

made favouring the retention of the Permanent Settlement, but the Bengal Government, which has the largest number of permanently settled holders of land, was later on exempted from contributing to the Government of India which was compelled to meet its deficit in other ways.

Land Revenue therefore is one source which the Government could have marshalled in the interest of giving adequacy to the new financial arrangements. The other source which the Government refuses to tap is the customs revenue. The kind of fiscal policy that was adopted during the pre-Mutiny days, was, as we know it to be, of a suicidal character. The same is true of the post-Mutiny fiscal policy. From the Mutiny up to the present time, the Government of India has never looked upon the customs revenue as a resource to be used to meet the exigencies of the State, and when it has used it, it is only very reluctantly, and never to the fullest, not to mention the circumstances when it has actually reduced its revenue from this source in spite of the crying needs of the exchequer.¹ While the ostensible reason given in favour of such a fiscal policy is that the customs revenue is wrong in principle, everybody knows that the customs revenue is not raised in India because it is feared that under it Indian industries would be protected against English industries. That the whole policy of India has been dictated by the interests of English manufactures is beyond dispute, and the reason for it is not far to seek. The Secretary of State for India, the supreme executive for India, is directly amenable to the English voters, whose primary concern has been to see that their markets are not closed against them. Whether a protectionist policy is good or bad is another question. For the present it is sufficient to note that the Government of India has been subjected to a pernicious kind of limitation on its fiscal powers which prevents it from using a source of revenue which has everywhere else proved to be most elastic and abundant of financial resources. If these limitations were not there the present financial inadequacy in all probability might not have ensued at all, and there would have been no necessity either for adopting the system of divided heads or for imposing contributions. As it is, owing to these limitations on the taxable resources of the country, a deficit in the Budget of the Central Government is inevitable. Given this fact, the adoption of some method of meeting that deficit was imperative, and there is no doubt that

¹ Financial Statement for 1880-81, para. 74.

the system adopted is better than the system it replaced. In the present circumstances of the finances of the Central Government, contributions must be taken as a settled issue. Nor can it be said that the abolition of contributions would restore stability to Provincial Finance. Such no doubt is the prevalent view of the Provincial Governments and also of non-official politicians. The Resolution moved in the Indian Legislative Assembly on the 14th September, 1922, rested on the same view that if the Government of India were only to dispense with the contributions it would immediately restore equilibrium in the financial position of the Provinces. This belief was strengthened by the assumption that the aggregate estimated deficit of all the Provinces disclosed itself to be 352 lakhs of rupees for the financial year 1922-3; and as the total contribution to the Imperial Government by the Provinces aggregated to the sum of 983 lakhs, a remission of this amount would more than wipe off the deficit in the Provincial Budgets. It must, however, be said that the deficit of 352 lakhs of rupees does not disclose the true position of the Provinces as derived from the financial arrangements made by the Act. If we are to deduce the true position of the Provinces as following from the new arrangement we must take note of the new taxation imposed and of the gain to Bengal through the remission of its contribution to the Imperial exchequer. Making adjustments for these, the position of the Provinces as it would have been without contributions may be seen from the following :—

FINANCIAL POSITION OF THE PROVINCES 1922-3
(In thousands of rupees)

Provinces					Revenue	Expenditure	Surplus or Deficit
					Rs.	Rs.	Rs.
Madras	...	...	...	...	15,99,00	17,18,55	—1,19,55
Bombay	...	...	...	...	14,32,06	15,42,17	—1,10,11
Bengal	...	...	...	...	9,15,86	10,99,90	—1,84,04
U.P.	...	...	...	...	13,58,67	13,85,65	—26,98
Punjab	...	...	...	...	11,38,26	12,68,44	—1,30,18
Burma	...	...	...	...	10,00,57	11,90,70	—1,90,13
Bihar and Orissa	...	...	...	...	4,62,65	5,13,80	—51,15
Central Provinces	...	...	...	...	5,35,23	5,72,17	—36,94
Assam	...	...	...	...	2,05,06	2,22,58	—17,52
Total deficit					...	...	—8,66,60

According to this calculation the aggregate deficit of the Provinces would have been about 867 lakhs. But we must make some further adjustments to this account. It has not been possible to deduct from the revenues of the Central Provinces the sum derived from the enhancement of the Excise duty in the Provinces. Secondly, the revenues of the Central Provinces for the year 1922-3 include collections of suspended revenue of previous years. If these adjustments were made the aggregate deficit of the Provinces would give rise to a figure which would be barely covered by the remission of contributions. We must therefore conclude that remission of contributions would have at best been a very inadequate measure for removing the financial stringency of the Provinces, even if the problem of financing the extra deficit caused by such remission in the budget of the Central Government were to be ignored.

But if, remission of contributions cannot improve the difficult situation that has arisen with regard to Provincial Finance, we must go to the root of the matter and inquire what are the causes which have brought on that situation. Is it due to the normal expenditure of the Provinces being under-rated? Or is it due to the normal revenues of the Provinces being over-estimated? For this purpose we must first ascertain whether the resources allocated to the Provinces were really inadequate to their normal needs. The following table compares the standard receipts and expenditure and shows the margin left between them for covering a probable advance in expenditure.

STANDARD REVENUE AND STANDARD EXPENDITURE

Provinces				Standard Revenue	Standard Expenditure	Excess or Defect of Standard Revenue over Standard Expenditure
				Rs.	Rs.	Rs.
Madras	...	...	...	14,98,02	14,07,20	90,82
Bombay	...	...	...	12,09,70	11,55,03	54,67
Bengal	...	...	...	8,55,28	8,61,13	—5,85
U.P.	...	...	...	12,29,88	11,06,56	1,23,32
Punjab	...	...	...	9,73,51	9,10,69	62,82
Burma	...	...	...	8,24,28	7,84,78	39,50
Bihar and Orissa	...	...	...	4,30,39	4,20,70	9,69
C. P.	...	...	...	4,35,37	4,38,80	—3,43
Assam	...	...	...	1,81,46	1,78,25	3,21

From this it is obvious that except in the case of two Provinces the standard revenue has left a sufficient margin over standard expenditure. Only in Bengal and Central Provinces there was no margin, owing to the fact that the standard expenditure was slightly in excess of the standard revenue. But this defect was more than remedied in the case of Bengal by the remission of the contributions to the Central Government, and the excess of standard expenditure over standard revenue in the case of Central Provinces was indeed very small. Barring this, in the rest of the Provinces the margin allowed was substantial. Let us now turn to the actual figures and compare them, with the standard figures. First of all, let us take the revenue side of the Provincial Budgets. Has the realized revenue fallen short of the standard revenue? The following table compares the realized receipts of the Provinces with the standard figure assumed to be the normal in the financial allocation made under the new Act:—

Provincial Revenues¹

Provinces	Standard Revenues	+ Increase over Standard : — Decrease from Standard.	
		For 1921-2	For 1922-3
	Rs.	Rs.	Rs.
Madras	14,98,02	60,57	40,41
Bombay	12,09,70	1,57,47	2,22,36
Bengal	8,55,28	31,25	60,58
U.P.	12,29,88	1,04,43	1,28,79
Punjab	9,73,51	1,00,15	1,64,75
Burma	8,24,28	1,75,05	1,76,29
Bihar and Orissa	4,30,39	15,76	32,26
C.P.	4,35,37	79,43	99,86
Assam	1,81,46	22,60	23,60

The above table brings out very clearly the fact, not readily admitted, namely that the realized revenue has in no case fallen short of the standard revenue. It may, however, be asked : Has the increase in the realized revenue been equal to the margin allowed under the allocation between the standard revenue and

¹ Exclusive of new taxation.

the standard expenditure of the Provinces ? As throwing some light on that aspect of the question the following table is interesting :—

EXPANSION OF PROVINCIAL REVENUES

Provinces	Standard Margin	Excess or Defect of Realized Margin over Standard Margin	
		For 1921-2	For 1922-3
Madras	90,82	—30,25	—50,41
Bombay	54,67	1,02,80	1,68,19
Bengal	—5,85	25,40	54,73
U.P.	1,23,32	—18,89	5,47
Punjab	62,82	37,33	1,01,93
Burma	39,50	1,35,55	1,36,79
Bihar and Orissa	9,69	6,07	22,57
C. P.	3,43	76,00	96,43
Assam	3,21	19,39	20,39

From these figures it is obvious that except in the case of Madras the realized margin has in no case fallen below the standard margin. The excess of the realized over the standard margin is enormous. It cannot, therefore, be said that the financial deficit in the Provinces is due to provincial revenue having failed to reach the assumed normal. On the other hand, the revenues were more than necessary to cover the normal expenditure of the Provinces. The only conclusion that can fairly be drawn from the facts of the case is that the provincial deficits are due to an extraordinary increase¹ in the expenditure of the Provinces. The following figures furnish enough evidence in support of this view:—

Provinces	Standard Expenditure	+ Increase over Standard : — Decrease from Standard.	
		For 1921-2	For 1922-3
Madras	14,07,20	3,08,73	3,11,35
Bombay	11,55,03	2,97,77	3,87,14
Bengal	8,61,13	2,49,47	1,75,77
U.P.	11,06,56	3,43,31	2,79,09
Punjab	9,10,69	3,12,55	3,57,75
Burma	7,81,78	2,42,73	4,05,92
Bihar and Orissa	4,20,70	65,27	93,10
C. P.	4,38,80	1,02,96	1,23,37
Assam	1,78,25	41,20	44,33

¹ For a brief review of this fact see the summary of it in the letter of the Government of India, *op. cit.*

We are, therefore, led to the view held by the Secretary of State that reduction of expenditure and increase of taxation is the only remedy for placing provincial finance on a sound footing. What chances are there that the Provinces will undertake the reduction of expenditure and increase of taxation so very necessary for their safety ? In this connection it is well to recall the dictum of that great financier, Mr. James Wilson, who once said :

“Finance is not mere arithmetic; finance is a great policy. Without sound finance no sound government is possible : without sound government no sound finance is possible.”

If there is any truth in this, then whether or not the Provincial Governments will undertake economy or face increase of taxation depends upon whether or not the system of government established in the Provinces by the Reforms Act is a sound system. Now, what is the nature of the government that is established in the Provinces under the Reforms Act ? In common parlance the system is known as dyarchy. Under it the Executive of the Province, instead of being composed of the Governor in Council as before, is now divided into the Governor in Council and the Governor in Ministry. Under it the subjects marked off as Provincial from the Central are further divided into “Reserved” and “Transferred” subjects. The former are in charge of the Governor in Council, and the latter in that of the Governor in Ministry. Of these parts of the Provincial Executive the Council in charge of the “reserved” subjects still remains as before irresponsible to the Provincial Legislature, is unremovable by it, and in that sense is a non-parliamentary executive. The other part of the Provincial Executive, namely the Ministry in charge of the “transferred” subjects, is recruited from the elected members of the Provincial Legislature, which is made responsible to the Provincial Legislature which is based on a more or less popular franchise, and is removable by it, and in that sense is a Parliamentary Executive.

The Provincial Legislature is supreme with regard to both the parts of the Provincial Executive. It has not only full powers of legislation, but has also full and unfettered powers of

interpellation. Its powers of sanctioning and voting upon the Provincial Budget are complete, although provision is made in the Reforms Act,¹ which allows that

“the Local Government shall have power in relation to any such demand (for a money grant) to 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 Provincial Legislature), if the demand relates to a reserved subject (which is assigned to the charge of the Governor in Council) and the Governor certified that the Expenditure provided for by the demand is essential to the discharge of his responsibility for the subject.”

Can such a government tackle the problems of sound finance? It is obvious that of the two parts of this dyarchical Executive, one, i.e. the Governor in Council, need have very little anxiety for reduction of expenditure or for the increase of taxation. It derives its mandate from Parliament, and as such is free to adopt any policy—backed up as it is by the certification power of the Governor without any regard for the best interests of the taxpayer. The authors of the Joint Report had seen that this certifying power to override the wishes of the Legislature might lead to irresponsible extravagance on the part of the *Governor* in Council, and had proposed to endow the Governor in Ministry with a countervailing power which was to act as a curb on the former. That power was to have consisted in the Proviso which laid down that no taxation even in the interests of the “reserved” subjects should be imposed in any Province without the consent of the ministry.² The Extremists—a class of politicians in India who were bent upon minimizing the reforms as being inadequate—disliked the proviso as calculated to make scapegoats of ministers and to bring them into discredit with the people. But their rivals, the “Moderates,” now calling themselves “Liberals”—one does not know why—saw clearly what the proviso meant. If this had materialized, there can be no doubt that the ministry would not have been a mere outsider tendering advice to the Council which might be accepted or rejected, but would have obtained a powerful voice in the settlement of the budget.

¹ Government of India Act, 1919, sect. II (2) (a).

² Joint Report, para. 256.

Having regard to the fact that no minister unless he was in a position to justify the budget proposals, including even those which pertained to the reserved subjects, would have hoped to persuade the Legislature to agree to a proposal of new taxation, the influence of the ministry on the “reserved” subjects, i.e. on the Council, would have inevitably been in the direction of thrift and retrenchment. The moderates were entirely right in their interpretation of the proviso and also in their insistence upon acquiring power, even at the cost of burdening the country with new taxation¹. But in the heat of the controversy and their desire to convince the public of the substantiality of the Reforms, they drew some very amusing pictures of how the ministers working under the aegis of the proviso would be able to hold the Council at bay. This alarmed the bureaucracy, which raised the cry that it was dangerous to leave the provision for the “reserved” subjects to the tender mercy of ministers who bore no responsibility for the consequences of refusing adequate Budget provision for those subjects. The authors of the Joint Report² had realized the force of this argument, and had confessed that the success of the arrangements depended upon their being worked by reasonable men who would conduct themselves in a reasonable manner. They were probably right in refusing to assume that the ministers would not co-operate, either by reducing their own claims or by imposing taxation, in order to meet expenditure which the Council considered essential for the proper administration of the “reserved” subjects. But the bureaucracy, which had been frightened by the tactless jubilations of the Moderates, insisted that even reasonable men would at times, in all good faith, differ vitally from other reasonable men when it was a question of providing supply for work which one party was responsible for safeguarding and developing, while the other was only concerned in getting a share of the money. In its opinion circumstances could well be imagined in which reasonableness might not prevail. Let us suppose, it was argued, that the Governor in Council finds new and heavy expenditure imperative on some reserved subject, but that he cannot induce ministers to consent to accept less for their

¹ Vineberg, *Separation of State and Local Revenues in Canada*, p. 13, for an instance where military power was bought in Canada by volunteering to pay for the cost of it.

² Joint Report, para. 257.

subjects or impose taxation for it. The Governor then, under his exceptional powers, insists on the expenditure being provided for in the next budget, and the result is to leave ministers with inadequate funds for their transferred subjects. What is to happen ? Are ministers to be compelled to raise a tax which is apparently for their own need, but a need which has been created against their will by the Council refusing to curtail their demands ? Such a procedure, it was pointed out, would be tortuous, provocative, and indefensible. Again, let us suppose that ministers consented to raise the necessary money, but the legislature refused to pass their revenue measures. Are the ministers to resign as having lost its confidence? The bureaucracy placed another dilemma before the authors of the Joint Report. Ministers have raised a new tax for some purpose of their own. In the next budget the Governor finds himself compelled to add substantially to the reserved provision for some new necessity, and thus to curtail the provision for "transferred" subjects. Ministers virtually see their new taxation receipts going to finance some development for which they are not responsible, and of which indeed they may disapprove. What are they to do? To avoid these difficulties the proviso was dropped and in its place the following changes were made in the Devolution Rules :—

TAXATION AND BORROWING

30. All proposals for raising taxation or for the borrowing of money on the revenues of a Province shall in the case of a Governor's Province be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and Minister or Ministers, according as the proposal originates with the Governor in Council or the Governor and Ministers.

ALLOCATION OF REVENUES FOR THE ADMINISTRATION OF TRANSFERRED SUBJECTS

31. Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each Province, and the framing of proposals for expenditure in regard

to transferred and reserved subjects will be a matter for agreement between that part of the government which is responsible for the administration of transferred subjects and that part of the government which is responsible for the administration of reserved subjects.

PROCEDURE IN EVENT OF FAILURE TO AGREE

32. (1) If at the time of the preparation of the budget the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and Ministers on the other as to the apportionment of funds between reserved and transferred departments respectively, he may, by order in writing, allocate the revenue and balances of the Province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subjects.

(2) An order of allocation under this rule may be made by the Governor either in accordance with his own discretion or in accordance with the report of an authority to be appointed by the Governor-General in this behalf on the application of the Governor.

PERIOD OF ORDER OF ALLOCATION

33. Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof:

Provided that the Governor may at any time, if his Executive Council and Ministers so desire, revoke an order of allocation or make such other allocation as has been agreed upon by them :

Provided, further, that if the order which it is proposed to revoke was passed in accordance with the report of an authority appointed by the Governor-General, the Governor shall obtain the consent of the Governor-General before revoking the same.

CONDITION OF ORDER OF ALLOCATION

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation that increase, unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

PREPARATION OF BUDGET IN DEFAULT OF AGREEMENT OF
ORDER OF ALLOCATION

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

Thus rather than depend too implicitly on reasonableness when circumstances must often be provocative effective precaution is taken by these rules against the ministry disapproving the allocation of funds to the "reserved" subjects by allowing the Governor to make such an allocation which is to be binding on both parts of the executive and also by arming him with the power of veto over the Provincial Legislature by allowing the Governor, should he deem it necessary, to restore a Budget grant on a reserved subject if it were refused or reduced by the Provincial Legislature which has the right to determine the Provincial Budget, and thirdly by allowing the Governor in Council equally with the Governor in Ministry to raise new taxation or new loans for the development of the subjects in its own charge. The result is that one part of this dyarchical Executive, namely the Governor in Council, can have little reason to be interested in economy or be over-weighed by considerations of taxation. Its supply being assured its concern in the stability of provincial finance must be deemed to be somewhat remote. The whole burden of meeting the problem of restoring sound finance, therefore, falls upon the Governor in Ministry in charge of the "transferred" subjects. For, under the distribution and certification powers it is the "transferred" subjects which must go without the funds they need, and it is those in charge of them, namely the Ministers, who must bear the brunt of economy or resort to new taxation to bring about an equilibrium in the finances of the Provinces. For it is doubtful that the Governor in Council will choose the onerous task of raising new taxes or practise economy when there are open to them other ways of amply providing themselves for the subjects they have under their control. Will the other half of the Government, namely the Governor in Ministry, consent to practise economy, or if need be undertake the burden of new taxation? That obviously depends upon the temper of the Legislature.

At the outset it is to be noted that the Legislature will not readily favour projects of increased taxation. It is true, as Burke remarks,¹ that

“To tell the people that they are relieved by the dilapidation of their public estate, is a cruel and insolent imposition. Statesmen, before they valued themselves on the relief given to the people by the destruction of their revenue, ought first to have carefully attended to the solution of the problem : Whether it be more advantageous to the people to pay considerably, and to gain in proportion ; or to gain little or nothing, and to be disburdened of all contribution ?”

Whatever may be the philosophers’ answer to this question, there can be no doubt that in a poor country like India with a very low capacity for bearing the burden of taxation, it is always very unpleasant, if not cruel, to propose an augmentation of that burden. Besides, any proposals for extra taxation would be shunned as likely to prejudice the chances of the legislators at the polls. So long as nomination was the general mode of obtaining a seat in the Legislature it was unnecessary to mind the prejudices of the electors. But when a seat is in the gift of the elector a candidate to the Legislature who proposes to touch his pocket has a small chance of success, even though the new taxes are to result in more than proportionate benefit. Besides, a political party which has won power from a bureaucracy by accusing it of heavy taxation cannot easily consent to disgrace itself by continuing the same policy. This innate aversion to taxation on the part of the Legislature is strengthened by the peculiar attitude of the Legislature towards the “reserved” and “transferred” subjects. The reserved subjects are those which mostly pertain to peace and order, while the transferred subjects are those which largely pertain to progress. But as has already been pointed out, the policy of the bureaucracy before the Reforms was calculated to sacrifice progress to order. It is therefore obvious that under the revised constitution the popular Legislatures should aim at turning the scales in favour of subjects tending towards progress. Their aversion to increase of taxation and their partiality for the transferred subjects will favour them

¹ *Reflections on the Revolution in France.*

to welcome proposals on the part of ministers making drastic reduction in the funds allotted to the reserved subjects. Their attitude towards the ministers will be largely governed by the amount of economy they will be able to effect in the reserved subjects for the benefit of the transferred subjects. Thus in the absence of any very large chances of increase of revenue the two halves of the Executive, the Governor in Council backed by the distribution and certification power and the Governor in Ministry backed by the general Budget powers of a popular Legislature, will compete in the matter of developing their subjects by forcing economy on each other. The Legislature being unwilling to tax, the Governor in Council being in a position to resist retrenchment and the Governor in Ministry anxious to expand, the chances of an early equilibrium in Provincial finance are very small.

It is, therefore, evident that if there is no sound finance in the Provinces it is because dyarchy is not a good form of government. Now, why is dyarchy not a good form of government? The answer to this question is very simple. Dyarchy is a bad form of government because it is opposed to the principle of collective responsibility. An administrative machine must work smoothly and harmoniously. But in order that it may do so it must recognize the principle of impartibility of governmental work and a collective responsibility of the administrators in the execution thereof. That the work of government is by its nature impartible may not seem to accord with facts: for, in practice the functions of government can be and commonly are partitioned, as they are between local bodies and between departments. Nevertheless it is true that a common thread runs through them all: that no function of government acts *in vacuo*; that each reacts on some other function, and that the various functions cannot act at all to produce orderly progress unless there is some force to harmonize them. Otherwise a policy enunciated in one department may fail to fructify for want of helpful action on behalf of other departments. That harmonizing force can only be found in the principle of collective responsibility. This is so because under it, as Hearn points out:¹

“Each minister acts in his own department as the recognized agent of his colleagues in that particular

¹ *The Government of England*, p. 204

department, subject, however, to inquiry and control by the whole body. But in all cases on which any difficulty is likely to arise each minister, from motives not merely of prudence but of honour, takes the opinion of the Cabinet. When the precaution is taken the measure becomes the common act of the Ministry.”

Right or wrong there is a common co-ordinated policy which guides a unified government based on collective responsibility. But having made a partition of governmental work, dyarchy must be said to have introduced an element of divided responsibility in the Executive. It is true that the partition is not horizontal but vertical. It is also true that in setting the two parts to work it has not been provided that there should be two separate Legislatures for two separate executives ; or that each should make its own laws, control its own finance, frame its own budget, impose its own taxation, and raise its own loans ; or that each should have its separate staff for the administration of subjects allotted to it and have its own methods of recruitment, pay and pension for its services ; so that the two authorities might in fact have clearly defined spheres of their own exclusively within them. The Government of India had indeed suggested that some, if not all, of these concomitants of a typically dual executive should also be made a part of the dyarchical system adopted to carry on the government of the Provinces. Fortunately for the country the framers of the new constitution held¹

“that wisdom lies not in equipping each of the different elements with a complete paraphernalia of its own, and trusting to their orbits lying sufficiently apart for collision to be avoided; but in taking every opportunity of bringing the two elements into contact so as to induce the habits of joint action.” “It is our intention,” wrote the authors of the Joint Report,² “that the Government thus composed and with this distinction of functions shall discharge them as one Government,” and that “the Provincial budget should be framed by the Executive Government as a whole.”³

It was no doubt well to have modified the working of dyarchy by subjecting it to the interplay of two principles, one of division in order to give as clear a definition as possible of the several

¹ Joint Report, p. 199.

² *Ibid*, p. 180.

³ *Ibid*, p. 207.

responsibilities of the two parts of the government and of union, in order to get association in aims and policy between those parts. For to have equipped each part of the Executive with a separate paraphernalia would have been nothing short of a calamity. But because there is an understanding that when ministers will act in matters of transferred subjects the councillors will advise them, and that when councillors will act in matters of reserved subjects the ministers will advise them, it does not alter the fact that dyarchy is a system of divided responsibility. It is not a system which ensures the work of government being conducted in harmony and in accordance with a common policy. On the other hand, it is a system fraught with organized quarrel. The dividing line between dyarchy and anarchy is very narrow. If such a system is not rent in practice it is because of two transient circumstances. One such circumstance consists in the Provincial Legislature being a weakling sapped of its vitality by political dissensions. The other consists in the tenure of the Ministers not being at the will of the Legislature, but for the duration of the Legislature's existence, and are to hold office during the pleasure of the governor. To allow a governor to choose ministers from among the elected members of the Legislature instead of requiring him to accept ministers who are elected by the Legislature is a grave derogation from the principle of responsible government which was avowedly the object of the Reforms Act. A minister who has the confidence of the governor, and a minister who has the confidence of the Legislature, are two entirely different things. How great is the difference between the two in so far as good government is concerned is writ large in the pages of English political history of the eighteenth and the nineteenth centuries. That such a system should have been adopted against which the whole English constitutional history is a grand protest cannot of course be without some reason. The ostensible reason advanced¹ is that the Legislature

“had had no experience of the power of dismissing Ministers, or the results attending the exercise of such power. Nobody in India is yet familiar with the obligations imposed by tenure of office at the will of a representative assembly. It is only by actual experience that these lessons can be

¹ Joint Report, p. 181.

learned By the device of appointing the ministers from the elected members of the (Legislature) and making their tenure of office conditional on the retention of their seats (there is) established at once some measure of responsibility, in the form of responsibility to their constituents and thus (is) put an end to the condition of affairs in which those entrusted with the administration are wholly irresponsible to the constituents who elect the (Legislature).”

It is difficult to believe in the cogency of this piece of reasoning. To argue that nothing can be learned without experience is simply absurd. What is necessary for a proper conduct on the part of an individual or a group is to understand the meanings and values of things. For that it is unnecessary to undergo actual trial. A Legislature composed of responsible persons may be trusted to know the consequences of dismissing a Minister at the start without having to wait to learn it by experience. Again, to argue that the system is not the less responsible because ministers are responsible to their constituents is a shallow piece of pedantry. It was no doubt argued by Austin, in connection with the English Constitution, that the House of Commons was “merely trustee for the body by which they are elected and appointed.” It is true that in a political sense the electors are the most important part of, we may even say, are actually, the Sovereign power, since their will is under every representative system of government sure to obtain ultimate obedience. But as Prof. Dicey points out,²

“any expressions which attribute to Parliamentary electors a legal part in the process of law-making are quite inconsistent with the view taken by the law of the position of an elector The sole legal right of electors under the English constitution (and the same is true under the Indian constitution) is to elect members of Parliament. Electors have no legal means of initiating, of sanctioning, or of repealing the legislation of parliament. No court will consider for a moment the argument that a law is invalid as being opposed to the opinion of the electorate”:

and this exactly defines the status of the Indian electors. To make the minister responsible to such a nonentity is to make him

¹ *Jurisprudence*, Vol. I, 4th Ed., p. 253.

² *Law of the Constitution*, 8th Ed., 1915, p. 57.

virtually irresponsible. That the framers of the constitution were not alive to these considerations in suggesting this particular mode of appointing Ministers it is hard to believe. What is more probable is that this particular mode of appointing ministers was adopted because it permitted to select a man who was more likely to co-operate with those in charge of the reserved subjects and who being irremovable by the Legislature would be less swayed by its wishes. But the Ministers cannot remain altogether immune from the axe of the Legislature. The dangers of the position of a minister who has cultivated friendship with the councillor and has failed to ingratiate himself into the favour of the Legislature, cannot fail to come home to him on budget occasions. The proposals of the minister as embodied in the budget will be liable to be reversed by a vote of the majority of the Legislature, but neither he himself nor the governor will be able to intervene. The minister's only remedy will be to resign.

Anyhow these circumstances which have, so to say, saved dyarchy from failure are only transitory. The political dissensions may be no more than a passing phase, and the ministers from the second term of the reformed Legislature will become amenable to it: so that before long the forces may be organized better than they are, when dyarchy is sure to fail.

Hybrid executives, divided responsibility, division of functions, reservation of powers, cannot make for a good system of government, and where there is no good system of government there can be little hope for a sound system of finance. The primary solution is that there should be an undivided government with a collective responsibility. That, however, can be achieved only when the whole of government derives its mandate from a common source. That such a consummation should take place as early as possible is devoutly to be wished. In that behalf it is encouraging to know that dyarchy is but a transitional system. The only question is how long and protracted will the period of transition be. The justification for introducing a dyarchical form of government rests on the supposition that India is at present ill-prepared to sustain a system of responsible government in . anything like completeness, for owing to the lack of education and political experience, the Indian electorate will for some time be unable either to formulate their requirements intelligently or

effectively impose a mandate upon their representatives, and that owing to the inveterate social prejudices of the educated classes there is a great danger of their abusing the political power to exploit the masses. This cardinal fact, it was held, must differentiate the degree and the kind of responsibility which can be introduced at the outset from that which will be the eventual resultant of the new system, and must impose the obligation of ensuring that the forces which now hold the people together are not completely withdrawn before satisfactory substitutes are ready to take their place. On the other hand, it has been urged¹ that there is no necessity to wait till the cardinal fact disappears ; for

“in all countries responsibility in the beginning has been entrusted to a very small section of the people, and government has been in the hands of a small educated minority, who have naturally cared for the interests of the uneducated masses pending the spread of education and the consequent extension of the franchise.”

This is of course a familiar line of argument which is usually put forth in India by the political radicals and social Tories. If we put aside the painful story of the harsh, cruel and inhuman treatment which the classes in India have accorded to the masses, truth is on their side, for in every country there have been downtrodden communities suffering from social oppression and social injustice, and yet no country has had to be without political power on that account. But those who use this argument forget that if other countries like America with her Negroes and Japan with her Hitas are in possession of political power without having first destroyed social inequality, it is due to the fact of their having been in possession of military power. Military force and moral force are the two chief means to political freedom, and a country which cannot generate the former must cultivate the latter. Thus in India the political problem is entirely a social problem, and a postponement of its solution virtually postpones the day when India can have a free government subject to the mandate of none but her own people.

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¹ Cf. the evidence of the Hon. V. J. Patel and Mr. Madhava Rao before the Joint Select Committee on the Government of India Bill. House of Commons Return 203 of 1919, p. 106.

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