

## CHAPTER IV

### THE EXECUTIVE COUNCIL

THE affairs of the Company in Calcutta, Madras, and Bombay were administered by the President and a Council consisting of the senior servants of the Company. Decisions were arrived at by voting. Lord North's Regulating Act of 1773 appointing a Governor-General gave him a Council of four; eleven years later the number was reduced to three, of whom the Commander-in-Chief was to be one; nine years afterwards it was decided that if the Commander-in-Chief should sit on the Council he was to be an extra member; a fourth member was added in 1833 for legislative purposes—the Law member—but he was not to be allowed to take part in administrative business, and this limitation existed till 1853; in 1861 a fifth member was added to take charge of finance; in 1874 power was given to the Governor-General to add a sixth member to look after Public Works, but the power was not always used, and in 1904 such an appointment was definitely provided for.<sup>1</sup> The members are appointed by Royal Warrant; they must at present be five, but, by the will of the Crown, may be six, three of whom must have been, at the time of appointment, at least ten years in the service of the Crown in India, and one must be a barrister or advocate of at least five years' standing. The Commander-in-Chief

<sup>1</sup> The Bill which Mr. Disraeli introduced in 1858 to transfer the Government of India to the Crown proposed that part of the Council should be elected by holders of India Government and Railway stock resident in Manchester and other large towns, but the confusion of a Legislature and an Executive combined with such an absurd franchise was laughed to scorn.

may be appointed an extraordinary member, and when the Council sits in a province which has a Governor, that Governor is, for the time being, also an extraordinary member.

The evolution of the Council is not without interest. The Regulating Act established Committee Government and gave the Committee a chairman. There was no attempt, as is usual in the government of dependencies, to consult any interest except that of the trading Company, and it is from that beginning that we must always remember to trace the evolution of Indian government if we are to understand it. The next stage was that of individual rule after consultation with a Committee, a Secretary of State standing behind to check and correct if the ruler disagreed with his advisers.

The feud between Philip Francis, who was named in the Regulating Act a Member of Council, and Warren Hastings was conducted in India by two parties on the Council of which the Francis party was the stronger. That ended majority rule. Lord Cornwallis, who succeeded, insisted upon being able to override a majority of the Council should he feel it to be necessary to do so, and that remains the position to-day. The rule is that the Viceroy should act with the majority of his Council, but he may set aside that majority if he disagrees with it on matters which he considers affect "the safety, tranquillity, or interests of British India." Then, however, if two members of the Council insist upon it, a statement of the point in dispute, with minutes and explanations, must be sent to the Secretary of State.

Then the next stage came. At first the Council was a Committee of similar members and not a gathering of departmental heads. But as the work of administration became more complicated, it had to be specialised. First of all came the appointment of the Law member, and then the Finance one was added, and when Canning's reforming hand rearranged Indian administration, to each member of Council was assigned a special department for the working of which he was to be responsible to the Governor-General. During

the Governor-Generalship of both Lord Canning and Lord Elgin this responsibility was real and rigid, but it gradually slackened, as it was bound to do, though according to the Report of the Decentralisation Commission "a large amount of work" is still thrown on the Viceroy as the final authority in all departmental affairs.

Then the Council became a Cabinet<sup>1</sup> such as we had in the last generation when the Prime Minister listened to the advice of his departmental heads and decided for himself.<sup>2</sup> But it was more than a Cabinet, for it was really responsible for the rules and regulations which the Governor-General was empowered to issue as laws; and though such regulations had to comply with certain conditions and might be upset by the King in Council, the authority which issued them was a quasi-Legislature. Later on Legislative Councils appeared, so limited in their powers, however, and so constituted that to this day the Council has more legislative authority than the Legislative Councils. The evolution is now tending to weaken the Executive in this respect and strengthen the other until in fact the latter becomes what it is in name, a Legislative Council.

At present the Executive consists of the Viceroy, who keeps, as I have said, in his own hands responsibility for Foreign Affairs, including the control of the Frontier Province; the Commander-in-Chief, who is the head of the Military Department; and members in charge of Home; Finance; Revenue and Agriculture; Public Works; Commerce and Industry; Military Supply<sup>3</sup>; Education and Legal Departments. These offices are held for five years, and are filled by the Crown, for the most part hitherto from members of the Indian

<sup>1</sup> Though the use of this word requires a warning that its strict employment is in connection with Parliamentary Government, and not with a bureaucracy of Civil Servants and Crown appointees.

<sup>2</sup> Lord Curzon's statement (*Indian Speeches*, ii. p. 299) that "the Viceroy has no more weight in his Council than any individual member of it" is a fanciful exaggeration of the Viceroy's weakness.

<sup>3</sup> Under the control of the Commander-in-Chief.

Civil Service. The Legal member is not a civilian, the Finance member generally is taken alternately from the Home and the Indian Civil Service; the most recent appointment to the Education Department—Sir Sankaran Nair—came from the Madras Bench; two Indians have been appointed to the Legal Department, one a Hindu and the other a Mohammedan, and it was assumed that the Law member would henceforth be an Indian chosen alternately from the Hindu and the Mohammedan communities, though it is said not to have worked very well. It would have been unfortunate, however, had any special office been ear-marked in this way, and an Englishman was appointed in 1915. The Civil Service is exceedingly jealous of any encroachment upon its rights to fill these offices, which it considers belong to it as part of the Service for which its members were recruited, and when Mr. Clark (now Sir William) was sent from the Home Service to take charge of Commerce and Industry in 1910, much dissatisfaction arose in the Indian Service.

The members of Council control the administration of their offices subject to the approval of the Viceroy, who has to be consulted on certain eventualities,<sup>1</sup> and they meet usually once a week as a Cabinet to discuss with the Viceroy matters submitted to them. Each Department has a Secretary corresponding to the Permanent Secretary to a Department at home, and these Secretaries attend Council meetings to give information.

The Governor-General presides over the Council, but when he is absent, a member, generally the senior member, may take his place and may otherwise act for him. During Lord Hardinge's illness after he was hurt by the bomb at Delhi, Sir Guy Fleetwood-Wilson, the Finance member, presided regularly over the Council meetings.

<sup>1</sup> "In the year 1907-8 no less than 21·7 per cent. of the cases which arose in, or came up to, the Home Department required submission to the Viceroy" (*Report of the Decentralisation Commission*, Cd. 4360, 1909, p. 11). From the nature of its work this proportion is much higher in this Department than in any other.

A Cabinet composed like this mainly of Civil Servants and officials has obvious drawbacks. Members do not resign upon policy, for they are an administrative Civil Service. The scheme of Indian Government lacks the element of responsibility. As regards India, the Council is a superior will ; as regards the Secretary of State, it is a superior knowledge. At no place in the system of Indian administration does public opinion come in with its fresh motives, ideals, and purposes formed outside offices and nurtured on something else than departmental files. From beginning to end, the office and the official mind dominate Indian Government, and thus the work of Delhi and Simla consists very largely in imposing upon India what departmental offices and officials consider to be advantageous. Hence the bureaucracy becomes self-centred, the governing machine becomes polished but unsympathetic, mechanical accuracy and efficiency are its inspirations rather than a desire for freedom and experiment. The official controls the policy as well as the working of the policy. The result is admirable as an efficient administrative product, it *gives* great benefits to the people, but the system lacks that adaptability and accommodation to outside opinion which, it is true, the expert generally holds in low esteem, but which is the secret of political wisdom. It is strong in everything except the faculty of consulting the people. It has not understood the truth that is in the adage that wise government is self-government even if it be not the most efficient government.

Now, a change is coming. Outside opinion, better organised than ever, more representative, and with some authority on the various Legislative Councils, is compelling the bureaucracy to listen, and many members of the bureaucracy are listening gladly. The expert is recognising the fact that his task is getting more difficult as he has now to deal with a political spirit, and he is preparing to meet his changed circumstances. The appointment of Sir Sankaran Nair to the Education Department was of far more significance than that of an Indian

lawyer to the Law Department, because it was an appointment of an Indian to a Department of constructive policy and not to one of technical knowledge ; but the time has now come for a much bolder advance. The Legislature must be joined to the Executive by the appointment of members of the Legislature to some of the Departments.

This Cabinet of Civil Servants was inevitable. It had to take possession of those high executive offices which are political in their nature, because there were no politics in India. The nominees of monarchs and rulers have always filled these posts because India has been autocratically ruled, and there has been none of those safeguards of democratic administration like the separation of the legislative from the administrative functions of the Government. The King and his servants have been the administration, the Courts, and the Legislature. The British compromise between its own method of government and the conditions of India was to send out a Viceroy who would have some political experience, or at any rate political opinions of a general character, and who would be guided and advised by men who had spent their lives in administering Indian districts. Thus the mind of general intention and that of detailed knowledge were mingled, and if the latter, from the circumstances of the case, was almost uniformly the more powerful, it was honest and devoted. If "superior" it was not corrupt, and its most severe critic can attribute to it no vices excepting those which belong to its own nature, and to the system of government which it found established in India and from which it derived its parentage.

The members of the Council sit as members of the Imperial Legislative Council and have to answer questions and take charge of the business of their various Departments. When the Legislative Councils were established in 1853, the Viceroy's Council was embarrassed by questions and criticisms, and had to be protected in 1861, by curtailing the power of Legislative Councils, as I shall describe in the next

chapter. But the movement so suddenly begun in 1853 cannot be kept back for ever. The India Councils Bill of 1909 transplanted the Executive Council into a new political atmosphere. It had to face a body with very limited powers, it is true, but with constituencies behind it, so that if the Council itself is not the creation of public opinion it now has to meet those who represent some of that opinion. It therefore found itself beset by two influences, the Viceroy with a Home Government on the one hand, and the Legislative Council on the other, and the impact of both upon it is producing effects of a political kind. The Council will tend more and more to become like a British Cabinet. Its members who have political aptitudes for debate and co-operation with others of dissimilar views will take more and more delight in the changed circumstances under which they have to work. For, when all is said and done, a Parliamentary life is richer and more interesting than one spent in the administrative service.

In time the new function of the Council will make changes in its membership, and the work of Departments is already so complicated that it ought to be redistributed and new Departments formed. Men who have shown political capacity of high order will be chosen to sit on it, and in the end it will cease to be regarded as a section of the Civil Service, and will become, as it ought to be, a branch of the Legislature. The Legislative Council, rather than the administration, will supply its recruits. But that is not yet, and some things must happen before that change will be fully accomplished. Moreover, it will not be made all at once. It may be that the Council will be enlarged and the new Departments filled by others than Civil Servants. Certainly a proposal which is both bad and inadequate is that in the Montagu-Chelmsford report, to increase the Indian membership to two and continue the present method of appointment. The first thing is to limit the Civil Service appointments to what they now are, terminate the rights of new recruits to regard these

offices as belonging to the Civil Service, and establish as a constitutional practice the appointment by the Crown of members who have had legislative experience. But in whatever way events may happen, a complete change in the Executive Council is ultimately inevitable. One important circumstance will make it easy. The argument now is that the Civil Service, with its overwhelming preponderance of British-born men in its highest offices, is the only guarantee of British responsibility, and that the Viceroy's Council in a special way represents and emphasises the British supremacy. The Council ought, therefore, according to this view, to be manned mainly from the Civil Service. But when Indians share more largely in the highest offices of the Service, this argument will be weakened. The Indian civilian will have no better claims to a seat on the Council than a score of other Indians who have proved their worth and capacity in other ways. At the same time, the Legislatures will be becoming more and more evidently the sources from which the Viceroy's Council members should be drawn. That is in accordance with the operation of things wherever British ideas of government rule, and it is also in accordance with the evolution of the Council's powers and composition. This democratic conception of the relation between the Executive and the Civil Service on the one hand, and the Legislative Councils on the other, ought at once to begin to show itself in the machinery of Indian government.