal issue before the House until 1937. Though Mr. Jinnah held the

1. Azim Hussain - Fazli Hussain - p.193.

2. Ibid.

3. L.A. Deb. 1935 - p.569-70.

4. Ibid.

balance he did not cast his strength entirely on communal considerations. Up to 1937, Mr. Jinnah co-operated with the Congress on many issues to censure the Government. As Professor Coupland commented, Hindus and Muslims 'successfully combined against the Government.'¹ Congress-Muslim co-operation explains that 'given a spirit of compromise, Westernized lawyers like Jinnah and Bhulabhai could work in reasonable harmony'.²

The polarisation of Hindu-Muslim differences in the Central Legislature culminated in the formation of the Muslim League Party in 1939 under the leadership of Mr. Jinnah. It was for all practical purposes the former Independent Party given a new name. The earlier Independent Party hardly consisted of two or three non-Muslim members and when it took the name of the Muslim League Party they drifted away to other groups. Now, the Assembly Muslim League Party consisted of 26 Muslim members. Only about 5 Muslim members were outside the fold of the Muslim League. The most vocal and influential of the dissident Muslim members was Sir A.H. Ghuznavi who later opposed a Muslim League nominee in the 1945 election as an Independent and was defeated. With the introduction of provincial autonomy in 1937, the Congress-Muslim League differences outside were gradually mounting. This led to suspicion of Congress moves in the Assembly. From 1938 to 1939, the Muslim group was no longer readily responsive to the Congress moves.

1. Coupland, R. - Indian Politics, 1936 - 42. p.10.

2. Sayeed, K.B. - Pakistan, ^{The} Formative Phase - p.769.

Discussion mostly took ^acommunal shape, but the Muslim members supported several censure motions sponsored by Congress. From 1940 to 1943, while the Congress members absented themselves from the House, the Muslim League played the role of the Opposition Party. Mr. Jinnah, seldom attended the sessions during this period. So, Mr. Liaquat Ali Khan, the deputy Leader of the Muslim League, was the virtual leader of the Opposition.¹ When Congress gave up the boycott and started attending the sessions from the autumn of 1944, the Muslim League joined them in a number of motions censuring the Government.² It seems, therefore, that even at the height of the Hindu - Muslim differences outside, the Muslim Leaguers could join hands with the Congress inside the legislature on certain issues.

The European non-officials in the Assembly sided with the Government on practically all important issues. Every single demand for constitutional advance was opposed by the Europeans. Mr. Price condemned the autonomy resolution in 1921 and said: 'I am opposed the Resolution, I oppose all the amendments, I oppose the whole thing lock stock and barrel.'³ The same attitude was repeated in 1924 when the 'National Demand' was debated in the House. None of the Europeans voted in favour of Motilal's amendment.⁴ They supported the Government on all the divisions held during the consideration of the Joint ~~P.C.~~ ^{Parliamentary} ^{Committee's} Report

1. See Sir Frederick James - 'The Indian Legislature in War Time' published in the Asiatic Review, July, 1945 - p.230.
2. See Chapter IX for the discussion of censure motions supported by the Muslim League.
3. L.A. Deb. 1921 - p.1236 (29th Sept)
4. " " 1924 - p.769

in 1935. They refused to support proposals to reject the Budget. In respect of proposals relating to social reform, the group remained neutral. The attempts of the Indian members to repeal repressive measures were also systematically opposed by the European members as by the official members. For example, all the Europeans voted against the passage of the Indian Criminal Law Amendment (Repealing) Bill in 1924.¹ In the following year, the passage of the Special Laws Repeal Bill was also opposed by them.²

There were, however, some questions, particularly those affecting their commercial interests, on which they would join the Indian non-officials and vote against the Government. On the 14th February, 1924, Mr. Jinnah's motion that all tenders for purchasing stores should, as far as possible, be called for in India and in rupees, had the active support of the European Group.³ In September, 1924, Mr. Coeke, on behalf of the European non-officials supported the Indian demand for abolishing the Cotton Excise Duty.⁴ Besides, a higher rate of income tax was always opposed by the Europeans as much as it was by their Indian colleagues. There was no organised European group in the first Assembly. Later, they always formed a group with one leader. During the period under review there was no change in their policy. The main reason for their pro-Government policy was that they could 'rely on

1. ~~Lab. Deb.~~ Deb. - p.4001.
1924

2. ~~Ibid.~~ Ibid. cit. - p.2709
1925

3. ~~Ibid.~~ Ibid. cit. - pp.4000-4001
1924

4. ~~Lab. Deb.~~ Lab. Deb. 1924 - p.4077

governments support for defending their interests.¹ They did not hold the balance in the Assembly. It was always assumed by the Indian non-officials that the Europeans would never support the cause of Indian Independence. The European Party was the most organised group of the Central Legislature. It had a party-office in Delhi and Simla with a small staff headed by a paid Secretary whose main function was to supply the necessary information and data to members of the Legislature.² As the group was small with no major differences of views, it was easier to enforce discipline. It was a practice among the European members to meet at the party-office every morning before the session started to take immediate decisions on the forthcoming motions in the Legislature.³

There were always some uncommitted members in the Assembly who did not belong to any one of the political groups. They may be conveniently termed as 'floating members'. The size of the group varied from time to time. In the first Assembly, such uncommitted members were unusually numerous. Excluding the Democrats, there were nearly 50 floating members. As the House was very much pro-Government, the role of the floating group was insignificant in holding the balance. In 1924, there were only 19 uncommitted members. Apparently there was no floating member in the third Assembly as the figures claimed by different groups covered almost the whole of the elected

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1. Howard. E. - European Non-Officials in ^{the} Indian Legislature - p.3.
 2. One of the ex-Secretaries of the European Group, now employed as a research-officer of the Conservative Party in England, was interviewed by the present writer.
 3. This comment was made to the present writer by Sir Frederick James.

element. About 22 and 17 members were uncommitted in 1931 and 1935 respectively. But these figures alone do not explain the size of the floating group. Sometimes, even the organized Independents behaved as floating members. On many issues, they censured the Government, but on some divisions they floated into the official lobby. The Central Muslim Party and the Landholders Group in the third and fourth Assemblies respectively were, in practice, groups of floating members.

Uncertainty of voting was the main feature of these members. Division lists ~~show~~tain that a significant portion of the floating members were the Conservative landlords often with exalted titles. Some moderates were also included. A good number of such members were Muslims. In spite of their general readiness to support the Executive, they could also go against it on some occasions. For example, the conservative element of the floating group quite unusually voted against the Government on the motion to pass the Child Marriage Bill in 1929.¹ Similarly, such Muslim members used to vote against the Government to press their demands for Muslim representation in the Services. They could hold the balance only when there was a neck to neck contest between the non-official groups on the one hand and the official members, the nominated non-officials and the Europeans on the other. They could also win a division in favour of the Government if some of ^{the} Congressmen or

1. L.A. Deb. 1929 - p.1315.

Independents remained neutral or absent from the House. In 1926, 1929, 1930 and from 1940 to 1943 (when the Congress did not attend sessions) without the support of the floating members no division could be pressed against the Government. It was because a large number of Congressmen walked out of the Legislature and those remaining were not well-organised. It is difficult to trace any unified action of such members. They never consistently followed any particular policy. Most of these members were backbenchers and did not command sufficient political prestige ^{because} ~~partly~~, on many important occasions, they deserted the rest of the non-officials and voted in favour of the Government.

The political groupings in the Council of State had no significance until its later years. There was no political group in that Chamber until 1930 corresponding to the political groupings of the Assembly although some individual members in the Upper House always led some opposition to the Government's policy. Ram Saran Das, P.C. Sethna and Mr. Hussain Imam were the most important spokesmen of Opposition views. The emergence of a political group known as the Progressive Party was first marked during the term of the third Council of State (1931-36).¹ Its leader was Ram Saran Das. The exact strength of the Group is not known but the division lists indicate that they were about 10. The nature of opposition by this group was undoubtedly mild but it added to the value

1. Some evidence about this group is available in the farewell speeches on the eve of dissolution of the third Council of State on the 17th October, 1936 - (C.S. Deb. 1936 - p.537)

of debates and deliberations of the House. In the fourth Council of State (1937-47), the Progressive Party retained its earlier strength. The other two significant groups were the Congress and Muslim League with 8 and 7 members respectively. In a House of 60 members, these three groups could put up a strong united opposition to Government policy but division lists indicate that hardly 20 members were united against the Executive.

Some Individual Members

It will be interesting here to refer to some of the outstanding official and non-official members of the Central Legislature during the period under review. On the Treasury Benches there were such stalwarts as Sir William Vincent, Sir W.M. Hailey (later Lord Hailey), Lord Rawlinson, Sir Alexander Muddiman and Sir Basil Blackett, all of whom represented the bureaucracy but showed extra-ordinary parliamentary ability as members of the Legislature. Hailey and Vincent would have decorated any deliberative Assembly in the world, not only with their ability and knowledge, but with their supreme talent for political debate.¹ Men like Hailey, Vincent and Lord Rowlinson were vastly different from Sir George Rainy, Sir James Crear and Sir William Birdwood.² Hailey and Vincent were most eager to make the reforms a success. They were always ready to respect non-official views in the Legislature as far as possible. Their social relations even with their political

1. Wilson, F.W. - The Indian Chaos - p.80. also U.P. Native Newspaper Reports - June 11th, 1932 - p.3.

2. Wilson, F.W. - Ibid.

foes were most cordial.¹ Lord Rawlinson proved himself not only a great soldier but a great statesman. He took the Opposition into confidence and accepted reductions in military expenditures. Sir William Birdwood who succeeded him was unfortunately not in the same category. Sir Alexander Muddiman did not have all the capabilities of his predecessors but by his geniality of temperament and his tact he commanded the respect and confidence of the whole House.² He had the real knack of getting on with politicians. He would have made a first-class English party Whip.³ Sir James Crerar who succeeded Muddiman as the Home Member was lacking in imagination and a sense of humour. When he took over the Home Membership and the Leadership of the House, he was out of his depth and incapable of handling with dexterity the enormously difficult political questions which daily came before him.⁴ The Home Members who succeeded him were equally devoid of parliamentary skill. Their impatience with the politicians is marked in the Legislative proceedings. The standard of political debate in the Treasury Benches steadily declined.

On the non-official side, Pandit Motilal Nehru was the doyen of the House. Motilal was a great parliamentarian. His

1. This comment was made by Lord Hailey in an interview with the present writer.

2. Patel, G.I. - Vithalbai Patel - Part II - p.658-59.

3. Wilson, F.W. - Op. cit - p.82.

4. Ibid - p.83.

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polished manners and intellectual attainments earned respect even from his ^{most} bitterest opponents. Mr. Jinnah was the leader of the Independents who were mainly Muslims. His arguments were extremely ^{vigorous} ~~vigilant~~ and meticulous. His fearlessness was always a tower of strength to the non-officials. Motilal and Jinnah, when combined, were almost unassailable by the Government.¹ Pandit Madan Mohan Malaviya and Lala Laipat Rai were another two prominent leaders in the Assembly. Malaviya was a Congress-man but never believed in the obstructionist policy pursued by the Swarajists. He always believed sincerely in fruitful co-operation with the Government. Malaviya's main role was to play the Hindu Mahasabha politics inside the Central Legislature. Lajpat Rai was one of the most courageous personalities in the Assembly who often challenged the bona fides of the British Raj. In T. Rangachariar and Dr. H.S. Gour, the Assembly had two astute politicians and expert constitutionalists. Jamnadas Mehta and Parshotamdas Thakurdas were the two important experts on finance who presented the opposition views on all fiscal matters. N.M. Joshi and Dewan Chaman Lall were the two champions of labour causes. Sir Sivaswamy Aiyar, T.A.K. Sherwani, Rafi Ahmed Kidwai, K.C. Neogy, Shanmukham Chetty, M.R. Jayakar, M.K. Acharaya, B.C. Pal and N.C. Kelkar were ~~the~~

1. Patel. G.I. - Op. cit. - p.658

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other competent personalities in the Central Assembly.

The fifth Assembly (1935 to 1945) saw the emergence of some new leaders such as Mr. Bhulabhai Desai, Pandit Pant, Mr. Fazlul Huq,¹ Sir A. Rahim, Sir Cowasjee Jehangir, Mr. S. Satyamurti and Mr. Liaquat Ali Khan. All of them were distinguished leaders representing different parties. Their oratory and parliamentary ability were considerable. Sir Jeremy Raisman, the Finance Member was the only official representative during this period who proved a good parliamentarian, patient in debate and powerful in exposition.²

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1. Fazlul Huq and Pandit Pant left the Central Legislature in 1937 and became Ministers in the provinces.
 2. Sir Frederick James' s article - op. cit. - p.231.

CHAPTER VI

INFLUENCE ON ADMINISTRATION

There was no explicit provision in the India Act, 1919, to make the Central Executive in any way responsible to the Indian Legislature. The 'superintendance, direction and control of the Civil and Military Government of India' was vested in the hands of the Governor-General in Council who was required 'to pay due obedience' to the orders of the Secretary of State.¹ Also in the Report of the Joint Select Committee on the Government of India Bill, 1919, we find that 'it was not within the scheme of the Bill to introduce.. any measure of responsible government into the Central Administration!² Now the absence of responsibility of the Central Executive, in the face of the Central Legislature with a non-official majority, created an anomalous position when the Montagu-Chelmsford Reforms were put into operation. Though the ultimate responsibility of the Executive was to the Secretary of State, the Indian administration, as a whole, could be criticised and censured by the non-official majority of the Central Legislature. The powers and privileges of the members of the Legislature could be so

1. Sec. ^{Government of India} 23, the Act, 1919.

2. Report of the Joint Select Committee - Clause 25.

directed as to influence the action of the Government. The Indian members did not remain satisfied with the power of criticism alone; they were eager to have a real share in the policies of administration.

Within a short period after the inauguration of the Reforms, the Executive realised that it would not be possible to run the administration denying the influence of non-official members in the Central Legislature.¹ This was also necessary to show to the public outside that the Executive was responsive to the demands of their representatives in the legislative bodies created under the Reforms. After only two years of experience in the Central Legislature Professor Rushbrook-Williams, the Director of Public Information, Government of India, commented: 'Faced by an elected non-official majority, the Government of India in many aspects of their activities necessarily came under the control of the Indian Legislature.'² Speaking on a non-official resolution, Sir Malcolm Hailey, the Home Member, openly claimed: ~~that the~~ 'influence of the Legislatures tends to colour every view on administrative matters.'³ Writing in June, 1926, after 5 years of experience as President of the Central Assembly, Sir Frederick Whyte emphatically

1. While the Government of India Bill, 1919 was being debated in the House of Commons, one member (Captain Ormsby-Gore) pointed out that the Government of India would find itself in an impossible situation if it did not respond to the wishes of the Legislature. Vide H.C. Deb. 5th June, 1919 - p.2388.

Moral & Material Progress of

2. ~~Common and Material Progress of India~~ 1922-23- p.55.

3. L.A. Deb., 1923 - p. 155.

commented: 'I have often challenged my Indian friends who deny that the Constitution presents them with the opportunities of doing things themselves as well as of influencing the way in which the Government of India does them, which are so much greater than anything they ever enjoyed before.'¹ He also mentioned specific cases where the Government of India was influenced in their actions by non-official views.

Some non-official views can also strengthen the conclusion about the responsiveness of the Executive towards the non-official demands. In December 1921 and January 1922, the Indian Review, a notable liberal Journal on public affairs from Madras, published a series of non-official views on the utility of the new legislatures and some of them were very interesting observations on the newly created legislative bodies. Giving his impression about the position of Central Assembly, Dr. H.S. Gaur, a leading member of the Assembly wrote: "The Government themselves now clearly see the illogical position into which the recent reforms have driven them. There are nominally irresponsible to and irremovable by the Assembly and yet it is the Assembly that controls the policy".² Another non-official member, Mr. Yamin Khan commented: "The Government members are ever ready to accede to sensible suggestions of the non-official members and non-official members are, in their turn, quite

1. Foreign Affairs, Jan. 1926 - p.235-36.

2. The Indian Review, January, 1922.

willing to understand the Government point of view.¹ Those were, in some respects, too complacent views of the Central Legislature, but they bear testimony to the responsiveness of the Executive to non-official views. The Swaraj Party issued a resume in 1926 about their achievements in the Central Legislature. It was part and parcel of the Election Manifesto for the elections of 1926. The resume was happy to claim that the Swaraj Party had been successful in achieving certain things which were 'beneficial' to the people. Those were: a) a reduction of Salt Tax, b) the reduction of railway fares, c) the remission of provincial contributions, d) the abolition of cotton excise duty and the imposition of protective duties on certain industries, and e) the enactment of certain laws for the protection and growth of the Trade Union Movement.² The Swarajists were the last persons to exaggerate the responsiveness of the Government towards the non-official pressures. It was at least a partial story of success of the Central Legislature. The beneficial measures were by no means major political concessions, but only the redress of particular grievances raised by non-official resolutions.

In 1936, the Congress Party published a pamphlet giving a review of its achievements in the Central Assembly.³

1. Op. cit.

Election Manifesto

2. Resume of the Swaraj Party/in the Indian Annual Register, 1926, P. 272.

3. Review of the Work of the Assembly Congress Party, Simla, 1936 by S. Satyamarti.

The pamphlet claimed, inter alia, that members of the Congress Party "did their duty faithfully and loyally whether it concerned a poor agriculturist working in the fields, a factory worker toiling in the Mill or Workshop, the unresting public holding shares, a merchant, a prince or an industrial magnate".¹ So, here is another official document of the Congress claiming that its members in the Central Legislature could redress the grievances of various interests. In this connection, we can note the views of Dr. T.B. Sapru, the distinguished moderate leader who was a member of the Viceroy's Executive Council from 1921 to 1922. Addressing a dinner party of the Liberal Association in the U.P. in 1923, Dr. Sapru made certain important observations. He said: "We can get a great deal more from the sundried bureaucrats with whom I had the honour to work at Delhi and Simla and who in my opinion are more amenable to the reasonable influence of the Legislature and have a better appreciation of the situation in the country than the distant bureaucrats at Whitehall."² Dr. Sapru's observations explain one bitter truth about the constitution of 1919. It was the inherent limitation of the Government itself. The Government of India whom the Central Legislature sought to influence was not itself always a free agent.

1. Op. cit - p.11.

2. Indian Annual Register, 1923 - p.76.

This limitation was pointed out in a non-official resolution on the 17th July, 1923, which demanded the establishment of a convention of non-interference by the Secretary of State.¹ The discussion of the motion was adjourned to give time to the Government of India to consult the Home Government on the matter.² It should, however, be remembered that the 'Superintendence, direction and control' by the Secretary of State was not always exercised though the ultimate responsibility always belonged to him.³ An important convention of non-interference by the Secretary of State when the Indian Legislature and the Executive were in agreement on fiscal matters was established.⁴ Under this Convention, the Indian Executive introduced a number of fiscal reforms which were pressed by the non-official members of Indian Legislature and also by the public opinion outside.

Towards the end of the first Assembly, The Times came out with an interesting comment about the influence of this body on administration. It said that the Legislature had exercised a marked influence on the actions of the Government.⁵ "The appointment of the Inchcape Committee, the introduction

1. L.A. Deb., 1923 - p.4724.

2. Ibid - p.4728

3. Report of the Indian Statutory Commission, Vol.I - para. 264.

4. Ibid - para. 269.

5. THE TIMES, JULY 26, 1923

of an experimental scheme of Indiaisation of the Army, the passing of the Racial Distinctions Bill, the repeal of Press Acts - all these achievements represent a victory for the Indian intelligensia and the advance of the Government to a position more closely in accord with the generally accepted view of the Indian politician than would have been expected in pre-Reform days".¹

One Indian author pointed out in 1928 that the Central Assembly was successful in certain important achievements in social, economic and political fields - such as - the repeal of some of the repressive measures, the equality of Indians with Europeans in their mode of trial, the repeal of certain restrictions on the freedom of the press and a policy of discriminating protection to the Indian industries.² The achievements of the Central Legislature attracted the attention of the provincial politicians because they had been gained without having any popular Ministers such as the provinces had under the dyarchy. This was pointed out by Sir A. Rahim in 1926 while campaigning for his Bengal Muslim Party in the elections. He said: "Solid work in the Legislatures is possible even without Ministers. In proof of this, I point to the Legislative Assembly which has to its credit very important achievements though there had been no Ministers."³ "The indirect influence of the Assembly

1. *The Times*, op. cit.

2. 'Kerala-Putra' (K.M.Pannikar) - Dyarchy in India - p.101.

3. The Hindu, September 23, 1926. (Sir A. Rahim later entered the Central Legislature in 1931 and served as its President from 1935 to 1936)

on the Government", wrote the Simon Commission, "has been of still greater importance".¹ It further commented: "Under a pure bureaucracy, officials are apt to make a fetish of efficiency and fail to give due place to the importance of acceptance by the governed of the proposals of the rulers. This weakness can be best counteracted by close contact with the unofficial mind. We believe that the members of the Central Legislature have performed this useful function and their influence has been beneficial."² The intrinsic limitations of the Central Legislature were always criticised by the nationalist leaders but they could not entirely neglect it as they were aware of its capacity in influencing vital matters of administration affecting the whole of India.³ After nearly 13 years' of experience as a non-official European member in the Central Assembly Sir Frederick James wrote: 'The indirect influence of the Legislature is considerable. Its very existence is a check.⁴ The Executive could not afford to neglect entirely the pressures of the non-official members as such an attitude always gave wide publicity against the Government. In the

1. Report of the Indian Statutory Commission, vol. I - para. 254.

2. Ibid.

3. See Chapter 11 for further details about the attitudes of the parties outside to the utility of Legislatures.

4. Vide Sir Frederick James's article 'Indian Legislature in War Time' published in the Asiatic Review, July 1945 - p.229. One Indian member has written to the author that in the pre-Independence period, the Executive was responsive to non-official pressures on many important issues.

1920's the Executive showed its responsiveness to non-official demands to justify the new Reforms. Later it became a matter of practice to redress those grievances on matters of administration which did not involve any change in the constitutional set-up of the country.¹ It cannot, however, be suggested that the Executive always took the Legislature seriously. As it will be seen in the following paragraphs, many non-official motions were rejected. But always there was a desperate desire on behalf of the Executive to explain the issues raised by such motions and such an attitude itself amounted to some kind of responsibility to the Legislature. It was, therefore, a peculiar situation. The extent of the authority of the Indian Legislature was in fact the indirect influence implied in the Act.

The indirect influence of the Central Legislature on administration was exercised by the use of three main powers which will be discussed in this chapter. Firstly, the exercise of the power of asking questions and moving resolutions brought so many administrative actions and policies on the floor of the House for criticism and ventilation of grievances. Secondly, the non-officials used

1. Sir ^JJeremy Raisman told in an interview that resolutions other than political grievances were mostly accepted by the Government. It became a practice to give effect to non-contentious demands of the non-officials. In an interview with the present writer, he claimed to have introduced a number of reforms under non-official pressure such as - reduction of salaries for the Members of Viceroy's Executive Council and Indianisation in certain departments.

to move adjournment motions to bring up recent matters of urgent public importance which were mainly concerned with administration. Thirdly, the indirect control over administrative policies through various standing advisory committees attached to different departments of the Government of India.¹

Questions

The liveliest part of a legislative day was the question hour. It was essentially an opportunity for the back-benchers to speak. The right to ask questions was amongst the 'most-prized' privileges of the non-official members. On the 5th September, 1921, Sir Frederick Whyte, the President of the Assembly, gave a short speech on the procedure and purpose of questions. He said: "A question is a demand for information. It may sometimes be used for a purpose beyond that simple request."² As a matter of fact, the Indian politicians did use the right of asking questions for purposes beyond a simple request for information. The power of asking questions was not, however, unrestricted. Questions containing unparliamentary expressions or relating to Indian States were not allowed.³ The amount of interest taken by Indian politicians in asking questions may be illustrated in table XVI. During the first

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1. In addition, there were the financial procedures to influence administration which have been discussed in Chapter VIII
 2. L.A. Deb. 1921 - p.98.
 3. Rulings 303 and 306, Decisions from the Chair, 1921 to 1942. p. 206 and 207.

TABLE XVQUESTIONS IN THE LEGISLATIVE ASSEMBLY 1921-47

Year	Starred Questions	Unstarred Questions
1921	1342	120
1922	729	590
1923	1060	390
1924	2365	759
1925	2278	355
1926	1738	426
1927	2482	364
1928	1492	1060
1929	2498	784
1930	1225	494
1931	2317	571
1932	3643	649
1933	3788	729
1934	1989	593
1935	2428	379
1936	3275	886
1937	1900	347
1938	3390	401
1939	2036	113
1940	900	268
1941	784	304
1942	432	143

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XV (contd)

(2006)

Year	Starred Questions	Unstarred Questions
1943	1075	191
1944	1533	384
1945	813	150
1946	2659	324
1947	1588	128

11 / P 200(c)

TABLE XVI

QUESTIONS IN THE COUNCIL OF STATE

1921	-	419
1922	-	314
1923	-	292
1924	-	436
1925	-	316
1926	-	302
1927	-	457
1928	-	290
1929	-	297
1930	-	255
1931	-	270
1932	-	315
1933	-	485
1934	-	395
1935	-	281
1936	-	366
1937	-	468

TABLE - XVI (Contd.)

200(d)

QUESTIONS IN THE COUNCIL OF STATE

1938	-	458
1939	-	339
1940	-	167
1941	-	367
1942	-	274
1943	-	441
1944	-	427
1945	-	361
1946	-	458
1947	-	362

(1921-23)
Assembly, as many as 4231 starred and unstarred questions were asked. Later in 1924, with the entrance of the Swarajists, the interest and techniques in asking questions changed. There was a sharp rise in the volume of starred questions. Gradually, questions were introduced as a mode of bringing particular grievances to the notice of the government, criticising the administration and extending indirect suggestions to the Executive in addition to eliciting information. One interesting incident may be mentioned in this connection. On September 3, 1936, an official member raised objection when one non-official member asked if the Government proposed to take action regarding recruitment to the Indian Civil Service. Apparently the objection was raised as the question was indirectly suggesting some action. The President then observed: "It is a well-known formula that has been adopted in practice. In my opinion of the Chair, it is quite in order to ask whether the government proposed to take any action." ¹

Since the main purpose of questions was to influence the administration, they were always directed to certain important departments of the Government of India. The single department on which the maximum number of questions was asked in both the chambers was the Railways. This was, perhaps, due to the intimate interest of the general public in railway rates and conveniences. The people generally

were interested in the employments of the Railway Department and businessmen were interested in the contracts for the purchase of stores. There were always numerous questions enquiring about jobs and contracts in the Railways. In the 1920's nearly half of the total questions asked in one year concerned various aspects of the Railways. A substantial number of questions on Railways ventilated grievances of third class passengers. Such questions were always suggestive of actions by the Railway authorities. The influence of such a huge number of questions on the Railways was due to the fact that the entire responsibility of this department was on the Government of India and therefore no grievances relating to the Railways could be redressed in the provincial legislatures.

There was always a huge number of questions on the Home Department which covered a variety of subjects - such as - the police, political prisoners, political conditions and problems, the administration of law and justice, the Indianisation of the Services, pay and promotions of the sub-ordinate services, etc.¹ Such questions were often conditioned by the political developments outside. In the early 1920's, there were numerous questions about the non-co-operation movement and the political prisoners connected with it. Questions on police and political prisoners were

1. The large number of questions on the Home Department was because of its Supervisory position on the over-all administration of the country. In the provincial legislatures also, large numbers of questions were asked on Home Department.

fewer in the mid 1920's as it was rather a dull period in the absence of any major political agitations. But such questions increased sharply in the 1930's and 1940's as the tension of political agitations increased during this period. There were always numerous questions on the pay, promotion and recruitment in the government services. From the late 1920's the trend of such questions changed as there were large numbers of questions on the representation of the Muslims in Government services. In the 1930's and 1940's, such questions increased considerably in volume. Apparently these questions were prompted by the growing Hindu-Muslim tension outside. It could also be suggested that such questions indicated the anxiety of the popular representatives to find more employment for the educated middle class. Another important topic of questions was the fate of Indians abroad. The number of such questions declined in the Assembly in the 1940's. The Esher Report of 1919-1920 produced a large number of questions about military policy and defence in both the chambers during the first few years of the Central Legislature. In the 1940's again there were large numbers of questions regarding defence and military expenditure which went up owing to the War. But the Government did not always supply the necessary information for security reasons.

The Post and Telegraph Department was another target of questions as it was vitally connected with the public in many ways. The questions under this category were

concerned with postal rates and other facilities which affected the public. Questions on facilities for pilgrims, land, health and education were frequent though not numerous. There were always some questions which fell directly under the jurisdiction of provincial governments though they were fewer in number from 1937 onwards. One reason for asking questions on provincial concerns was that there were certain matters involving two or more provinces and on such issues interference by the Central Government was necessary. The Central Legislature was regarded on such matters as a court of appeal.¹ The Council of State had shown an almost identical pattern of questions with some exceptions. There were more questions on the Indianisation of the Services and the Indians abroad in the Council of State than in the Assembly. The upper Chamber was not so much interested in political grievances. There was never any significant change in the pattern of questions in that House.

It should be pointed out here that the subjects of starred and supplementaries on them were to some extent different from the ordinaries. They covered mainly: constitutional advance, maltreatment of political prisoners, arrest of persons without warrant, police lathi-charge,

1. Sir Frederick Whyte, the President of the Assembly from 1921 to 1925 made this comment in an interview with the present writer.

assault of innocent persons by Europeans, forceful eviction of persons, non-payment of salary to Government employees, malpractices by Government officers etc. These were rather 'sensitive topics' meant more to expose the Executive and not so much to elicit information. The number of supplementaries was gradually increasing. In the 1940's, more than half of the starred questions were used for asking supplementaries which amounted to an average of 3 to 4 per question. There was no system of starred questions in the Council of State and supplementaries were seldom asked.

During the period under review, the volume of questions fluctuated a good deal owing to certain factors.¹ Firstly with the entrance of the Swarajists, there was a general increase in the number of questions since 1924 but it came down in 1930 when they boycotted the Legislatures. One might have expected a gradual decrease in the number of questions from 1931 to 1934 when the Assembly was predominantly moderate. But, on the contrary, they increased. It was mainly because the sessions lasted longer. Secondly, with the introduction of provincial autonomy in 1937, questions bearing direct responsibility of provincial governments were not asked in the Central Legislature. So there was a general decline in the number of questions in the

1. See table - 2. XV + XVI

Assembly after 1937. The number of questions asked was further reduced during the war years owing to shorter sessions. The number of questions asked in the Council of State did not mark any phenomenal rise during the period under review. Thirdly, the non-officials gradually learnt not to ask too many questions on identical topics (as was often done in the early years).

It is difficult to assess the direct effect of questions on administration as no conclusive evidence is available. But some of the indirect effects were obvious. The questions brought to light those defects of administration which were resented by the people. So the Government would have tried to avoid popular resentments by redressing grievances brought forward by the questions. Some of the official documents claim to have introduced certain reforms in the light of questions on various subjects.¹ Questions considerably shaped the reforms in the cantonment administration, electoral rules and practice, working conditions in the mines, conveyance facilities to the pilgrims, recruitment to the Royal Air Force and scrutiny of the Transfer of Property Act.² There is reason to believe that the Executive could never remain entirely blind to the particular grievances raised by questions. Firstly, the non-official members often continued to ask on the same

1. Memo. to the Statutory Commission, Vol. lv - p.66.

2. Ibid.

grievances till something was done. Secondly, the questions were so framed that the Government often had to make promises for action on the grievances. Once such promise was made on the floor of the House, it was difficult not to fulfil it without straining the relations between the non-officials and the Executive. Thirdly, many questions demanding action were put by the moderates and unattached members of the House on whom the Government had to count for winning the divisions. So the Government could not alienate their support by refusing ~~to~~ redress the grievances brought forward by them. The process of influence by questions continued during the whole period under review, as gradually it became a matter of practice.¹ A question could always revive a dormant file or result in marked attention and galvanize a department into activity: So wrote Sir Frederick James.²

Resolutions.

The right to move resolutions was another most significant power in the hands of non-officials to influence administration. As it has already been noted, the questions were used to ventilate grievances indirectly. But it was through resolutions that the Executive could be requested directly to do something. It was undoubtedly the most

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1. This view was confirmed to the present writer by some of the important ex-members of Central Legislature who are still alive in Britain.
 2. Sir Frederick James's article - op.cit. p.229.

effective weapon in bringing particular grievances to the notice of the Government. Legally, a resolution was only a recommendation to the Executive¹ but in practice it was much more than that. When a resolution was brought forward, most of the leaders of non-official parties took part in it. The Government members always made it a point to come to the House to explain the official attitude to any particular resolution. The purposes of non-official resolutions were mainly two. Firstly, to demonstrate political grievances and often to censure the Executive.² Secondly, to ask the Government to take action on particular grievances. Such resolutions covered a variety of subjects. It will be interesting to consider the following table which classifies the subjects of resolutions:

TABLE XVII

Subjects of resolutions (Official and non-official)	}	Number of resolutions
1. Political grievances	-	62
2. Police and Jail	-	17
3. Reform in Administration and Judiciary	-	47
4. Railway and other modes of communication	-	40
5. Post and Telegraph	-	10
6. Defence and other related subjects.	-	34

1. Rule 22, Indian Legislative Rules.

2. See Chapter IX for discussion of political grievances in the Central Legislature.

7. Education, Health, Welfare, etc.	-	24
8. Revenue, Taxation and Fiscal	-	48
9. Labour and Employment	-	43
10. Commerce and Industry	-	47
11. Recruitment, Promotion, Salary and Pension	-	30
12. Agriculture	-	7
13. Indians abroad	-	20
14. Social and Religious Reform	-	21
15. Miscellaneous	-	20

. Grand Total - 470 (1)

Among the very large number of resolutions connected with the Home Department were those dealing with the following:- political, grievances, police and jail, reform in administration and judiciary, recruitment, promotion, salary and pension. These were very important subjects frequently pressed by the non-official resolutions. As most of these resolutions were pressed as political grievances, they were sponsored by the political parties. Often such resolutions went as a censure of the Executive when it refused to meet the demands. Great interest was shown in the Legislature about Railways and other modes of

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1. This figure includes those resolutions as well which were withdrawn without discussion; so it will not tally with table ~~VIII~~ ^{VII} or which covers only those resolutions disposed of in various ways ~~only~~ after discussion. This table also includes the official resolutions which mainly dealt with labour, taxation and financial and commercial matters. It should be noted here that resolutions in the provincial legislatures dealt with public health, education, rural reconstruction, co-operative development and local government.

communications, as [&] is illustrated by the large number of resolutions under this category. The resolutions on Railways dealt with railway, finance, the Indianisation of railway services, the reduction of railway rates, the inadequate facilities for railway passengers and the state management of railways. There were also frequent demands for the developments of the merchant navy and inland navigation. Road development was another subject of importance brought from time to time for discussion. Some of the resolutions on road development which were sponsored by the Government, ~~had been~~ ^{were} accepted by the non-officials without division. The resolutions on Post and Telegraph were also readily accepted by the Government.

Revenue, Taxation and other related fiscal matters were frequent topics of resolutions in both Houses. The main ~~characteristic~~ ^{purpose} of these resolutions was not so much to ventilate grievances as to make recommendations ^{for} ~~to take~~ certain positive steps in the right direction. Closely allied to these were the numerous resolutions concerning Commerce and Industry. Some of these resolutions had a far reaching affect on the economic development of the country. One of the most important resolutions in this category was moved by Mr. Jamnadas Dwarkadas on the 16th February, 1923, calling upon the Government to adopt a

policy of protection for the nascent industries of the country.¹ The Government accepted the motion, subject to the condition that such protection should be granted with discrimination which meant preferential treatment for British goods. After some modifications, the motion was accepted without division.² This resolution was implemented by passing the Steel Industry (Protection) Act, 1924 which was later followed by a series of measures protecting various industries in the later years.³ The resolutions under this category were normally met by the Government, subject to the practical problems involved. To meet the practical requirements of the country many such resolutions ~~were~~ sponsored by the representatives of commerce and industry. Some of these resolutions urged the encouragement of shipbuilding and creation of an Indian Mercantile Marine. Mr. N.M. Joshi, the labour representative in the Central Assembly urged upon the Department of Commerce and Industry the need for undertaking some important legislation in order to introduce reforms in the working conditions of factory labour. Non-official resolutions were moved from time to time to call upon the Government to take steps for removing the growing unemployment in the country. Such motions indirectly made

1. L.A. Deb., 1923 - p.2348

2. Ibid - p.2407

3. ^{See} Chapter VII for further discussion of legislation under this category.

suggestions to the Government for the development of commerce and industry in the country. Resolutions under this category were mostly withdrawn after the official assurance that as far as possible the Government would try to do what was needed. During the War years, the non-official demands for economic development were even more concrete. There were several proposals for the introduction of modern planning for the over-all economic development of the country.¹

For the first few years in the Assembly, it was almost customary to bring up resolutions regarding the fate of Indians abroad, and in this sphere there was little difference in the sympathies of the Indian Legislature and the Executive.² The resolutions were mainly grievances against governments abroad and as such the Indian Executive could not take any direct step. The only move the Indian Government could make was to forward the recommendation to the Home Government for the redress of grievances. Such resolutions were accepted almost universally without division. In later years, interest in this subject declined in the Assembly though the Council of State had always been vigilant on this particular issue. Education, Health,

1. Sir Jeremy Raisman said in an interview with the present writer that the Government accepted the need for planning in principle under the pressure of non-official opinion. Though the Executive often made promises of economic development in response to non-official motions in the House, it is understandable that the Government could not do much in this field as commerce and industry was left to private enterprise for development.

2. *by the Govt. of India*
Memo. to the Statutory Commission, Vol. IV - p.70.

Welfare, etc. did not rouse so many resolutions as they were the primary responsibilities of provincial governments. Mostly, such resolutions were accepted without division or withdrawn after assurance and they were recommended to the provincial governments for implementation. Agriculture was seldom brought up for discussion as this was also a direct responsibility of the provincial governments and in the provincial legislatures numerous motions were made to discuss this subject. In the 1920's resolutions on the questions of social/^{and}religious reforms were rather common. Most of these were moved by some enthusiastic Hindu social reformers. These resolutions often divided the non-officials while the Government remained neutral. The orthodox section of the House refused to co-operate with any proposal for eradicating social customs intertwined with religion. Some of these resolutions proposed to alter the rules of inheritance in favour of Hindu widows and illegitimate issues. Others dealt with child marriage, the need for education and better rights and privileges for women, the removal of certain customs which incurred debt by the poor people. Such resolutions served more as a forum of discussion and not so much to influence the Executive, though it could very well learn the trend of opinion in the Legislatures.

It will be difficult to ascertain the exact effects of resolutions on administration till the official records

are made available to the public. But an analysis of the various ways in which the resolutions were disposed of may throw some light in this direction (see table XIV). A resolution could be readily accepted by the House without division if the Government was agreeable to it and on such occasions discussion was not too lengthy. Official readiness to accept a resolution very much depended on the character of the motion. If it was a censure motion, the Executive tried to save its face by opposing it. Many resolutions pressed against the Government fall into this category. But some of these were specific recommendations to do certain things. Resolutions adopted without division were always implemented as the Government was practically promise-bound to do so.¹ It was a practice in the two Houses to ask questions from time to time to know what steps were being taken on the various resolutions discussed and the Government always supplied the necessary information. An analysis of the answers given by the Government to such questions indicates that resolutions adopted without division were always implemented. The resolutions withdrawn after assurance from the Government had similar results. A resolution withdrawn by the mover without assurance almost amounted to its being negatived. ~~the~~ Resolutions were withdrawn without assurance when the Government as well as the House generally did not favour

1. This view was held by the ex-members of the Central Legislature interviewed by the present writer.

TABLE - XVIII

NON-OFFICIAL RESOLUTIONS ACCEPTED, NEGATIVE, WITHDRAWN AND ADJOURNED
IN THE LEGISLATIVE ASSEMBLY.

Year	<u>Resolutions adopted</u>		<u>Negative</u>		<u>Withdrawn</u> (1)		<u>Discussion adjourned</u>
	By Division	Without Division	By Division	Without Division	After Assurance	Without Assurance	
1921	1	23	-	5	3	1	-
1922	4	16	3	5	4	3	-
1923	3	9	6	3	3	1	3
1924	3	10	-	-	-	2	4
1925	6	2	2	-	-	1	6
1926	4	4	1	1	2	-	3

(1) The figures under this Table indicate only those resolutions which were withdrawn after discussion in the House. Resolutions withdrawn without discussion are not included in this table.

TABLE XVIII (contd.)

NON-OFFICIAL RESOLUTIONS ACCEPTED, NEGATIVE, WITHDRAWN AND ADJOURNED
IN THE LEGISLATIVE ASSEMBLY.

Year	<u>Resolutions adopted</u>			<u>Negative</u>		<u>Withdrawn</u>		<u>Resolution adjourned</u>
	By Division	Without Division	Without Division	By Division	Without Division	After Assurance	Without Assurance	
1927	2	1	-	-	-	1	1	2
1928	2	2	3	1	1	1	1	1
1929	3	2	1	-	-	-	-	1
1930	2	5	2	-	-	4	-	1
1931	2	2	2	-	-	4	-	1
1932	4	-	4	2	2	4	-	1

TABLE - XVII (Contd.)

Year	<u>Resolutions adopted</u>		<u>Negatived</u>		<u>Withdrawn</u>		Resolution <u>adjoined</u>
	By Division	Without Division	By Division	Without Division	After Assurance	Without Assurance	
1933	-	1	-	=	7	-	2
1934	-	5	-	-	5	1	-
1935	1	6	2	-	-	-	-
1936	2	4	-	1	-	-	3
1937	3	5	-	-	2	-	4
1938	2	5	-	2	-	-	3
1939	3	2	1	3	1	1	1
1940	-	2	-	1	9	-	2

TABLE - XVIII (Contd.)

Year	<u>Resolutions adopted</u>		<u>Negatived</u>		<u>Withdrawn</u>		<u>Resolution adjourned</u>
	By Division	Without Division	By Division	Without Division	After Assurance	Without Assurance	
1941	-	3	3	-	-	2	3
1942	-	1	2	1	1	2	3
1943	-	2	4	-	1	-	3
1944	-	4	2	1	-	-	4
1945	1	3	-	-	-	-	3
1946	-	2	-	-	-	-	3
1947	-	-	-	3	1	-	1
Total	48	128	38	29	53	16	57

the motion. A motion could be withdrawn only by the mover with the consent of the House.

~~XVIII~~
 An analysis of the table suggests that the largest single number of resolutions was adopted without division. The resolutions withdrawn after assurance should also be coupled with these, as they served an almost similar purpose. It could, therefore, be said that nearly half of the resolutions moved by non-officials were acceptable to the Government, fully or partially. The resolutions pressed against the Government were not entirely lost as their contents were often forwarded to the respective authorities concerned.¹ No result could normally be expected from the resolutions negatived without division. But the resolutions negatived after a hard contest between the non-officials and the Executive could at least make the Government aware of the trends of opinion in the Legislature. The Government did not always neglect the resolutions pressed against its wishes. Some of these were implemented partially after the consultation of respective authorities.² Further discussion of resolutions was adjourned from time to time for a number of reasons. Firstly, the mover could adjourn a motion for personal reasons. Secondly, it could be adjourned for want of time. Sometimes, resolutions were adjourned to take up some other important business. Thirdly, non-official resolutions were also adjourned till the next session on official

1 & 2. Lists of resolutions implemented by the Government laid before the Houses from time to time on non-official request suggest these conclusions.

request. This happened only when the Government wanted time to consult the provincial Governments on the motion concerned. Most of these adjourned resolutions were brought up for discussion in ~~the~~ subsequent sessions.

The subject of resolutions in the Council of State had been more or less the same except that the proportion of resolutions demanding Indianisation was always large. Compared to the Assembly, more resolutions on Agricultural interests were brought up for discussion in the Council of State. Apparently, it could be due to the pre-dominance of the landed interests in that House. As many as 591 resolutions were moved by the non-official members in the Council of State. This is a bigger number compared to the Assembly. The Council of State had more time at its disposal to discuss a larger number of resolutions. Discussions on resolutions in the Council of State were short compared to the Assembly. Motions were hardly pressed if opposed by the Government. As many as 208 resolutions were negatived in that House and 230 were withdrawn. The resolutions were withdrawn in most cases without any assurance. The number of non-official resolutions accepted by the Government was 153 which roughly corresponds to one quarter of the total non-official resolutions. Most of the resolutions negatived were demands for Indianisation of the Services and ventilation constitutional grievances. No resolution censuring the Administration could ever be adopted in the Council of State.

The Government members moved some resolutions from time to time to have the sanction of the House in respect of certain policies. The number of such resolutions was 72 during the period from 1921 to 1947. Of these only 10 were negatived, and two were adjourned. The rest were accepted mostly without division. Most of these official resolutions were introduced to consult the Legislature ^{as to the desirability of} ~~for implementing or not~~ implementing the conventions of the International Labour Organisation and other international bodies. But the Government introduced resolutions on a number of occasions to consult the Legislature in respect of some other important matters such as financial administration, the appointment of committees. Some of these resolutions were negatived by the House and in their places non-official amendments were introduced. In 1924 the official resolution proposing the acceptance of the recommendations of the Lee Commission was negatived and in its place the non-official amendment was accepted by 68 votes to 46.¹ Another interesting incident of ^a similar nature happened in September 1925, when the official resolution for accepting recommendations of the Reforms Enquiry Committee (Muddiman) was negatived and in its place Motilal's amendment was accepted by 72 votes to 45.² These resolutions were related with the constitutional

1. L.A. Deb., 1924 - p.3362

2. Ibid 1925 - p.1005-6

grievances and their rejection meant a censure of the Executive. Such official resolutions were introduced to gauge the opinion of the Legislature and the views expressed on the floor had an indirect effect on the administration. Though most of the official resolutions were accepted without division, non-officials often made important criticism and valuable suggestions. Most of the official resolutions accepted were implemented by passing laws. Closely allied with the official resolutions were the motions moved by Government members from time to time to appoint various Committees and to take into consideration the Reports of various Committees appointed occasionally in response to non-official demands. Some official motions were made to take the political situations of the country into consideration. On the 15th September, 1942, the Home Member moved to discuss the grave situation arising out of the 'Quit India' resolution passed by the Congress.¹ Discussion on such motions was for all practical purposes like that of resolutions. Amendments could be moved to such motions and the non-officials always influenced these motions by way of amendments or general suggestions. The average number of such motions every year was 4 to 5 most of which were accepted without division.

1. L.A. Deb. 1942 - p.141.

Adjournment Motions:

An adjournment motion was, for all practical purposes, either to elicit information or to express a serious view of a particular action of the Government. Mostly, the purpose ~~had been~~ ^{was} to take up the administrative actions of the Government which affected or were about to affect the public. One typical feature was that the use of adjournment motions to ventilate particular grievances was becoming increasingly popular. The Council of State did not show ~~much~~ interest in the use of adjournment motions. During the first ten years of the Assembly, the House divided on 9 occasions on ~~the~~ adjournment motions and the Government was defeated 7 times. But the number of adjournments went up in the Assembly in the 1930's and 1940's. During each session, nearly 30 to 40 adjournment motions were moved. The subjects of those motions were - repressive policy, the misconduct of the soldiers during the war years, the food situation, the failure of the Government to show respect for individual liberty.^{etc} Like the starred questions, the adjournment motions always brought forward such topics as would expose the Executive. Subject to the Rules, an adjournment motion could be rejected by the Chair.¹ In the 1930's and 1940's, the Chair used his power to disallow a large number of ~~adjournment motions every~~ ^{year.} An adjournment motion admitted by the Chair could be

1. Rule 12, Indian Legislative Rules.

disallowed by the Governor-General. During the first ten years of the Central Legislature, only two adjournment motions were disallowed by the Governor-General. It was done first on January 25th, 1927 when a non-official member wanted to discuss dispatch of troops for China without consulting the House. In 1929 Pandit Motilal Nehru's motion to discuss the raids and arrests in various parts of India was disallowed by the Governor-General after it had been admitted by the President.¹ But this power of the Governor-General was being increasingly exercised from the 1930's onwards as nearly one-third of the adjournment motions were disallowed by him every year. The commonest ground for the disallowance of these motions was that they could not be discussed without detriment to public interest or that they were not the concern of the Government of India.

An adjournment motion always started with an assault from the mover which was followed by speeches from the official spokesmen as well as the non-official leaders. It was customary in the Assembly to allow the mover to make a reply before the motion was put to vote. This was ruled by the President on the 25th February, 1926,² and this practice was maintained throughout the period under review. But in the Council of State the mover of an

1. L.A. Deb., 1929 - p.2298.

2. Ibid 1926 - p.1868

adjournment motion did not always have the right to reply as in the Assembly. In a ruling, the President said that the right to reply by the mover could be allowed only in special circumstances at the discretion of the Chair.¹

Normally, no direct effect could be given to an adjournment motion passed by the Central Legislature as it was only a convenient method by which 'the ordinary business of the Assembly might be put aside in order to make way for the discussion of some sudden emergency'.² If a motion were carried, it indicated the serious view which the majority of the House took regarding any particular matter, and possibly a vote of censure on Government.³ However, the Executive could not usually afford to neglect altogether any serious view or censure of the Legislature. On the 17th April, 1946, a non-official member wanted to know what effects were given to the 10 adjournment motions passed in that session. The official answer to that question reveals that 8 out of 10 adjournment motions were given full or partial effects by the Government and only two motions were not implemented in any form.⁴ The proceedings of the Central Assembly reveal that the Government members were very sensitive to the adjournment

1. C.S. Deb., 1940 - p.90 (26th February, 1940)

2 & 3. Ruling 5, Decisions of the Chair.

4. Vide L.A. Deb. 1946 - p.4125-26: answer given to question No. 1897. The nature of the steps taken on the adjournment motions was mainly conveying the proceedings of the Legislature to the respective authorities concerned.

motions and they always tried to save their face when such motions were intended to censure the Administration. Standing Committees.

While the questions, resolutions and adjournment motions were the techniques at the disposal of ^{the} Central Legislature to influence the 'general course' of administration, the Standing Committees of the Legislature attached to various Departments of the Government of India gave an opportunity to the non-officials to be associated with the 'details of the administration'.¹ The Joint Select Committee on the Government of India Bill recommended that 'the standing committees of legislative bodies would greatly assist the political education' of the non-official Indian members.² It was the desire of the authors of the Government of India Act, 1919, to give the Indians an opportunity to be associated with the details of administration. Hence the appointment of Standing Committees attached to various departments was necessary. The Governor-General promulgated the new Legislative Rules in 1922 for the constitution of Standing Advisory Committees of the Indian Legislature to advise the Home Department, the Commerce Department, the Department of Industry and Labour, and the Department of

1. Memo to the Statutory Commission, Vol. 1V - p.74.

2. Report of the Joint Select Committee - Clause 41 (10)

Education, Health and Lands on certain matters. As the Member in charge of the Department had the discretion to submit only such matters of policy to legislative committees as we deemed necessary, the scope of such committees was obviously limited. The proceedings of the Committees were confidential and as such it was not possible to know their effects on administration.

The Standing Committees consisted of two members of the Council of State and three members of the Legislative Assembly nominated by the Member-in-charge of the Department, with the approval of the Governor-General, out of the panels of members elected by each House of the Central Legislature. The term of office of the members was only one year. One practical problem with regard to the advisory Committees was the difficulty of assembling the members while the Legislature was not in session and the paucity of time for members while the Legislature was in full session.¹ Though the general scope of these Committees seems unimpressive, they could be effective in particular matters.² On the official motion for the election of Standing Advisory Committees, Mr N.M. Joshi made an

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1. Memo to the Statutory Commission, ¹⁹³⁰ Vol. IV - p.75. This report covers the period from 1921 to 1928. If this was true of the rest of the period under review, there could not be any continuous association of legislators and administration which was the original intention of such bodies. The ex-members interviewed by the present writer said that this was more or less true for the rest of the period.
 - 2, Some official members/^{interviewed by the present writer} confirmed that on particular issues the Executive was amenable to the recommendations of advisory Committees.

the 18th Aug.

interesting comment on 1927. He said: "I have been a member of the Standing Committee for the Department of Industries and Labour and I can say that the Committee has met several times and from the point of view of labour it has done some good work.¹ The presence of important personalities like Mr Joshi in the Committees could certainly have important effects on administration and as such the utility of such bodies even within a limited sphere can not be over emphasised. During the War years, there was an important body of this category which was known as Defence Consultative Committee. An interesting debate was held on this Committee on the 27th October, 1941, when Mr. Jammadas Mehta, a member of that body, made some significant comments bearing upon its utility. He complained that the Government did not invite meetings of that body at reasonable intervals but emphasised the importance of that body as it was the only place where elected representatives had some opportunity of knowing the defence problems.² The official motion to elect the body was adopted without division as the House agreed on the utility of the Committee.³

In addition to these, there was influence on administrative matters through informal contacts, such as parties, dinners, etc. Such opportunities were quite

1. L.A. Deb., 1927 - p. 3076

2. Ibid 1947 - p.86-87

3. Ibid " p.105

frequent.¹ The possibility of influence through informal contact was pointed out in 1925 by Lala Lajpat Rai in an article published in The ~~(1925)~~ Hindustan Review, April, 1925. He said: 'Frequent opportunities of meeting men in high places at dinners, tea-parties and otherwise, are having subtle but sure influences over different persons in different ways.'² It was possible to discuss many issues at such informal gatherings. Such parties were mostly given by the Members of the Executive Council and important European and Indian members. Social relations of Government members with the Indian politicians was quite happy.³ It should, however, be borne in mind that Congress leaders did not usually attend official parties.⁴ The contact between the official and non-official members in the lobby could also be influential.⁵ Party consultations were increasing from 1924 onwards and such consultation definitely led to

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1. This view was held by all the ex-members interviewed by the present writer.
 2. Lala Lajpat Rai's article 'Present Political situation in India' published in the Hindustan Review, April 1925.
 3. This comment was made by Lord Hailey and Sir Jerny^e Raisman to the present writer. Other members interviewed also held this view.
 4. The Times, March 19, 1928 reported that the Congress members did not join the farewell party given to Sir Basil Blackett, the retiring Finance Member. But the Congress members attended the parties given by non-official members.
 5. This was pointed out by Sir Frederick James in an interview with the writer.

influence on administration. ¹ Many issues were discussed by the Executive Councillors with the Indian politicians informally before they were formally brought up for consideration on the floor of the House . To these, should also be added the pressure the Indian politicians could bring forward through the Indian members of the Viceroy's Executive Council for the redress of outstanding grievances ²

1. This view is confirmed by various interviews with the ex-members of the Central Legislature

2. Dr. Sapru's good offices secured the repeal of certain repressive measures which was a long standing demand of the Indian politicians . Vide Dr. Sukla - History of the Indian Liberal Party - p. 235 . This impression is also gathered from some of the biographical works .

CHAPTER VII

LEGISLATION WITH SPECIAL REFERENCE TO THE INFLUENCE OF NON-OFFICIAL MEMBERS

The predominant role of the Central Legislature was law-making. Most of its time on the official days excluding the budget sessions was spent on the discussion of bills. Out of the total 1777 working days of the Legislative Assembly from 1921 to 1947 as many as 837 days were devoted to the discussion of bills.¹ In a sovereign Parliament, the legislative policy of the government is guided on the whole by the party in power. But the non-sovereign Central Legislature was not guided by any such party programme. The sources of official bills were mainly three - namely - the direction of the Secretary of State, the requirements of the Central Government and the fulfilment of the demands of non-official members in the Legislature.² In any of these cases, the bills when presented to either chamber of the Indian Legislature were subject to influence and consequent change or modification by the majority of non-official members. This power

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1. These (837) days include only those when most of the time was spent on the discussion of bills except some minor routine business and adjournment motions. In addition to these, there were days shared between the discussion of a few non-controversial bills (which took very little time) and other business.
 2. See also Chapter V for discussion of non-official members' influence on administration. It should be pointed out that official legislation could also be introduced under the pressure of public opinion outside.

was distinctly laid down by the Act and the rules made under it.¹ The formal procedure of introducing an official bill was that a member of the Executive Council or any other member in charge of that bill would move a motion for introduction. A copy of that bill was earlier supplied to each member of the House. At this stage, the non-officials could reject the bill by rejecting the motion to introduce. A bill could not be taken up for consideration unless and until the motion to introduce was formally adopted by the House. An important example of a bill being rejected at the stage of introduction was the Indian States (Protection against Disaffection) Bill, 1922, which was later certified by the Governor-General. After 1926, there was never any formal opposition at the stage of introducing a bill as the House established a convention not to oppose). Even without a formal opposition, a hostile reception to any bill could give sufficient reason to the Government to withdraw it. In 1927, the Government withdrew the Volunteer Police Bill because it had been received with suspicion in the Assembly.² Such voluntary withdrawal of a bill by the government was, however, rare and on such occasions the bill was either re-introduced in a modified form later or dropped entirely.

At the second reading, the mover could propose either to send the bill to a Select Committee or that the House take it

1. S.O. 45 made under Sec. 67 of the Act, 1919.

2. L.A. Deb., 1927 (Delhi) - p. 4179.

it into consideration. If either of the two motions was refused, the bill was rejected at least for the time being, though it might be revised later. Such occasions were rare. The four important bills rejected at the second reading were - the Public Safety Bill, 1928, the Criminal Law (Amend) Bill, 1935, the Indian Naval Reserve Forces (Discipline) Bill, 1939 and the India. Tariff (Third Amend.) Bill, 1939. The usual practice was to send such rejected bills back to the Assembly for reconsideration with a recommendation from the Governor-General. If the motion to be considered was unacceptable to the House, the government could propose a motion to send the bill to a Select Committee. Even though a bill could be controversial in nature, the non-officials might be ready to accept such a motion, hoping for the bill's modification in the Select Committee. The proposal for sending a bill to a Select Committee could also come from any non-official member. A very effective weapon in the hands of the non-officials to stop the government from rushing any measure was to propose a motion for the Select Committee. This dilatory motion was not used frequently by the non-officials as the government, mostly on its own initiative, proposed that important bills be sent to Select Committees.¹ Another technique employed to delay ~~to~~ official

1. From 1921 to 1947 as many as 213 bills were considered by the Select Committees of which 155 bills were sent by official motions and 58 were sent by non-official motions.

legislation was the motion to circulate. There were such occasions when the government had to make a choice between the dilatory motions to send the bill to a Select Committee and to circulate it for opinion. Naturally their choice was usually for the first motion as the circulation of a bill involved longer delay. The bills which the non-official members usually wanted to circulate were mostly concerned with law and order and special powers for the Executive. There was always a reluctance on behalf of the government to accept a motion to circulate as it was virtually a refusal of the House to commit itself to the principle of a Bill.¹

The Select Committee was an important stage of legislation where non-official views could exert their weight. Away from the political pressures on the floor, the non-official members could deliberate upon the bills in a sober environment and the issues could be treated on their merits. As it was less formal than the House in session, it was perhaps easier for the Indian politicians and the government to be responsive to each other. By reference to a Select Committee, the House was committed to the principle of a Bill.² It was, therefore, difficult for the members of a Select Committee to alter the fundamentals of a bill; their authority was confined to the modification of details.

1. On the 10th January 1922 the President ruled that the House should not be considered to be committed to the principle of a bill if it had merely accepted a motion for its circulation. L.A. Deb.1922 - p.1452.

2. Rulings 99 and 100. Decisions from the Chair, 1921-30, pp.79-80.

Every member of the Legislature had a right to serve in the Committee. This was ruled by the President on the 13th September, 1932, when, on the motion to refer the Reserve Bank Bill to a Joint Select Committee, one member sought to move an amendment prohibiting the members who had taken part in the London Conference from sitting on the Committee.¹

The deliberation of the Select Committees was confidential and no discussion on that could be held till the report was submitted to the Legislature. If the Select Committee was successful in modifying the character of a bill, the government could have an easy time in its subsequent reading. It is difficult to find any regular pattern in the membership of Select Committees. Usually, the size of the committees varied from 12 to 20. Besides the official spokesmen, the committees used to consist of prominent members of different groups and the representatives of special interests. The leaders of the parties were not usually included in the Select Committees.

After the report of the Select Committee was formally presented to the House, the official member in charge of the bill used to move the motion to take the bill (as reported by the Committee) into consideration. At this stage any member could move that the bill be recommitted to a Select Committee. Such a motion could be moved either for dilatory

1. L.A. Deb. 1932 - p.1507.

purpose or genuinely for the reconsideration of the measure. If such a motion were purely dilatory in nature, the Chair could disallow it. The President disallowed such a motion on the 25th February 1924 and this ruling was followed to prevent abuse of procedures.¹ The right to move amendments during the second reading of a bill was the most effective weapon in the hands of the non-officials to modify the legislative policy of government. As soon as the motion to consider was adopted, the Chair used to move for the acceptance of the clauses one by one. It was the practice of the House to take up the second clause first for consideration and then to proceed clause by clause till the last clause of the bill. The schedules were taken up after finishing the consideration of the clauses. Having disposed of the clauses, schedules and amendments, the clause one and the title and preamble were added without any discussion. Amendments could be moved either to modify the provision of a clause or to omit the clause entirely. But amendments in order to enlarge the scope of a Bill were out of order. This ruling was given in 1925 when Dr. H.S. Gour sought to move amendments to widen the scope of the Bamboo Paper Industry (Protection) Bill.² Any motion to impose or increase a tax was also out of order without the prior consent of the Crown.

1. L.A. Deb., 1924 - p.928-30.

2. L.A. Deb., 1925 - p.1216.

On the 27th May, 1924, Diwan Chaman Lal's amendment to Steel Industry Protection Bill was ruled out of order on this ground.¹ If a Bill could not be stopped or altered in its earlier stage, the most effective step for the political parties was to carry any amendment deleting the principal clauses. The most important example in this connection was the Bengal Criminal Law Amendment Bill, 1925 of which two main clauses were omitted by the Swarajists though the bill could not be stopped in its earlier stages. The Governor-General sent a message to the Assembly to reconsider its earlier decision and reinsert those two clauses but the motion was rejected by the House.² Mostly debates on such amendments were political in nature and the deliberate attempt of the political leaders was to defeat the main purpose of the Bill as was clearly marked in their speeches. It should be pointed out here that political amendments were mainly directed against those bills which wanted to give larger powers to the executive to suppress political agitations.

There was always a large number of amendments moved by the non-officials to modify official bills. Apparently, the amendments were sponsored by political groups and also the individual members who did not belong to any group.

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1. L.A. Deb., 1924 - p.2293.
 2. L.A. Deb., 1925 - p.2879.

A member of a group had to obtain permission from the leaders before moving an amendment.¹ While the purpose of amendments sponsored by the parties was often political, sometimes they moved amendments to improve the character of a measure, to make it more acceptable to the people. Such amendments with the genuine aim of improving the character of a bill were often accepted by the government. There was one category of amendments moved by the lawyer-politicians to remove the ambiguity of clauses in the bills. As the Central Legislature always had some outstanding lawyers in India, their contributions could be significant and Dr. Gour's contribution was particularly outstanding in this field. A huge number of amendments of this category was proposed to the Bills dealing with civil procedure and criminal justice.

Amendments to bills of a technical nature i.e. fiscal, revenue, taxation, business and industry were not always numerous.² The Steel Industry Protection Bill, 1924, for example, was passed with only three amendments. Most of the amendments to such bills came from businessmen and representatives of special interests. The relative paucity of amendments to such Bills was due to the fact that most of such measures were successfully modified in the Select Committees. But there was always a spate of amendments to bills dealing

1. This view was confirmed in an interview with Sir Frederick James, an ex-member of the Central Assembly.

2. Some of these bills, i.e. the Insurance Bill, 1937, the Motor Vehicles Bill, 1938, Indian Companies Bill, 1936, the Indian Income Tax Bill, 1938, the Excess Profits Bill, 1940, the Insurance Bill, 1946 and the Industrial Disputes Bill, 1947 invited large number of amendments.

with law and order, criminal procedure and property. The Criminal Procedure Code (Amend.) Bill, 1923 roused as many as 250 amendments, most of which were withdrawn or negatived. Here, at times, was felt the obsession of the lawyer-politicians to demonstrate their forensic ability on the floor of the House. One obvious result of having too many amendments brought up for discussion was the unnecessary waste of time. Many of these amendments were similar in nature. There was no procedural limit to the waste of time in discussion of such motions. One interesting device of the non-officials in this connection was to move an amendment to the previous motion if it were lost. It was an attempt to have the previous motion in a slightly modified form. Though such amendments were admissible, the Chair could at times disallow these. On the 27th February, 1924, the President disallowed Mr. Joshi's amendment to Dr. Gour's motion; as the decision of the House was already explicit about the main purpose of the proposal by the rejection of the previous motion.¹ In spite of the waste of time, it could be said in all fairness that the large number of amendments showed that the non-officials were eager to discuss public issues in great detail and to influence them according to the procedures permissible.

While the number of non-official amendments moved may run into nearly two thousand, the total number of such

1. L.A. Deb., 1924 - p. 1041.

amendments accepted on official bills was 693 during the period from 1921 to 1947. This figure may not appear too impressive considering the length of time. But most of the important bills were amenable to non-official influence by way of amendments. In addition to the acceptance of non-official amendments on the floor of the House, one should also consider the scope of modifying a bill under non-official pressures before it was actually introduced.¹

As party consultations were gradually increasing, there was ample scope for such influence through informal discussion.²

While the number of amendments accepted as such is not an adequate guide to the amount of non-official influence, some of the important bills modified in such a manner may be mentioned.

		amendments
1)	Criminal Procedure Code (Amend.) Bill, 1923	- 53 were accepted
2)	Transfer of Property Bill, 1929	- 18 "
3)	Reserve Bank of India Bill, 1933	- 33 "
4)	The Indian Companies Bill, 1936	- 32 "
5)	The Indian Insurance Bill, 1937	- 70 "
6)	The Motor Vehicles Bill, 1938	- 87 "
7)	Excess Profits Bill, 1940	- 14 "
8)	Drugs Bill, 1940	- 12 "
9)	The Indian Income Tax Bill, 1938	- 58 "
10)	The Coal Mines Welfare Fund Bill, 1947	- 21 "

Some of the amendment motions might rouse lengthy discussion while others could be disposed of in a couple of minutes.

The amount of discussion always depended on the readiness of the government to accept a motion. Divisions on amendments were not too frequent unless the Bill was controversial.

1. & 2. In an interview Sir ~~Jeremy~~ Raisman, who was Finance Member, Viceroy's Executive Council from 1929 to 1945 told the present writer that on some occasions he modified the bills before they were introduced under the pressure of the non-officials in the Legislature.

One might ask how far an effective opposition could make the government accept more amendments. No generalisation can, however, be made in this connection. From 1931 to 1934 (when Congress members were not in the Assembly), only 70 amendments were introduced to the official bills; whereas after the entry of the Congress in 1935, as many as 290 amendments were introduced up to 1938. In the first Assembly (1921-1923), as many as 112 amendments were introduced to official bills; but in the second and third Assemblies (1924 to 1926 and 1927 to 1930) when the Swarajists were dominant, the number of amendments accepted were 24 and 36 respectively. It seems, therefore, that party-composition in the Assembly did not always have much influence on the number of amendments introduced on the floor of the House. The number of amendments accepted could greatly depend on the volume and nature of legislation. A consolidating or a repealing measure did not have much scope to be amended. On the other hand, the government could accept amendments of a substantial nature on the measures dealing with taxation, revenue, banking, commerce, industry, etc. It should also be pointed out here that the number of amendments could not always indicate the amount of influence. The government could, for example, accept a large number of minor amendments on matters dealing with civil procedures which did not have much bearing on day to day administration.

On the other hand, the amendments accepted on the bills dealing with administration, finance and other important matters could be substantial in effect though fewer in number. The amendments moved to such measures were often based on sound reasoning by the representatives of various interests who treated the fiscal and commercial measures with the utmost care and attention.

If any bill could not be successfully amended, the next and last stage of obstruction was the third reading or the motion to pass. But the rejection of a bill in the third reading was out of the question if the government carried a substantial majority in the divisions held during the second reading. Individual members unless supported by the parties did not press for a division in the third reading. Unless seriously linked with any outstanding grievance, the political parties did not press for any division in the third reading. But on some important bills, the Congressmen pressed divisions even in the third readings. Such Bills were: the Code of Criminal Procedure (Second Amend.) Bill, 1926, the Steel Industry (Protection) Bill, 1927, the Currency Bill, 1927, the Trade Disputes Bill, 1929, the Indian Army Bill, 1937, and the Criminal Law Amendment Bill, 1938. In each of these cases, the Bill was passed in spite of the opposition of Congressmen in the Assembly. Such opposition in the third reading had deeper political implications as the published records of division in the newspapers would expose to the

public those members who supported the objectionable measures concerned.¹ The opposition could make a last minute appeal to the government not to proceed with the Bill. Such appeal could also mean an address to public opinion outside. The debates on the third reading had to be confined to the general principles of the Bill and no one could get into the details.² Normally, only the leaders spoke on these occasions.

The legislative output of the Central Legislature was considerable - the annual average being about 27 from 1921 to 1947 (See Table XIV). This figure is high when compared with the number of laws made in the provincial legislatures.³ It is interesting to arrange the measures passed in 27 years under certain main heads.⁴ The largest number of measures passed dealt with currency, banking, insurance and finance. These measures were extremely helpful to the economic development of the country. In the 1920's, the measures dealing with taxation and revenue owed their existence to the financial necessities of the government. The post-war years were an era of depression and deficit budgets; so the government had to find ways and means of covering those

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1. The newspapers used to publish the detailed records of the divisions held on important occasions in the Central Legislature and obviously such publications had impact on the public opinion.
 2. Rulings 123 & 124, Decisions from the Chair, 1921-40, p.83.
 3. The average annual number of laws made in four leading provincial legislatures from 1921 to 1947 were: Bengal - 9-10, Madras 13-14, Punjab 7-8, Bombay, 18-19. These laws were mostly concerned with the local administration, health sanitation, education, agriculture, irrigation, co-operative societies, land mortgage etc.
 4. See table - XIX

TABLE- XIV

CLASSIFICATION OF THE ACTS PASSED BY THE CENTRAL LEGISLATURE (THE FOLLOWING FIGURES DO NOT INCLUDE THE FINANCE ACTS AND THE MEASURES CERTIFIED BY GOVERNOR-GENERAL.)

Year	Constitutional	Law & Order	Justice & Prison.	Fiscal revenue	banking currency and income	Social reform	social welfare	Education	Medicine & Health.	Trade, commerce	Industry & Power.	Transport, Communications, Post and Telegraph	Law relating to property & succession	Labour	Defence forces & other related subjects	Acts relating to local matters	Miscellaneous	Emigration, Immigration, Foreign Relations, Repealing Acts.	Total number of Acts passed
1921-1	3			4	1	1	3	3	3	1	1	1	1	1	1	1	1	1	18
1922 -	2			3	6	2	2	2	2	2	2	2	2	2	2	2	2	2	22
1923-	9			7	5	4	4	4	4	4	4	4	4	4	4	4	4	4	43
1924 -	4			8	-	1	2	-	-	-	-	-	-	-	1	-	-	2	18
1925 2	6			7	2	6	3	4	4	4	4	4	4	4	1	3	3	3	38
1926 -10				9	3	3	-	7	7	7	7	7	7	7	2	-	-	5	39
1927 -	3			6	2	4	-	5	5	5	5	5	5	5	1	4	4	5	30
1928 -				5	-	5	-	3	3	3	3	3	3	3	2	3	3	20	20
1929 -	3			3	2	-	-	7	7	7	7	7	7	7	1	1	1	19	19
1930 -	3			3	4	7	4	4	4	4	4	4	4	4	-	3	3	3	31
1931 -	4			4	1	4	3	-	-	-	-	-	-	-	4	2	2	24	24
1932 -	3			3	3	4	-	-	-	-	-	-	-	3	1	4	3	3	24

Table - XIX (Contd.)

Year	Constitutional	Law & Order	Justice & Prison	Fiscal revenue	banking currency	and income	Social reform	social welfare	Education	Medicine & Health	Trade Commerce	Industry and Power	Transport, Communications	Post and Telegraph	Law relating to property and succession	Labour	Defence forces & other related subjects	Acts relating to local matters	Miscellaneous	Immigration, Foreign Relations, Repealing Acts.	Total number of Acts passed.
1933	-	2	6	9	2	5	4	5	4	2	1	1	1	1	1	1	1	2	2	26	
1934	-	-	14	8	1	2	4	8	2	1	1	2	2	2	2	1	2	3	3	30	
1935	1	1	6	1	1	1	-	1	-	1	-	1	2	2	2	1	2	1	1	14	
1936	-	1	5	5	3	5	1	5	1	1	-	-	4	4	4	3	3	3	2	22	
1937	-	4	6	9	4	6	-	9	-	2	2	2	2	2	2	2	2	2	2	22	
1938	-	2	5	5	4	3	1	3	1	-	3	2	3	4	4	3	4	2	2	26	
1939	-	3	8	8	9	7	6	7	9	2	3	2	3	3	3	2	3	1	1	44	
1940	-	9	12	12	3	6	2	6	2	2	-	9	2	2	2	2	2	2	2	42	
1941	-	3	10	10	2	5	2	5	2	-	1	1	1	2	2	1	1	-	-	26	
1942	-	3	1	1	3	10	3	10	3	2	1	1	1	2	2	1	1	-	-	42	
1943	-	4	5	5	4	8	3	8	3	1	1	2	1	1	1	1	2	1	1	62	
1944	-	1	5	5	-	7	2	7	2	1	-	-	2	2	2	-	-	2	2	18	
1945	-	1	-	-	1	5	1	5	-	-	1	2	-	-	-	1	2	-	1	11	
1946	-	5	5	5	5	10	-	10	-	-	4	-	-	-	1	4	-	-	1	30	
1947	-	3	10	10	2	6	4	6	4	1	2	3	3	3	1	2	3	3	-	34	
Total	4	89	158	133	70	51	53	32	42	48	42	42	42	42	42	42	42	42	42	733	

deficits by expanding greater financial control.

Important sources of legislation of this category were the recommendations of the Indian Fiscal Commission, 1922, and the Indian Tariff Board, 1924, which suggested a policy of discriminating protection for the development of industries in India. Between 1924 and 1939, as many as eight categories of industries, i.e. iron and steel, cotton textile, sugar, paper, magnesium chlorid, sericulture, gold and silver thread and artificial silk and cotton were given discriminating protection.¹ The implementation of a policy of protection for these industries required a large number of fiscal enactments passed by the Central Legislature. During the War years, protection for these industries was continued and to this effect legislation (Protective Duties Continuation Act) was passed in 1944. Some of the Bills of this category were introduced in response to pressure from non-officials. The Steel Industry Bill, 1924 was the direct outcome of such pressures. Outside pressures also could result in legislation of this category. There was a strong demand in the 1930's for the protection of numerous small industries against competition from low priced Japanese goods. Eventually, the Safeguarding of Industries Act, 1933, was passed to provide the necessary protection. There was a number of important Acts passed in the 1930's regulating banking, currency and insurance. During the World War II, a

^{Indian}
1. Report of the Fiscal Commission, 1949-50 - p.3.

number of fiscal acts had to be passed to enhance the rates of certain taxes and to regulate some of the excessive profits arising out of the new business opportunities created by the war. The Excess Profits Bill, 1940, was an important piece of legislation in this connection which roused opposition inside the Assembly as well as outside.¹ Though the Congress leaders usually looked upon issues from the general political angle, it could be said with justification that on the whole both the Houses were co-operative in the passage of legislation of this category. One interesting feature in this connection is that it was not the party-leaders who made elaborate and pertinent speeches on such technical measures; apparently each party had a few members well acquainted with financial matters who made major speeches on such bills. The most constructive and informative discussion on such bills came chiefly from businessmen in the legislature.

The next important category of legislation dealt with trade, commerce, industry, power, transport and communication. Most of these measures met the requirements of the growing industries and commerce. The use of electric power in industry necessitated revision of factory legislation. The ratification of the I.L.O. Conventions involved the passage

1. The Leader, February 1, 1940 published a series views against the Excess Profits Bill. see also The Excess Profits Act, by Dr. B.C. Law in the Indian Review, August, 1940.

of a number of laws relating to^{the} working conditions in factories, mines and tea gardens. With the expansion of commerce and industry, there was a growing demand for improved transport facilities and better means of communications. To meet this, a series of enactments were passed dealing with coastal traffic, the merchant navy, railways and motor vehicles. There was always^{or} general support from the non-officials for legislation dealing with trade, commerce and industry except some protest against the special advantages allowed to European firms. The Workmen's Compensation Act, 1923, may be mentioned as a labour legislation of fundamental importance which for the first time defined certain liabilities of employers.¹ The Trade Unions Act, 1926 was another measure of great importance which laid down the foundation of modern trade unionism in India.² The Factories Act, 1946, the Industrial Disputes Act, 1947, and the Coal Mines Welfare Fund Act, 1947, are the other important measures in this connection.

Many measures dealt with the laws relating to property and succession. A large number of these had their origin in the recommendations of the Civil Justice Committee.³ These

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1. The reaction of the press outside about this measure was mixed. Some of the Indian newspapers praised the pioneering step while others criticised it as a poor sop to the workmen of the country. Vide (Punjab) Native Newspaper Reports, 1923, p.63.
 2. The Hindu, February 2, 1926 welcomed the measure.
 3. The Civil Justice Committee was formed in 1923 consisting of officials and nominated Indians (who included members of central and provincial legislatures) to inquire into the procedures of civil justice and make the necessary recommendations.

measures were mostly of an amending character; some of them consolidating a number of measures and others revising the procedure of civil justice. Some were of a non-contraversial character and were passed without discussion. But others, particularly those dealing with succession, gave rise to lengthy discussion by the landlords and the lawyers. Some of the laws within this category introduced a degree of social reform as they gave the right to inherit property to Hindu widows.

The number of measures dealing with social welfare, social reform, education, medicine, public health etc. was not very large. This was primarily because many of the 'nation-building' subjects were transferred to the provinces under the reforms and the provincial legislatures dealt with them. The few educational measures dealt with the regulation of certain Universities. There were only a handful of enactments dealing with public health, most of which regulated the import of dangerous drugs and liquors. The Regulation of professions - legal and medicine - was achieved through a few measures. On the legal side an important measure, The Indian Bar Councils Act, 1926, gave women the right to practise law. A Medical Council was set up to regulate the medical profession. Such measures were generally welcomed by non-officials and were usually passed without division. The government was more responsive to non-official views on such measures. Generally the leaders of political

groups, also, were reasonable in their outlook on such bills.

The most hostile and suspicious attitude of non-officials was shown towards the measures dealing with questions of law and order and those which were intended to give wider powers to the executive. It was in this sphere of legislation that the real battle between the political groups and the government was fought. The political leaders were most vocal and often bitter in their speeches when such legislation was introduced. From the official side, appeals were made in the name of law and order and good government of the country; the political leaders, on the other hand, appealed to the House for the political freedom of individuals. The country outside the floor used to watch such battles in the Legislature with great interest. So long as Congressmen were in the Assembly, it was difficult for the government to carry any measure of a repressive character. Sometimes the government could persuade some of the unattached members to support such measures and on these occasions the fight used to be closely contested. In 1928, the Public Safety Bill was negatived by 62 votes to 61 with the casting vote of the President given in favour of the 'Noes'.¹ The victory of the non-officials on such occasions was warmly welcomed by the press.² The effort of non-officials on such bills

1. L.A. Deb., 1928 - p.1383-84 (24th Sept.)

2. The Hindu, September 27, 1928 congratulated the non-officials who were successful in rejecting the measure.

was always to reduce the amount of punishment. The predictable obstructionist policy of the non-official leaders was responsible for the promulgation of a large number of ordinances in the 1930's and 1940's to deal with the political agitation in the country. Taking full opportunity of the absence of the Congress men in the fourth Assembly (1931-34), the government was successful in getting through some of the repressive measures: the Bengal Criminal Law Amendment Act, 1932, the Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932, and the Criminal Law Amendment Act, 1932. The worst of these measures was the Bengal Criminal Amendment Act, 1932, which provided, inter alia, for detention without trial as a step against political terrorists. As many as seven non-official amendments moved in order to modify the character of the Bill were negatived and only one amendment of minor character was accepted by 52 votes to 41.¹ Though the House could not stop the passage of this measure, the opposition did not fail to condemn it. This may be illustrated by the comment of a non-official member (from Bengal): "It pains and humiliates me to think that a measure which could not possibly have been passed with the assistance of the non-official elected members in the last three Assemblies could be placed now in the statute book so easily with their active help in the present

1. L.A. Deb., 1932 - p. 2688-89.

Assembly. This is humiliating to one who has sat in all the four Assemblies.¹ The Defence of India Act, 1939, was another measure curtailing individual freedom during the war passed by the Assembly, in the absence of the Congress Party, without any effective opposition.²

Measures dealing with constitutional matters were very few. The Legislative Assembly (President's salary) Act, 1925, and the Legislative Members Exemption Act, 1925, were the two most important measures in this category. Such bills did not rouse any serious opposition. The Legislative Members' Exemption Bill, 1925, for example, was passed without any division.³ It was probably due to the fact that the non-officials were already agreeable to such legislative proposals and therefore did not raise any serious controversy on the floor. The paucity of legislation of this category was due to the inability of the Indian Government to change any of the Acts made by Parliament without the prior consent of the Home Government. Measures dealing with Defence forces and other related subjects were not many, except in 1940 when a series of enactments were necessitated by India's participation in World War II. Though theoretically the Central Legislature could legislate

1. L.A. Deb 1932 - p.2692

2. " " 1939 - p.785 (19th Sept.)

3. " " 1925 - p.529

for the whole of India or any particular part of India, in practice it did not normally pass laws on local matters unless there was special need. The figures of the measures dealing with local matters include a large number of Acts which gave special powers to the local bodies for the improvement of health, sanitation, etc. of certain cities, specially Delhi and Simla. ^(see Table XIX) Some of these measures dealt with questions of law and order in particular areas, for example, Malabar, Bengal and the Punjab. Normally such legislation related to local matters and did not encourage lengthy discussion unless linked with repressive powers. The Acts grouped as miscellaneous cover foreign relations, emigration, immigration and largely repealing and consolidating measures. Bills dealing with immigration and emigration sometimes roused interesting discussion as they were often linked with the fate of Indians abroad. Only a limited number of Acts was concerned with foreign relations, mostly dealing with the problems of extradition and relations with neighbouring countries. As these measures sometimes involved extradition of political convicts and limitation on individual freedom in having contacts with foreign countries, the non-officials tried to tone down the spirit of the measures by way of amendments.

The huge number of non-official bills introduced in the Legislature was an important indication of the non-official attempt to legislate. In a legislature dominated by lawyers,

such a tendency was obvious. More than half of the non-official days were devoted to the discussion of private members' bills. From 1921 to 1947, as many as 379 non-official bills were introduced in the two Houses. The private members' bills did not always originate with the parties.¹ Indeed only a few bills were actively sponsored by the parties. V.J. Patel's Special Laws Repeal Bill, 1925 was, for example, an important instance of a bill sponsored by the Swarajists to remove the repressive measures from the statute-book. The Congress Party in the Assembly did not put forward any constructive programme of legislation though they extended support for important bills sponsored by individual members. A study of important bills shows that there were some lawyer-politicians in the Assembly who seemed to have been inspired by a desire to be fathers of a measure placed in the statute book.² Dr. H.S. Gour and Mr. H.B. Sarda were the two most prominent members in the Assembly who introduced as many as 20 bills each. Both of them were inspired by some desire for social reform but H.B. Sarda could claim a speciality and triumph in social reform as his Child Marriage Bill was passed in 1929 after years of effort. This bill roused bitterness and controversy among the

1. This view was confirmed by the present writer in a recent interview with Sir Frederick Whyte.

2. *of the Govt. of India*
Memo. to the Statutory Commission, 1930 - p. 44. (vol. IV).

conservative section in the Legislature as it increased the minimum age of marriage for girls to minimise the evils of child-marriage.¹ Dr. Gour's interest, on the other hand, covered civil law, criminal justice, social reform, the repeal of repressive measures, etc.

The number of non-official bills covering the main subjects were: (a) bills dealing with civil procedure - 120, (b) bills proposing social, religious and educational reforms - 116 and (c) Miscellaneous (law and order, criminal justice and a few on taxation and industry) - 143. Some of the bills under category (a) attempted to codify Hindu laws and Muslims Personal Laws. The attitude of the House towards the bills relating to property had been moderate in the sense that proposals dealing with any substantial change of existing laws of succession and inheritance were disliked. The official view also had been to discourage any radical change. Bills dealing with social, religious and educational reforms were not as numerous as they should have been. Many of these bills were connected with questions of religious sentiments and on these the non-official views were not unanimous. The attitude of the government towards social legislation proposed by the non-officials had been mostly neutral. In 1922, Sir William Vincent, the Home

1. Inside the Assembly, Mr. M.K. Acharaya, an orthodox Hindu member led an opposition of about 10 members against the Child Marriage Bill. Pandit Malaviya was not very enthusiastic about the measure and remained more or less neutral. Outside, the reaction was favourable. The Hindu, Sept. 24, 1929 welcomed the measure as an important achievement of the Legislature. It also published the full record of the divisions held on the bill to show the public which members supported the bill and which were against it.

Member declared on Dr. Gour's Civil Marriage Bill that the government would remain neutral in matters involving religious sentiments.¹ The reason for this neutrality was perhaps the fear of political agitation centering around any grievance about religious interference by the government. On the 23rd August, 1934 Ranga Iyer's Temple Entry Bill was opposed by the government when the Home Member said that the passage of the Bill might give rise to disorder.² Sometimes even the Indian leaders used to appeal to the government to stop any non-official move to legislate which amounted to religious interference. On the 24th August 1933, D.K.Lahiri Choudhury, a prominent nationalist leader from Bengal, appealed to the government to oppose the Hindu Temple Entry Bill which proposed to allow untouchables to enter the temples.³ The only social measure actively supported by the government was the Child Marriage Act, 1929. There was great satisfaction among the Swarajists at the passage of this bill. The regulation of professions was another important item of non-official bills - a great number of which dealt with the rights and privileges of the legal profession. As the government introduced certain measures in this direction, many of the private bills regarding professions expired.

1. L.A. Deb. 1922 - p.1813.

2. " " 1934 - p.2014.

3. " " 1933 - p.224 see also "The Temple Entry Bill" published in Indian Review, Aug. 1934, in which the writer advocated ~~opposed~~ the legislation and called upon the government to stop the measure.

But one of them (the Legal Practitioners (Amend.) Act, 1926) was put into the statute-book, enabling the Mukhters¹ to practise in the criminal courts as a matter of right. The non-official bills under category (c) were mostly opposed by the government. The main reason for such opposition to these bills was the need to continue such measures in the statute-book to maintain law and order. As no bill was opposed at the stage of introduction, the government tried to reject such proposals at the second reading. If it was not possible for the government to stop any bill in the second and third reading, the government could always kill such a bill in the Council of State where its majority was certain.²

It is interesting to note that private bills remained more or less confined to a few subjects only during the period under review. The inadequate number of days allotted for non-official business resulted in the lapsing of many private bills. On a non-official day, a ballot would take place to determine the order of priority of bills to be taken up. One interesting device used by non-officials to be sure of bringing a bill for discussion was to give several notices for the introduction of the same bill. In 1932 and 1933, several non-officials gave notices for the

1. Mukhters are the minor legal practitioners in India and Pakistan who do not enjoy all the privileges of a qualified lawyer.

2. See Chapter X for further details.

introduction of the Temple Entry Bill. It was practically impossible to pass any non-official measure without the support of the government. There was no case when a non-official bill was passed into law against the opposition of the government. One main reason for the slow progress of private bills was the unnecessary waste of time in the prolonged and often useless and repetitious discussion held from year to year on the same bill. Often the controversial bills were debated for the whole of a non-official day available in the session and the motion was not put to the vote. The Hindu Marriage Disabilities Removal Bill which was introduced in 1941 was referred to the Select Committee in 1945 after nearly 13 days of discussion held from year to year. Such bills were kept alive so long by motions to continue. There is no exhaustive record showing how many private bills could not be introduced for the want of approval of the Governor-General. But from 1921 to 1928, this applied to as many as 26 private bills.¹ The most common ground of withholding sanction was that the bills sought to legislate on provincial subjects.² From 1921 to 1947, as many as 43 non-official bills passed by the two Houses became Acts after being assented to by the Governor-General.³ These bills were of a non-controversial nature.

of the Govt. of India 1930
1. Memo. to the Indian Statutory Commission - p. 45.

2. Ibid.

3. Of the 43 non-official bills which became Acts, only 7 originated in the Council of State.

Twenty of these measures dealt with property and inheritance, twelve with social, religious and educational subjects and eleven with other matters, (criminal procedure, penal code, etc.). Compared to the total number of private bills introduced, the bills which were eventually placed in the statute-book were a fraction indeed. Nevertheless, it shows that the non-official attempt to legislate was being successful. It was of special importance in the Central Legislature where the Executive was not responsible.

The power of the Governor-General was never exercised to refuse assent to any bill which had been passed by the two chambers of Indian Legislature. Nor was the power of the Crown to disallow any Act of the Indian Legislature ever exercised. On the other hand, one of the most flagrant ways of overriding the views of the Legislature was to certify any government bill which had been rejected by the non-officials.¹ Excluding the Finance Acts, the measures certified by the Governor-General were: the Indian States (Protection against Disaffection) Act, 1922, the Bengal Criminal Law Amendment (Suppl.) Act., 1925, the Criminal Law Amendment Act, 1935, the Indian Tariff Act (Third Amendment) 1939, and the Indian Naval Reserve Forces' Discipline Act, 1939. This number of certified measures is by no means large. These Acts were all concerned with law and order, (except the

^{Governments of India}
1. 67-B, the Act, 1919

Indian Tariff Act, 1939) and bestowed wider powers on the Executive which infuriated the non-officials in the Legislature. The opposition to these bills had been consistent on the floor of the House and when once rejected they were submitted for the reconsideration of the House and when again rejected they were eventually certified. It is interesting to note that except in 1922, on all occasions these measures were rejected by the Assembly under the leadership of the Congressmen and it was done in pursuance of their avowed purpose to oppose all legislation giving special powers to the bureaucracy. Politically speaking, the certification of measures by the Governor-General was always inexpedient. Each time an Act was certified, there was a political crisis. The certification of the Princes' Protection Act in 1922 caused disillusionment among the moderates. Each time a measure was certified, the nationalist press used to come out with bitter condemnation. It should be noted here that all these certified Acts were approved by the Council of State when they were laid before it for consideration. The authors of the Montagu/Chelmsford Reforms did not intend to encourage the Governor-General to make indiscriminate use of this special power of legislation. It was laid down in Sec. 67B of the Act that all certified measures should be submitted to Parliament so that the Home Government could know the circumstances leading to such step. But in reality such discussion was ineffective

as any censure of the Governor-General would also mean the censure of the Secretary of State. So Parliament could not for any practical purpose be a guarantee against the extraordinary power of legislation by the Governor-General.¹

The Government promulgated as many as 38 Ordinances from 1930 to 1932 to deal with the Civil Disobedience Movement.² During the war years from 1940 to 1945 as many as 250 Ordinances were promulgated to meet the emergent situations created by the War. The promulgation of such a huge number of Ordinances undoubtedly meant sidetracking the Legislature. An Ordinance did not undergo all the process of law-making and had no scope to be modified or criticised. It was not within the power of the non-officials to question the Governor-General for the promulgation of any ordinance. As to whether conditions existed for an Ordinance, the Governor-General was the sole judge.³ Most of these ordinances affected the daily life of ordinary individuals and often led to their harassment but their grievances could not ^{always} be brought up for discussion in the Legislature as such motions could be disallowed by the Governor-General. Some of these Ordinances were very drastic and repressive in character. The Bengal Emergency Powers Ordinance, 1932, and the

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1. Rudra, A.B. - The Viceroy and Governor-General of India, p.224.
 2. Sec. 72, Government of India Act, 1919 gave powers to the Governor-General for the promulgation of Ordinances.
 3. Rudra, A.B. - Ibid. p.229.

Emergency Powers Ordinance, 1932, for example, gave wide special powers curtailing the freedom of individuals. Such ordinances could not be justified as they meant the negation of rule of law¹ but it could also be argued that it would have been difficult to deal with emergent war situations without recourse to ordinances. (One ordinance was required in about every ten days from 1940 to 1945). On behalf of the Executive, it could be argued that the Central Assembly, as it was constituted during the period of our review, could not be expected to meet the need for prompt legislation which was in fact met by the Ordinances.

One question may conveniently be put here: Was the Indian Legislation well considered? The answer is certainly in the affirmative. It is true that during the period under review, as many as 284 bills were passed in the Central Legislature without any discussion, which might suggest that a good deal of legislation was made without the scrutiny of the Legislature. This view cannot, however, be accepted as most of the bills passed without discussion were non-controversial, unimportant and ordinary repealing or consolidating measures. Any discussion on such bills of no practical importance would have been a gross waste of time. Some of the measures which were already deliberated upon and modified in the Select Committees or in the other House did

1. The press outside described these Ordinances as the 'reign of terror' and the 'negation of rule of law' - Vide (U.P.) Native Newspaper Reports, 1932 - p.3.

not rouse any unnecessary discussion on the floor of the House. Excluding the non-official measures, as many as ~~690~~⁶⁸⁶ Acts were passed by the Central Legislature of which 213 were considered by the Select Committees. As it has already been noted, the Select Committee was an important stage of effective discussion on bills. The Assembly was never shy of sending bills to Select Committees. Practically all the bills of a technical character and of nation-wide importance were considered in the select committees. The amount of time spent on the discussion of a bill used to vary from a few minutes to several days, sometimes two or three weeks. Some of the bills which required lengthy discussion may be mentioned below: the Code of Criminal Procedure (Amend.) Bill, 1923 (16 days), the Trade Disputes Bill, 1929 (7 days), the Cotton Textile Industry Bill, 1929 (5 days), the Indian Press (Emergency Powers) Bill, 1931 (9 days), the Criminal Law Amend. Bill, 1932 (17 days), the Bengal Criminal Law Amendment Bill, 1932 (8 days), the Reserve Bank of India Bill, 1933 (20 days), the Indian Tariff Bill, 1934 (8 days), the Indian Companies Bill, 1936 (13 days), the Indian Insurance Bill, 1937 (15 days), the Indian Motor Vehicles Bill, 1938 (17 days), the Excess Profits Bill, 1940 (9 days), the Insurance Amendment Bill, 1946 (7 days), the Industrial Disputes Bill, 1947 (8 days).¹ As it has already been

1. The Legislative Assembly Debates did not always indicate the amount of time in terms of hours. So the time shown here indicates those days when most of time was spent on the discussion of these bills excluding question hour and other minor routine business.

noted, the large number of amendments often resulted in a waste of time. But all these bills which required longer time for discussion were measures of fundamental importance to the country; so the merit of their prolonged discussion could not be denied. One would, therefore, conclude that the influence of the non-official members over legislation was not unimpressive in the Central Legislature.

CHAPTER VIII

FINANCIAL PROCEDURE IN THE

CENTRAL LEGISLATURE

The essentials of financial procedure in the Central Legislature were stated in Article 67(A) of the Government of India Act., 1919.¹ The Annual Financial Statement or the Budget was divided in two distinct parts - (a) expenditures on non-votable items and (b) expenditures on votable items. In clause 3 of Article 67, it was explicitly stated that expenditure on certain items, for example, 'interest and sinking fund, charges on loans, salaries and pensions of the persons appointed by the Secretary of State, salaries of the Chief Commissioners and Judicial Commissioners and expenditures on ecclesiastical, political and defence should not be submitted to the vote of the Legislative Assembly nor should they be open to discussion by either chamber unless the Governor-General otherwise directs.'² Except in the instances stated above, the rest of the demands were submitted to the Assembly which might give or refuse its assent to any demand or might reduce the amount. The two-fold division of the Budget had always

1. Appendix I (the text of the provisions for reference)

2. Ibid.

been a matter of great dissatisfaction among the non-officials and the political circle outside. But the official view always held that powers over the votable expenditures constituted a substantial advance of power for the Indian Legislature under the Government of India Act, 1919. One characteristic example of this kind of official view may be given in the following extract from the Budget speech in 1921 by Mr (later Sir and Lord) Malcolm Hailey: who was at that time the Finance Member of the Viceroy's Executive Council:

'Every one will, I think, agree that it is the section of the Government of India Act in relation to the Budget which constitutes, as far as the Assembly is concerned, the substance of the advance in the transfer of power to the representatives of the people.'¹ It was not, however, the original intention of the Montagu-Chelmsford Report to give any such power to the Assembly. Only the presentation of the Budget was recommended and the Assembly was not supposed to vote.² But that power was eventually incorporated in the India Act to implement the recommendation of the Joint Select Committee on the Government of India Bill.³

Disapproval of the two-fold division of the Budget was expressed every year by the non-officials during the general discussion of the Budget. A formal resolution

1. L.A. Deb., 1921 (Delhi) - p.435.

2. ~~Montagu-Chelmsford~~ ^{M/C} Report, 1918 - para. 284.

3. Report of the ~~Joint~~ Select Committee - clause 25.

was moved by Mr P.P. Ginwala, a prominent non-official member, during the Delhi session in 1922 demanding the abolition of the distinction between 'votable' and 'non-votable' expenditures.¹ Sir M. Hailey, on behalf of the Government, pointed out that it was not within the powers of the Governor-General to do as desired by the non-officials. The only assurance the Government could extend was its willingness to consult the legal opinion on the matter. But the non-officials pressed the motion and adopted it by 51 votes against 27.² It was undoubtedly a clear demand of the non-officials to have full control over the Budget. This was not, however, obtained as the legal opinion held that the Assembly could not be allowed to vote on the whole Budget without changing the Act, 1919. But an opportunity was given every year, as a matter of convention, to discuss the non-votable items including the Military expenditures. It was one of the examples of unbroken tradition which was built up through co-operation between the Executive and the non-officials in the Central Legislature. The non-officials took that opportunity to express their views on the expenditures which they could not vote.

1. L.A. Deb., 1922 - p.1948.

2. Ibid.

Criticism of various non-votable expenditures was the main feature of the general discussion of the Budget. Military expenditure was the most common non-votable item relentlessly criticised in every Budget Session. It was treated as a political issue. One main plea against the Military expenditures was the excessive financial burden which they imposed on India. The growing demand for Indianisation was also associated with the criticism of Defence expenditures. Above all, the military policy in general was criticised. During the War years the criticism of military expenditures was the main topic of Budget discussion. It was customary for the Commander-in-Chief to make a speech outlining the military policy on the last day of the general discussion. One practical benefit of this opportunity to criticise military expenditure was that the Government was forced to come on to the floor of the House in an attempt to placate the non-officials. This was the first opportunity for Indian politicians to learn in some detail about the military policy of the Government which had been a forbidden sphere for the non-officials before the introduction of the Reforms.

Non-votable civil expenditures covering the salaries of the Civil servants and the Executive Council were also severely criticised. One main grievance against these non-votable items was their excessive cost. Administration

was alleged to be top-heavy and the non-officials always suggested retrenchment and economy. Indianisation of the Services was a vital argument for reducing administrative costs. It was often argued that instead of spending so much for civil administration and defence, more should be spent for the economic development of the country. On behalf of the Government, the Home Member used to reply to the criticisms of the civil expenditures. He also used to express the views of the Government on the suggestions extended by the non-officials. Another non-votable item which the Assembly frequently discussed was the interest and sinking fund charges on loans. This provided the only opportunity available to the non-officials to bring the loan policy of the Government to the notice of the Assembly. The attack on the Foreign and Political Department was also frequent only during the War years. Only the Ecclesiastical expenditures were not usually criticised.

Another criticism of general nature was that the non-votable expenditures exceeded the amount of the votable demands. One typical example of this criticism may be found in Mr. Amar Nath Dutt's speech on the 4th March, 1930, when he refused to 'acquiesce in the increase of expenditure more than half of which is non-votable.'¹ The allegation was not always true. The figures of the

1. L.A. Deb. 1930 - p.1210.

votable and non-votable expenditures reveal the truth in this connection.¹ Only during the first two years did the non-votable expenditures exceed the votable amount by about 7 crores. This was probably due to the considerable military expenditures immediately after the war. Later the picture changed as the votable expenditure came to exceed the non-votable amount for several years. During the War years the proportion of votable expenditures fell as the military expenditures went up.²

Another recognised and ingenious device for attacking the non-voted expenditure was the reduction of the voted supply ancillary to and necessary for it. For example, salaries of the Members of the Executive Council were not votable. But they could be attacked indirectly on the demand for their touring expenses which were votable. In the same way, army expenditure was attacked by moving reduction of the voted expenditure on the secretariat establishment of the Army Department. In 1922, an attempt was made by the Assembly to seek indirect control over the non-votable items through co-operation with the Executive. The Government accepted a suggestion that gross reduction might be made in the demand under the head 'General Administration' in order to effect economy. But the Assembly did not make any formal reduction and it was left

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1. See Table ^{XY} - showing the proportion of votable expenditures.
 2. See Table - ~~XVI~~

A table showing the percentage of voted expenditures to total expenditures from 1921 to 1947 :

Year	-	Votable expenditures as p.c. of Total
1921-22	-	48.64
1922-23	-	48.98
1923-24	-	52.54
1924-25	-	53.30
1925-26	-	51.77
1926-27	-	52.85
1927-28	-	57.29
1928-29	-	56.66
1929-30	-	57.62
1930-31	-	55.02
1931-32	-	52.25
1932-33	-	50.41
1933-34	-	50.43
1934-35	-	52.05
1935-36	-	48.0
1936-37	-	49.0
1937-38	-	46.0
1938-39	-	46.5
1939-40	-	47.3

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(2)

Table - XX

APPENDIX - (Contd)

Year	-	Votable expenditures as p.c. of Total
1940-41	-	47.9
1941-42		44.5
1942-43		41.7
1943-44		33.7
1944-45		34.6
1945-46		30.73
1946-47		34.0.

264(e)

TABLE XXI

~~ANNEXURE TO THE REPORT OF THE COMMISSIONER GENERAL OF DEFENSE~~

Table showing the net expenditures on the Military forces from 1921 to 1947:

<u>Financial Year</u>	<u>Net expenditures (crores of rupees)</u>	<u>Financial Year</u>	<u>Net expenditures (crores of rupees)</u>
1921-22 -	69.8	1940-41 -	73.61
1922-23 -	65.27	1941-42 -	1,03.92
1923-24 -	56.23	1942-43 -	1,89.75
1924-25 -	55.63	1943-44 -	3,58.40
1925-26 -	56.25	1944-45 -	3,95.48
1926-27 -	55.97	1945-46 -	3,60.23
1927-28 -	54.79	1946-47 -	2,09.60
1928-29 -	55.10		
1929-30 -	55.10		
1930-31 -	54.30		
1931-32 -	51.76		
1932-33 -	46.74		
1933-34 -	44.42		
1934-35 -	44.34		
1935-36 -	44.98		
1936-37 -	45.45		
1937-38 -	47.21		
1938-39 -	46.18		
1939-40 -	49.53		

to Government to distribute the reduction, and the Government effected the agreed reduction by altering both voted and non-voted items.¹ No such instance are, however, available in the later period.

The Budget had three distinct stages - (a) Presentation (b) Discussion and (c) Voting on Demands. On the last day of February, the Finance Member presented the Budget after a lengthy speech outlining the financial policy of the Government, the revenues and expenditures, and proposals for new taxation. The copies of the Finance Member's speech were laid on the table along with the other relevant papers for the convenience of the members. No other member was allowed to speak on the presentation of the Budget. All comments and discussion were to be made during the later stages. Following the British practice, the Government of India also used to keep the Budget proposals a closely guarded secret until the formal presentation. In pursuance of a resolution adopted on the 20th September, 1924, the Railway Budget was presented separately by the Railway Member of the Executive Council from 1925. As a result of this separation, the non-officials had an opportunity of knowing about Railway Finance in greater detail.

The second stage of the Budget began with a general discussion. It was a very lively occasion as a considerable

1. Memo. ^{of the Govt. of India} to the Statutory Commission, 1930-Vol.IV- p.53.

number of non-official members used to make speeches criticising the Government and the official spokesmen tried to defend their financial policies. In practice, the procedure was to allow the non-official members to speak first and then the Government members tried to answer their criticisms. It is interesting to note that the general discussion on the Budget was always political in approach except during the first three years following the Reforms from 1921 to 23. Apart from the criticism of the non-votable expenditure which has been discussed in the earlier paragraphs, appropriate use of the occasion was made to raise various political demands - such as Constitutional Reforms, Round Table Conference, release of Political prisoners and Indianisation of the Services, etc. Political discussion of the Budget got prominence after 1923 when the Swarajists entered the Assembly.¹ Sometimes, certain vital aspects of financial policy were completely ignored due to ^{the} Swarajists' preoccupation with the political issues. For example, in 1924 political grievances against the Government ran so high that the financial proposals of the Budget had little chance of being discussed on their merit by the non-officials.

1. Chapter IX for further discussion on the political grievances.

While the leaders of the party-groups were pre-occupied with political discussion, some of the independent members did try to discuss the financial implications of the Budget. The approach of the representatives, for example, of certain economic interest-groups - such as Indian Commerce, Labour, European Commerce and Landholders - were far less political in their criticism. Expressing general sympathy for political emancipation of India, they tried to concentrate on economic arguments. Some of the financial issues which were greatly discussed at the second stage of the Budget may be mentioned here - (a) cotton excise duty, (b) salt duty, (c) provincial contributions, (d) general condition of the people, (e) exchange rates, (f) industrial and agricultural development, (g) the need for improving the Railways, (h) reduction of the third class fares, (i) educational facilities, (j) development of shipping industry and the ports (k) the need for developing road communications etc. During the War years much discussion was devoted to the requirements for the development of post-War economy. The main emphasis of such discussion was the need for effective planning for the economic development in India. One important aim of the non-officials in raising these issues was to influence the Administration. During the period under review, the Government directed its attention towards the reduction

of provincial contributions and the cotton excise duty was also abolished. The Retrenchment Committee, the Taxation Enquiry Committee, the Tariff Commission, the Royal Commission on Agriculture and the Road Development Committee were some of the important bodies which examined some of the vital economic grievances which were raised by the non-officials in the Budget sessions. Each of these Committees contained some non-official members of the Central Legislature. Whenever any of the Committees presented a Report, the Government used to move a formal resolution to take the Report into consideration. Official spokesmen also used to tell the Central Legislature in Budget sessions how much money was being spent for implementing any recommendation of those Reports.

The general discussion of the Budget also provided an index of the non-official attitude to the financial proposals of the Budget. Official members could get sufficient hint which demands would be opposed during the voting of grants. This helped the Finance Member to frame his reply to cover the important points of criticism. If there was any particular demand mentioned as the target of criticism, the Finance Member tried his best to persuade the non-officials not to press their opposition to a reduction. No motion for reduction was allowed in the second stage of the Budget.,¹ nor could any demand be

1. Rule 46, Indian Legislative Rules,

placed for the vote of the Assembly. The discussion, in general, concentrated on the principles underlying the Budget. As the Indian Legislative Rule provided, the general discussion was to be held 'on a day to be appointed by the Governor-General subsequent to the day on which the Budget was presented and for such time as the Governor-General may allot for this purpose'.¹ In practice, the general discussion was held for two days. A time limit could be fixed by the President for the speakers. Normally, the President granted 15 to 20 minutes to each speaker, but sometimes he allowed extra time to a speaker at his discretion if he considered that extra time was necessary in order to clarify the relevant points. Usually, the leaders of the political groups and important official members were given additional time if they required it.

The third and the most important stage of Budget was the 'voting of demands for grants'. When the demands for grants were placed in the House, the Assembly could 'assent or refuse its assent to any demand or might reduce the amount in any demand'.² A demand for grant was placed by the Chair before the House in a formal motion which had a close analogy with the 'Supply Motion' in the House of

1. Op cit.

2. ^{Sec} Clause 157, Manual of Business and Procedure of the L.A. - p. 30.

Commons.¹ Not more than one demand was allowed to be moved at a time. Non-official members then moved their motions for reduction. But use of this occasion was made to discuss the policy underlying each demand. The debate was technically a discussion on expenditure, but non-official members tried to stress on the wider background of the policy involved. Whenever a non-official member moved a motion for reduction, a number of speakers followed him some supporting the motion and others opposing. The motion for reduction was always introduced by a fairly lengthy speech of the Mover in which he tried to justify his contention. A time limit for each speaker was applied at that stage as well.

At this stage the discussion was supposed to centre around the Demand in question. It was entirely within the jurisdiction of the President to rule out any discussion which he considered irrelevant. Two important incidents might be mentioned in this connection. On the 10th March, 1924, a member proceeded to discuss the Salt tax under a motion to omit the demand under the head 'Salt'. The President then ruled that the member could not do so and

1. Form of a motion for grant and a motion for reduction has been reproduced below:

a) 'That a sum not exceeding Rs..... be granted to the Governor-General in Council to defray the charges that will come in course of payment during the year ending the 31st March, 1932, in respect of'.....'

b) 'That the demand for a grant of a sum not exceeding Rs..... in respect of '.....' be reduced by Rs... (It is interesting to note that the motion for grant was not placed with any explanatory speech by the member in charge of the Department for which the expenditure was meant. The official representative waited till they were attacked or criticised by way of cut motions or otherwise.)

said:

'The Honourable Member is not in order is discussing the salt tax ... If he wants to refer to the salt tax, he can do so under the Finance Bill when that comes on. This relates to the administration and has nothing to do with the levy of taxation.'¹ On the 26th February, 1927, again when a member proceeded to discuss general railway policy while speaking on a motion for reduction under the head 'Working Expenses: Administration', (Railway), the President intervened and observed:

'I would be failing in my duty if I were not to point out to the Honourable Member that he ought to make a distinction between the general discussion of the Railway Budget and the particular cut which we are now discussing. It is not right that the discussion on a particular cut should be turned into a general discussion of policy.'² Those two rulings sufficiently explain the procedure of discussion on the motions for reductions.

Under the Legislative Rules, the discussion on the voting of grants could not exceed 15 days.³ Each group of demands could not be discussed for more than two days after which a new demand was taken up. On the last day allotted for the voting of grants, the President was to 'dispose of all the outstanding matters in connection with the demands for grants.'⁴ The last minute disposal of grants was

1. L.A. Deb., 1924 - p. 1424.

2. L.A. Deb., 1927 - p. 1924.

3. Rule 47, Indian Legislative Rules.

4. Rule 47 (3), Indian Legislative Rules.

technically known as 'guillotine' which is the recognised device of bringing the discussion of Budget to a close. As the non-official members spent more time in debating some of the important demands, the rest of the demands were passed practically without any discussion. Sometimes, the non-officials debated at length the financially unimportant demands only to record their political grievances. For example, discussion on the demands for Executive Council, Army Department and the Railway Board always assumed political colour and much time was spent on them. As a result, many of the demands were passed without the scrutiny of the Assembly.

There was no fixed order for presenting the Demands for Grants during the first few years after the inauguration of the Reforms in 1921. After 1923, the practice for the Government to confer informally with the leaders of the political groups of the non-officials and issue a list giving the order in which the demands were to be taken.¹ This procedure was analogous with the practice in the House of Commons and the main purpose of it was to deal with the important topics first so that they could be adequately discussed. But the Government could not be forced to change the order of Demands. On the 13th March, 1925 the President gave a ruling in this connection which ran as follows:-

'On a Government day, the Government is in sole charge

1. Saksena. A Handbook of Indian Legislatures - p.164.

of business (Standing Order 7). It is not so much for the Chair to decide on what order the demands should be taken, as for the Government and the Opposition between them to decide as a matter of convenience how they will proceed. I do not say that the Chair is bound to accept such agreement, but as a matter of convenience if the two sides of the House agree that Demands should be taken up in a certain way, the Chair is always ready to meet the convenience of the House on that matter!¹ Another incident of great importance may be mentioned in this connection. On March 8th, 1926, some of the Independents along with the Swarajists wanted the Government to place the Demand for the Executive Council first.² The main object was to pass a motion of censure on the Government rejecting the Demand. But the Government refused to comply with this request and then Pandit Motilal Nehru walked out of the Assembly along with his other Swarajist followers.

Motions for reductions made by the non-officials were mainly of two kinds - (a) substantial or drastic cuts to ensure economy or to express political grievance and (b) token cuts moved to ventilate particular grievances or to elicit information from the Government. The list of reductions carried by the non-officials in the Assembly may help in indicating certain interesting tendencies.³

1. L.A. Deb., 1925 - p.2271.

2. L.A. Deb., 1926 - p.2126.

3. See Table - ~~XXII~~

TABLE XXI

TO CHAPTER 'FINANCIAL PROCEDURE IN THE CENTRAL LEGISLATURE'

<u>Year</u>	<u>Reductions proposed and carried</u>	<u>Reductions restored and accepted by the Government</u>
1921-22 Budget	<p>Customs Rs 46,898</p> <p>Taxes on Income Rs 200</p> <p>Land Revenue Rs 1,57,940</p> <p>Post and telegraph Rs 12,00,000</p> <p>General admin Rs 25,000</p> <p>Miscellaneous Rs 5,00,000</p>	<p>The Government accepted all the reductions</p>
1922-23 Budget	<p>Customs Rs 3,52,900</p> <p>Taxes on Income Rs 2,24,000</p> <p>Salt Rs 1,71,450</p> <p>Land Revenue Rs 7,800</p> <p>Stamp Rs 1,17,400</p> <p>Army Rs 100</p> <p>Survey of India Rs 1,84,700</p> <p>Aviation Rs 25,500</p> <p>Mint Rs 1,05,400</p> <p>Civil Works Rs 8,01,750</p> <p>" " Rs 2,200</p> <p>" " Rs 3,37,300</p> <p>Miscellaneous Rs 2,00,000</p> <p>Delhi Rs 1,00,000</p> <p>Ajmer-Merwar Rs 1,00,000</p>	<p>The Government accepted all the reductions</p> <p align="right">273 (2)</p>
1923-24 Budget	<p>Customs Rs 4,00,000</p> <p>Railways Rs 50,00,000</p> <p>" " Rs 1,14,00,000</p> <p>General Adm - Rs 5,10,000</p> <p>Stamps Rs 100</p> <p>Misc (pub Serv Comm) Rs 3,00,000</p>	<p>The following reductions were restored</p> <p>Railways Rs 1,14,00,000</p> <p>Mis Pub Serv Comm Rs 3,00,000</p> <p>The rest of the reductions were accepted</p>

Table - XXII (Contd.)
Reductions proposed
and carried

Year

Reductions restored and accepted by the Government

1924-25 Budget	<p>Customs Rs 71,84,000 Taxes on Income Rs 61,32,000 Salt Rs 1,06,55,000 Opium Rs 2,07,31,000 Railway (Working Exp) Rs 25,00,000 Forest Rs 100/-</p>	<p>All the demands were restored except the reduction on Railways which was accepted by the Government</p>
1925-26 Budget	<p>Railways Rs 10,00,000 Customs Rs 77,000 Executive Council Rs 62,000 Railway Board Rs 77,000 Stamps Rs 17,00,000 Railway (Const of Qrts) - 10,00,000 Railway (working Exp) - Rs 100/- Railway Board Rs 100/-</p>	<p>The first three reductions were restored but the rest were accepted by the Government</p>
1926-27 Budget	<p>Railway Board Rs 9,68,000/- Working Expenses (Railway) Rs 20,000</p>	<p>Both the reductions were restored by the Government</p>
1927-28 Budget	<p>Railway Board Rs 9,42,900 Executive Council Rs 59,999 Army Dept Rs 5,78,000 Army Dept Rs 1,000 Army Dept Rs 10,000</p> <p>Token cuts Railway Board - Two cuts of Rs 1 each Indian Postal & Telegraph Dept Two cuts of Rs 1 each</p>	<p>The following reductions were restored Railway Board 9,42,900 Executive Council Rs 59,999 Army Dept 5,78,000</p> <p>The rest of the reductions were accepted by the Government</p>

Table - XIII (Contd)

Year

Reductions proposed and carried

Reductions restored and accepted by the Government

The following reductions were restored

1928-29 Budget

Executive Council
 Army Department
 Miscellaneous
 Expenditure in
 England
 Secretary of State
Token Cuts

Rs 1/-
 Rs 100/-
 " Rs 100/-
 Central Board
 of revenue Rs 10/-
 N W F P Rs 100/-
 " Rs 100/-

Executive Council Rs 80,999
 Army Dept Rs 5,70,999
 Misc Rs 3,40,000
 Expenditure in
 England - Secretary of State
 for India - Rs 13,44,999
 (The token cuts were accepted
 by the Government)

1929-30 Budget

Executive Council ~~Rs~~ 65,999
 Army Department Rs 5,35,800
Token Cuts

Salt
 Army Dept Two cuts of Rs 100/- each
 N W F P Rs 100/-

The first two reductions were restored in full, but the token cuts were accepted by the Government

1930-31 Budget

Army Dept Rs 5,46,999
Token Cuts
 N W F P Rs 100/-
 Finance Dept Rs 100/-

The first reduction of the Demand was restored by the Governor-General, but the token cuts were accepted

XXII (Contd)

Year

Reductions proposed and carried

Reductions restored and accepted by the Government

1931-32 Budget	Railway Board - Rs 1,00,000/- " - Rs 100/- Customs - Rs 100/- Taxes on Income - Rs 100/- Executive Council - Rs 100/- Army Dept - Rs 100/-	All the reductions were accepted by the Government
1932-33 Budget	Executive Council - Rs 100/- " - Rs 100/-	All those reductions were accepted by the Government
1933-34 Budget	Demand no 39 - Army Dept - Rs 1/-	- Reduction was accepted by the Government
1934-35 Budget	<u>Supplementary Demands</u> Customs - Rs 11,01,000/- Transfer to the Fund Transfer of the Agricultural Research Centre Rs 36,00/-	Of those two ^{works} reductions, the first one was restored in full
1935-36 Budget	Railway Board - Rs 8,24,999/- Misc Expend Rs 10/- Repairs and maintenance of structural works Rs 100/- Expenses of Traffic Dept Rs 300/- Salt Rs 100/- Home Dept Rs 100/- Army Dept Rs 4,30,999/- Beluchistan Rs 100/-	The demands under 'Railway Board' and 'Army Dept' were restored in full and the rest of the reductions were accepted by the Government

XXII (Contd)

Year

Reductions proposed and carried

Reductions restored and accepted by the Government

1936-37 Budget

Supplementary Demands 1935-36

All the reductions except the token cuts were restored

79 Baluchistan Rs 100/-

Demands for 1936-37

Railways

1 Railway Board Rs 300/-
6 E Expenses of Traffic Dept Rs 100/-

Civil

28 Ex Council Rs 1,48,999
31 Foreign and Pol Dept Rs 100/-
32 Home Dept Rs 100/-
39 Defence Dept Rs 4,24,999
79 Baluchistan Rs 27,69,100/-

1937-38 Budget

Railways

Demand No I Railway Board Rs 312
Demand No 6-13-Working expenses Maintenance and supply of locomotive parts Rs 100
Demand No 6 B Working expenses, maintenance and supply of locomotive power Rs 16,24,59,900
Demand No 6-C Working expenses, maintenance of carriage and wagon stock Rs 5,77,50,000

All the reductions except token cuts were restored

XXII (Contd)

Year

Reductions proposed and carried

Reductions restored and accepted by the Government

1937-38 Budget (Contd)

Demand No 6-D- Working expenses
Maintenance of Ferry steamers
and Harbours Rs 27,85,000

Civil

Demand No 12 Executive Council Rs 301
Demand No 17 Department of Education,
Health and Lands - Rs 100
Demand No 20 Defence Dept Rs 100

1938-39 Budget

The following reductions were made
Supplementary Demands - 1937-38

Demand No 22 was restored in full and the rest of the cuts were accepted

Civil

Demand No 22 Central Board of Revenue
Rs 34,000/-

Demands for 1938-39

Railways

Demand No 1 - Railway Board Rs 200/-
Demand No 3 - Misc Exp - Rs 100/-
Demand No 6 - F Working expenses of
General Depts Rs 100/-
Demand No 12 - Open line works - Rs 100/-

1939-40 Budget

Railway

Demand No 1 - Railway Board Rs 502
Demand No 3 - Misc exp @ Rs 101
Demand 6B - Working expenses - maintenance
and supply of locomotive power - Rs 100/-
All the reductions were restored except the token cuts which were accepted

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XVII Contd

Year

Reductions proposed
and carried

Reductions restored and
accepted by the Government

1939-40 Budget (Contd)

General demands

Demand No 10 - P & T Rs 100/-
" No 12 - E C Rs 200/-
" No 17 - Dept of Education,
Health and Lands Rs 100/-
Demand No 19 Crown Dept Rs 100/-

All the reductions were restored
except the token cuts which were
accepted

As a result of an amendment to the
Finance Bill accepted by the Government
the estimated gross revenue of the
P & T Dept for next year had also
been reduced by Rs 2,00,000/-

The Assembly refused assent to the
Supplementary Demands

Railways demands

Demand No 6A - Working expenses,
maintenance of structural works
Rs 22,30,000/-
Demand No 6B - Working Expenses,
maintenance and supply of locomotive
power - Rs 77,35,000/-
Demand No 6H - Working expenses -
Expenses of electrical Dept Rs 22,90,000/-

General demands

Demand No 11 - Interest on debit and
other obligations and reduction or
avoidance of debit - Rs 1,00,000/-
Demand No 14 - Legislative Assembly and
Legislative Assembly Dept - Rs 1,05,000/-
Demand No 21 - Dept of Communication
- Rs 10,000/-

XXI (Contd)

Reductions proposed and carried

Reductions restored and accepted by the Government

1940-41 Budget

Railway demands

All the reductions were accepted

Demand No 1 Railway Board Rs 100/-

General Demands

Demand No 12 - Executive Council Rs 100/-

1941-42 Budget.

No reduction was made

1942-43 Budget

No reduction was made

1943-44 Budget

Railway Board - Rs 100/-

Reductions were accepted by the Government

As a result of an amendment to the vegetables Product (Excise duty) Bill, the estimated revenue under Demand No II Central Excise Duties for 1943-44 had been reduced by Rs 40,00,000/-

1944-45 Budget

Railway demands

The Government accepted the following reductions

Demand No 1 Railway Board - Rs 300
Demand No 10 Appropriation to Reserve Rs 10,00,00,000

General Demands

Demand No 12 Executive Council 2,34,999
Demand No 15 Home Department - Rs 100
Demand No 21 Finance Department Rs 1

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Demand No 1
" " 10
" " 15
" " 21

The rest of the reductions were met from

Year.

XX II (Contd.)
Reductions proposed
and carried.

Reductions restored and
accepted by the Government

1944-45 Budget (Contd)

The Assembly also refused its assent to the following Supplementary Demands for 1943-44.

General Demands

Demand No.17 Department of Information and Broadcasting ^{Rs.} 1,85,000

1945-46 Budget:

Railway.

Demand No.1 - Railway Board Rs.401.

Demand No. 6G Working expenses

* Miscellaneous Expenses ^{Rs.} 82,00,000 *The demand was later voted by the Assembly when it was placed as a supplementary demand

General Demands.

Demand No.12 Executive Council ^{Rs.} 1,05,999
Demand 16 Department of Industry & Civil Supply ^{Rs.} 200/-

Demand 17 Department of Information and Broadcasting ^{Rs.} 55,10,000/-

Demand 21 Finance Dept. ^{Rs.} 100/0

Demand 23 Department of Labour ^{Rs.} 100/0

Demand 26 Food Department ^{Rs.} 100/-

Demand 58 Emigration - External ^{Rs.} 4,14,000/-

Demand 72 Post-war - Planning and Development ^{Rs.} 97,31,999.

General Demands.

Supplementary Budget -

Demand No.59 - Emigration External ^{Rs.} 1,23,000/-

All the major reductions were restored and the token cuts accepted

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Year.

1946-47 Budget:

XXIV (Contd.)
Reductions proposed & carried

Reductions restored and accepted by the Government.

Railway Demands.

Demand No.1 Railway Board - Rs.600/-
Demand No.12 - Open line works
- Rs.3,47,98,000/-

The Government accepted reductions up to Rs.200,000/- under the Demand No.12 (Open line works - Railway) and the token cuts. The rest of the reductions were restored.

General Demands

Demand No.11 - Ex-Council - Rs.3,55,000/-
Demand No.15 - Dept. of Information & Broadcasting - Rs.93,34,000/-
Demand No.26 - Food Dept. - Rs.100/-
Demand No.51 - Aviation - Rs.100/-

Supplementary Demands

Railway

No.12 - Open line works - Rs.5,73,750

General

Demand No.1 - Customs - Rs.100/-

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During the first Assembly, 1921-23 the reductions were moved with a view to ensuring economy. Only in 1923, the provision of Rs.3,00,000 for the Royal Commission on Services was rejected as the House was opposed to the very policy of appointing it. It was mainly an expression of political grievance. Later, however, the tendency towards reducing demands on political grounds increased. The first four Demands rejected in 1924 had nothing to do with economy or any other aspect of financial policy.¹ The Executive Council, the Army Department, the Railway Board were the most frequent targets of drastic reductions.² Only Re.1/- was left in case of drastic reduction. In the period of political controversies, the votes on Demands for Grants did not always assume the true character of true voting on supply.

The Indian politicians were not however always at one in opposing the financial proposals on political grounds. There were some non-official members in the Assembly who were more inclined to treat the financial issues on their merits. One incident may help to illustrate this. In the Budget session, 1925, Pandit Motilal Nehru moved that the Demand under the head Railway Board should be omitted.³ His argument mainly concerned the irresponsible

1. L.A. Deb., 1924 - p.1419-30 ~~and 1410.~~

2. See also Chapter IX for discussion of some drastic reductions for the ventilation of political grievances.

3. L.A. Deb., 1925 - p.1483.

character of the Railway Board under the existing Constitution. But Mr. Jinnah, the leader of the Independent group opposed Nehru's motion. He pointed out that it was not fair to refuse supplies merely on the political grounds as their refusal would involve the non-payment of the salaries of a large number of employees.¹ Pandit Nehru's motion was then rejected by 66 votes against 41.² The division was very significant not only because it displayed the different attitude of one group towards the financial procedure, but it also marked the rift in the coalition of the Swarajists and the Independents.

Whenever a demand was reduced or refused by the Assembly, the Governor-General was empowered to restore the amount in part or full.³ This power was frequently exercised in order to restore the rejected or reduced demands and it had always been an object of criticism.⁴ It aggravated the strained relationship between the Executive and the non-officials in the Central Assembly. The Congress outside the Assembly was led to form a pessimistic view of the financial powers of the Central Legislature which can be found in a Presidential address to

1. Op cit - p.1503.

2. Op cit - p.1514.

3. 67A(7), Govt. of India Act., 1919.

4. See Table ^{XVII} for a list of reductions made and restored by the Governor-General.

the 41st session of the Indian National Congress:

'In the first place, the Legislature has no power of purse. Nearly three-fourths of the expenditure of the Government of India excluding the Railways is withdrawn from the vote of the Assembly, and as to the remaining fourth, the Government is empowered to restore any demand which has been refused or reduced by it.'¹ The opinion against the use of special powers was also very strong inside the Assembly. In the Simla session, 1923 the non-officials recorded their protest in a formal resolution which urged the Governor-General to use his special powers only in genuine emergencies.² In 1929, Srinivas Iyengar severely criticised the Government for the restoration of the cuts in the demands. He described that action as a challenge to the popular representatives.³

The drastic reductions by the Assembly and their prompt restoration by the Governor-General which have just been discussed point to certain conclusions. Firstly, the Indian politicians had shown some lack of responsibility when they refused supplies on political grounds. It virtually compelled the Executive to exercise extra-ordinary powers. Secondly, the Executive, for its part, failed to

1. Indian Annual Register, 1926 - vol.II - p.293.

2. L.A. Deb., 1923 - pp.4301-4338 (4th July).

3. L.A. Deb., 1929 - p.2046. 18th March.

show sufficient respect for non-official opinion in restoring the cuts again and again which created disillusionment about the real extent of the powers of the Assembly. Finally, it revealed the essential difference in financial procedure between the House of Commons and the Indian Legislature. Even if a small amount of £100/- is reduced in the House of Commons, the Government would resign. The power and influence of the Assembly was different as the Government was not subject to its censure and did not need to command a majority of the House. So the India Act, 1919 could not lead to the development of the financial procedure in the Indian Legislature exactly on the lines of the House of Commons.

Token cuts were moved primarily in order to ventilate particular grievances. The amount of taken cuts varied generally from Rs.1/- to Rs.100/-. For the first few years, there was no convenient convention as to the amount of token cuts. For example, on the 15th March, 1921, Mr. Piyari Lal Misra moved that the demand under the head 'Expenditure in England' should be omitted to the extent of Rs.1,20,000/- which was meant for the welfare of the Indian students in England.¹ As he said, the purpose of his motion was merely to elicit information on the subject. After a reply

1. L.A. Deb., 1921 - p.1124.

by Mr. C.A. Innes, the motion was withdrawn.¹ Such a huge reduction was not, of course, proposed often to obtain information. In 1932, the President did explain the position of the token cuts and advised that it would be desirable if the Members fixed an uniform figure of nominal cut, say Rs.100/-. He further ruled that the token cuts moved with a view ventilating particular grievances should concentrate on one specific point.² This rule was not however always strictly followed and the members often tried to go beyond one specific grievance. An instance of ventilating particular grievance may be given. On the 11th March, 1927 Mr K.C. Roy moved a cut of Re.1/- only under the head 'Indian Postal and Telegraph Department' which was accepted by 47 votes against 43.³ It was a motion to draw the attention of the Government to the fact that certain telegrams were not properly delivered while full charges were paid by the senders. Another purpose of moving this type of motion was to bring about a public debate on the matter. In practice most of such motions were withdrawn if the sponsor was satisfied by the reply of the official spokesmen. Only when the reply of the

1. Op cit. p.1125.

2. L.A. Deb., 1932 - p.1906-8.

3. L.A. Deb., 1927 - p.2100.

Government was not satisfactory,^{was} the motion was pressed to ensure a record in the proceedings. Token cuts moved with a view to obtaining information were also normally withdrawn after a satisfactory reply from the Government. The Governor-General did not as a rule restore the token reductions made by the Assembly.

Certain important procedures developed in the practice relating to the motions for reductions. On the 15th March, 1922, a point of order was raised concerning the procedure of moving reductions. The President then said: 'The procedure usually adopted is to take the larger reductions first.'¹ This procedure was adopted every year but it did not apply in the case of the token cuts. The token cuts were arranged in the order in which they were received in the office. On the 24th February, 1931, Mr. B. Das raised a point of order regarding the arrangement of token cuts and suggested some changes in the procedure. Then the President remarked: The procedure followed by the office is exactly what was followed before ... As regards token cuts, they are arranged in the order in which they are received and it would be difficult to follow the procedure that the Honourable Member suggests.²

No motion for general reduction of all the demands was allowed. On the 14th March, 1922, Dr. H.S. Gour moved

1. L.A. Deb., 1922 - p.3104.

2. " " 1931 - p.1173.

that all the demands be reduced by ten per cent. The Government then asked for a ruling as to whether such a motion was in order. The following ruling was then given by the President:

'A motion of this kind cannot be put from the Chair. The only motions which can be put from the Chair are those which refer to each individual grant. A general motion cannot be taken under an individual demand for grant.¹ No such motion for a general reduction was ever made after this pronouncement. Another procedure decided in the first Budget session in 1921 was that motions for reductions could not be moved by proxy. On the 16th March, 1921, Dr. Nand Lal wished to move a motion for reduction standing in the name of Rai Bahadur J.N. Majumder who was absent from the House. The President then ruled:²

'Under the Rules, he is not allowed to take over a motion from someone else! This ruling was maintained throughout.

The Council of State had a different procedure in relation to the Budget. It did not have any power of voting on the Budget.³ There were only two stages of the Budget in the Second Chamber. Firstly, the Annual

1. L.A. Deb., 1922 - p.3047.

2. L.A. Deb., 1921 - p.1147.

3. Sec. 133, Manual of Business and Procedure in the C.S.

Financial Statement was presented to the House by the Finance Secretary after a formal speech. No discussion was allowed on the occasion. But a date for discussion was fixed by the Governor-General when the non-officials were given an opportunity to express their views on the financial proposals. The temper of the general discussion was similar in manner to the Assembly, but less political. There was, however, a greater readiness among the non-officials to offer constructive suggestions with regard to finance. At the end, the Finance Secretary used to reply to the criticisms. As in the Assembly, the President could fix a time limit for the speakers, but this power was not exercised in practice as the tendency to make lengthy speeches was less prominent in the Council of State.

Once the Budget had been passed with or without modifications by the Governor-General, it could not be altered again except with the approval of the Assembly. If the Government found it necessary to incur expenditure beyond that authorised by the original demands voted, the extra expenditure needed had to be submitted for the approval of the Assembly.¹ Excess expenditures were mostly small in amount and debates on them were not very important. Such expenditures were placed before the House in the year following. Every year, however, supplementary or additional

1. Rule 49, Indian Legislative Rules.

grants were placed before the Assembly. Rule 50 of the Indian Legislative Rules provided that 'an estimate shall be presented to the Assembly for a supplementary or additional grant when the amount voted in the Budget of a grant is found to be insufficient for the purpose of the current year, or a need arises during the current year for expenditure for which the vote of the Assembly is necessary upon some new service not contemplated in the Budget for that year.'¹ An estimate of supplementary grant could also be made in respect of a demand previously refused by the House. The procedure of voting the supplementary grants was identical with that of the original Budget.

It is interesting to note that the debate and voting on supplementary grants was far less exciting than that of the original Budget. One reason was that the non-officials were not permitted to use these demands for general debate on policy except in the cases of proposals for new services. On the 20th February, 1924, a member was going to discuss the whole field of Income Tax Administration while speaking on a supplementary demand under the head income-tax. The President then ruled that

1. Rule 50, Indian Legislative Rules.

~~the~~ discussion on general policy could only be made when a provision of a new service was included in the additional grants.¹ The procedure was drawn from the practice of the House of Commons.²

Another reason for the debate being less lively was that very few motions for reductions were proposed. From 1921 to 1947, only ~~four~~ times supplementary demands were reduced by the non-officials when the drastic reductions were restored by the Governor-General.³ There was not much scope for the non-officials to influence supplementary expenditures by formal reductions as in practice the greater part of the supplementary demands were already incurred. On the 16th March, 1929 the President pointed out to the Government that the money already spent should not be moved under Supplementary demands.⁴ Then Sir George Rainy, on behalf of the Government, explained that it had been the usual practice that the greater part of the supplementary demands asked for had already been incurred. The President then observed that he would not stop the Government from proceeding in view of the past practice but advised that in future the Government should

1. L.A. Deb., 1924 - pp.3188-98 also Presidents Ruling on 25th March, 1939, pp.2771-74.

2. Jennings - Parliament - p. 302.

3. See Table XXI

4. L.A. Deb., 1929 - p.1989.

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regularise the procedure.

As the Finance Member used to point out from time to time, the procedure of coming to the Assembly for supplementary grants was inconvenient from the administrative point of view. The complaint was, however, natural from an Executive not responsible to the Legislature. But it gave an additional opportunity to the non-officials to scrutinise the administration and expenditure. Though the debates were of an unimportant character except in rare cases, the procedure compelled the departments to keep within their estimates. It also compelled the officers to estimate their expenditures properly. Under the earlier system, the departments could not be adequately restrained from having liberal estimate of their expenditures, The old practice of providing ~~very~~ huge reserve fund in the Budget had also to be abandoned by the Executive. It can, therefore, be concluded that the procedure for Supplementary Demands extended an important limitation over the Executive.

The Finance Bill.

The Finance Bill was intended to give legal effect to the new financial proposals voted by the Assembly in the Annual Budget. There was no special procedure laid down in the Indian Legislative Rules for the Finance Bill except that it could not be introduced by any non-official member.

But in practice some new procedures developed in relation

1. In practice, as far as possible, the Government did not incur supplementary expenditures before they were actually sanctioned .

to it. On the 17th March, 1921, the Finance Member introduced a motion to send the first Finance Bill to a Joint Committee of the two Houses.¹ He started with the assumption that the Finance Bill should follow the same procedure as ordinary Bills. As the Finance Member said, if the Bill was sent to a Joint Committee, there would be no need to send it to a Select Committee. Dr. H.S.Gour a distinguished moderate leader in the Assembly raised the constitutional point that the Finance Bill should be considered by the Legislative Assembly first and then it should go to the Council of State.² He argued that only this procedure could ensure the effective authority of the Assembly over the Budget of which the Finance Bill was an essential part. Dr. Gour was then followed by a number of leading non-official members who supported his contention.

The Finance Member was then convinced that the non-official members as a whole were in favour of Dr. Gour's suggestion. He then withdrew his own motion and moved for taking the Bill into consideration.³ The new arrangement was a change in the procedure achieved through the co-operation of the two sides of the House. Henceforth, the Finance Bill was neither sent to a Joint Committee nor to

1. L.A. Deb., 1921 - p.1199.

2. Ibid.

3. L.A. Deb. 1921 (17th March) - p.1228.

a Select Committee. The Bill was always introduced in the Assembly. After the first stage of introduction, the Bill was considered and passed with or without amendment in the Assembly and then it was sent to the Council of State which could approve it with or without modification. If the Council of State introduced any change, the Bill would have come again to the Assembly for its consent. This arrangement became a convention of procedure in the Central Legislature. Another non-official member moved an amendment which sought to limit the operation of the Finance Bill to one year.¹ His proposal intended to introduce the practice of the House of Commons and compel the Executive to come every year before the Legislature to renew or modify their taxation proposals. The Government accepted the amendment and the convention was strictly followed. This provides another example of flexibility of procedure in practice.

The real debate on the taxation proposals began when the Finance Member moved the motion for taking the Bill into consideration. Apart from criticising taxation, non-officials took the opportunity to ventilate political grievances,² as well as to criticise the administration. As the President once remarked when supporting the

1. L.A. Deb., 1921 - p.1255.

2. For discussion about political grievances see Chapter IX.

criticism of a non-official member, the whole administration came under the review of the Legislature while considering the Finance Bill.¹ Specific Departments were also criticised. The official spokesmen were supposed to be present when their Department was undergoing criticism. On the 19th March, 1934 it was brought to the notice of the Chair that the Member in charge of the Department being criticised was not present.² The President then observed that it had never been the practice for every member of the Government to be present. But he advised that some arrangements should be made for there to be someone on behalf of the Government to take notes and watch the proceedings.³ Though the members of the Executive Council could not always be present in the Assembly, it was the practice to have some one from the Government to take notes. Non-official criticisms were answered by the Government spokesmen towards the end of the debate.

The Salt Tax was the most important item criticised and condemned by the non-officials. It created maximum bitterness between the Indian Legislature and the Executive. It was, by and large, a political and sentimental issue. The argument against it had always been the same - poor

1. L.A. Deb., 1927 - p.2717 - 24th March.

2. L.A. Deb., 1934 - p.2502

3. Ibid.

people must not be subject to taxation. The first controversy started in 1923 when the Government proposal to raise the salt tax from Re.1-4-0 to Rs. 2-8-0 was rejected by 55 votes against 48.¹ The majority against the Government was not large but the division list indicates that practically all the non-officials voted against the Government. The strong views of the non-officials on this issue may be illustrated by a quotation from Sir Sivaswamy Aiyer:

'I may state with a fair amount of confidence that, so far as the proposal for the enhancement of the Salt duty is concerned, there is practical unanimity on the part of the non-official element in this House that the enhancement of the salt duty can not be allowed to pass.'² The Bill was eventually certified by the Governor-General restoring the salt tax and placed before the Council of State which approved the measure without division.

There were a few more conflicts over salt tax in the following years. In 1925, non-officials reduced it from Re.1-4-0 to Re.1/- only. But the Council of State inserted an amendment restoring the official proposal. After a heated discussion, the amendment of the Council of State was accepted by the Assembly by 70 votes against 50.³

1. L.A. Deb., 1923 - p.3757.

2. L.A. Deb., 1923 - p.3757.

3. L.A. Deb., 1925 - p. 2734

The maximum number of the non-official members opposed the amendment of the Council of State. In 1927, the salt duty was reduced from Re.1-4-0 to ten annas by 50 votes against 48. Again the Council of State restored the official proposal which was ultimately accepted in the Assembly by 52 votes against 41.¹ The story was repeated in 1929 when the salt tax was again reduced from Re.1-4-0 to Re.1/- by 56 votes against 44.² After 6 days on the 28th March 1929, Sir George Schuster, the Finance Member brought in the Finance Bill again for reconsideration of the earlier reduction. Previously, only the Bills with a recommendation by the Governor-General had been returned for a reconsideration, which was permissible under the Constitution.³ The Finance Member's action was at once condemned by the non-officials as an attempt of the Executive to coerce the Legislature.⁴ The President did not, however, hinder the Finance Member's motion but asked the Government not to repeat this procedure in future.⁵ The motion to reconsider the earlier decision restoring the original rate was adopted by 46 votes against 41.⁶ Never

1. Op cit - 2952.

2. L.A. Deb., 1929 - p.2384.

3. Sec. 67(B), Govt. of India Act, 1919.

4. L.A. Deb., 1929 - p.2556.

5. Ibid - "

6. L.A. Deb., 1929 - p.2585.

again did the Government repeat that procedural innovation.

By 1930, it seems to have been accepted by the Government that any attempt to raise the salt duty above Re.1-4-0 would be strongly resisted by the non-officials in the Assembly and that the procedure of certification would only add to the Government's unpopularity. A new controversy over Income-Tax began in 1931 when the Assembly passed an amendment to lower the rates of income tax by an amount which would reduce the yield by about Rs.235 lakhs.¹ A compromise was offered by the Government when the Governor-General recommended an amount which would have reduced the yield by Rs.105 lakhs; but the Assembly rejected this proposal. The Finance Bill was then certified by the Governor-General and laid before the Council of State which approved the Government's compromise proposal by 32 votes against 6.² In 1935 this controversy arose again when the Assembly reduced the Income-tax and postal rates. The Bill was eventually certified and approved by the Council of State.³ The same story of certification was repeated in the years from 1936 to 1940 when the Finance Bills were certified and passed by the Council of State. During the absence of Congress Party from the Assembly during the War years, the financial procedure functioned

1. L.A. Deb., 1931 - p.2689 (25th March)

2. C.S. Deb., 1931 - p.435.

3. C.S. Deb., 1935 - p.890.

normally. The Finance Bills from 1941 to 1943 were passed by the Assembly and there was no need to invoke the power of Certification. In 1944, the Finance Bill was rejected by the Congress-men by a majority of one vote only.¹ The story was repeated in 1945 when the Finance Bill was negatived on 26th March by 58 votes to 50.² The Finance Bills of 1944 and 1945 were not treated on their merits; they were refused only to record political dissatisfaction.

Certain conclusions may be deduced from the story of the rejection of the Finance Bills and their certification. Firstly, the politicians showed that they were not ready to face the unpopularity which would have resulted from their acceptance of the Government proposals for taxation. Secondly, the Assembly sometimes refused to support taxation on political grounds as they did in the case of the Demands for Grants.³ The rejection of the Finance Bill in 1944⁴ had no justification whatsoever except on political grounds. As a result of this mixture of political grievances with financial procedure, the Indian politicians failed to treat the Finance Bills on their merits. Thirdly, the certification of Finance Bills helped to cause frustration among the political circle of

1. L.A. Deb. 1944 (27th March) - p.1616.

2. L.A. Deb. 1945 (26th March) - p.2072.

3. See Chapter IX .

4. Ibid .

India as it demonstrated the powerlessness of the Central Legislature. Special powers designed for emergencies were frequently exercised by the Executive only to defy the non-officials in the Central Legislature. In all the major conflicts over taxation, the Assembly's view did not prevail even once. Every time the Executive had its way by means of extra-ordinary powers of certification.

The conflicts over the Finance Bills had also revealed the attitude of the Council of State towards financial procedure. Non-official members in the Council of State had, on the whole, shown a moderate and reasonable attitude towards the financial questions. It was not so eager to use the financial procedure for political purposes. Indeed, one finds a general readiness in the Council of State to support the Government. The 11 Finance Bills which were placed before the Council of State in certified forms were passed without any modification whatsoever. Even the Finance Bill of 1924 which was rejected in the very first stage and did not undergo any deliberation at all was passed by the Second Chamber without any modification. This might lead to a conclusion that the Council of State was too submissive to the Executive. It was however assumed by the non-officials that no modification was possible in a certified Bill. On the 11th April, 1935, Mr. P.N. Saprú, a non-official member remarked that it was useless to debate on a certified Bill as no proposal could be altered.¹

1. C.S. Deb., 1935 - p.768.

Then the President made the following remarks on the procedure with regard to the certified Finance Bills laid before the Council of State:

'The Honourable Member is under some misapprehension in regard to recommended Bills... A recommended Bill does not necessarily imply that the Governor-General is not liable to make any new changes or accept any amendments if this House makes it.'¹

As in the case of the other Bills, non-official members were entitled to move amendments to the separate clauses of Finance Bills. But such amendments could only propose to reduce the amount of tax. This undoubtedly gave an opportunity to the Indian politicians to try to reduce the proposals for taxation. Amendments proposing to increase taxation were not allowed. One significant incident may be cited in this connection. On the 19th March, 1923, before the clauses were taken up for consideration, Sir M. Hailey, on behalf of the Government asked for a ruling on the admissibility of amendments proposing increased taxation and of amendments to Acts not mentioned in the Finance Bill.² As there was nothing laid down in the Rules and Standing Orders regarding this point, the President referred to the procedure of the House of Commons

1. Op cit - p.768.

2. L.A. Deb., 1923 - p.3718.

and ruled that 'neither the House of Commons nor the Legislative Assembly is empowered to increase a demand for grant.'¹ After this ruling no such amendment was ever introduced by any non-official member.

Non-official amendments to alter the mode of assessment of taxes were also inadmissible. On the 17th March 1922 when a member wanted to add a provision to clause 7 of the Finance Bill, the President observed that an amendment, in so far as it attempted to alter the method of assessment of income-tax, was not in order.² But a non-official amendment to maintain the status quo was permitted. It was ruled by the President when in 1934, Mr. Vidya Sagar Pandya moved the deletion of sub-clause (1) of Clause 3 of the Finance Bill which in fact meant the retention of export duty on hides.³ On the third reading of the Finance Bill, a member was required to confine his remarks on the general consideration of the bill. This was ruled by the Chair on the 29th March, 1940, when a member wanted to get into the details.⁴

As a result of those restrictions, non-officials were not left with much scope to influence taxation policies. When a lower rate of taxation on any particular item was unacceptable to the Government, the non-officials were unable

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1. L.A. Deb., 1923 - p.3718.
 2. L.A. Deb., 1922 - p.2583.
 3. L.A. Deb., 1934 - p.2583.
 4. L.A. Deb., 1940 - p.1962-63.

to offer any formal alternative proposal of raising taxation on which they might have been agreed. During the second reading of the Bill, the non-officials could extend suggestion for alternative taxation only by way of general discussion.

Financial Committees: Public Accounts Committee and Standing Finance Committee :

This discussion of financial procedure will remain incomplete without some reference to the Public Accounts Committee and the Standing Finance Committee of the Central Legislature. The main purpose of their introduction in the 'quasi-parliamentary' institutions under the 1919 Reforms was to encourage the closer association of Indian politicians with financial administration. From 1921,^a Public Accounts Committee was regularly constituted at the Centre as well as in the provinces.¹ The Public Accounts Committee owed its existence to the provisions of Rule 51 of the Indian Legislative Rule made under Sections 67(1) and 129A of the Government of India Act, 1919. Its functions were precisely set forth in Rule 52 of the Indian Legislative Rules. In scrutinising expenditure, it was the duty of the Public Accounts Committee to satisfy itself:-

'(a) that the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or proposal to which they have been applied or charged;

1. Wattal - Parliamentary Finance Control in India p-172.

(b) that the expenditure conforms to the authority which governs it; and

(c) that every re-appropriation has been made in accordance with such rules as may be prescribed by the Finance Department.'¹ It was also the duty of the Public Accounts Committee:- (a) to examine such trading, manufacturing and profit and loss accounts and balance sheets as the Governor-General may have required to be prepared, and the Auditor General's report thereon; and (b) to consider the report of the Auditor General in cases where the Governor-General may have required him to conduct audit of any receipts or to examine the accounts of stores and stock.²

On the 22nd February, 1921, the Finance Member of the Government of India, introduced the following motion for the election of the first Public Accounts Committee:

'With a view to the constitution, in pursuance of Rule 51 of the Indian Legislative Rules, of a Committee on Public Accounts consisting of not more than 12 members, this Assembly do proceed to elect 8 members of the said Committee.'³ The motion was made exactly in pursuance of the statutory provisions, but the Finance Member tried briefly to explain the role of the Committee. As he said, the chief function of the body was 'to satisfy itself that the money voted by the Assembly has been spent within the scope of the demand

1. Rule 52, Indian Legislative Rules.

2. Ibid.

3. L.A. Deb., 1921 - p.333

granted by the Assembly'.¹ He further explained that the Public Accounts Committee would call the attention of the Assembly to any case in which there was proved to be either an offence against the financial rules or waste of public money and it would be the duty of the Assembly to take proper action on its Report by adopting any resolution or any other constitutional means. The non-official view of the Public Accounts Committee may be found in the words of Mr. B. Das who worked for several years in the Committee: 'The purpose of the Public Accounts Committee is stricter financial control ... It is only in the Public Accounts Committee that we see how the finances have been spent'.²

One advantage of this scrutiny by the P.A.C. was that for the first time as a result of the 1919 Reforms, the officials of the various departments were brought face to face with a responsible body of representatives of the Indian tax payers. Obviously, it led the various departments to spend money in a manner which could be justified before the Committee. One practical fear was that any irregularity in expenditure could expose the inefficiency of the Department concerned and lead to the loss of prestige. The first P.A.C. which examined the accounts of 1921-22 realised its value and justified its existence.³

1. Op cit.

2. L.A. Deb., 1931 - p.762.

3. 'We are convinced that the existence of the P.A.C. and the knowledge that it will be due course scrutinise the accounts of the year's expenditure, examine witnesses from particular Departments, and call on the Government for explanation of any irregularities or any failure to keep expenditure on voted items within limits voted by the Assembly will be most helpful in introducing new methods and machinery into the Departments of Government of India in dealing with voted expenditure.' (Para.4 of the Interim Report of the P.A.C. 1921-22).

The regularisation of excess expenditures was another achievement of great importance which was brought about by the recommendations and scrutiny of the Committee. The P.A.C. of 1921-22 made the following recommendation to the Government regarding the regularisation of excess grants:

'If after the accounts for the year are closed, the total grant under any demand has been exceeded, the excess ought to be regularised by the vote of the Assembly.'¹

The recommendation 'marked the first milestone on the road to the development of parliamentary control of expenditure' and in the later years became a rule.² Every year the Committee used to point out the excess under individual grants which required the approval of the Assembly.

The principal job of the P.A.C. was to discover irregularities which inevitably entailed detailed and careful scrutiny of the account. An example may be mentioned in this connection. The P.A.C. Report on the accounts of 1922-23 pointed out an instance of excessive leave to an official.³ Some 'misclassification' of accounts was pointed out by the Committee of 1923-24 and strong recommendations were made for maintaining the accounts in proper order.⁴

1. Op cit.

2. P.A.C. Report, India, 1958. p.4. (The Report has discussed certain *historical* developments of the P.A.C.)

3. Para. 15, P.A.C. Interim Report, 1922-23.

4. P.A.C. Report, 1923-24 - para. 27.

Sometimes, the Committee used to obtain assurances from the officers not to repeat their mistakes in future. Certain faulty estimates in East Bengal Railway were pointed out to the officers of the Department who appeared as witnesses and they promised the Committee not to repeat those faulty estimates in future.¹ Scrutiny of the accounts thus became an indirect and limited way of controlling public expenditures in co-operation with the officers.

It was claimed in the Simon Report that the P.A.C. had 'notably enlarged the authority of the Assembly'.² There is undoubtedly an element of truth in it, but the Simon Report seem to have overstressed the point. The P.A.C. was a body without any executive powers. It could point out irregularities or improprieties and make recommendations, but it was not authorised to issue any orders or disallow any item of expenditure. The Report was presented to the Assembly but no formal discussion on it was held until 1931, after which the Report was regularly discussed. So the Committee was virtually dependant on the Executive for the implementation of its recommendations. However, the Reports of various years do not indicate any reluctance of the Executive to implement the recommendations of the Committee. In 1931, Dr. B. Das spoke highly of the Finance Member's co-operation with the non-officials.³ Even in England the reports of the P.A.C. are in practice implemented by

Epitome of the
1. P.A.C. Reports, 1928-29 - para p. 219

Report of the
2. India Statutory Commission Report (Simon), 1930 - Vol. 1 - para 429

3. L.A. Deb., 1931 (Delhi) - p. 762.

the Treasury taking up specific recommendations with the individual departments.¹ In India, however, the context in which the P.A.C. operated was essentially different. The Chairman of the Committee in England is by convention, a senior member of the opposition often an ex-junior Minister experienced in financial matters.² But the Finance Member, a member of the Executive Council was the Chairman of the Committee in India.³

The presence of the Finance Member in the Committee seems to be a paradox since the non-officials were supposed to examine the very action of the Executive to which the Finance Member belonged.⁴ It naturally restricted the Committee's freedom of action and criticism.

Even if the claim of the Simon Report that the work of the Committee was 'jealous, detailed and enthusiastic' is accepted, the fact remains that it could not rise far above its limited jurisdiction. It was not, for example,

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1. B. Chubb - Parliamentary Control over Pub. Accounts - 'Parliamentary Affairs' 1949-50 p.456.
 2. B. Chubb - Ibid.
 3. The ex-official and non-official members (European) interviewed by the present writer pointed out that cross-examination at the P.A.C. meeting always took the shape of an inquisition. Although the Finance Member presided over its meetings, he seldom interfered with the questions which the non-official members wanted to put to the government officers. Sir Jeremy Raisman recalled to the present writer that for some years Mr. Satyamurti was the virtual leader of the opposition at the P.A.C. meetings. He remembered some other prominent members of the P.A.C. such as B. Das, Manu Subedar and Sir Muhammad Ziauddin.
 4. The Hindu, Feb. 25, 1926 - '...How restricted the scope of usefulness of the Indian (Public Accounts) Committee is. The Chairman of the English Committee is usually a member of the Opposition, but in India the Finance Member, the very authority whose acts are under the scrutiny of the Committee, is the Chairman.'

competent to deal with the Defence expenditure which was entirely non-voted. Its detailed scrutiny was bound to be limited to the 'voted' expenditure. But it was accepted by 'convention' that any irregularity on the non-voted expenditures except the Defence items which the non-officials might come across could be reported.¹ Some indirect influence was however allowed in the military expenditures. In 1924 it was decided that an ad hoc Committee (Military Accounts Committee) would examine the military accounts whose report would be placed before the full P.A.C.² It was however not an opportunity to scrutinise expenditures so much as an arrangement to supply information to the non-officials about defence expenditures. The ad hoc Committee (Military Accounts Committee) continued to consider the Defence Accounts and submit its report to the P.A.C. till 1931 when the latter again reconsidered the procedure. In para 31 of their Report, the P.A.C. recommended that in future the Military Accounts Committee should consist of the Finance Member as Chairman, the Finance Secretary and three non-officials nominated by the P.A.C. from among themselves.³ The recommendation was accepted and the 'reconstituted Military Accounts Committee thus continued

1. P.A.C. Report, India, 1958 - p.5.

2. Ibid.

3. Ibid.

to function on that basis up to 1947.'¹ So that P.A.C. was still deprived of the opportunity to scrutinise the military expenditures directly. Its scope, therefore, did not widen very much to enlarge the authority of the Assembly over public expenditures to any significant extent.

Any account of the powers and position of the P.A.C. will remain incomplete without some reference to the Auditor-General who was undoubtedly the 'key-man' of the Committee. According Section 96 D(1) of the Government of India Act, the Auditor General was given an independent status. He was not responsible to the Executive in India. As the Finance Member put it, 'he was an authority whose verdict ~~we~~ never dared to call in question.'² But the Indian Auditor General was not comparable to his counterpart in England as in the case of the latter the Auditor General is responsible to the House of Commons. Though the Finance Member presided over the P.A.C., the Auditor General was supposed to be the technical adviser. His suggestions were obviously of great help in technical matters. Every Report of the Committee clearly indicated that the Auditor General was the technical adviser.

Out of 12 members of the Committee, 8 were elected by the 'non-official members of the Assembly according to the principle of proportionate representation by means of single

1. Report of the P.A.C. 1958 - p.10.

2. L.A. Deb., 1921 - p.333.

transferable vote.'¹ The remaining members were nominated by the Governor-General.² Up to 1926, elections to the P.A.C. took place annually according to the above principle. At the end of this year the Indian Legislative Rules were amended and thenceforth the practice was that the Committee was elected only once during the life of each Assembly.³ Of the members elected at the time of the constitution of the Committee, not less than one half selected by lot retired on the expiry of one year from the date of their election and the remainder retired on the expiry of the second year from that date. The vacancies thus created in each year were filled by election, but the retiring members were eligible for re-election. This was the most important change in the procedure of the Public Accounts Committee since its first election in 1921. The election of the P.A.C. had nothing to do with the Council of State as it was entirely a body of the Assembly.

The Standing Finance Committee was a body without any statutory recognition. To trace its origin one must get back to the recommendations of the Montagu-Chelmsford Report and the proposals of the Joint Select Committee on

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1. Rule 51(2), Indian Legislative Rules.
 2. Ibid.
 3. Rule 51(3), Indian Legislative Rules.

Government of India Bill, 1919.¹ The Standing Finance Committee was formed experimentally on the 22nd Feb., 1921, on a motion of the Finance Member.² It started with ten members elected by the Assembly and a nominated Chairman. Its functions were not strictly defined when it was formed. The Finance Member proposed³ the three following functions:-

1) Shortly before the introduction of the Budget, the Committee would be given an opportunity of examining the Civil voted estimates.

11) Proposals for supplementary grants should be examined by the Committee.

111) The Committee should deal with any schemes for fresh expenditure proposed by the Departments.

On the 11th March, 1922, Sir M. Hailey introduced a motion for the election of the Standing Finance Committee in which he made an attempt to re-examine its position.⁴ He explained that it was not possible in practice for the Committee to discharge function no.1 as stated above and suggested that functions no. 2 & 3 should be merged together to enable the Committee to examine all proposals for new votable expenditures. There was a lengthy debate on the motion and the non-officials attempted to extend the

1. Para.235 & 286, Montagu-Chelmsford Report and Clause 41 (10) of the J. & S. Committee Report.

2. L.A. Deb., 1921 - p.337.

3. Ibid.

4. L.A. Deb., 1922 - p.2973.

functions of the Committee. Finally, amendments proposed by Mr. Shahani, a non-official member were accepted without division,¹ which stated the functions as follows:-

- a) To scrutinise all proposals for new votable expenditure in all departments of the Government of India.
- b) To sanction allotments out of lump sum grants.
- c) Generally to assist the Finance Department of the Government of India by advising on such cases as may be referred to it by that Government.

Apparently, the most important function of the Committee was to scrutinise all proposals for new votable expenditures. This was undoubtedly a very significant mode of influencing the administration. But in practice it was not found possible to stick to any rigid definition of 'new expenditures'. The Finance Department had always exercised its discretion in deciding what proposals should be referred to the Finance Committee. Sir M. Hailey clearly asserted that 'right of discretion' in the debate on the 11th March, 1922. The Committee itself realised the 'impracticability' of referring all proposals to the Committee and enforcing any particular money limit.² So the Finance Committee's action was limited in practice by the discretion of the Finance Department. As the Finance Member presided over the Committee, the scope of the non-officials enquiry was further limited. All supplementary

1. L.A. Deb. 1922 - p. 2978

2. Memo on the function of the Standing Finance Committee
 V.L. Business and Procedure of the L.A. - p.98.

grants were also not sent to the Committee. Only those supplementary grants which involved substantial new expenditures were sent to the Committee.

With the separation of the Railway Budget from the general finance, a separate Standing Finance Committee for Railways was formed on the 17th September, 1924. The Committee consisted of the nominated official member of the Assembly - in practice the Financial Commissioner of Railways - as Chairman and eleven members elected by the Assembly. Its main function was to examine the estimates of the Railways on behalf of the Assembly. It was also decided as a general rule, 'to place before it all proposals of construction of new lines, all important projects of open lines works, the capital expenditure which exceed Rs.20 lakhs and all proposals for the creation of permanent appointments of gazetted rank in Railways, whether state or company managed.'¹

1. Memo on the function of the Standing Finance Committee
- Op.cit.

CHAPTER IX

POLITICAL GRIEVANCES IN THE CENTRAL LEGISLATURE

The Central Legislature served as the principal arena for ventilating political grievances. It served as a sounding board ^{for} to the political parties to ^{exert} ~~put~~ pressure for further constitutional advances. The most outstanding political grievance was the lack of self-government popularly known ^{as} 'Swaraj'. During the period under review, the nationalist struggles were being fought outside the legislatures.¹ But the Central Legislature always showed its responsiveness to the political mood outside by recording demands for further constitutional advance. The absence of responsibility in the Central Executive to the Legislature was another grievance grouped with that of self-government. Those were coupled with protests against the various other inadequacies of the Government of India Act, 1919.

It is difficult to estimate the direct bearing of the ventilation of political grievances because a vote of censure passed by the non-official members could not force

(2) See also Chapter II

the hands of the Executive in making any political concession. The Indian Executive was responsible to the British Parliament and not to the Indian Legislature. But the political demonstrations in the Indian Legislature were watched by the Executive with great interest which was communicated to the Secretary of State.¹ The Press in India as well as in England always gave wide publicity to the political grievances discussed in the Legislature. Handicapped as the Central Legislature was by the absence of any real power of overthrowing the Executive, its effectiveness is to be found in the very force with which the elected representatives protested against their political ~~limitations~~ *limitations*.

Closely allied to the questions of constitutional demands were the demands for Indianisation of the Services. The lack of opportunities for Indians in the higher services, particularly in the Indian Civil Service was a long-standing grievance of the Indians. The Declaration of 1917 which aimed at the greater association of Indians in all branches of administration in fact recognised the demands for Indianisation of the Services. After the inauguration of the Central Legislature in 1921, for several years the question of Indianisation of the Services engaged the special attention of non-official members as one of the

1. See Chapter II.

vital political issues. The various extraordinary measures arming the Executive against individual liberties and the freedom of the press also formed an important political grievance. No encroachment on individual liberty and the freedom of the press went unchallenged by the Legislature.

Of the two Chambers, the Legislative Assembly was more concerned with political issues, particularly with the question of constitutional advance. ^{This} ~~It~~ was due to the popular character of the House. The Council of State on the other hand, was a Conservative body. It did not seriously press for further constitutional advance. Never was the Government censured on political grounds in the Council of State. But some of the individual members in that House tried from time to time to bring forward political grievances which were never carried. The principal modes of expressing political grievances were the resolutions, the motions for adjournments, the drastic reductions of votable items of expenditure in the Budget and the rejection of Finance Bills.¹ Sometimes, non-official members asked questions to express indirectly the political grievances.

Demands for Constitutional Advance.

The first Assembly which was predominantly moderate in political outlook, came into operation at the height of the non-co-operation movement. Though the moderate politicians did not favour the Congress agitation outside, they did not

1. See Chapter VIII

fail to press the need for further political advance. As a matter of fact, the first battle inside the Central Legislature on Constitutional advance was fought in the very first year of the Montagu-Chelmsford Reforms. On September, 1921, Rai, J.N.M. Bahadur urged in a resolution the establishment of full provincial responsible government in 1924, the transfer of all Central departments, except Defence and Foreign and Political Relations to popular control in the same year and the establishment of full Dominion status in 1930.¹ Criticising the Act of 1919, the mover said that it did not provide a definite promise of responsible government in British India after a certain period. On behalf of the Government, the Home Member opposed the original resolution but ultimately the House accepted an amendment without division.² The amended resolution was a compromise between the official and non-official views in the Legislature showing that the progress made by India in the path of responsible government warranted a revision of the 1919 Act at an earlier date than 1929 which was fixed for the review of constitutional progress in India. The resolution was eventually forwarded to the Secretary of State for India.

The Despatch of the Secretary of State on the 2nd November, 1922, rejected the idea of an enquiry into the working of the Reforms at an earlier date than 1929 which

1. L.A. Deb. 1921 - p.955.

2. Ibid - p. 1286

was fixed for the review of constitutional progress in India. The resolution was eventually forwarded to the Secretary of State for India.

The Despatch of the Secretary of State on the 2nd November, 1922, rejected the idea of an enquiry into the working of the Reforms at an earlier date than 1929 which was suggested by the resolution mentioned above. This created excitement and concern in the Assembly. In order to express 'extreme dissatisfaction' on the Despatch, T. Rangachariar, an important non-official leader, moved a resolution in the Assembly.¹ The resolution afforded an opportunity to the non-officials to express their concern but owing to some conciliatory attitude shown by the Government the motion was not pressed to a division.

On August 2nd, 1922, Mr. Lloyd George, the then Prime Minister of Great Britain, made a speech in the House of Commons in which he described the Indian Civil Service as the 'steel-frame' of the Indian administration and said that it would never be deprived of its functions and privileges. He also spoke of the Indian Reforms as an experiment. The speech roused great disappointment and apprehension in India. A non-official resolution² adopted in the Assembly by 48 votes against 34 expressed serious apprehension about the political future and motives of the British administration. On behalf of the Government, the official members tried to

1. L.A. Deb. 1922 - p.1286.

2. L.A. Deb. 1922 - (8th Sept.) - p.344.

give a conciliatory explanation of the statement by the Prime Minister but the non-officials were not satisfied and they recorded their disapproval of the Prime Minister's speech, pressing the resolution to a division and having it adopted.

The apprehension of the Assembly was kept alive by the appointment of the Royal Commission (Lee) to enquire into the grievances of the Services. It was feared that the improvement of the conditions of the Services would strengthen the bureaucracy which was disapproved of by the Indian politicians. Mr. T.V. Seshagiri Ayyar's motion for adjournment during the Delhi session in 1923 expressed apprehension about the motives of the appointment of the Royal Commission and placed before the Assembly the grievances about the Indianisation of the Services.¹ The resolution was thoroughly debated and the official members tried to dispel the apprehensions of the non-officials. The Government members did not want a division on the motion; so the motion was carried without any division. The Council of State also faced a similar attitude among the non-officials to the Royal Commission on Services. Mr. Raza Ali moved a resolution to express disapproval of the composition and personnel of the Royal Commission but the motion was negatived without division after some discussion which emphasized the Indianisation of Services.²

1. L.A. Deb., 1923, p.1600.

2. C.S. 1923, p.1678.

The certification of the Princes' Protection Bill in 1922 and the Finance Bill, 1923 restoring the salt duty caused further apprehension about the motives of the Executive. The Nationalist element among the non-official members of the Indian Legislature began to doubt the very fundamentals of the Montagu-Chelmsford Reforms. Henceforth, the demands for political advance, the responsibility of the Executive to the Legislature, the freedom of the individual and the press became very lively issues in the Central Legislature. On the 10th July, 1923, Dr. Nand Lal moved a resolution suggesting amendments to Section 67-B of the 1919 Act in order to ensure that Governor-General's special powers would not be exercised to over-rule the decision of the Legislative Assembly.¹ Supporting the resolution, one member said: 'We have been given all the paraphernalia of a Parliament, but at the same time we have not got any real power... The Parliament did not intend that the Governor-General should exercise his powers on all and every occasion indiscriminately, he was intended to exercise his powers discriminately in order to permit this House some exercise of its powers.'² The resolution was accepted in an amended form without division.³ although the official members opposed the original resolution. The

1. L.A. Deb. 1923, p.4451.

2. Ibid p.4461.

3. Ibid p.4502.

resolution was one of the direct demands for removing the inadequacies of the India Act, 1919. Dr. H.S. Gour, the Democratic Group's leader in the Assembly moved a resolution on the 18th July, 1923, demanding more relaxation of control by the Executive framing rules under Sections 19A 96 (B)(2) and 45(A) of the Government of India Act, 1919.¹ The non-official members of the Assembly made the best use of the motion ventilating their grievances against the irresponsibility of the Executive to the Legislature. They also came out with positive suggestions for amending the rules as was possible without any drastic modification of the 1919 Act. The official members opposed the resolution on the various grounds. But the non-official members were not satisfied with the official arguments; rather they were disappointed by the concern of the Government to maintain the status quo. The resolution was ultimately carried by 43 votes to 30.²

After the failure of the Non-co-operation Movement and the arrest and imprisonment of Mr. Gandhi certain important developments took place among the Congress politicians working outside which led to the emergence of the Swarajists in the Legislatures. The second Assembly which met in Delhi in January, 1924, was very different from its

L.A. Del. 1923

1. ~~Op cit.~~ - p.4771.

2. ~~Op cit.~~ - p.4790.

predecessor in composition and outlook.¹

Undoubtedly the most important issue before the Legislative Assembly was to convey the desire for political advance in the strongest possible terms. On the 5th February, 1924, Diwan T. Rangachariar tabled a resolution recommending to the Governor-General in Council to take steps for revising the Government of India Act, 1919, in such a manner as to secure Provincial Autonomy in the provinces and full self-governing Dominion Status for India within the Empire.² The resolution initiated the historical debate on the political grievances of India particularly on the question of political advance. Moving his resolution, Mr. Rangachariar said: 'From the knowledge gained by experience in the working of the Reforms, so far as the Central Government is concerned, I say without hesitation that the machinery is absolutely defective.'³ Mr. Motilal Nehru, the leader of the Swarajist Party put forward an amendment to the original resolution which called for a Round Table Conference to recommend a scheme for the establishment of full responsible government in India. That scheme was to be submitted to the British Parliament for embodiment in a Statute. The debate continued for three full days in which all the leading non-official members took part, expressing their grievances

1. See Chapter II and Chapter V for discussion of the emergence of the Swarajists.

2. L.A. Deb., 1924, p.221.

3. *Ibid* p. 351

against the 1919 Act and demanding further constitutional advance. Pandit Motilal Nehru's amendment was carried by 64 votes to 48, practically all the elected members of the Assembly voting in its support.¹ The passage of the resolution was the first victory of the Swarajist Party in the Assembly which expressed the 'deep-seated desire for 'Swaraj' in the country.'²

The Assembly had a further opportunity to express political grievances when the Demands for Grants came for voting during the Budget session. Taking precedents from the earlier history of the House of Commons, the Assembly acted on the principle 'no supply without the redress of grievances' and rejected the first four demands of the Budget, 1924-25.³ While moving the rejection of demands, Pandit ^{Motilal} Nehru said: 'It is perfectly constitutional and legitimate means of bringing a serious grievance to the notice of the Government, and when other remedies have failed, it is the only course open to people who have outstanding grievances.'⁴ Another important member, V.J.Patel, who later became the first Indian President of the Assembly, also spoke on the occasion very emphatically: 'It is an unmistakable, emphatic opinion of the country that we

1. L.A. Deb., 1924. p.769.

2. Ibid p.3670-30.

3. Ibid p.1420-30.

4. Ibid. p.1380

should refuse supplies and we are bound to do so in pursuance of the mandate.'¹

Opposing the passage of the Finance Bill, 1924-25, Pandit Madan Mohan Malaviya said: 'So long as the Government of India Act is not revised.. I can not support taxation either now or in the future.'² After a lengthy debate the Finance Bill was also rejected by 60 votes to 57 as a protest against the unwillingness of the Government to hold a Round Table Conference which was suggested in the resolution passed earlier.³ The rejection of the first four demands of the Budget and the Finance Bill proved ineffective in forcing the hands of the Executive to redress the political grievances as the Viceroy restored the rejected demands and certified the Finance Bill under Sections 67(A)(7) and 67B (1) of the Government of India Act, 1919. But the Assembly was successful in recording their most emphatic demand for constitutional advance within the powers provided by the Act 1919 and the non-officials were backed by public opinion outside. The rejection of the first four demands and the Finance Bill was applauded by the Nationalist Press. The daily Hindu said that the action of the Assembly would 'go down in history as a memorable event'.⁴ Welcoming the rejection of the Finance Bill, the above daily described the action as a

1. L.A. Deb., 1924, p.1405.

2. Ibid. p.1915

3. Ibid p. 1959-60

~~3. Ibid p.~~

4. The Hindu, March 13, 1924.

'grand remonstrance' against the wrongs that the country had suffered at the hands of the Government.¹

The only result of the resolution demanding a Round Table Conference in 1924 was the appointment of a Committee of enquiry popularly known as the Muddiman Enquiry Committee to examine the working of the Reforms and to suggest further changes within the structure of the Constitution. The Report of the Committee was not unanimous. The Minority of the Committee wished that the Constitution should be changed in order to introduce the vital non-official demands. In the Simla Session, 1925, Sir Alexander Muddiman, the Home Member of the Government of India, moved a resolution in the Assembly urging the House to accept the Majority Report of the Muddiman Committee which only proposed minor changes within the structure of the Government of India Act, 1919.² A long amendment to the resolution was moved by Pandit Motilal Nehru, the gist of which was that immediate steps should be taken to move His Majesty's Government to make such fundamental changes in the Constitutional machinery and administration of India as would make the Government of the Country fully responsible to the Legislature. The amendment further recommended the holding of a Round Table Conference to frame a detailed scheme based on certain

1. The Hindu, March 20, 1924.

2. L.A. Deb., 1925, p.848.

principles and to place the scheme before the Assembly and then to the British Parliament. After two days' discussion in which more than 30 members took part, the amendment which came to be known as 'national demand' outside was carried against the wishes of the Government by 72 votes to 45.¹ This was one of the most important debates in the Legislative Assembly on the issue of Constitutional advance of India.

The official resolution² moved by Mr. J. Créar in the Council of State on the 11th September, 1925, to accept the principles of the Majority Report of the Muddiman Committee had a relatively smoother passage. An amendment, more or less identical with that of Motilal which had been passed in the Assembly earlier was put forward by Mr. P.C. Sethna. Mr. Sethna demanded self Government as the legitimate right for India. The motion was debated for two days after which the non-official amendment was negatived and the original resolution was accepted by 28 votes to 7.³

The policy of the Government of India towards questions of constitutional advance also came up for discussion in the Budget session, 1925. Pandit Motilal Nehru moved a motion to omit the Demand under the head 'Executive Council' which raised a lengthy discussion on the question of self-government for India and the lack of response to that demand from the Government of India. Asserting the right

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1. Op cit. p.1006.
 2. C.S. Deb., 1925, p.367.
 3. Ibid p.457.

to refuse supplies, Pandit Motilal said: 'I base my motion on the constitutional ground of refusal of supplies to a Government which has forfeited the confidence of the country.'¹ By a division of 65 votes to 48, the demand for the 'Executive Council' was refused by the non-official members as a token of censure of the policy of the Government towards the demands for constitutional changes.² On March 8th, 1926, Pandit Motilal Nehru made an important speech before the Assembly censuring the Government for flouting popular demands and for refusing political advance to India.³ He warned the Government that, unless it took great care, it would find the whole country 'honey-combed with the secret societies'. He also declared that his party would work among the electorates, organise popular forces for the final struggle, and return to the Assembly in increased strength to carry on their struggle for political reform. With those words, Pandit Nehru walked out of the Assembly with his other Swarajist members and did not take part in the proceedings of the House in 1926 except for a brief period in the Simla session.⁴ The walk-out was an extreme protest of the Swarajists against the

1. L.A. Deb., 1925. p.2344.

2. Ibid. p.2404.

3. L.A. Deb., ^{vide 8th March} 1926 ~~no~~ (~~CONFIDENTIAL~~)

4. Ibid

policy of the Government of India as well as the Home Government towards their political demands.

During the same session, 1926, Mr. M.A. Jinnah moved the omission of the Demand under the head 'Executive Council' ~~for~~ a censure of the general policy of the Government and in particular the lack of response to constitutional issues.¹ Mr. Jinnah emphatically appealed to the House to vote for the motion in order to censure the Government. After nearly two days' debate, the motion to reject the demand was negatived by 47 votes to 31.² The division went in favour of the Government because the Swarajist members walked out earlier, and the official and the nominated members voted against the motion. It is significant to note in the division list that all the elected members voted in favour of Mr. Jinnah's motion. During the life of the second Assembly (1924-26), it was for the first time that the non-official motion to reject the demand of the Executive Council was negatived. Though the motion was rejected, it afforded an opportunity to the non-officials for criticising the Executive on the constitutional issues.

During the Budget session, 1927, the Demand under the head 'Executive Council' was reduced to one rupee only by 65 votes to 56.³ on a non-official motion by Mr. M.R. Jayakar.

1. Op cit. p.2326

2. Op cit. p.2441

3. L.A. Deb., 1927 - p.1973.

This was also ~~a~~^{the} ~~of~~ ~~the~~ ~~Government~~ ~~of~~ ~~the~~ ~~constitu-~~
 tional issues. While moving the motion for reduction, Mr.
 Jayakar said: 'The one method allowed in this House in which
 our sense of great dissatisfaction and resentment could be
 brought to the notice of the House and the Government is
 by moving this cut as a vote of censure on the Government'.¹
 When the motion to pass the Finance Bill, 1927, was moved,
 Pandit Madan Mohan Malaviya again raised some political
 issues. He emphasised that a sense of responsibility
 to the Legislature should be imposed upon the Ministers as
 instruments of Government and the Government members should
 "no longer be able to have a fling at us at every step when
 they do not agree with us."² Referring to the official
 members, Pandit Malaviya continued: 'They should not insult
 us when they are not able to appreciate our arguments;
 they should regard us as equal fellow-subjects, who have
 like them a conscience, a judgment and feelings which they
 wish to express'.³ 'The Official motion to pass the Finance
 Bill, 1927 was adopted⁴ by 66 votes to 29 but it was another
 occasion to discuss the political grievances. The division
 list shows that a good number of the non-officials voted in
 favour of the official motion to pass the Finance Bill
 which indicates that they did not desire to pursue an

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1. *L.A. Deb. 1927*
Op cit. p.1922.
 2. *Ibid.* *L.A. Deb. 1927* p.2733.
 3. *Ibid* "
 4. *Ibid* p.2736.

obstinate obstructive policy though they took the opportunity of expressing genuine political grievances when the Finance Bill came up for discussion.

As usual, during the Budget session, 1928, the Demand under the head 'Executive Council' was attacked on political grounds and the demand was reduced to one rupee only by 58 votes to 53.¹ Mr. Whaman Lal, moving the motion for reduction, said: 'The purpose of the cut is to censure the Executive Council for continuing a system of Government which has been condemned by the people's representatives.'² He also referred to the irresponsibility of the Executive and said that the cut was proposed because the members of the Executive Council 'did not deserve the confidence of the House.'³

The appointment of the Statutory Commission popularly known as the Simon Commission to enquire into the working of the Reforms was announced in the autumn 1927. It caused a very serious reaction outside as well as in the Central Legislature. The A.I.C.C. in 1927 passed a resolution boycotting the Simon Commission and called upon the non-official members of the Indian Legislative bodies to denounce the Commission. During the Delhi session, 1928, Lala Lajpat Rai brought a resolution urging upon the House not to co-operate with the all-White Simon Commission

1. L.A. Deb., 1928 - p.2736. 1548

2. *Ibid*
L.A. Deb., 1927 - p.1533

3. Ibid. p.1532.

in any form or at any stage.¹ It initiated another historic debate on the political demands of the country and as a matter of fact on a very vital political issue of that period. The discussions constituted, as a matter of fact, the pivot of the whole session, and to a great extent determined the relation between the Legislature and the Executive for the future. The reason for hostility against the Commission was identical with the grievances of the Indian National Congress outside.

Supporting the above resolution, Mr. Lajpat Rai enumerated the various grievances against the Government and said: 'In my judgment the problem for India is not of Commissions, it must be tackled by representative men both from England and India in a spirit of conciliation and negotiation.'² A counter proposal to the resolution was tabled by Sir Zulfiqar Ali Khan, the leader of the Central Muslim Party in the Assembly. It declared that the constitution of the Statutory Commission deserved favourable consideration by the non-officials. The official members gave support to the amendment. After a long debate the original resolution was adopted by 68 votes against 62.³ The division list shows that a majority of the Muslim members voted against the original

1. 1. L.A. Deb., 1928. p.382.

2. Ibid. p.383.

3. Ibid. p.506.

resolution as the discussion took a communal turn. Had there been no communal issue involved, the original resolution would have been supported by a greater number of the non-officials as it put forward the burning political grievance of the day. However, the victory over the resolution was hailed with the cries of Bande Mataram (Hail Motherland) from the non-official benches.

The Council of State did not approve the policy of boycotting the Simon Commission. ~~An adopted~~^{A.} resolution to take part in the deliberations of the Commission in the Joint Conference with the non-official representatives was carried by a considerable majority.¹ Though the individual members of the non-official bench tried to raise the political grievances as a protest against the proposal of the Government, the Council of State as a body always proved weak before the Executive on vital constitutional issues.

The Budget session, 1929, came as another vital occasion to the Swarajists to raise the constitutional issues which were being mooted beyond the walls of the Legislature. As usual, the demand for grant of the Executive Council was attacked when Pandit Motilal Nehru moved a motion to reduce it to one rupee. Supporting the motion, Mr. Jinnah, leader of the Independent group said:

1. C.S. Deb., 1928 - p. 213

'I say that there is only one course open to us, now on this motion, and that is to pass this vote of censure against the Government, for failing to make an adequate response to our demands repeatedly.'¹ The motion was hotly debated and was ultimately carried by 63 votes to 52 censuring the Executive.² The Finance Bill, 1929, was also not spared from political attacks. Sir George Schuster, the Finance Member's motion to pass the Finance Bill was challenged by a leading Congress leader Mr. Srinivasa Iyenger who said: 'We must try and throw out the Finance Bill which is the one occasion when we can state in no uncertain terms our determination to win Swaraj and not to accept the present constitution.'³ After a lengthy political debate, the Finance Bill was passed⁴ by 50 votes to 39. These 39 non-officials were determined not to support the Government until their grievances were redressed.

The fourth Assembly (1931-34) was politically rather dull owing to the important developments outside.⁵ On the 17th September, 1931, one debate was introduced by a member demanding that there should be no extraordinary powers for the Governor-General in the future constitution and the

1. L.A. Deb., 1929. p.1784.

2. *Ibid*
~~L.A. Deb., 1929.~~ p.1841

3. *Ibid* p.2067

4. *Ibid*
~~L.A. Deb., 1929.~~ p.2600

5. See Chapter II for the discussion of important political developments such as Civil Disobedience and Round Table Conferences.

Executive should be made responsible to the Indian Legislature.¹ It was an important issue relevant to the political grievances often debated in the Assembly but the motion was withdrawn after some discussion considering the fact that the Constitutional issues were being mooted at the Round Table Conferences.² No other discussion about the Constitutional advance of the country took any important shape during the lifetime of the fourth Assembly.

With the entry of the Congress Party in 1935, the Central Assembly gained in political strength and prestige. The first duty of the newly-elected Assembly in 1935 was of enormous importance - namely, to pass its verdict on the Report of the Joint Parliamentary Committee. It was a monumental debate started on the 4th February 1935 on an official motion to take the Report (of the Joint Parliamentary Committee) into consideration.³ The whole attention of the country was focussed on the Central Legislature. The debate lasted for three full days in which as many as 50 official and non-official members took part. It afforded an opportunity to the political leaders to make serious criticism of the inadequacy of the proposed Reforms and they made the most of it. Muslims or non-

1. L.A. Deb. 1931 - p.643.

2. Ibid - p.652.

3. L.A. Deb. 1935 - p.262.

Muslims, it did not matter (though communal questions were ~~present~~ ^{by no means absent}), every leader denounced the British Raj, Mr. Bhulalbai Desai, the Congress leader in the Assembly made an open onslaught on the Report and moved an amendment rejecting the constitutional proposals 'root and branch'.¹ The main grievance for which the Congress sought to reject the Report was the absence of Dominion status. After lengthy debates, the Congress amendments were lost and in their place Mr. Jinnah's amendments rejecting the Federation (which, he believed, gave 90 per cent safeguards and only 2 per cent responsibility) and accepting the Communal Award and reforms in the provinces were accepted.²

Gradually the number of discussions on constitutional grievances declined in the Legislative Assembly. The Hindu-Muslim questions received the utmost prominence in Indian politics during the period and any discussion about the future constitutional set-up in India took communal shape in the Legislature. This was best illustrated when Mr. S. Satyamurti's resolution - 'Constituent Assembly' could not proceed on the 17th September, 1937 as the Muslims refused to support such a motion.³ The Congress leaders were reluctant to bring forward any debate of constitutional advance as the Muslims did not co-operate or else they raised the questions of communal representation

1. Op cit. p.266.

2. Op cit. p.575-76.

3. L.A. Deb. 1937 - p.1936.

in the Services, better deal for the Muslims etc. The War years were an era of constitutional deadlock and mass-movement outside. The proceedings of the House lost reality when the Congress absented themselves from the Assembly most of the time. One important debate was held on political grievances when on the 15th September, 1942, *when* the Home Member introduced a motion to discuss the situation arising out of the 'Quit India' resolution passed by the Congress.¹ The debate continued for four days while numerous non-official amendments were brought forward but finally the motion was not put to the vote.² It was an important opportunity to ventilate all sorts of political grievances, the most important of them being the independence of the country. One significant resolution was introduced on the 18th February, 1943, for the implementation of the Federation embodied in the Government of India Act, 1935. But the motion was negatived as the Muslim League remained opposed to the idea of Federation.³ When the Congress-men returned to the Assembly in 1944, the situation changed and the House assumed ~~the proper~~ *its former* position. On the 9th March, 1945, the demand for the 'Executive Council' was reduced to Re.1 as

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1. L.A. Deb. 1942 - p.141.
 2. Ibid p.310 (18th Sept.)
 3. L.A. Deb. 1943 - p.399.

a mark of severe protest against the existing constitutional set-up of the country.¹ The Muslim League and the Congress joined together to defeat the Government.²

Demands for the Indianisation of the Services:

The demands for the Indianisation of the Services were also pressed in the Central Legislature as an important political issue. Such demands were nothing new to the Indian Legislative bodies, but it was definitely strengthened after the inauguration of the Montagu-Chelmsford Reforms.

In the Delhi session of the Central Assembly, 1921, a significant debate on the issue was held on the resolution of Mr. Wali Mahomed Hussanally in which he urged upon the Government to 'allot one fourth portion of the high posts in the Indian Civil Service to the members of the Provincial Service.'³ The official members opposed the resolution and pointed out that such a proposal was unacceptable as the Public Service Commission, the Provincial Governments and the Government of India favoured the idea of direct recruitment to the high posts. In an amended form the resolution was adopted by 68 votes against 34.⁴ It is interesting to note that virtually all the elected non-officials voted in favour of the resolution. During the Simla session, 1921 another debate on Indianisation was

1. L.A. Deb. 1945 - p.1289-90.

2. Ibid.

3. L.A. Deb., 1921 - p.158.

4. L.A. Deb., 1921 - p.176-77.

initiated by Lala Girdharlal Agarwala's resolution demanding equalization of the number of Indians in certain posts such as the Governors of Provinces, Chief Justices and High Court Judges. The resolution was opposed by the Government and, when pressed to a division, was negatived by 41 votes to 35.¹

Mr. Jamnadas Dwarakadas, an important non-official member of the first Assembly, moved a resolution in Delhi on the 11th February, 1922, in which he recommended that the future recruitment for the All-India Services should be made, as far as possible, in India.² Mr. Dwarkadas argued on three main points; firstly, self-government was impossible while the Services were monopolised by foreigners; secondly British Civil Servants made the administration top-heavy, and thirdly, the recruitment of British officers meant a drainage of money outside the country in the shape of salary, pension, etc. Sir William Vincent, the Home Member, opposed the original resolution and pointed out that the ultimate authority to decide about Indianisation was the Secretary of State and, therefore, the Government of India was unable to accept the proposal. He also pointed out that non-official demand for the further Indianisation was being gradually ^{met} ~~achieved~~ since the inauguration of the Reforms. The resolution was modified and accepted without division.³

1. L.A. Deb., 1921 - p.1103.

2. L.A. Deb., 1922 - p.2351.

3. Ibid - p.2392.

Serious grievances against the ^{rate} ~~slow~~/of Indianisation of the higher services were expressed in a resolution of Sir Srinivas Sastri in the Council of State on the 28th February, 1923.¹ Sir S^Sastri expressed in a very eloquent speech the view that Indians were being deprived of the opportunity of holding senior posts which was a hindrance to their learning the details of the administration.² An official amendment to the original resolution was negatived by 19 votes to 13 and the original resolution was adopted without modification.³ The passage of the resolution was a very emphatic expression of their grievances against the monopoly of the higher posts by British officers only.

In 1924 Sir Alexander Muddiman moved a resolution in the Assembly urging the House to adopt the recommendations of the Lee Commission.⁴ The new Assembly with its strong Swarajist opposition was too vigorous to be persuaded by the Government. Actually, the Assembly was not in a mood to give any reasonable consideration to the recommendations as such; the non-officials were too eager to have further constitutional advance. Pandit Motilal Nehru moved the 'Nationalist amendment' which clearly stated the unwilling-

1. C.S. Deb., 1923 - p.1020.

2. C.S. Deb. 1923 - p.1020-21.

3. Ibid - p.1049-50.

4. L.A. Deb. 1924 - p.3131.

ness of the Legislature to consider ~~the~~ better conditions for the members of the Services as the future of the Services was vitally connected with the question of constitutional advance.¹ Pandit Nehru pointed out that the Commission did not have the sanction of the Indian Legislature and its recommendations were unacceptable to the Legislative Assembly. He also argued that the first Legislative Assembly was justified in opposing the appointment of the Lee Commission and the action of the House was applauded outside. After a lengthy debate Pandit Nehru's amendment was accepted by 68 votes to 48 and the original resolution was rejected.² The passage of that amendment was a turning-point in the history of the Assembly's attitude towards the question of Indianisation. It became clear to the non-officials that real control over the organisation of the Services could only be attained when India gained self-government.

The Simla Session, 1927 had an important resolution on the Indianisation of the Military Services moved by Dr. B.S. Moonjee who urged upon the Governor-General in Council 'to bring about the Indianisation of half cadre of officers of the Indian Army as recommended by the Skeen Committee.'³ Many of the important officials and non-officials took part in the debate. The Commander-in-Chief, on behalf of the

1. L.A. Deb., 1924. 3147.

2. L.A. Deb., 1924, p.3363.

3. L.A. Deb., 1927. p.3474.

Government explained that steps were being taken to give effect to the recommendations and requested the Mover to withdraw his resolution. The resolution was modified and accepted without division.

As the questions of Indianisation became gradually linked up with the demands for further constitutional advance, the Assembly did not come forward with any significant motion on this point, after 1928. But the Council of State, on the other hand, continued to press for Indianisation. This might be discussed here at some length. During the Delhi Session, 1937, two important resolutions on Indianisation were brought for discussion. Pandit KUNZRU'S resolution: Indianisation of the Government of India Secretariat demanded that at least one out of three posts (Secretary, Jt. Secretary and Deputy Secretary) in every department should be Indian.¹ The official members said that the Government was unable to commit itself on the point and the motion should not be pressed. After some discussion the resolution was negatived by 26 votes to 18. Another resolution demanding Indianisation of the Royal Indian Navy was negatived.² On the 27th February, 1941, P.N. Saprè moved a resolution, demanding the suspension of ~~the~~ British recruitment to the

1. C.S. Deb. 1937 - p.387.

2. Ibid. - p.393.

I.C.S. during the period of war. The motion was withdrawn after an assurance that the views would be conveyed to the Secretary of State.¹ A resolution demanding that further recruitment of non-Indians to the I.C.S. should be stopped was moved on the 12th March, 1946. It was an interesting debate. The Government opposed the motion and it was negatived by 18 votes to 17.²

Grievances against the restrictions on individual liberty and the freedom of the press.

Another set of grievances which were grouped together with other political issues were the restrictions on individual liberty, freedom of speech and the freedom of press. Some of these restrictions were as old as the rule of the East India Company and had been perpetuated in different forms since then. It is not possible to discuss the historical background of those restrictions within the scope of this chapter, but a brief mention of some of those might be worthwhile.

The Bengal Regulation 111 of 1818 imposed the most stringent encroachment on the individual liberty as it authorised the Government to imprison or deport any one without trial if he was considered to be a trouble-maker. The regulation was virtually obsolete till 1907 when it was revived by Lord Morley to deport some of the leading politicians connected with the agitations against the

1. C.S. Deb. 1941 - p.163.

2. C.S. Deb. 1946 - p.361.

partition of Bengal. Since then some new restrictive measures had been introduced by the Government, such as, the Prevention of Seditious Meetings Acts of 1907 and 1911, the Explosive Substance Acts of 1908 and 1913 and the Criminal Law Amendment Act of 1908 and 1913. The Defence of India Act and the Rowlatt Act also imposed severe restrictions on personal liberty which faced the strongest disapproval of the nationalist leaders of India. The Press and Registration of Books Act of 1867, the Newspaper (Incitement to offences) Act, 1908 and lastly the Indian Press Act, 1910 imposed varieties of restrictions on the freedom of the press.

All those restrictions were condemned by the non-officials of the Morley-Minto Councils but their voice was ineffective against the Executive which held the official majority in order to veto any proposal unacceptable to the Government. The inauguration of the Central Legislature with a non-official majority changed the position. The attention of the non-officials was readily directed to the removal of the restrictions on individual liberty and freedom of the Press. During the Delhi session, 1921, Mr. S.P. O'Donnell, an official member moved a resolution urging the Assembly to appoint the Press Act Committee to make the necessary recommendations as to the repeal of certain laws and the motion was accepted without division.¹ The Committee had a majority of the non-officials

1. L.A. Deb., 1921 - p. 33⁸

and made certain important recommendations about the repeal of the Press Laws. H.E. Lord Reading, the Viceroy of India, announced, while opening the Simla session of the Central Legislature in 1921, that 'legislation on the lines of the recommendations of the Press Committee' would be introduced shortly.¹ He also declared that a number of laws popularly regarded as the infringement of the liberty of the subject would also, in all probability, be repealed.²

On the 15th September, 1921, Sir William Vincent, the Home Member and the leader of the House introduced a Bill to repeal the Indian Press Act, 1919, and the Newspaper Act,³ 1908, according to the recommendations of the Press Committee. While moving the introduction of the Bill, he said: 'The Government of India have decided to accept those recommendations in full. The Bill, in fact, does nothing but give effect to the report of that Committee.'⁴ The Bill was sent to a Select Committee and later became law. At the time of the inauguration of the first session of the Central Legislature and other provincial councils, the non-co-operation movement was widespread in the country and the Executive was frequently using repressive measures in order to suppress the political movement. The non-official

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- L.A. Deb. 1921
1. ~~Op cit.~~ - p.12.
 2. ~~Op eit.~~ - p.
 3. ~~Op eit.~~ - p.339.
 4. ~~Op eit.~~

resentment against repression in different parts of India was expressed in Dr. Nanda Lal's resolution¹ in the Delhi session in 1921 which demanded abandonment of all kinds of repressive activities by the Government. On an official motion the resolution was slightly modified and it was accepted without division.²

On the 14th February, 1921, Mr. V.S. Sastri moved a resolution in the Council of State urging the Government to appoint a Committee to examine the repressive laws and suggest the procedure of their amendment.³ The resolution was carried unanimously and a Committee was appointed consisting of the officials and the non-officials. Amidst the resentment against all kind of repression, the appointment of a Committee was timely. The members of the Committee recommended that nine repressive laws or portions thereof should be repealed. The Government of India accepted those proposals and a Bill was introduced⁴ in 1922 repealing the Criminal Law Amendment Act, 1908 and several other special enactments popularly known as the repressive measures.

A long standing political grievance of the Indians was the distinctions which existed between themselves and

1. L.A. Deb. 1921 - p.1531.

2. Ibid.

3. C.S. Deb. 1921 - p.55.

4. L.A. Deb. 1922 - p.2404.

the Europeans in their mode of trial. Mr. N.M. Samarth moved a resolution in the Assembly recommending that all distinctions between Indian and European members of the Civil Service in regard to criminal jurisdiction over the European British subjects should be abrogated forthwith.¹ The resolution was amended and accepted by the Government without division in the House. The resolution led to the appointment of the Racial Distinctions Committee consisting of the officials and the non-officials of the Central Legislature. In order to give effect to the recommendations of the Committee the Racial Distinction Bill was introduced by Sir Malcolm Hailey on the 5th February, 1923.² The Bill removed some of the special advantages which a European British subject could claim at the time of his trial.

During the Delhi session, 1924 Mr. Amar Nath Dutt moved a resolution urging the Government to take immediate steps for the repeal of the Bengal Regulation 111 of 1818.³ Mr. Dutt in a very lengthy speech pointed out that the law gave a 'blank cheque' to the Executive and it denied personal liberty as detention without judicial trial was permitted under it. Pandit Samlal moved an amendment to include the Criminal Law Amendment and other repressive measures within the scope of the resolution and the amendment was carried by

1. L.A. Deb., 1922 - p.341.

2. L.A. Deb., 1923 - p.1897.

3. L.A. Deb., 1924 - p.2043.

68 votes to 44, against the wishes of the Government.¹ The resolution undoubtedly was not implemented by the Executive, but it was an emphatic expression of the non-official grievance against the restrictions on personal liberty.

In 1924, there were some revolutionary activities in Bengal which led to the murder of an Englishman. The Government was alarmed and the Governor of Bengal promulgated the Bengal Criminal Law Amendment Ordinance to deal with the revolutionary crimes by summary trial. A strong protest against the Ordinance was made through the resolution of Mr. C. Duraiswami Aiyanger in the Delhi session in 1925.² Mr. Ayyangar pointed out that the measure affected the individual liberty of the Indians as a whole and not of the Bengalees alone. Pandit Motilal Nehru, leader of the Swaraj Party criticised the Government severely for the restrictive character of the provisions. The debate on the resolution lasted for two full days and the motion was adopted by 58 votes to 45.³ In spite of the persuasive speech by Sir Alexander Muddiman, the Home Member, the non-officials voted in favour of the motion which went as a censure of the Government policy.

1. L.A. Deb., 1924 - p.2080.

2. L.A. Deb., 1925 - p.395.

3. Ibid - p.853.

Even after that serious censure of the policy of the Government, an official Bill was introduced known as the Bengal Criminal Law (Amendment) Bill during the Delhi session, 1925.¹ It proposed larger powers to the Executive to deal with revolutionary crimes in the shape of summary trial, examination of witness in camera and preventive detention without showing any cause. It was obvious that the non-official members would be infuriated by that proposal for restricting the liberties of the individual and more particularly for the intention of the Government to suppress the political agitations of the country. So the 3 clauses of a restrictive character were negatived in the Assembly when the Bill passed through the second reading. The Viceroy sent a message to the Assembly to pass the Bill in the recommended form restoring these three clauses. But again the motion to add those clauses to the Bill was negatived.²

The various powers curtailing individual liberty were frequently exercised by some of the Provincial governments, particularly by Bengal where the revolutionary activities were more frequent. On 3rd March, 1927 Mr. V.V.Jogiah moved a resolution demanding the release of the political detenus from Bengal.³ The resolution raised a debate which

1. L.A. Deb., 1925 - p.2804

2. Ibid. p.2879

3. Ibid. 1927 - p.442.

lasted for several hours in which various repressive measures and the sad plight of political prisoners was brought to the notice of the House. Pandit Motilal Nehru moved an amendment to the resolution demanding that the political prisoners should either be released or brought to trial without delay. That amendment was carried by 63 votes to 50.¹ In spite of the assurances given by the Home Member of better treatment of the political prisoners in the future, the motion was adopted to censure the policy of the Government.

The Council of State also brought forward grievances against the various repressive policies particularly about political prisoners. On September 5th, 1927, Mr. Kumar Sankar Roy Choudhury moved a resolution demanding:

- a) an order of unconditional release of political prisoners found not guilty in an open trial;
- b) the appointment of a Committee to review the cases of all other political prisoners convicted or under-trial; and
- c) the release of political prisoners who would not be found guilty by that Committee.²

Mr. Roy Choudhury took the opportunity of the debate for raising long-standing grievances against the Executive. He attacked the Regulation 111 of 1818 and the Bengal

1. Op. cit. - p.507.

2. C.S. Deb. 1927 -p.957.

Criminal Law Amendment Act, 1925, the two notorious enactments which authorised the Executive 'to challenge individual liberty'. He gave a detailed list of ~~the~~ various political prisoners who were either suffering from disease or facing other acute difficulties during their detention and internment.¹ Supporting the resolution, Srijut L. Mukherjee made a scathing attack on the repressive policy of the Government. He said, 'Sir, what I want to impress upon the House is that the Government have no justification in pursuing this repressive policy. They have no justification in curtailing the liberties of so many of our countrymen in the name of law and order without trying them in the open court of law. Sir, it violates an elementary principle not simply of British justice, but of all justice when a man is condemned unheard.'²

Like many other political debates, the resolution ended in a defeat. The Government members opposed the resolution as it was impossible to concede the proposals contained in it. The first part of the resolution was negatived by 27 votes to 14 and the rest was negatived without division.³ Though the resolution was defeated, it can be described as one of the major debates of the

1. Op cit. p.959-61.

2. Op cit. p.969.

3. Op cit. p.978-79.

Council of State on the issue of individual liberty.

The Communist movement was gaining ground in India in the 1920's and soon the Government determined to have ~~some~~ extra-ordinary powers in order to deport the Communist leaders. On September 4th, 1928, the Public Safety Bill,† was introduced by the Government to have such powers.¹ The Indian leaders opposed the Bill as it intended to curb individual freedom. After a good deal of debate, the Bill was sent to a Select Committee by 62 votes to 59. The motion to consider the Bill, as reported by the Select Committee, was rejected by 62 votes to 63 (the President giving his casting vote against the Bill).² The President ruled the Bill out when the Government wanted to re-introduce the Bill and later it was put into force as an Ordinance under the special powers of the Governor-General.

The repression carried in order to suppress the Civil Disobedience Movement were frequently brought to the notice of the Legislature by way of adjournment motions, questions and resolutions. On the 18th February, 1932, Dr. Gour introduced an important debate to discuss the repressions carried under the Ordinances promulgated by the Governor-General.³ It was a lengthy motion calling upon the

1. L.A. Deb. 1928 - p.162.

2. Ibid - p.1383-84.

3. Ibid 1932 - p.212.

Government to abandon repressive policy and to submit the Ordinances in the form of bills to the Legislative Assembly and to release political prisoners. The motion also protested against the arrest of Mr. Gandhi. It was an important debate which not only criticised the Government policy of repression but also ventilated other outstanding political grievances. The debate continued for two days, and as many as 30 non-officials took part. After a lengthy discussion, the motion was negatived by 62 votes to 44.¹ From 1935 to 1939, the Congress Party successfully resisted the repressive measures brought forward by the Government. Its success in overthrowing the Criminal Law Amendment Bill, 1936 was noteworthy.² The Congress leaders sponsored several motions demanding the release of political prisoners held without trial.

During the War years, the opposition to the official policy of suppressing individual freedom was kept alive in the Central Legislature. There was always a large number of adjournment motions moved to indicate such grievances. The huge number of Ordinances provided ample scope to the Executive to harass ~~the~~ individuals. Owing to constitutional deadlock in the provinces where Congress resigned from the Ministry, the only forum where ~~the~~ police excesses could be brought to the notice of elected representatives was the

1. ~~Op cit~~ ^{L.A. 200. 1932} - pp. 324-25.

2. See also Chapter VII.

Central Legislature. In addition to the Ordinances, the other target of most frequent attack during the War period was the Defence of India Act which was often misused by the Executive to harass individuals even in their normal activities. The main political grievance^f at that time was the release of political prisoners.¹ Every session used to see a number of resolutions on ~~the~~ political prisoners but owing to the absence of the Congress Party most of the motions were negatived. For example, K.C. Neogy's resolution demanding immediate and unconditional realisation of political prisoners was negatived by 37 votes to 16 on the 1st April, 1942.² Such periodic exhortations by the non-officials kept the Government aware of the criticism of the representatives of people.

1. The number of political prisoners in November 1941 was 6,548. This was disclosed by the Home Member on the 18th April, 1942 - L.A. Deb. 1942 - p.1654.

2. L.A. Deb. 1942 - p.1656.

CHAPTER - XRELATIONS BETWEEN THE TWO CHAMBERS

In the Council of State, the Government wanted to find an organ always ready to support official legislation. The Montagu-Chelmsford Report was quite clear on this point. It did not propose 'to institute a complete bi-cameral system but to create a second chamber, known as the Council of State, which shall take part in ordinary legislative business and shall be the final legislative authority in matters which the Government regards as essential'.⁽¹⁾ The Joint Select Committee on the Government of India Bill, 1919, did not agree with that proposal and pointed out that there was no necessity to retain the Council of State as an organ for government legislation.⁽²⁾ It recommended that the Council of State should be constituted as a 'true second chamber'.⁽³⁾ Eventually, the Government of India Act gave equal powers to the Council of State except on the voting of the Budget. It is interesting to note that the two chambers did not use the powers and opportunities available to them in an identical manner. Based on restricted franchise and dominated by the larger land holding interest, the Council of State was bound to be more conservative in its outlook. The Assembly, on the other hand, was by and large more progressive in its political, economic and social outlook.

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1. Ibid, para 277
 2. Ibid, clause 18
 3. Ibid, clause 19

So ~~the~~ conflict between the two bodies on some important issues was almost inevitable.

Normally, the Assembly did not resent the powers of the Council of State. But whenever any provision was passed by the second chamber in defiance of the wishes of the non-official members in the Assembly, the latter reacted sharply. Such major conflicts took place when the Finance Bills, rejected by the lower House, were passed by the Council of State. ⁽¹⁾ On each of these occasions, the non-officials felt very strongly about the interference by the Council of State with the decisions of the Assembly on money bills. As early as June, 1921, notice of a non-official resolution was given, affirming the principle that money-bills should originate in the Legislative Assembly and the Council of State should not be allowed to amend those so as to increase taxation. Annoyed by the Council of State's support for raising taxes, Mr N. M. Samarth moved that resolution on the 17th July, 1923. ⁽²⁾ Mr Samarth contended that the two Houses of the Indian Legislature should be given equal powers except in the share of money-bills. He also referred to the House of Lords in England and pointed out that it had very limited

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1. See Chapter VIII for further details.
 2. L.A. Deb., 1923 - p.4691

financial powers. The Government seriously opposed the motion on the plea that the authority of the Council of State was derived from the Constitution. Finally, the motion was negatived by 35 votes to 30.⁽¹⁾ The Council of State, therefore, continued to exercise its authority over money bills, though by convention they were first introduced and passed by the Assembly.

From time to time, the non-officials of the Upper House claimed the right to vote on the demands for grants. With that power only, the Council of State could fill in the gap and become equal with the Assembly. In 1927 a formal resolution was moved, demanding that the budget-grants be voted in a joint session of the two Houses.⁽²⁾ The motion was, however, negatived and the power of voting the Budget was never conceded to the second chamber. The Council of State's power over money-bills, however, proved to be of great advantage to the Executive as it always supported official proposals which were defeated in the Assembly. The readiness of the Council of State in supporting proposals for taxation had always been condemned by the non-officials in the Assembly and the press outside. It was, however, assumed by the non-officials in the Assembly that whenever they rejected an official proposal, the other House would come to the Government's rescue. One example may be mentioned in this connection.

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1. L.A. Deb., 1923 - p.4723
 2. C.S. Deb., 1927 - p.1087

In 1925, the Salt Duty was reduced by the Assembly but the Council of State inserted an amendment restoring the original official proposal. When the amendment was brought to the House for reconsideration, Pandit Motilal Nehru commented: 'Sir, the action of the Council of State was expected and fully anticipated when we came to our decision.'⁽¹⁾

Apart from ~~the~~ financial powers, the two chambers differed on political issues. A general study of the proceedings indicates that the Council of State was not sufficiently responsive to political grievances outside. Never in its history was a motion censuring the government adopted against official wishes. It did not have any clear political programme at all. The political groupings had been more or less ineffective in it. Some of the leading members of the House - such as Sir P. C. Sethna, Mr Hussain Iman, Pandit Hirday Nath Kunzru, Lala Ram Saran Das and Mr P. N. Saprú always tried to bring up political grievances but the conservative element was so strong that such motions were always rejected at the instance of the official members. Its conservatism and lack of response to political grievances ^{or} roused condemnation by the press outside which may be illustrated by a comment from the

1. L. A. Deb., 1925 - p. 2718.

Hindu: 'By a series of acts betraying their slave mentality and irresponsibility, they have, as a body, flouted public opinion in a most flagrant manner and rendered important decisions of the Assembly impotent.'⁽¹⁾

Some differences over the political issues may be illustrated here to explain the relationship between the two chambers. On the 11th September 1925, Mr J. Crear moved a resolution in the Council of State urging the House to accept the principles underlying the Majority Report of the Muddiman Enquiry Committee.⁽²⁾ Earlier, such an official resolution was defeated in the Assembly and a non-official amendment was adopted in place of the original motion. Sir P. C. Sethna moved an amendment similar to one that had been passed earlier in the Assembly but eventually the official motion was carried by 25 votes to 7.⁽³⁾ The motion provided an important occasion for the ventilation of political grievances and there would have been a united front against the government if both the chambers could have rejected the motion. In 1926, Sir P. C. Sethna moved a resolution demanding the appointment of a Royal Commission to investigate the problems of constitutional advance for India. It was one of the very few demands for constitutional

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1. The Hindu, Nov. 5, 1925.
 2. C.S. Deb., 1925 - p. 367.
 3. Ibid p. 457.

(1)
 advance but the motion was negatived. In 1927, the
 official motion to extend co-operation to the Simon
 Commission was accepted by 34 votes to 13, though earlier
 the Assembly decided against it. (2) Sir P. C. Sethna
 opposed the motion and expressed the view that it was their
 solemn duty to refuse co-operation with the Commission as
 the Assembly had already done so. (3)

The other important sphere on which the two chambers
 differed was their status and privileges. There was a
 feeling among the non-officials in the Assembly that they
 were equal in status to the members of the Council of State.
 As early as the Delhi session, 1921, Rai J. N. Majumder
 moved the following resolution: 'This Assembly recommends
 the Governor-General in Council to place the Members of both
 Chambers of the Indian Legislature on equal footing in
 respect of allowances and honorary titles to be borne by
 them during their term of office'. (4) The mover of the
 resolution contended that there was no justification for
 giving the members of the Council of State a higher rate
 for travelling and daily allowances and the designation
 'Honourable', as it reduced the prestige of the Assembly

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1. C.S. Deb., 1926 - p. 215
 2. C.S. Deb., 1927 - p. 215-16
 3. Ibid - p. 151.
 4. L.A. Deb., 1921 - p. 531.

in the popular eyes. ⁽¹⁾ Nine non-official members took part in the debate. The views on the motion were not, however, unanimous. Mr K. C. Neogy, for example, pointed out that the designation 'Honourable' would not improve the democratic character of the House. ⁽²⁾ Ultimately the motion was accepted by 50 votes to 40. ⁽³⁾ It can be said that the motion was not strictly a demand for greater powers on behalf of the lower chamber; it was only a claim for the equal right to use the title 'Honourable', and for certain emoluments. The same demand was voiced again on the 12th March, 1926, when a non-official member moved a token cut under the Demand no.29 - 'Legislative bodies'. ⁽⁴⁾ The Mover argued: 'The subject is that more allowances are given to the members of the other House and there is in my opinion absolutely no reason why the members of the other House should be treated in a different way'. ⁽⁵⁾ The motion was, however, negatived. ⁽⁶⁾

From time to time, the Council of State tried to assert its position through formal resolutions. In 1927, Mr K. C. Roy moved a resolution to inquire into the privileges and status of members of the Council of State

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1. L.A. Deb., 1921 - p. 532.
 2. Ibid - p. 536.
 3. Ibid - p. 560.
 4. Ibid 1926 - p. 2446.
 5. Ibid - p. 2447.
 6. Ibid - p. 2448.

and make necessary recommendations. ⁽¹⁾ Mr Roy asserted that the existence of the House should be accepted as a cardinal principle of the future constitutional set-up of India. He criticised the use of the term 'Honourable Members' in the Assembly and also argued that supplies for the Council of State should not depend on the vote of the Legislative Assembly, as that opportunity was used to attack the privileges of the second chamber. ⁽²⁾ Earlier in 1926, Dr Rama Rao proposed to reduce the travelling and daily allowances of the members of the Council of State in order to make it equal with the Assembly. ⁽³⁾ But there was a sharp reaction against the proposal which may be illustrated by quoting Nawab Sir Umar Hayat Khan: 'The principle should be that either you should not take anything at all, or should take something according to the dignity of the House'. ⁽⁴⁾ The motion was eventually adjourned sine die. It seems that the higher allowances and the titles were treated as essential privileges of the members in the second chamber and jealously guarded. The general feeling among the 'elders' was that they should maintain their difference from their colleagues in the

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1. C.S. Deb., 1927 - p. 438.
 2. C.S. Deb., 1927 - p. 442.
 3. Ibid, 1926 - p. 81.
 4. Ibid, 1926 - p. 85.

Assembly in whatever way possible.

The Council of State was always in a dilemma as to its utility and place in the future constitutional frame-work. The announcement of the Statutory Commission in 1927 added to the anxiety about its future status. On the 7th September, 1927, Sir P. C. Sethna moved a resolution demanding the appointment of a Committee to consider and report on:-

- (1) the constitution and powers of the Council of State.
- (2) the qualifications of members and voters thereof
- (3) the constitution of those constituencies entitled to elect Members to the Council of State, and on

(4) other incidental matters; so as to make the Council of State a proper revising chamber. ⁽¹⁾ The official spokesmen in the House opposed the motion as it was, according to them, unnecessary in view of the fact that the whole situation would be examined by the Statutory Commission. The motion was negatived, ⁽²⁾ but it gave an opportunity to discuss the future status of the Council of State. There were some members of the Council of State who thought that the House was unnecessary. On the 16th March, 1939, one member demanded that the Indian

1. C.S. Deb, 1927 -p. 1072

2. Ibid - p. 1084.

(1)

Legislatures should be unicameral and entirely elected. The motion was opposed and finally withdrawn but the debate clearly indicated the awareness of some members of the inferior status of the 'House of Elders' in practice. Later came a more radical demand for the abolition of the Council of State forthwith, in a resolution on the 27th February, 1946. ⁽²⁾ The mover of the resolution was caustic in his remarks: 'Sir, the value and influence of this House are reduced to a cipher.... and it is unable to render any useful service to the public. ⁽³⁾ One member opposed the motion and said that the Council of State had co-equal authority and powers of supervision over the Administration with the Assembly, when another member interjected: 'Really? ⁽⁴⁾ The motion was negatived by 21 votes to 15, ⁽⁵⁾ which shows how divided was the House on the question of its status and utility.

The main difference between the two chambers was to be found in the sphere of legislation. While there was no constitutional provision that all important legislative proposals should be introduced in the Assembly, it was in practice the policy of the government to do so. During the

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1. C.S. Deb, 1939 - p. 662.
 2. Ibid, 1946 - p. 159.
 3. & 4. Ibid - p. 164.
 5. Ibid - p. 170-71.

period under review, 1921 to 1947, as many as 763 bills were considered by the two Houses of which only 120 bills originated in the Upper Chamber. (1) Most of the official legislation introduced in the Council of State was non-controversial in character. One reason for the Government's introduction of important bills in the Assembly was the capacity of that House to use delaying tactics. The Assembly could easily harass the government by introducing amendments to measures passed by the other House. In March, 1921, when the two bills amending the Criminal Procedure Code, as passed by the Council of State, came up for consideration in the Assembly, a number of amendments was proposed. (2) The Home Member then deferred the motions to consider the bills. (3) This was done to give time to arrive at an official decision with regard to the non-official amendments. These two Bills were eventually re-introduced in the Assembly as new bills. One practical result of introducing important bills in the Assembly was the recognition of its power and prestige by the government. There was, however, one statutory limit to the capacity of delaying tactics by the Assembly. If the bill

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1. All the bills discussed by the two Houses did not finally become statutes as some of those were withdrawn, rejected or lapsed. More than half of the bills originating in the second chamber were non-official bills
 2. & 3. L.A. Deb., 1921 - p.1012 and 1307.

was already considered by a Select Committee in the second chamber, the Assembly could not propose to send it to a select committee again. ⁽¹⁾

An opportunity of bringing the two chambers together was given by the provision for a joint sitting. ⁽²⁾ But such a joint sitting was never convened during the period under review. Only at the beginning of each session or at the time of prorogation or dissolution of the Legislature, was a joint session of the two Houses held for an address by the Viceroy. There was also provision for committing a Bill to a joint Committee of both Chambers for consideration ⁽³⁾ From 1921 to 1947 use was made of joint Committees on only 25 occasions. ⁽⁴⁾ The Bills considered by the joint Committees were mainly of a technical character and dealt with important subjects, such as factories, electricity, boilers, mines, workmen's compensation, taxation, cotton transport and cotton cess, inheritance, the gold standard and the Reserve Bank. ⁽⁵⁾

Bills dealing with general administration, law and order or anything connected with political freedom in the country were not usually considered by the joint Committees. There was a general feeling in the Assembly of distrust. . . . /against the

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1. Rule 29, Indian Legislative Rules.
 2. Rule 38, " " "
 3. Rule 41, Op.Cit.
 4. See table - ~~XXXX~~
 5. Ibid

BILLS CONSIDERED BY THE JOINT COMMITTEES OF THE TWO HOUSES

1. Code of Criminal Procedure (Amend.) Bill, 1921
2. Indian Electricity (Amend.) Bill, 1921
3. Indian Factories (Amend.) Bill, 1921
4. Indian Income Tax Bill, 1921
5. Workmen's Compensation Bill, 1922
6. Indian Mines (Amend.) Bill, 1922
7. Indian Boilers Bill, 1922
8. Delhi University Bill, 1922
9. Cotton Transport Bill, 1922
10. Cantonments (House Accomodation) Bill, 1922
11. Indian Succession (Consolidated) Bill, 1923
12. Indian Succession Bill, 1924
13. Steel Industry (Protection) Bill, 1924
14. Carriage of Goods by Sea Bill, 1925
15. Gold Standard and Reserve Bank of India Bill, 1927
16. Imperial Bank of India Bill, 1927
17. Indian Lighthouse Bill, 1927
18. Imperial Bank of India Bill, 1933
19. Reserve Bank of India Bill, 1933
20. Parsi Marriage and Divorce Bill, 1935
21. Delhi Masjid Bill, 1941
22. Delhi Muslim Wakfs Bill, 1941
23. Hindu Code, Part I (Inestate Succession) Bill, 1943
24. Hindu Code, Part II (Marriage) Bill, 1944
25. Delhi Sikh Gurdwara Religious Endowments Bill, 1947

against the other chamber on these issues. In the Delhi session, 1921, the non-officials in the Assembly unanimously rejected the suggestion of the Council of State to refer the Criminal Procedure Code (Amend.) Bill to a Joint Committee. ⁽¹⁾ Reference has already been made to the incident when the Assembly refused to consider the Finance Bill in a joint Committee in 1921. ⁽²⁾ On the 20th September, 1922, Mr C. A. Innes moved that the Indian Mines Bill be sent to a Joint Committee. ⁽³⁾ The proposal was accepted without division but a non-official member made certain comments which sufficiently illustrated the attitude of the Assembly to the idea of sending bills to the joint select committees. He said: 'There is a provision, of course, under the rules by which it can be referred to a Joint Committee, but I think it is an extra-ordinary step only to be taken in non-contentious subjects where it would be easy to dispose of in shorter time'. ⁽⁴⁾ In 1926, the Commerce Member moved that the Indian Insurance Bill be referred to a joint Committee, ⁽⁵⁾ but there was an open attack against the other chamber. Attacking the Council of State, Mr Jamnades Mehta, a

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1. L.A. Deb., 1921 - p. 471.
 2. See Chapter - VIII for further details.
 3. L.A. Deb., 1922 - p. 695.
 4. Ibid - p. 701.
 5. L.A. Deb., 1926 - p. 108

prominent Swarajist, remarked: 'We have a wholesome suspicion of that body and we do not think that we will have the full and unfettered opportunity in a joint Select Committee where this House will have only five members and the other five members will come from that dark corner' ⁽¹⁾. Such a comment not only reflects the Assembly's attitude towards the use of the Joint Committee but also its poor opinion about the members of the Council of State.

There was a strong feeling in the Council about the Assembly's unwillingness to consider the Bills in joint Select Committees. It was felt in the Council of State that the Government was practically responsible for the gradual elimination of the use of joint committees. On the 6th March, 1933, Mr Hussain Imam moved in the Council of State a resolution urging the Government to refer important official bills to the joint Select Committees of the two chambers. ⁽²⁾ The mover openly blamed the government for neglecting the Council by not referring bills to the joint Committees. On behalf of the Government, Sir Fazal Hussain, ^{Member for the Department of Education, Health and Lands} the Land and Health Education Member, explained that it could not be done unless the other House was in agreement. The motion was negatived by 20 votes to 17. ⁽³⁾ The narrow victory of the Government indicates that

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1. Op. cit. - p. 110.
 2. C.S. Deb., 1933 - p. 219
 3. Ibid - p. 225.

the greater number of non-officials in the House wanted to enhance the power and prestige of the second chamber. It is also apparant that the Government did not dare to ~~cede~~^{recede} to the demands of the Council of State at the risk of incurring the Assembly's displeasure. As it will be seen in the table, ^(XXII) no bill of an important character was sent to joint Committees after 1933, as the five bills considered by such Committees from 1934 to 1947 were measures dealing with social and religious matters. Only two of these five bills were sponsored by the Government, so it can be said that the use of joint Committees lost its importance in the later years of the Council of State as the Government did not feel it necessary to send any important measure to such bodies.

Whenever a bill passed by the originating chamber was sent to the other chamber for approval, it could be passed with or without amendments or rejected altogether. ⁽¹⁾

Apparently, this power placed the two Houses in position of equality. But in practice it also afforded an opportunity for bitterness, one Chamber rejecting or amending another's bills. During the period from 1921 to 1947, 38 bills (excluding the Finance Bills) which

1. Rule 90 and 95. Indian Legislative Rules

originated in the Assembly were amended by the Council of State. ⁽¹⁾ Most of these bills were official. The amendments of these bills were mainly sponsored by the Government and as such the Council of State as a legislative organ did not have much scope to influence them. Even the non-official amendments in the second chamber could not get through without the support of the official members, for the Government always had a secure majority in that House. Sometimes the Assembly used to amend certain provisions against the official opposition and on such occasions the Government introduced amendments in the Council to restore the original clause. Though the Assembly resented the amendments introduced by the other chamber, it agreed to the modifications eventually, mostly without any lengthy discussions. Only a few occasions were the Council of State's amendments accepted by the Assembly subject to its further amendments. For example, in February 1939, the Assembly agreed to the Council's amendments made to the Indian Income Tax (Amend.) Bill subject to its further modifications. The Council agreed to those amendments ⁽²⁾ without discussion.

The most serious difference was shown when a bill passed by one chamber was totally rejected by the other. During the period under review, only six bills passed by the

1. See table- XXIV
 2. C.S. Deb., 1939 - p. 258 (15th Feb).

BILLS (EXCEPT THE FINANCE BILLS) AMENDED BY THE COUNCIL
OF STATE

1. Indian Income Tax Bill, 1921
2. Police (Incitement to Disaffection) Bill, 1922
3. Workmen's Compensation Bill, 1922
4. Indian Penal Code (Amendment) Bill, 1923
5. Criminal Law Amendment (Racial Disaffections) Bill, 1923
6. Official Secrets Bill, 1923
7. Indian Coinage Bill, 1924
8. Cantonments (House Accomodation) (Amend) Bill, 1925
9. Prisons (Amend.) Bill, 1925
10. Indian Bar Councils Bill, 1926
11. Indian Trade Unions Bill, 1926
12. Legal Practitioners Bill, 1926
13. Madras Civil Courts Bill, 1926
14. Societies Registration (Amend.) Bill, 1927
15. Indian Limitation (Amend.) Bill, 1927
16. Indian Succession (Second Amend.) Bill, 1928
17. Hindu Law of Inheritance Bill, 1928
18. Indian Patents and Designs (Amend.) Bill, 1930
19. Indian Income Tax Bill (Amend.) Bill, 1930
20. Indian Income Tax (Second Amend.) Bill, 1930
21. Indian Partnership Bill, 1932
22. Reserve Bank of India, 1934
23. Payments of Wages Bill, 1936
24. Indian Companies (Amend.) Bill, 1936

25. Indian Insurance Bill, 1937
 26. Durgah Khawajah Sahib (Amend.) Bill, 1938
 27. Trade Disputes (Amend.) Bill, 1938
 28. Workmen's Compensation (Amend.) Bill, 1938
 29. Employment of Children Bill, 1938
 30. Prevention of Cruelty to Animals (Amend.) Bill, 1938
 31. Employment of Children Bill, 1939
 32. Indian Cotton Cess (Amend.) Bill, 1939
 33. Indian Income Tax (Amend.) Bill, 1939
 34. Motor Vehicles Bill, 1939
 35. Excess Profits Tax Bill, 1940.
 36. Factories (Amend.) Bill, 1940
 37. Mines Maternity Benefit Bill, 1941
 38. Indian Merchandise Marks (Amend.) Bill, 1941
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the Assembly were rejected by the Council of State when they were placed for its approval. They were:-

1. Code of Criminal Procedure (Amend.) Bill, 1925.
2. Indian Criminal Law Amendment (Repealing) Bill, 1925.
3. Special Laws Repeal Bill, 1925.
4. Criminal Law Repealing and Amending Bill, 1927.
5. Ajmer-Merwara Juvenile Smoking Bill, 1933, and
6. Code of Criminal Procedure (Amend.) Bill, 1936.

All those were non-official bills and were passed, with one exception against the wishes of the Government. Two of the most important bills passed by a non-official majority in the Assembly were: Special Laws Repeal Bill, 1925, and Code of Criminal Procedure (Amend.) Bill, 1925. These were the most significant attempts of non-officials to do away with repressive measures. When these two Bills came up for (1) consideration in the Council of State, they were negatived. The attitude of the Council of State to those two bills indicates that the Government could count on the support of the second chamber to defeat any non-official attempt to legislate which went against the wishes of the Executive.

The manner in which the Government used to call upon the Council of State to defeat such bills may be illustrated here. On the 23rd February, 1925, when the Criminal Law Amendment (Repealing) Bill as passed by the Assembly came up for consideration, the Home Member vigorously opposed the

motion and said: 'This Bill has been brought in against the wishes of the Government who are responsible for law and order and who tell you with all the emphasis that they can command that they desire to retain it in the interest of peace and order and which they ask you, therefore, not to repeal'.⁽¹⁾

The Council of State's readiness to support the Executive in opposing non-official bills ^{passed} by the Assembly was of advantage to the Government. If those bills had been approved by both chambers, it would not have been easy for the Governor-General to ~~use~~^{veto} them without further straining the relations between the Executive and the Indian Legislature. But the veto of the second chamber did not bring the Executive in open conflict with the Assembly, though in practice it fulfilled the Government's objective. During the period under review, only once was a bill rejected under the initiative of the non-officials while the Government remained neutral. It was on the 13th September, 1933, when the Ajmer-Merwara Juvenile Smoking Bill, as passed by the Assembly, came up for consideration and was negatived.⁽²⁾ It was a non-official measure and the official members did not ~~take~~ vote when the House divided.

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1. C. S. Deb. 1925 - p. 250
 2. C. S. Deb. 1933 - p. 311

CHAPTER XICONCLUSION.

After the preceeding survey of the working of the Indian Central Legislature, we would like to assess its position in the system of Government in British India. The place of the Central Legislature was not that of a full-fledged Parliament though it had wider power and privileges compared to the pre-1921 legislative councils. Its status could be best described as a quasi-Parliament getting ready to assume the position of a sovereign Parliament. The peculiar position of the Legislature was intended to be purely transitional in the experiment of representative institutions in India though in fact it continued till the transfer of power in 1947. A modern Parliament sustains the Executive as well as controls it. But the Indian Legislature did not play any part of this role since the Executive was not responsible to it. Its dominant role was that of a hostile critic and often its criticism was based on political considerations which had no direct connection with the actual issues brought forward. But numerous measures were passed in co-operation with the elected representatives. The elected representatives were also successful in persuading the Executive to introduce a number of reforms in various spheres.

It cannot, however, be suggested that the Government always accepted the demands of the elected representatives. Many verdicts of the Assembly were flouted by the Executive. But one thing is certain that the Government was not too ready to use special powers. The Government was fully aware of the presence of a Legislature with an elected majority which would not give ^{an} easy time to official legislation. Yet the Executive did dare to introduce some most controversial measures. The official bloc mostly represented by the members of the Indian Civil Service did not have any training in parliamentary government, yet they showed, on the whole, great adaptability to the changed circumstances. They were, on the one hand officers and on the other politicians. Even if they would have despised the hostile Assembly in private, the members of the bureaucracy sat and listened to the criticisms and answered them often showing great parliamentary skill. The Government used persuasive and co-operative techniques to obtain support for official measures. There was a Government Parliamentary party having several whips whose main job was to persuade as many elected members as possible to vote for official measures. Even the most turbulent Home Member was anxious to see that ~~the~~ official bills were supported by the maximum number of elected members. There was every year a barrage of questions, resolutions and adjournment motions and all of them demanded directly or

^{Some} indirectly explanation from the Executive and the occasions when it refused to answer had been rare in practice. Even the slightest hesitation of the Executive to meet non-official views used to give the political parties in the Legislature an opportunity to denounce the bureaucracy in the strongest possible terms.

As an institution it was used for divergent purposes. To the Government, it was the only all-India Parliamentary institution which could be used to show that its action had the approval of elected representatives. Though the Executive was not responsible to it, the Legislature was often used by the Government as a political platform to explain official policy. An appeal to the Legislative Assembly was in fact an appeal to the country outside. To the political parties, it was a sounding board for propaganda. It was an accepted truth that the hands of the bureaucracy could not be forced into any concession. Yet the party leaders continued to bring up constitutional issues which the Government refused to accept. It seems the political leaders deliberately wanted to force the predictable refusal of the bureaucracy which itself gave a propaganda victory over the Government. It was for this purpose that the Congress Party did not permanently leave the Legislature to the ineffective moderates and the fact that /the irremovable Executive could refuse any particular demand justified the case for further advance.

The Central Legislature was an all-India forum where ~~the~~ diversified forces came into play. As ^{it} has already been noted, ^{the Legislature} it was often utilised for achieving communal interests. In doing so, the members, like that of any other Parliament, tried to be effective on behalf of their constituents. It was an important place to put pressure, for action in particular cases. The individual and the moderate members mainly brought forward particular grievances. In doing so, there was a case for personal triumph. A question or resolution in the Legislature could give publicity to a member about his efforts to do something for his constituents. Such publicity leading to social prestige could be the inducement for the local landlord or the prominent lawyer to move into politics. It was one of the reasons for which the individuals and the moderates were ready to enter the legislatures ^{even} while Congress boycotted them. Often even the moderates wanted to secure release of ~~the~~ political prisoners who were mainly Congressmen and sometimes terrorists.

The role of the Central Legislature in the evolution of responsible government was two-fold. Firstly, the Legislature continued to press for political emancipation of the country which is the prime requisite of responsible institutions. Secondly, it imparted parliamentary experience to many politicians at ^{an} all-India level who later came to occupy many important positions in the responsible

governments of independent India and Pakistan. By echoing ~~the~~ constitutional demands, the Legislature showed its responsiveness to the political mood outside. The Montagu-Chelmsford Reforms were introduced to give increasing association of Indians with all branches of administration. There is no doubt that the Central Legislature was serving this purpose most satisfactorily. During the period under review from 1921 to 1947, the Indian Legislature saw many complicated and important measures having nation-wide importance. The Indian politicians showed great ability in discussing such intricate matters relating to administration, commerce and industry. The Indian politicians, Congress or non-Congress were also receiving training in the details of administration through various Committees. Nobody would deny the importance of the nucleus of parliamentary politicians inherited by independent India and Pakistan from the pre-1947 legislatures.

One very significant feature in this connection was the shadowy beginning of parliamentary parties in the Central Legislature. It was relatively easier to form legislative parties in the provinces as some of the subjects were transferred to popular control. But in the Central Legislature, political parties were organised only to attack the Executive which often led to irresponsible criticism. The position of the Central administration without any formal responsibility to the Legislature was not on the whole favourable to the growth of parliamentary

parties on sound lines. Yet the emergence of parliamentary parties, with some features of legislative parties in full-fledged Parliaments prepared the politicians for the future parliamentary institutions. Their organisation and behaviour may not seem highly developed by modern standards but at that period their presence added to the value of deliberations in the Legislature.

Finally, the success of the Central Legislature is to be found in its effort to minimise the authoritarianism of the Central Executive. The limitations of the Legislature did not allow it to reach ~~the~~ full stature. But it never failed to censure the Government whenever it displayed a lack of respect for the legislature. As a body, it had a general corporate feeling of its own and any attack on its privileges could rouse the whole House. It served as the watch-dog of individual liberty and political freedom and no attack could be made on them without facing the tongue lashing by the elected representatives. Its persistent interpellations and frequent ^{votes of} censures constituted an indirect but regular pressure on the Executive. The Central bureaucracy however authoritarian in structure was forced to be ^{amenable} ~~obedient~~ when it was faced by a Legislature with ^{an} elected majority.

APPENDIX I

CERTAIN PROVISIONS OF THE GOVERNMENT
OF INDIA ACT; 1919 RELATING TO THE INDIAN
LEGISLATURE ARE REPRODUCED BELOW FOR

REFERENCE

63. Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.

63A (1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of

addressing the Council of State, and may for that purpose require the attendance of its members.

63B. (1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

63C. (1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General:

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.

63D. (1) Every Council of State shall continue for five years, and every Legislative Assembly for three years from its first meeting:

Provided that -

- (a) either chamber of the legislature may be sooner dissolved by the Governor-General and
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months, after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.

63E. (1) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and, if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's executive council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.

* * * * *

67. (2) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of [either chamber of the Indian legislature] any measure

affecting-

- (a) the public debt or public revenues of India or imposing any charge on the revenues of India; or
- (b) the religion or religious rites and usages of any class of British subjects in India; or
- (c) the discipline or maintenance of any part of His Majesty's military, [naval or air] forces; or
- (d) the relations of the Government with foreign princes or states:

[or any measure-

- (i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or
- (ii) repealing or amending any Act of a local legislature; or
- (iii) repealing or amending any Act of Ordinance made by the Governor-General.]

(2a) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill,

clause, or amendment, and effect shall be given to such direction.

(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose in order to discuss any difference of opinion which has arisen between the two chambers.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the

Governor-General in Council, but may with the consent of the Governor-General be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.

67A. (1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the

annual statement is under consideration, unless the Governor-General otherwise directs:-

- (i) interest and sinking fund charges on loans; and
- (ii) expenditure of which the amount is prescribed by or under any law; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and
- (iv) salaries of chief commissioners and judicial commissioners; and
- (v) expenditure classified by the order of the Governor-General in Council as -
 - (a) ecclesiastical;
 - (b) political;
 - (c) defence.

(4) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in

any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.

67B. (1) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon-

(a) if the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the

case may be) in the form recommended by the Governor-General; and

(b) if the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid,

(2) Every such Act shall be expressed to be made by the Governor General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent, until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.

68. (1) When [a Bill] has been passed [by both chambers of the Indian legislature], the Governor-General, may declare that he assents to the [Bill], or that he withholds assent from the [Bill], or that he reserves the [Bill] for the signification of His Majesty's pleasure thereon.

(a) [A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or, in the case of [a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty [in Council] has signified his assent and that assent has been notified by the Governor-General.

69. (1) When an Act of the [Indian legislature] has been assented to by the Governor-General he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [in Council] to signify his disallowance of any such Act.

(2) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

* * * * *

72. The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good

government of British India or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the [Indian legislature]; but the power of making Ordinances under this section is subject to the like restrictions as the power of the [Indian legislature] to make laws; and any Ordinance made under this section is subject to the like disallowance as an Act passed by the [Indian legislature], and, may be controlled or superseded by any such Act.

Appendix II

A STATEMENT SHOWING THE ACTUAL NO. OF DAYS ON WHICH THE ASSEMBLY SAT AND THE DAYS ON WHICH NON OFFICIAL BUSINESS WAS TRANSACTED.

SESSION	Actual No. of days on which the House sat.		No. of days on which non-official business was transacted.	
	Per Session	Per annum	Per Session	Per annum
<u>First L.A.</u>				
First Session 1921	28	43	5	10
Second Session 1921	15		5	
First Session 1922	44	59	8	13
Second Session 1922	15		5	
First Session, 1923	51	68	5	14
Second Session 1923	17		9	
<u>Second L.A.</u>				
First Session 1924	38	60	12	18
Second Session, (Special) 1924	8		1	
Third Session 1924	14		5	
First Session 1925	41	59	10	14
Second Session 1925	18		4	
First Session 1926	39	51	10	12
Second Session 1926	12		2	
First Session 1927	45	65	5	10
Second Session 1927	20		5	
First Session 1928	36	53	7	13
Second Session 1928	17		6	

Appendix II (Contd)

SESSION	Actual No of days on which the House sat		No of days on which non-official business was transacted	
	<u>Per Session</u>	<u>Per annum</u>	<u>Per Session</u>	<u>Per annum</u>
First Session, 1929	45	62	6	13
Second Session, 1929	17		7	
First Session, 1930	46	56	8	11
Second Session, 1930	10		3	
First Session, 1931	51	84	5	11
Second Session, 1931	20		6	
Third Session (Special) 1931	13		N11	
First Session 1932	46		8	
Second Session 1932	19	88	6	14
Third Session (Special) 1932	23		N11	
First Session 1933	48	97	6	13
Second Session 1933	23		7	
Third Session, (Special) 1933	26		N11	
First Session 1934	61		7	
Second Session 1934	31	92	6	13
First Session 1935	49	68	7 1/2	11
Second Session 1935	19		3 1/2	
First Session 1936	52	87	7	14 1/2
Second Session 1936	35		7 1/2	
First Session 1937	44	79	6 1/2	
Second Session 1937	35		6 1/2	
First Session 1938	45	96	9	13
Second Session 1938	30		4 1/2	
Third Session (Special) 1938	21		N11	13 1/2

Appendix I (Contd)

SESSION	Actual No of days on which the House sat		No of days on which non-official business was transacted	
	Per Session	Per annum	Per Session	Per annum
First Session, 1939	47	62	7	11
Second Session 1939	15		4	
First Session 1940	37	53	6½	9½
Second Session 1940	16		3	
First Session, 1941	34	48	6	11½
Second Session, 1941	14		5½	
First Session 1942	32	41	4	6
Second Session 1942	9		2	
First Session 1943	36	68	6	10
Second Session 1943	22		2	
Third Session 1943	10		2	
First Session 1944	37	52	3	6
Second Session 1944	15	43	3	6
First Session 1945	43	43	6	6
<u>Sixth L A</u>				
First Session 1946	60	76	7	8
Second Session 1946	16		1	
First Session 1947	47	47	4	4

APPENDIX- III

The following table shows the strength of the major political parties in the Legislative Assembly from

1921 to 1947

First Legislative Assembly 1921 to 1923

Democratic Party - 48 members - Leader Dr H S Gour

Second Legislative Assembly, 1924 to 1926

Swarajists - 48 members - Leader - Pandit Motilal Nehru

Independents - 40 members - Leader - Mr M A Jinnah

European Group - 9 - Leader - Sir Darcy Lindsay

Third Legislative Assembly 1927-1930

Swarajists - 38 members - Leader - Pandit Motilal Nehru

Nationalists - 18 members - Leader - Pandit Madan Mohan

Malaviya

Central Muslim Party and certain non-party men - 22 members

- Leader Sir Zulfiqar Ali Khan

Independents - 13 members - Leader - Mr M A Jinnah

European Group - 9 members - Leader - Sir Darcy Lindsay

Fourth Legislative Assembly, 1931-34

Nationalists - 40 members - Leader - Dr H S Gour

Independents - 30 members - Leader - Sir A Rahim

European Group - 9 members - Leader - Sir Leslie Hudson

Landholders' Group - 8 members - Leader - Raja Sir

Vashudeva

Fifth Legislative Assembly, 1935-45

Congress Party - 44 members - Leader - Mr Bhulabhai Desai

*Independents - 22 members (18 were Muslims) - Leader -

Mr M A Jinnah

Congress-Nationalists - 11 members - Leader - Mr M S Aney

European Group - 9 members - Leader - Sir Leslie Hudson

*In 1939, the Muslim League Party was formed with 26 members who were formerly Independents. The leadership of the Party remained with Mr Jinnah

Sixth Legislative Assembly 1946-47

Congress Party - 59 members - Leader, Mr Sarat Chandra Bose

Muslim League Party - 30 members - Leader - Mr M A Jinnah

European Party - 8 members - Leader Sir P J Griffiths

Independents - 3 members

Akali - 2 members

APPENDIX IV

LIST OF DIVISIONS HELD IN THE LEGISLATIVE ASSEMBLY

FROM 1921 to 1947

<u>Year and Session</u>	<u>Total No of divisions held</u>	<u>Divisions which went against Government</u>	<u>Divisions which went in favour of Government</u>	<u>Divisions on which Government remained neutral</u>	<u>Remarks</u>
1921	24	11	11	2	
1922	68	27	37	4	
1923	77	30	45	-	→ A large number of divisions were held on the code of Criminal Procedure (Amend.) Bill
1924	28	20	8	-	
1925	94	47	47	1	
1926	45	15	30	-	→ Large number of divisions went in favour of Government due to the absence of Swarajists in 1926
1927	55	26	29	-	
1928	46	16	27	3	
1929	63	17	44	2	
1930	30	5	25	-	
1931	40	12	27	1	
1932	46	9	35	2	

APPENDIX IV

LIST OF DIVISIONS HELD IN THE LEGISLATIVE ASSEMBLY

FROM 1921 to 1947

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<u>Year and Session</u>	<u>Total No of divisions held</u>	<u>Divisions which went against Government</u>	<u>Divisions which went in favour of Government</u>	<u>Divisions on which Government remained neutral</u>	<u>Remarks</u>
1933	41	2	33	6 →	Government remained neutral on all the divisions held on the Hindu Temple Entry Bills
1934	33	nil	32	1	Most of the divisions went as censures against the Government in 1935
1935	43	32	11	-	
1936	45	26	19	-	
1937	48	25	22	1	
1938	51	24	27	-	
1939	38	25	13		
1940	19	3	16	2	Most of the divisions from 1940 to 43 went in favour of the Government as the Congress members absented themselves from the House
1941	16	-	14	-	
1942	13	-	13	-	

APPENDIX II (CONTD)

LIST OF DIVISIONS HELD IN THE LEGISLATIVE ASSEMBLY FROM 1921 TO 1947

Year	Total No of divisions held	Divisions which went against Government	Divisions which went in favour of Government	Divisions on which Government remained neutral	Remarks
1943	42	2	40	-	
1944	18	13	5	-	*
1945	22	18	2	2	
1946	18	10	8	-	
1947	4	-	4	-	

* When the Congress members began to attend the sessions from 1924, most of the divisions turned against the Government

SELECT BIBLIOGRAPHY

OFFICIAL RECORDS AND REPORTS

- Proceedings of the Imperial Legislative Council, 1862 to
1920
Legislative Assembly Debates, (Official Report) 1921 to 47
Council of State Debates, (Official Report) 1921 to 47
Report on Indian Constitutional Reforms (Montagu-Chelmsford)
1918 (Cmd 9109)
Report of the Joint Parliamentary Committee on the
Government of India Bill, 1919
East India Constitutional Reforms. Report of the Franchise
Committee (Southborough), 1919 (Cmd 141)
Report of the Reforms Enquiry Committee (Muddiman), 1925
(Cmd 2360)
Report of the Indian Statutory Commission (Simon), 1930
(Cmd 3568-9)
Proceedings of the Round Table Conference (3 sessions),
1931 to 32 (Cmd 3778, Cmd 3997, Cmd 4238)
Report of the Joint Committee on Indian Constitutional
Reforms, 1934
Report of the Indian Franchise Committee (Lothian), 1932
(Cmd 4086)
The Legislative Assembly Electoral Rules, amended up to 1945.
The Council of State Electoral Rules
Manual of Business and Procedure in the Legislative
Assembly, 1945
Decisions from the Chair, 1942
The Gazette of Government of India (Legislative Department),
1921-47
India Central Office of Information - The first Legislative
Assembly, a resume of work accomplished
in the first three years
India Central Office of Information, The first Council
of State, a resume of work accomplished in the
first five years
Election Reports from 1920 to 1945
Moral and Material Progress of India, 1921 to 1935

India's Parliament, 1921 to 1928

Newspapers and Periodicals (A) (Newspapers)

The Hindu, Madras

The Leader, Allahabad

The Pioneer, Allahabad

The Times of India, Bombay

The Times, London

The Statesman, Calcutta

U P Native Newspaper Reports, 1921 to 1926, 1932-1937

The Punjab Native Newspaper Reports 1921 to 1924

(B) Periodicals

Asiatic Review, London,

'Bharat Barsa' (India) a Bengali monthly published from
Calcutta

Contemporary Review, London

Hindustan Review, Calcutta

Indian Journal of Political Science, Allahabad & O
→ Parliamentary Affairs, London

Indian Review, Madras

Modern Review, Calcutta

'Masik Muhammadi' a Bengali monthly published from Calcutta
to express Muslim views

The Round Table, London

(C) Pamphlets and Party Publications

All Parties Conference, Report of a Committee to Determine
Principles of the Constitution for India, 1928 (Allahabad
Besant, A - Indian Political Parties, Madras, 1924

'Congress and Muslim Society', Calcutta, 1930 - A Bengali
pamphlet giving reasons why the Muslims should not
take part in Civil Disobedience Movement

Datta, J M - On the use of Vote, Bangalore, 1936

Howard, Edwin - European non-officials in the Indian Legislature (1921-25), Bombay, 1926

Pal, B C - Indian Legislative Assembly, Calcutta, 1924 - an account of the Work done by the member in the Assembly, during the Delhi session in 1924

Resume of the Swaraj Party Election Manifesto for 1926 elections see the Indian Annual Register, 1926 - pp 262.

Review of the Work of the Assembly Congress Party by Satyamurti, 1936

Schamnad, Mahmud - Brief Sketch of Work done by Mr Mahmud Schamnad during his three-years' tenure in the first Indian Legislative Assembly 1923

'Tabliq' and 'Tanzim' - a Bengali pamphlet published from Comilla, Bengal in 1927 give an idea of the organisations started by the Muslims in retaliation to the activities of the Arya Samajists

'What is Arya Samaj' - a pamphlet published in Bengali from Calcutta giving the nature of activities of the Arya Samaj - 1929

Whyte, Sir Frederick - India a Bird's Eye view, London, 1942

Directories, Year Books and other Reference Publications

Indian Annual Register 1921 to 1947, Calcutta

Indian Who's Who 1937-38 by Kabadı, W P , Bombay

Thacker's Indian Directory, 1921 to 1947, Calcutta

The Times of India Year Book, 1921 to 1947, Bombay

Who's who, London

List of important articles in different periodicals

Indian Review - Dec 1921, and January and February 1922 - Series of articles written by ten members of the Central and provincial legislatures giving their experience

Indian Review, March 1922 - Political parties in India by B R Jumar

" " January, 1924 - The way to responsible government by Sir T B Sapru

" " February, 1924 - The lessons of the Elections by Mr Yusuf Ali

" " February, 1924 - The work before our legislators by Sir Visvesvaraya

- Indian Review, Sept 1925 - The Reforms in the Assembly
by N C Kelkar
- " " February, 1927 - The Party system in India
by Mr T I Omman
- " " January 1927 - The failure of Dyarchy by
S Srinivasa Iyengar
- " " June, 1927 - The Responsibility for the
existing Hindu-Muslim situation by
Mir Sir Muhammad Shafi
- " " September, 1927 - Indian Constitution by
Sir P S Sivaswami Iyer
- " " October, 1927 The Autumn Session by a student
of politics
- " " January, 1929 Communalism A study in
Comparisons by Professor N K Sinha
- " " March, 1929 - The Delhi Session by a
student of politics
- " " May 1930 - Thoughts on the political
situation in India by Sir P S
Sivaswami Ayyar
- " " January 1932 - Rejection of the Finance Bill
by Mr A Seshadary Iyengar
- " " May 1932 - The last session of the Central
Legislature by Mr A Seshadary Iyengar.
- " " October 1932 - The Communal Award by
Professor K K Sharma
- " " August, 1934 - The Congress Campaign by
Mr C Rajagopalachari
- " " December, 1934 - The Joint Select Committee's
Report by Sir P S Sivaswami Ayyar
- " " March, 1935 - The Assembly's Verdict by
Mr S Satyamurti
- " " November, 1937 - The India Act, 1935 by
C F Andrews
- " " November 1937 - Congress in its new Role by
Dr B Pattabhi Sitaramayya
- " " August, 1940 - The Excess Profits Act by
Dr B C Law
- The Asiatic Review - October 1923 - The coming Elections in
India and the future by Sir T B Sapru
- " " April, 1926 - Indian Legislature by
Edwin Howard
- " " October 1932 - The Ordinances by Sir
Robert Holland
- " " " April, 1937 - India on the eve of
Autonomy by J Coatman
- " " " April, 1939 - The Europeans in new India
by Oliver Stebbing S
- " " " July, 1945 ¹⁹⁴⁵ Indian Legislature in War
Time by Sir Frederick James

- The Modern Review - July, 1926 - Who should control the
Swaraj Party in the Legislatures by
Mr Mukunda Lal, M L C
- " " " May, 1934 - Legislative Proceedings and
Privileges of the Press by Parimal Roy
- Contemporary Review - February, 1921 - Parties and Politics
in India by H E A Cotton
- " " April, 1928 - 'Indian Reforms and the
Simon Commission' by Sir Reginald Craddock
- The Labour Monthly Digest - December, 1926 - Indian
Nationalism and Elections by Clemens Dutt
- Hindustan Review - April, 1925 - Present Political
situation in India by Lala Lajpat Rai

Books Biographies

- Banerjea, S N - A Nation in the Making, London, 1925
- Bolitho, H - Jinnah Creator of Pakistan, London, 1954
- Brecher, M - Jawaharlal Nehru London, 1959
- Campbell-Johnson, Allan - Lord Halifax, London, 1941
- Chabiani, S B and Chabiani, P - Motilal Nehru - Essays
and Reflections on his Life and Times,
Delhi, 1961
- Chaturvedi, B and Marjorie Sykes - C F Andrews,
London, 1949
- Chaudhuri, N C - The Autobiography of an Unknown Indian,
London, 1951
- Chopra, P N - Rafi Ahmed Kidwai, Agra, 1959
- Das Gupta - Deshbandhu Chittaranjan Das, Delhi, 1960
- Gandhi, M K - My Experiments with Truth or an
Autobiography, Ahmedabad, 1945
- Gopal, S - The Viceroyalty of Lord Irwin, London, 1957
The Viceroyalty of Lord Ripon, London, 1953
- Halifax, Earl of - Fulness of Days, London, 1957
- Husain, Azim - Fazlul-Husain, a political biography, Bombay,
1946
- Hutheesing, Krishna - With no Regrets, Bombay, 1952
- Irwin, Lord - Speeches of Lord Irwin, Simla, 1930
- Jayakar, M R - The Story of My Life, Vol 11 Bombay, 1959.
- Montagu, Edwin - An Indian Diary, London, 1930
- Morley, Viscount - Recollections, Vol 11, London, 1918

- Mukherjee, H and Mukherjee, U - Bepin Chandra Pal and India's Struggle for Swaraj, Calcutta, 1958
- Nanda, B R - Mahatma Gandhi, London, 1958
- Khaliquzzaman, Chaudhri - Pathway to Pakistan - a political biography, Lahore, 1961
- Nehru, J - A Bunch of Old letters, Bombay, 1958,
An Autobiography
- Parikh, Sardar Vallabhbhai Patel, Vol I, Ahmedabad, 1953
- Patel, G I - Vithalbhai Patel His Life and Times, London, 1936 Vol I & II, Bombay 1950
- Rajendra Prasad - Autobiography
- Ray, P C - Life and Times of C R Das, London, 1927
- Rufus Isaacs, First Marquess of Reading, London, 1945
- Salyid, M H - Muhammad Ali Jinnah A Political Study, Lahore, 1945
- Simon, Viscount - Retrospect, London, 1952
- Setalvad, Sir Chimanlal - Recollections and Reflections, Bombay, 1946
- Shyam, Sunder and Shyam, Savitri - Pandit Govind Ballabh Pant, Lucknow, 1960
- Templewood, Viscount - Nine troubled years, London, 1954
- Wallace, K E - Life of Sir Henry Gidney, Calcutta, 1947
- Winterton, Earl - Orders of the Day, London, 1953
- Books Others
- An Indian Mahomedan - The Indian Moslems, London, 1928
- Appadorai, A - Dyarchy in Practice, Bombay, 1937
- Aiyar, Sir S - Indian Constitutional Problems, Bombay, 1928
- Banerjee, A C - Indian Constitutional Documents, Calcutta, 1946
- Banerjee, D N - Indian Constitution and its actual working Calcutta, 1926
- Besant, Annie - Work of the Indian Legislatures, Madras 1923
- Cadogan, E - The India We Saw, London, 1935.
- Chatterjee, A - The Constitutional Development in India, 1937-47, Calcutta, 1958
- Chintamani, C Y - Indian Politics since the Mutiny, London, 1939

- Chinatamani, C Y and Masani, M R - India's Constitution at Work, Bombay, 1940
- Chitrol, Sir V - India Old and New
- Coatman, J - Years of Destiny India 1926 to 1932, London, 1932
- Coupland, Sir R - Report on the Constitutional Problem in India, Vol I The Indian Problem, 1933-1935, 1942, Vol II, Indian Politics, 1943, Vol III, The Future of India, 1944 London
- Curtis, L - Dyarchy, 1920
- Cunningham, J - Political India, 1832 - 1932, London, 1933
- Desai, A R - The Social Background of Indian Nationalism, Bombay 1948
- Dutt, R P - India Today, Bombay, 1947
- Griffiths, Sir P - The British in India, London, 1946
- 'Kerala-Putra' (K M Panikkar) - The Working of Dyarchy in India, 1919-28, Bombay, 1928
- Lal Bahadur - The Muslim League, Agra, 1954
- MacDonald, J R - The Government of India, London, 1919
- Masani, M R - The Communist Party of India, London, 1954
- Masaldan, P - The Evolution of Provincial Autonomy in India, 1858-1950
- Menon, V P - The Transfer of Power in India, Bombay, 1957
- More, S S - Practice and Procedure of Indian Parliament, Bombay, 1959
- Morris-Jones, W H - Parliament in India, London, 1957
- Pardasani, N S - How India is Governed, Bombay, 1940
- Pattabhi Sitaramayya - History of the Indian National Congress, Vol II, Bombay, 1935
Vol III Bombay, 1947
- Rudra, A B - The Viceroy and Governor-General and India, London, 1940
- Saksena, R R - A handbook of Indian Legislatures, Lucknow, 1937
- Schuster, Sir G and Wint, G - India and Democracy, London, 1941
- Sing Roy, B P - Parliamentary Government in India, Calcutta, 1943
- Speal, T G P - India A Modern History, Ann Arbor, 1961

and Garratt

- Smith, W R - Nationalism and Reform in India, Yale, 1938
- Thompson, E J - Rise and Fulfilment of British Rule in India, London, 1934
and Garratt
- Tinker, H - The Foundations of Local Self-Government in India, Pakistan and Burma, London, 1954
- Wattal, P K - Parliamentary Financial Control in India, Simla, 1953
- Wilson, F W - The Indian Chaos, London, 1933

List of the persons interviewed by the present writer

Lord Hailey, former Member of Viceroy's Executive Council from 1921 to 1924

Sir Jeremy Raisman, Former Finance Member of Viceroy's Executive Council, 1939 to 1945

Sir Frederick Whyte, President of the Legislative Assembly from 1921 to 1925

Sir Frederick James, a non-official European member from 1931 to 1945

Sir Hugh Dow, Former Secretary to Government of India and official member of the Central Legislature

Sir Percival Griffiths was an official member in the Central Assembly from 1935 to 1937. Later he resigned from the I C S and joined the Central Legislature as a non-official member representing an European constituency and continued up to 1947. He was for sometime the official chief Whip and in 1946 he became the Leader of the European Group

Mr G W Tyson, non-official European member from 1944 to 1947

Mr Oliver Stebbings, former Secretary of European Party and now employed as a Research Officer in the Conservative Party Office