The Constitutional Position of the President of the Indian Republic

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The executive heads of the federal republics of India and the United States of America are both called Presidents. But the powers conferred upon and the functions performed by the two Presidents are so unlike that there is really no comparison between the two offices. The object of this paper is to examine the precise constitutional position assigned to the President of the Indian Republic under the polity established by the new Constitution.

Under section 53 of the Constitution the executive power of the Union has been vested in the President and is to be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. This provision has to be read in conjunction with sections 74 and 75. Section 74 provides that there shall be a Council of Ministers, with the Prime Minister at its head, to aid and advise the President in the exercise of his functions. Section 75 contains specific provisions the combined effect of which is to convert the Council of Ministers, which is to aid and advise the President in the performance of his functions, into a Cabinet of Ministers whose personnel has to be drawn from the members of either house of the Union Parliament, working as a team under the leadership of the Prime Minister and collectively responsible to the House of the People. Those provisions provide: (1) that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister; (2) that the Ministers shall hold office during the pleasure of the President; (3) that the Council of Ministers shall be collectively responsible to the House of the People; (4) that a Minister before he enters upon his office shall take oaths of office and of secrecy; and (5) that a Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister. The provisions mentioned crystallize in legal

form the unwritten conventions on the constitution and functioning of the British Cabinet-Executive in England.

The question arises as to what is the constitutional relationship created by the new Constitution between the President on the one hand and the Council of Ministers, on the other, which is drawn from and responsible to the legislature and which is to aid and advise him in the performance of his functions. The Constitution does not define in specific terms the nature of the relationship between the President and the Council of Ministers. But there are clear indications available in the provisions of the Constitution itself as to what the framers of it intended that relationship to be. And if we consider all the relevant provisions as an integral whole, the conclusion, I think, seems clear that the constitutional relationship created by the new constitution between the President and his Council of Ministers will be substantially analogous to the position the King of Great Britain occupies *vis à vis* the British Cabinet. In other words, the President of India will be a constitutional head who has only the right to be kept informed of and to express his views upon the many questions which arise within the Union orbit of activity but who cannot override the advice tendered to him by his ministers relative to any action he has to take as the executive head of the Union.

The provisions contained in sections 53, 74 and 75 on the vesting of the executive power of the Union in the President and the setting up of a responsible ministry to aid and advise him in the performance of his functions are largely based upon similar provisions contained in the various Dominion Constitutions which, while vesting the executive power formally in the King to be exercised on his behalf by the Governor-General or the Governor as his local representative, also provide for the constitution of a Council of Ministers to aid and advise him in the performance of his functions. Although both the Dominion Constitutions of Canada and Australia provide only for a Council of Ministers to aid and advise the Governor-General as the Sovereign's representative in the governance of the Dominion (section 11 of the British North America Act, 1867, calls that body the Queen's Privy Council for Canada and section 62 of the Commonwealth of Australia Constitution Act, 1900, describes it as the Federal Executive Council) and contain no specific provisions for making that Council of Ministers responsible to the legislature, the Council, by reason of the conventions established for its working, has always functioned as a collective body responsible to the legis-

lature on the pattern of a British Cabinet. The Irish Free State Constitution Act, 1922, which was drawn up by the Dáil Eireann sitting as a Constituent Assembly to provide a constitution for the Irish Free State, was the first Dominion Constitution to provide expressly for the ministerial responsibility of the executive to the legislature. Section 51 of that Constitution provided: "The Executive Authority of the Irish Free State (Saorstát Eireann) is hereby declared to be vested in the King, and shall be exercisable, in accordance with the law, practice and constitutional usage governing the exercise of the Executive Authority in the case of the Dominion of Canada, by the Representative of the Crown. There shall be a Council to aid and advise in the government of the Irish Free State (Saorstát Eireann) to be styled the Executive Council. The Executive Council shall be responsible to Dáil Eireann, and shall consist of not more than seven nor less than five Ministers appointed by the Representative of the Crown on the nomination of the President of the Executive Council." The new Irish Constitution of 1937 follows the precedent set by the earlier Irish Free State Constitution Act by specifically providing for the responsibility of the Ministers to the legislature. This is made clear by article 28, section 4(1), which provides that the government shall be responsible to Dáil Eireann, that is to say the popular house of the Irish Parliament.

The setting up of a Cabinet of Ministers responsible to the legislature to aid and advise the executive head of the Government over the whole field of administration, and the vesting of supreme legislative, taxation and appropriation powers in the legislature, cannot but result in the executive head, whether he is a Governor-General, Governor or, as in India, President, becoming only a constitutional head of the government while real power necessarily gravitates into the hands of the cabinet executive. By the enactment of suitable taxation laws the legislature has to authorize the levy of taxes to feed the public exchequer. It has also to sanction the appropriation of moneys from the Consolidated Fund by the passing of appropriation acts to meet the charges of administration. So long as the cabinet of ministers enjoys the confidence of the legislature it seems clear that it is this body alone which has the effective power to conduct the administration. The constitutional head neither can sanction the levy of taxes nor authorize the appropriation of public funds on his own responsibility. He has to approach Parliament for those purposes. As we shall see later, the new Indian Constitution, by the meticulous provisions it incorporates, makes the position cry-

stal clear that not a rupee can be levied by way of taxation without parliamentary sanction nor a rupee spent out of the Consolidated Fund of India except on the authority of an Appropriation Act. This important principle of rigid parliamentary control over the taxing and spending powers we have borrowed from the British Constitution. And this principle of parliamentary supremacy in fiscal matters is a characteristic feature of the Dominion constitutions also. As Viscount Haldane, delivering the judgment of the Privy Council in *Auckland Harbour Board* v. *The King*, has observed:[1]

> Their Lordships have not been referred to any appropriation or other Act which altered these terms. . . . The payment was accordingly an illegal one, which no merely executive ratification, even with the concurrence of the Controller and Auditor-General, could divest it of its illegal character. For it has been a principle of the British Constitution now for more than two centuries, a principle which their Lordships understand to have been inherited in the Constitution of New Zealand with the same stringency, that no money can be taken out of the Consolidated Fund into which the revenues of the State have been paid, excepting under a distinct authorization from Parliament itself. The days are long gone by in which the Crown, or its servants, apart from Parliament, could give such an authorization or ratify an improper payment. Any payment out of the consolidated fund made without parliamentary authority is simply illegal and ultra vires. . . .

The possibility of the refusal of "supplies" by Parliament in the event of the executive head developing a quarrel with his cabinet of ministers forces the former to play the rôle of a friend and not of a master in relation to his cabinet. Even when the executive head feels that his cabinet is following what appears to him to be a foolish policy, his responsibility begins and ends with the advice that it would be better for the cabinet not only in the interests of public well-being but also in its own interests to reverse its policy. That is all he can do and is expected to do in such a context. Of course, if the situation is extremely serious and he has the strong feeling that the policy being pursued by his cabinet, supported by the legislature, is contrary to the wishes of the electorate who are the ultimate masters, then he may dismiss the ministry and order a dissolution of the popular house. But this is an extreme step to take. And it seems to me obvious that the executive head cannot both maintain the ministry in office and attempt to rule on his own responsibility. That is not possible at all. As we shall see by a careful analysis of the provisions of the new Indian Constitution, the President of India has no constitu-

[1] [1924] A.C. 318, at pp. 326-7.

tional means at his disposal to implement any decision he might wish to take in the public interests when the decision depends for its execution upon legislative or fiscal action, so long as the cabinet and Parliament are hostile to the course he wishes to adopt. In fact, his position is in no way different from that of a Governor-General in one of the British Dominions. He must accept and act on the advice of the ministers who have been constitutionally assigned to him. Sir Isaac Isaacs, an eminent judge of the Australian High Court (and for sometime its Chief Justice), who later became the Governor-General of the Commonwealth of Australia, made an important pronouncement in his capacity as Governor-General in 1931, in the course of which he stated that his plain duty as the representative of His Majesty the King was "simply to adhere to the normal principle of responsible government by following the advice of the Ministers who are constitutionally assigned to me for the time being as my advisers, and who must take the responsibility of that advice".[2]

In summary form here are the data drawn from the provisions of the new Constitution of India on the basis of which I rest my view that the President of India will be only a constitutional authority exercising the executive powers of the Union Government conformably to the advice tendered to him by his Council of Ministers, in the same way as the King in Great Britain functions there by adopting the course of action indicated to him by the British Cabinet.

(1) Section 74(1) provides that the Council of Ministers, with the Prime Minister at the head, is to aid and advise the President in the exercise of his functions. The advice tendered presumably spans the whole range of activity comprehended in the federal arena. In fact this inference drawn from the language of section 74(1) is strengthened if we pay due regard to two significant features of the new Constitution. The first is that the new Constitution, unlike the Government of India Act, 1935, does not reserve any department of government for the President to administer in his discretion, nor does it charge him with special responsibility in any matter pertaining to the governance of the country. Under section 11 of the Government of India Act, 1935, the Governor-General was to administer on his own responsibility, with the help of Counsellors not exceeding three in number, the departments of defence, external affairs and ecclesiastical affairs, the Council of Ministers constituted under section 9 having no con-

[2] Cited by Dr. Herbert Evatt in his book, The King and His Dominion Governors, at pp. 187-8.

stitutional right to tender advice to him in regard to these branches of administration. And under section 12 of the same Act, in the exercise of his functions the Governor-General was to have certain special responsibilities, as for example, the prevention of any grave menace to the peace and tranquillity of India or any part thereof, the safeguarding of the financial stability and credit of India and the safeguarding of the legitimate interests of minorities. And in performing these special responsibilities, the Governor-General could override his ministers even in those matters in regard to which they were constitutionally competent to give advice to him. The new Constitution of India neither reserves any department of the central administration for the President to administer in his discretion nor does it invest him with any special responsibilities in respect of any matter. The Council of Ministers constituted under section 74(1), which will take charge of all the departments of activity at the Union Centre, has the right to tender its advice to the President over the whole gamut of the Union administration.

(2) Under the provisions contained in sections 43 and 44 of the Government of India Act, 1935, full legislative authority was vested in the Governor-General to enact on his own responsibility not only ordinances operative for short periods but also permanent enactments called Governor-General's Acts "for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment". These ordinances and Acts could be enacted by the Governor-General even when the federal legislature was in session and without any reference to it at all. It will be noticed that the position of the President of India in regard to the enactment of legislation is completely different from the position of the Governor-General under the Government of India Act, 1935. Under section 123 of the new Constitution, the President has the power to promulgate ordinances operative for limited periods *during the recess of Parliament only*. Moreover, an ordinance so promulgated should be laid before both Houses of Parliament and ceases to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions. This provision is only an emergency provision intended to meet a special emergency when the legislature is not in session. An analogous provision, section 42, existed also in the Government of India Act, 1935. It seems clear from what I have

said that the President of India has no legislative power of his own — except in an emergency when the Parliament is in recess — to implement any kind of decision of his own. With this one exception, it is the Parliament alone that is vested with full legislative competence. If he seeks to get parliamentary approval for any legislation over the head of his ministers, who retain the confidence of the legislature, then inevitably he is bound to fail.

(3) Under section 33 of the Government of India Act, 1935, expenditure required for the discharge by the Governor-General of his functions with respect to the reserved departments of defence, external affairs and ecclesiastical affairs was made a charge on the revenues of the federation and this was not to be submitted to a vote of the legislature as subsection (1) of section 34 of the Act made clear. Under the new Constitution of India all these departments come under ministerial control and responsibility and moneys for running them have to be voted by Parliament. Moreover the Governor-General under section 35 of the Government of India Act, 1935, had the power on his own responsibility to restore to the original level any grant rejected or reduced by the legislature, if he was of the opinion that such rejection or reduction "would affect the due discharge of any of his special responsibilities". If we examine the provisions of the new Constitution on appropriations from the Consolidated Fund of India to meet public expenditure, we would find that Parliament alone is vested with supreme authority in this matter. The President of India has no powers whatever to authorize the spending of even a rupee of public money which has not been voted by Parliament. All withdrawals from the Consolidated Fund of India must be based upon parliamentary authorization as attested by an Appropriation Act. Section 266, subsection (3), which provides that "no moneys out of the consolidated fund of India or the consolidated fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution", puts this position beyond doubt. And as regards taxes section 265 makes it quite clear that no tax shall be levied or collected except by authority of law. It is clear from these facts that the President of India cannot get any funds to run the administration if he tries to override his Cabinet, when the cabinet enjoys the confidence of the legislature. The absence of supplies would result in the breakdown of administration.

(4) It will be noticed that, although the power to issue a proclamation of emergency when the security of India or of any part

thereof is threatened whether by war or external aggression or internal disturbance is initially vested in the President by section 352(1), the presidential action in this respect is subject to parliamentary approval, since under subsection 2(c) of the same section it ceases "to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament". As Parliament has been made the final authority to judge the necessity or otherwise for the promulgation of a proclamation of emergency, it follows, I think, that the President would as a matter of ordinary prudence not only take the opinion of his Ministry but also act in conformity with the advice it tenders. If the President acts on his own responsibility on this question there is the possibility of Parliament repudiating his action and leaving him in an unenviable position. Any action taken in consultation with the Ministry would be upheld by Parliament when the cabinet enjoys its confidence. The Ministry would know what exactly is the feeling of Parliament. A similar principle would also apply to the proclamation of the President, under section 356, that a State administrative machinery has broken down and that he takes upon himself the responsibility for the performance of "all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or Rajpramukh", as Parliament, even here, is made the final judge of the necessity of such a course of action being taken (see subsection (3) of section 356).

Now the question may be asked why the constitution-makers did not define in more specific and precise terms the constitutional position of the President of India *vis à vis* his Council of Ministers. Section 51 of the Irish Free State Constitution Act, 1922, provided that the executive authority of the Irish Free State shall be vested in the King, and shall be exercisable in accordance with the law, practice and constitutional usage governing the exercise of the executive authority, in the case of the Dominion of Canada, by the Crown's representative. It may be asked why a similar express provision defining the President's position in relation to his ministry was not made in the Indian Constitution. The answer, I believe, is that the position, even if such a provision had been incorporated, would still have been left in a state of much uncertainty because the precedents governing the exercise of the Crown's reserve powers, especially in relation to the dismissal of the Ministry and the dissolution of the Popular House of Parliament, are conflicting and leave the matter in con-

siderable doubt. Dr. Herbert Evatt, a distinguished former judge of the Australian High Court and until recently the Attorney-General and Minister for External Affairs of the Australian Commonwealth Government, wrote in 1936 a very learned and illuminating book bearing the title "The King and His Dominion Governors", in the course of which he examined the whole question of the reserve powers of the Crown. It is obvious to those who have examined this problem with care that it is full of difficulties. Precedents bearing upon this matter are conflicting and not easily reconcilable. Nor is this any matter for surprise if we remember that human situations are infinitely variable and that the forces of social and political life refuse to be cribbed, cabined and confined in neat legal formulas.

The problem of the exercise of the reserve powers of the constitutional head of a state working in collaboration with a cabinet responsible to the legislature raises points of great complexity especially over the powers of dissolution of the popular house and the dismissal of the ministry. I am of the view that India's constitution-makers were wise indeed in leaving this question in a fluid condition so as to allow healthy constitutional usages — there is of course the large reservoir of experience of Great Britain and the Dominions to draw upon — to develop in the country by the process of trial and error.

One or two illustrations will show the difficulties inherent in this problem of the exercise of the reserve powers of dissolution and dismissal. In 1926 a great constitutional controversy developed in Canada over the refusal of the Governor-General, Lord Byng, to grant a dissolution of Parliament to the then Canadian Prime Minister, Mr. Mackenzie King, who had been defeated in the Canadian House of Commons. The Liberal Party after the general election of 1925 was in a minority in the House of Commons. It had a strength of only 101 while the Conservatives had a following of 116. But the Liberal Party was able to run the administration with the help of the Progressive Party with 24 seats. After holding office for some months the Liberal ministry was defeated in the House of Commons. And when Mr. King asked for a dissolution, the Governor-General refused to grant it since he had good grounds for believing that the Conservative leader, Mr. Meighan, would be able to form a stable ministry with the help of the Progressives, who it would appear had agreed to support him. There was no doubt that Lord Byng's action was sincere and was dictated by the laudable desire that if a stable alternative ministry could be formed, it would not be in

the public interest to have a second general election within less than a year. Since the Governor-General had refused his request for a dissolution, Mr. Mackenzie King resigned his office as Prime Minister and Mr. Meighan then formed the now famous "acting ministry" so as to avoid by-elections. There were seven such "acting ministers", one minister only (Mr. Meighan himself) holding a permanent office. The Canadian House of Commons passed a vote of censure on the new administration two and a half days after it had come to office, condemning the method adopted for the constitution of the ministry. Mr. Meighan thereupon resigned his office and advised the Governor-General to dissolve the House of Commons. In the ensuing general elections the Liberal Party under Mr. King got an absolute majority of seats in the House of Commons.

Now I do not propose to discuss here the many facets of the controversy which ensued out of these happenings. I shall confine my attention here to one issue only. Mr. Mackenzie King, although he was in a minority in the House of Commons when he was defeated there, was entitled, according to British constitutional practice, to advise and get a dissolution of the House of Commons at the hands of the Governor-General. This is clear. According to British constitutional usage the Prime Minister of a party who suffers a defeat in the House of Commons — whether his party is or is not in a majority there — is entitled to get a dissolution. It is also well-established that a Ministry, which after being defeated in the House of Commons has advised a dissolution and is later defeated in the country at the ensuing general elections, cannot ask for a second dissolution. That is, of course, plain common sense. But one is entitled to ask whether the British constitutional practice of a Prime Minister whose party is in a minority in the House of Commons and who after being defeated in the House can ask for and get a dissolution at the hands of the King is so firmly grounded on reason as to be unassailable. Personally I think that there is a great deal to be said in favour of the view that the King should be free to refuse a dissolution to a minority leader who is defeated in the House of Commons when he can get a stable alternative ministry from the House without recourse to a dissolution.

As the Constitution of India contains no specific provisions defining the circumstances under which the President can grant or refuse a dissolution, it is open to this functionary to reject the request for a dissolution made be a defeated party leader, whose party is in a minority in Parliament, when he can get an alternative ministry to run a stable administration.

Questions of great complexity arise over the circumstances in which the King or his representative can dismiss the ministry and I shall not enter into them here. Professor Dicey, from the great constitutional contests of 1784 and 1834 when King George III and King William IV each dismissed a ministry commanding the confidence of the House of Commons and ordered a dissolution, draws the inference that the appeal in each case was from the Sovereignty of Parliament to the Sovereignty of the People so as to secure the ultimate supremacy of the electorate as the true political sovereign. With reference to the constitutionality of the dissolution of 1834, he observes:

> The constitutionality therefore of the dissolution in 1834 turns at bottom upon the still disputable question of fact, whether the King and his advisers had reasonable ground for supposing that the reformed House of Commons had lost the confidence of the nation.[3]

Obviously many difficulties suggest themselves in connection with the test formulated by Dicey, that it is open to the King to dismiss the ministry and direct a dissolution when he has reasonable grounds for supposing that the wishes of the legislature are different from the wishes of the nation. Now one may ask what are the data on which he is to form this opinion and what are the sources of information he must tap. And, further, what will be the position of the King when the electorate returns the same party he has dismissed from office into power. However bonafide the King's act may be, his position, to say the least, becomes awkward when he has to deal with the same set of ministers whom he has once dismissed from office. Mr. Asquith in the course of a memorandum he prepared in September 1913 on the position of the King in relation to the Government of Ireland Bill observed:

> The Sovereign undoubtedly has the power of changing his advisers, but it is relevant to point out that there has been, during the last 130 years, one occasion only when the King has dismissed the Ministry which still possessed the confidence of the House of Commons. This was in 1834, when William IV (one of the least wise of British monarchs) called upon Lord Melbourne to resign. He took advantage (as we now know) of a hint improvidently given by Lord Melbourne himself, but the proceedings were neither well-advised nor fortunate. The dissolution which followed left Sir R. Peel in a minority, and Lord Melbourne and his friends in a few months returned to power, which they held for the next six years. The authority of the Crown was disparaged, and Queen Victoria, during her long reign, was careful never to repeat the mistake of her predecessor.[4]

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[3] A.V. Dicey, Law of the Constitution (8th ed.) 432.

[4] J. A. Spender and Cyril Asquith: Life of Herbert Henry Asquith, Lord Oxford and Asquith, Vol. II, p. 30.

All this suggests that the dismissal of a ministry by the King or a constitutional head when it enjoys the full confidence of the legislature is a serious act recourse to which should be had only in a grave crisis when the ministry is committing serious blunders. Even the action of Sir Phillip Game, the Governor of New South Wales, in dismissing Mr. Lang's ministry in 1932, when it was defying the Commonwealth Government and committing grave constitutional illegalities, has been questioned. Without going into the details of this very interesting episode, I am convinced that Sir Phillip's action in dismissing Mr. Lang and in calling upon Mr. Stevens to form a ministry, though his party was in a minority in Parliament, was the proper one to take. Mr. Stevens formed an administration and obtained a prorogation of Parliament. And when the House stood prorogued the Governor dissolved Parliament and Mr. Stevens in the ensuing general election was returned to power.

There is no kind of analogy between the part played by the President in the polity established by the new Constitution of India and the rôle assigned to the President in the scheme of government formulated by the Constitution of the United States. As I have already endeavoured to explain, the President of India will function only as the *formal* Executive Head of the State, while the Cabinet of Ministers which is constituted to aid and advise him will be the *real* depositary of the Union executive power. In the United States, the real executive is the President. The great prestige which is associated with that office and the great powers which go with it stem from the fact that the presidential office comprises the real federal executive. The heads of the various departments who, taken together, comprise the President's Cabinet are only his personal advisers. They are neither members of nor do they sit in nor are they responsible to Congress. The Cabinet has no kind of connection with the legislature. It is only a body of departmental heads constituted to run the various executive departments of government under the personal oversight of the President. Although some Presidents have had regular meetings of the Cabinet, others have followed the practice of summoning the Cabinet only when particular issues seemed to require joint consideration. Votes are rarely taken at cabinet sessions and even if taken the majority view does not bind the President. We have the famous story of Abraham Lincoln to illustrate this point. Lincoln is supposed to have closed an important discussion in the cabinet in which every member was against his

view, with the cryptic utterance: "seven nays, one aye, the ayes have it".[5]

The President of the United States is the official spokesman of the country in the conduct of foreign affairs and, if he is like President Woodrow Wilson or President Franklin Roosevelt a man of great personality and drive, he generally takes a large share in shaping it. Under the new Constitution of India, however, it is the cabinet, and not the President, that has to frame and execute the foreign policy of the nation. I do not want to go into more details here in regard to the way in which the presidential system works in the United States. Elsewhere I have discussed this problem at some length.[6]

I do not want to create the impression from anything that I have said that the new Constitution of India intends that the President of India should be the mere ornamental head of the Union Administration. It is the intention of the Constitution, I think, that he should take a live interest in the administration and actively help his ministers with his advice and experience. Section 78 of the Constitution specially provides not only that the Prime Minister should communicate to him all decisions taken by the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation but that he should also furnish to him such information on Union affairs and legislative proposals as the President may himself call for. Moreover the President can demand under this section that any matter upon which a Minister has taken a decision by himself should be considered by the Council of Ministers as a whole. If the President is a man of character and ability there is no doubt that he will play a great rôle in the affairs of government, not by dictating any course of action to his ministers but by helping them with his knowledge, experience and disinterestedness to reach sound decisions on matters affecting the well-being of the public. The ultimate decision must be that of the Ministry and not his. And responsibility for every action taken must rest with the Ministry alone. He cannot override their decisions. It is the intention of the makers of the Constitution, I think, that the President should be a centre from which a beneficent influence should radiate over the whole administration. But it is clearly not their intention that he should be the focus of any power.

[5] This episode is referred to by Charles A. Beard in his American Government and Politics (10th ed., 1949) 209.

[6] See M. Ramaswamy, The Indian Union Executive (1947), 3 India Quarterly 221.