CHAPTER THREE
EMERGENCE OF THE FEDERAL IDEA IN INDIA AND FORCES LEADING TO THE ADOPTION OF FEDERALISM IN THE ACT OF 1935.

The federal idea attracted various thinkers in India from early times. As early as 1904, in his presidential address to the 20th Session of the Indian National Congress, Sir Henry Cotton touched upon the federal idea. "The ideal of an Indian patriot", said Sir Henry Cotton, "is the establishment of a federation of free and separate States, the United States of India, placed on a fraternal footing with the self-governing Colonies, each with its local autonomy cemented together under the aegis of Great Britain". Sir Henry Cotton admitted that this was a forecast of a 'dim and distant' future and did not elucidate this ideal further. A serious consideration, at that time, was not given to the idea of an Indian federation. But the necessity of decentralisation was felt both in official and in non-official circles. Efficient administration in this vast country required devolution of authority and this urgent necessity came to be appreciated by and by. In 1915, G. K. Gokhale in his 'Political Testament' said:

1. Indian National Congress - P.773
(Published by G.A. Batesan & Co.)
"The grant of Provincial Autonomy foreshadowed in the Delhi Dispatch would be a fitting concession to make to the people of India at the close of the war." It may be mentioned here that most of the Indian writers meant by the term Provincial Autonomy not only freedom of the provincial Government from Central control but also responsible government in the Provinces. This was evident from the observation of the Reforms Enquiry Committee 1924. The Committee observed that most of those who used the term used it 'rather to mean the grant of responsible self-government in the provinces than in its accurate meaning.' Sir Sivaswami Aiyer in his 'Indian Constitutional Problems' wrote in the same vein: "I propose to use it in the same sense in which it is commonly used in Indian political parlance. It means not merely the right of a province to make its own laws and administer its own affairs, but also responsibility to provincial legislature and freedom within defined limits from the control of the central power." It is true that theoretically the accurate meaning of the term is conveyed by the interpretative expression 'freedom of a provincial government from external control by the Government of India.' But at the time the terms Provincial Autonomy and Responsible Government were regarded as almost synonymous by the people of India. Whether the term Provincial Autonomy was used in its

2. Keith - Speeches and Documents on Indian Policy, Vol. II, P. 111
5. Sir Fredrick Whyte - India A Federation, P. 36.
strict sense or not, the desire to grasp governmental control was intense and it was soon realized that the Government of India Act did not give real popular control even to the Provinces. In 1924, Diwan Bahadur T. Rangacharyar moved a resolution in the Bengal Legislative Assembly entreat ing the Governor-General in Council to take steps for revising the Government of India Act so as to secure for India full self-governing Dominion Status within the British Empire and Provincial Autonomy in the Provinces. The demand for responsible government was also made in the report of the Committee appointed by the All-Parties Conference, 1928 to determine the principles of the constitution for India. It was recommended in the said report that "India shall have the same constitutional status in the comity of nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India and an executive responsible to that Parliament and shall be styled and known as Commonwealth of India." This shows that the Committee appointed by the All Parties Conference was not keen on securing federal form of government but on responsible form of government, because, they would have remained satisfied with the form of

government prevalent either in Australia or in New Zealand. Therefore, it mattered little to them whether the form of government was unitary or federal if responsible government was given. This is also evident from the writing of one of the delegates of the Round Table Conference who has stated that "Most of the delegates from British India had gone to London with the object of securing responsible government for British India. They were agreeably surprised when the Princes announced their intention of agreeing to come into a federal constitution for India and it changed the whole complexion of the discussions at the Conference."

The Committee appointed by All Parties Conference, 1928 recognized the possibilities of introducing an All India Federation. But the motives of the Indian States in joining such a federation were regarded as doubtful. The Committee observed: "If the constitution of India is to be a federal one, as we think it might well be, the position of the Indian States in relation to that federation appears to us to call for a definite determination and the ideas on the subject require to be cleared up."

But federation was demanded mainly by two major forces - the Muslim Community and the Indian States. The enthusiasm was due to a multiplicity of causes in both cases. The growing powers of the British Paramountcy were

9. Report of the Committee appointed by the All Parties Conference, 1928 - P.32
gradually encroaching upon the autonomy of the states to which it became extremely difficult for them to reconcile. Lord Reading, the then Viceroy of India, in his letter to the Nizam of Hyderabad on the 27th of March 1926, emphasised that the sovereignty of the British Crown was supreme in India and the right of the British Government to intervene in the internal affairs of the Indian States was a necessary consequence of that supremacy. The findings of the Indian States Committee, 1929 were also decidedly contrary to the expectations of the Indian States. The resentment of the Rulers of the Indian States grew keener at the thought of a cabinet composed of the British Indian Ministers exercising Paramountcy over them if Dominion Status were given to India. In joining the federation, the Indian States would be able to strengthen their position and secure some power in the determination of All India policies. As it has been truly remarked: "In supporting the idea of an immediate Federation the Princes' motives were obviously mixed. They saw nineteenth century India disappearing, and like other minorities they were determined to stake out their claim while they could do so to the best advantage. Many of them preferred to see India free from British control; but they had no intention of allowing a British

11. Ibid., P.57.
That some of the leading Indian States envisaged a federal polity for India from early times was shown by the assertion of Sir Manubhai Mehta, the representative of Bikaner, at the Third Round Table Conference. He pronounced that the idea of a federation embracing both British India and Indian India was even older than the Report on the Indian Constitutional Reforms, 1918. After the inauguration of the Chamber of Princes, many Princes expressed themselves in favour of federation. 

His Highness the Maharaja of Bikaner said to the legislative assembly of his State on the 19th of December, 1929:

"I look forward to the day when a United India will be enjoying Dominion Status under the aegis of the King-Emperor and the Princes and the States will be in the fullest enjoyment of what is their due - as a solid federal body in a position of absolute equality with the federal provinces of British India." His Highness the Maharaja of Alwar did also give eloquent expression to the same sentiment when he said: "My goal is the 'United States of India' where every province, every state working out its own destiny in accordance with its own environment, its traditions, history and religion will combine together for higher and Imperial purposes, each subscribing its life quota of knowledge and experience in a labour of love.

14. Proceedings of the Indian Round Table Conference (Third Session), P. 107
freely given for noble and higher cause. The subjects of the Indian States also were eager to join an All India Federation; because an intimate relationship with British India was sure to improve their lot as British India was moving gradually to a democratic form of government. In the First Round Table Conference the striking declaration came from most of the Princes in favour of a federation with British India. In the above-mentioned Conference Sir Mej Bahadur Sapru said: "I am a very strong believer in the federal form of government. I believe that therein lies the solution of the difficulty and the salvation of India." He advocated the association of the Indian States with British India as this would secure stability and unity to India. In regard to matters of defence he said that some practical experience would be furnished by the States which was wanting in British India. His Highness the Maharaja of Bikaner showed much enthusiasm for the federal idea in the First Round Table Conference. "We of the Indian States," said he, "are willing to take our part in, and make our contribution to, the greater prosperity and contentment of India as a whole. I am convinced that we can best make that contribution through a federal system of government composed of the States and British India."

16. Quoted in Indian States and British India - By G.N.Singh, P.73.
18. Proceedings of the R.T.C. (First Session), P.32
But he pointed out that in order to enter into any federal arrangement with British India the structure of federation was to be satisfactory to the States containing, for instance, necessary constitutional and fiscal safeguards.

Federation was one of the pivotal demands of the Muslim Community. They were dissatisfied with the Report of the Committee appointed by the All-Parties Conference. After the failure of the All-Parties Conference, Mr. Jinnah formulated his famous 'fourteen points.' One of the points related to the claim that the form of the future constitution of India should be federal with the residuary powers vested in the Provinces. Though the Muslim community was a minority community in India as a whole, in some Provinces they constituted the majority of the population. Under a federal arrangement, though at the centre the Hindu community would predominate, in the Muslim majority Provinces, they would set up their own government. The central government in a federation is much weaker than that in a unitary state. So, as only under a federal form of government they could gain some power, they supported it. Maulana Muhammad Ali clearly stated: "The Muslims desire – and this is the crux of their fourteen points and not separate electorates that there should be federal government, so that the central unitary government with a permanent Hindu majority should

not override them everywhere. With complete Provincial Autonomy, they would be able to pursue the development of their own community. This would also guarantee favourable treatment towards the Muslims in those Provinces where they were a minority. The fear of retaliation would act as a balancing factor, they thought, in the minds of the administrators of the Hindu majority Provinces. In the Central government also they demanded preferential treatment, such as representation of the Muslim population in the central legislature by a proportion not warranted by the ratio of the population. So, in every respect their privileges would be greater under a federal government than those obtainable in a unitary form of government. It was natural, therefore, that the Muslim leaders demanded federation with a limited authority.

The first official recognition of the necessity of a federal form of government is to be found in the recommendations of the Indian Statutory Commission. In the Report on the Indian Constitutional Reforms, 1918 it was observed by Mr. Montagu and Lord Chelmsford that the process before them was not one of 'federalising'. The business was only one of devolution. But as all shades of political opinion were dissatisfied with the working of the Montagu-Chelmsford reforms the Indian Statutory Commission was appointed in 1927 to survey the position in India and to

20. Proceedings of the R.T.C. (First Session) Appendix I to the Minority Committee Report, Pages 163-64 (Letter written to the British Prime Minister).
propound a new constitutional scheme. The Indian Statutory Commission recommended a federation for the whole of India. The Commission asserted: "The ultimate Constitution of India must be federal, for it is only in federal constitution that units differing so widely in constitution as the Provinces and the States can be brought together while retaining internal autonomy." The Commission was convinced that any Constitutional change recommended for British India 'must have regard to a future development when India as a whole, not merely British India, will take her place among the Constituent States of the Commonwealth of Nations united under the Crown.' Apart from the question of an ultimate federation to be effected between the Indian States and British India which was to be a development of the 'distant' future, British India was to be reconstructed on a federal basis. The reason for this recommendation was two-fold. First of all, democracy or self-government can operate successfully in units of a suitable size. So, in order to make democracy a reality India was to be divided into smaller units of a federation. Secondly, the diverse elements composing British India could develop themselves properly only in a federation.

Though the Indian Statutory Commission made a searching enquiry into the Indian Constitutional problems, it was an all-white Commission and was vehemently opposed by the Indian political opinion. So Sir John Simon, the chairman of the Commission, suggested to the British Prime

Minister in a letter that after the completion of the work of the Commission, His Majesty's Government should meet in a conference both the representatives of British India and representatives of the States, "for the purpose of seeking the greatest possible measure of agreement for the final proposals which it would later be the duty of the His Majesty's Government to submit to Parliament."

This suggestion of Sir John Simon was accepted by the British Government. On 31st October, 1939 Lord Irwin, the then Viceroy of India, announced the decision to convene a Round Table Conference composed of the delegates from British India and the States. From the text of Lord Irwin's declaration, it was quite clear that the British Government was eager to bring the States within the same political order with British India. "In the full realisation of this policy, it is evidently important," so ran the declaration, "that the Indian States should be afforded an opportunity of finding their place, and even if we cannot at present exactly foresee on what lines this development may be shaped, it is from every point of view desirable that whatever can be done should be done to ensure that action taken now is not inconsistent with the attainment of the ultimate purpose which those, whether in British India or the States, who look forward to some unity of all-India, have in view."

That the division of India into innumerable small States and the British Indian Provinces was senseless and that the union of the Indian States with the Indian Provinces

might lead to a happy constitutional progress were recognized by everybody. But the British Government wanted to unite the Indian States with British India, not for the needs of constitutional progress but as a 'valuable counter-weight' to the growing nationalism of India. The States were more conservative than British India and more loyal to the British Government. The loyalty of the Indian States was acknowledged by the Indian States Committee, 1929 which remarked: "The Indian princes have played an important part in Imperial history. Their loyalty at the time of mutiny; their response to all patriotic claims made upon them; their noble services in the Great War; their splendid devotion to the Crown and the person of King Emperor and to the Royal Family are one of the proud things of our annals, a glory of the Empire". Prof. Keith truly observed that it was too obvious that on the British side the scheme was favoured in order to provide 'an element of pure conservatism in order to combat any dangerous elements of democracy contributed by British India.' This also explains so many queer concessions made to the Indian States in the Government of India Act, 1935.

In the First Round Table Conference the Princes made their declaration in support of an All-India federation. In the federal structure sub-committee of the said conference four items were considered. Its terms of discussion related to the component elements of the federation, the type of the federal legislature and its powers and the constitution, character and responsibility of the executive. In the course of discussions it was clear that what the Princes really

wanted was not federation but a looser form of alliance or confederation. They were reluctant to place at the disposal of the federal government a long list of powers and even in respect of those powers they would agree to transfer 'they were inclined to keep up to some extent at least their individual authority and jurisdiction.' Even in the case of subjects naturally belonging to any federal government such as currency and coinage, posts and telegraphs and railways, Sir Manubhai Mehta pleaded in these terms: "The Princes are naturally jealous of their own internal autonomy and while they are prepared to suffer diminution of some of their own sovereignty in the interests of the common weal, they are as anxious to see that no needless sacrifice from them is demanded. It is for this purpose that while they are prepared to concede to the federal authorities the authority to legislate and lay down policies on subjects of common federal concern they are reluctant to part with their proprietary rights, their jurisdiction and their administration of those common concerns like Railways and Ports...." In the case of representation in the federal legislature the Indian States claimed 'greater representation than they would obtain on a strict population ratio.'

But even with larger representation than the States were entitled to enjoy on strict population basis and preferential treatment regarding the surrender of powers to the federal government, the enthusiasm of the Princes soon began to evaporate. The Second Round Table Conference lacked the fervour which marked the First, and in the Third session none of the important Rulers were present.

British Government adopted the ideal of an All-India federation and on the basis of agreements arrived at during the Round Table Conferences a Parliamentary White Paper was prepared. This was subjected to a searching enquiry by a Joint Parliamentary Committee appointed for the purpose. After the publication of the Report of the Joint Parliamentary Committee a bill was introduced in the British Parliament the culmination of which was the Government of India Act, 1935 in which, for the first time, a scheme for an All-India Federation was embodied.