CHAPTER – IV

INDIAN CONSTITUTION AND PRIME MINISTER

The most astonishing development in the sphere of the Westminster model of government should be discovered in the extremely powerful position of the Prime Minister calling for the rechristening of this form of political organization as the prime Minister being primus inter pares (first among equals) now stands thoroughly discredited. It was after the realization of this astounding development that Humphrey Berkeley, an independent minded member of the English Parliament, remarked after six and half years in the House of Commons, I have been at sufficient close quarters to realize that almost every premise on which my knowledge of constitutional theory was based has turned out to be untrue. Parliament is not, in practice, sovereign. The Prime Minister is not, been for a very long time primus inter pares. The astonishment of this English politician is contained in these words.¹ “The Parliamentary democracy has now collapsed at Westminster, the basic defect in the British system of government is the supra-ministerial power of the Prime Minister “It had its like affirmation in the observation of RHS Crossman who, in his ‘Introduction’ added to the new edition of Basehor’s classical work The English Constitution, ‘ said these memorable words. “The postwar epoch has seen the transformation of the Cabinet government into Prime ministerial government.² Under this system the hyphen which joins the buckle which fastens the legislative part to the executive part becomes the single man.

PRIME MINISTER

The voice of some members, who desired that India should opt fort the Presidential type of government, failed to prevail. While introducing the Report
of the union Constitution Committee in the Constituent Assembly, Nehru said that what most of the members really favored was the English pattern of political system. Revealing the mind of the Drafting Committee, K.M. Munshi said that from the very beginning, "it was decided that the Central Government should be based on the English model." In no less unequivocal and rather in more forceful words, Sardar Patel said that both the Union Constitution Committee and the Provincial Constitution Committee had come to the conclusion that it, "would suit the conditions of this country better to adopt the parliamentary system of Constitution committee had come to the conclusion that it would suit the conditions of this country better to adopt the parliamentary system of Constitution, the British type of Constitution with which we are familiar." 

Various arguments were advanced by the protagonists of the preliminary form of government. It was widely believed that we had already had a tradition of the system, of government in our country and as such it was better suited to our conditions. It was also believed that the presidential system of government having its concrete and best example in the government of the United states was rigid and less responsible as compared to the English model that was both 'elastic' and 'more responsible'. Though one may, or may not, agree with all the points made by the protagonists of the cabinet form of government for our country, it was quite clear that the Makers had very strong convictions in this regard and their views have been summed up by Prof. Rao in these words: "The proper ground for adopting the British system is this: we are familiar with it, and it would suit the conditions of the country better because we have had a past tradition for it. Most of the members were either
educated in English schools or trained in the provincial legislatures where this system had functioned before, and they sincerely believed that this system was better suited to our country.\textsuperscript{5}

It is due to this that Part V of Constitution titled The Union with its Chapter I titled ‘The Executive’ constrains certain important articles that lay down the framework of our parliamentary form of government. Art 74 is very significant which says:

1) “There shall be a council of ministers with the Trimester at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice. Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.”\textsuperscript{6}

2) The question whether any, and if so what, advice was tendered by the Ministers to the President shall not be inquired into any court”. While laying down other provisions with regard to the nature of organization and working of the Union Council of Ministers, Act 75 says:

1. 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. The Ministers shall hold office during the pleasure of the President.

3. The Council of Minister shall be collectively responsible to the House of the People (Lok Sabha)
4. Before a Minister enters upon his office the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

5. 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.

6. The salaries and the allowances of Minister shall be such as Parliament may from time to time by law determine, and until Parliament so determines, shall be specified in the Second Schedule.

Finally, we come to Art. 78 that defines the duties of the Prime Minister it says: “It shall be the duty of Prime Minister.

a) To communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation.

b) To furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and.

c) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been constitution by the Council.”

The written provisions of our Constitution in this regard are extremely sketchy. They do not cover the area of entire authority that the Union Council of Ministers has to exercise. Moreover, as in England our Council of Ministers
headed by the Prime Minister is expected to play the role the efficient executive in view of the paramount fact that the president constitutes the dignified part of the Union executive. It should also be borne in mind that there are four important factors that either circumscribe the authority of the Prime Minister or force him to push back the barriers in order to play the role of a great national leader. These are writer constitution, federal system, judicial review, and multi-party system will the dominance of the ruling party or parties organized and working non-federal lines but committed to the ideas of a secular and social democracy. The functions of the Prime Minister, thus, should be examine in the light of several limitations hedged around his office and the about and courage with which he discharge them for the ultimate good of the people without violating the provisions of the Constitution. For this, one should look at the personal equation of the office-bearer who may either behave like a primus inter pares as desired by the Administrative Reforms Commission (in its Report on the Machinery of the Government of India and its powers and Procedure of Work) in 1967 or as the “wielder of long knives.” The position, as it stands now, shows that the office of the Prime Minister” remains in a fairly amorphous, undefined state.

PRIME MINISTER: SELECTION AND APPOINTMENT

The Prime minister is selected by the party commanding clear majority in the Lok Sabha and appointed by the President. Nationally selection by the party comes first and appointment by the President afterwards. It was because of the President ship of the Congress party in the hands of Nehru himself that he was invited by Lord Well, the then Viceroy, to be the Vice-president of the Interim Government. Moreover, it was the leadership of Mahatma Gandhi that
saved Nehru from any potential challenge likely to come from the side of a stalwart like Sardar Patel. It was due to the blessings of Gandhiji that Nehru got the office of the President of the Congress party and, letter on, Patel submitted to the wishes of the Mahatma not only in joining the Interim Government but also in withdrawing the move of tendering his resignation and instead sorting out his differences within Nehru-the de facto Prime Minister of India. “From this de facto position, the de jure Prime Minister ship in 1947 was a natural, logical transition. Thus, Nehru owed his first de facto Prime Minister ship to Gandhiji. And when the time came, in 1947, for full-fledged de jure prime Minister ship, Nehru had precedent, status quo, and the halo of the first winner- all these advantage on his side? 

Nehru bad a clear passage after time death of Sardar Petel in 1950. His selection by the party, correctly speaking by the Congress Parliamentary Party (CPP) and his appointment by the President became axioms in vie of his towering and peerless leadership of the party commanding majority in the Lok Sabha after first, second and third general. However, the unwritten rule of the first selection by the party appointment by the President had its full sway after the death Nehru in May 1964. The battle of succession ensured and some leading leaders were ford terribly involved in the question of selection second Prime Minister of India. The then President of the Congress Kamaraj, played the significant role of a stage manager in having settled in favor of Shastriji by means of has consensus formula this way that the first war of succession ended happily signifying of English Labour party’s method of election of the leader by the Parliament party and Conservative party’s former method consensus among party leader. The way for the Premiershi...
Shastri was thus cleared by the Congress party in a manner that the forms of constitutional democracy “were rigorously maintained, party sentiment was accurately gauged and the popular choice was selected without shattering the unity of the Congress elite or the tranquility the realm.”

The rule of first selection by the party had its another instance in the story of second succession after the death of the second Prime Minister in Jan 1966. Once again the leaders of the party were involved in the tugs and pulls and then the party president (Karnataka) had to act with great adroitness. Morarji Desai who had submitted to the consensus formula in 1964 was not at all prepared to retrace his step in deference to the wishes of Kamaraj whom he had called a liar. In a letter addressed to all Congress members of Parliament Desai stressed the point “It is the inherent right of each and every member of the CPP to contest the leadership.” Thus, the contest between Desai and Mrs. Gandhi took place in which the letter emerged victorious and had the chance of being appointed as the third Prime Minister of India. What was more striking at this stage was the role of the Congress Chief Minister the provincial Nehrus in their own right who rallied support to one who was labeled as the official candidate of Kamaraj. In this way, the second succession “witnessed the emergence of an alliance between the head of the Congress organizational wing at the Centre and the state Government leaders.”

The drama of second succession implying first successfully contested succession of Mrs. Gandhi, had a brief repetition in the politics of selection of the leader of the CPP after the fourth general elections in which the party had suffered heavy losses. However as the congress party had its clear majority in the Lok Sabha, none but the chosen leader of this party could have the
privilege of being invited by the Rashtrapati of form the Union Government. The changed political situation had its definite effect ad that too in favour of Desai, who ultimately agreed to support the candidature of Mrs. Gandhi on he condition that he would get the office of the Deputy Prime Minister with the portfolio of Finance, not Home. It was feared that Mrs. Gandhi with her hard core of about 60 supporters might cross the floor in sheer desperation in case she was dislodged from the prime Ministership. The result of the hard bargaining process was the unanimous selection of Mrs. Gandhi on 12 March, 1967 with Morarji Desai to have the office of the Deputy Prime Minister holding the portfolio of Finance. It signified the triumph of the formula of D.P. Mishra a strong supporter of Mrs. Gandhi. Thus ended the drama of he third succession “72 house of intense and though bargaining”}

The election of Mrs Indira Gandhi as the leader of the Congress Parliamentary Party after the general election of 1971 should be regarded as the return of the Nehru era when the party had no other leader to stake his claim. Had this situation continued to prevail, nothing but thus practice of the Nehru era should have continued simultaneously and thus the appointment o the Prime Minister at the hands of the President should have remained just like an act of formality. But one might say that this practice would definitely undergo a change after the tradition of the Nehru era has a serious setback. In case the Congress party, or any other party, that happens to replace the Congress Party, loses its majority in the Lok Sabha the matter relating to the selection of the leader will be settled by a combination of parties. The Prime Minister so appointed by the President shall be a common leader of the parties forming some coalitional arrangement to grab the position of being in power. We could
infer from these dreams of succession one great lesson that not the factors of
localism or regionalism, or the age of the contestant, or his religion or
educational qualification and like would play a significant part in his selection.
A man ill-known for his reactionary social philosophy or his unsympathetic
attitude towards the minorities or his role as involved in the factional politics of
a state will be disqualified. It has by now become very clear and let us hope that it shall become the unbreakable unwritten law of our responsible
government that the personal selected by a single party if in majority, or by a combination of parties, if they form a coalition, must be one who may broadly give expression to the real culture of our courtly what Nehru called unity in diversity by his unimpeachable national image

It shows that what really matters is not the action of the President in issuing invitation to form the government but the role of the party commanding absolute majority in the Lok Sabha that has to deal with the crucial issue of choosing its nominee. It such a situation, the President is expected to act very cautiously. He should either invite the leader of the majority party incase he is sure that the party in clear majority is contestant he must wait till the decision of the party in clear majority is available to him in case he finds that the battle for selection is impending. For tenthly the first two Presidents followed the healthy practice of sending initiation to form the government to a person after the Congress Parliamentary Party had formally elected its leader. President S Radhakrishnan appointed Guzarilal Nanda as the officiating Prime Minister after the death of Nehru in response to the recommendation of the Emergency Committee of the Cabinet. A new practice had its start here implying that in case of sudden vacancy, the senior most member of the Cabinet shall have the
chance to act as the officiating Prime Minister until the decision of the majority party is available President S.Radhakrishnan swore in Nanda again within hours of Shastri”s death in 1966 as there was a precedent to guide him.

A fundamental change, in the direction, occurred in March 1977 when the acting president (Jatti) appointed Morarji Desai as the fourth Prime Minister of India. The election result registered thumping victory for the Janata Party a combination of four parties, namely, Bharatiya Lok Dal, Congress (O) Bharatiya Jana Sangh and Socialists and also in alliance with the CFD, Akali Dal and the DMK) whose leader was invited by the Acting president to form the new Union Council of Ministers. Acting as the constitutional head of the state, B.D. Jatti acted wisely in inviting the chairman of the Janata Party to form the government without paying any heed to the controversy initiated by a section of the CFD leaders that the declaration of Desai as the leader of the Janata Party by Jayaparakash Narayan was not made on the basis of a consensus and as such it was undemocratic. Thus “a new phase in the Indian history initiated by the Janata Party victory reached its first milestone when Desai was sworn in as the Prime Minister.”16

The problem of appointing the Prime Minister found its first manifestation in the political developments of July 1979 when Morarji Desai, instead of facing the no-confidence motion tabled against his ministry by the then Leader of the Opposition, Y.B. Chavan of the Congress (S) resigned, A section of the rest while Janata party formed the Janata(S) and thus under the leadership of Charan Singh staked its claim. The President gave first opportunity to the Leader of the Opposition Since Chavan regretted his inability, the claims of the Janata Leader (Desai) and of the Janata (S) (Chavan Singh) were carefully
studied. Both leaders submitted lists of their supporters. Since the side of Charan Singh became heavier after the cancellation of certain common and working names, the chance of forming an alternative government was given to him by the President with a would of advance that he would seek the confidence of the Lok Sabha at the earliest possible date. The new Prime Minister formed a coalition government with the help of Congress(S) while Congress(I) and CPM decided to support it from outside. After some time, the Akali Dal and the A-IADMK also joined it. This Government failed to secure the vote of confidence. It fell after 24 days when the Congress(I) decided not to support the confidence motion tabled by the Prime Minister. Thus the prime Minister resigned with a written advice to the President to make an appeal to the people.

Once again, the war of succession ensued. The newly elected leader of the Janata party (Jagjivan Ram) staked his claim without agreeing to submit a list of his supporters. The President feared the adoption dishonorable means by the Janata leaders for winning over some legislators if more time were allowed for horse-trading. He thus though mid-term poll as the only way out to solve the tangled issue. In respect, he was neither guided by the advice of the outgoing Council Minister which wassail do have been binding on him, as so string affirmed by the then law. Minister (S.N.Kacker) nor was he impressed with the view of the leaders of the Janata Party, including a well-known constitutional jurist like N.A Palkhivala, that the opinion of a mystery, which could not live in confidence even for a day, was not at all binding on him and the only possible course before him was to give chance to Jag Ivan Ram. Here is a case when the President, for the first time, exercised his discretion and then won the
applause of the people for taking the best possible action under the obtaining
circumstances. On 31st October 1984 President Zail Singh took a different step by appointing Rajiv Gandhi within hours of Mrs. Gandhi’s assassination on the advice of some very senior Cabinet Ministers. Subsequently his name was approved by the CPP. President Venkataraman appointed V.P. Singh as Prime Minister of the Janata Dal when he was assured of support of the BJP, CPI and CPM to the leader of the National Front. In November 1990, the Lok Sabha did not pass the confidence motion moved by the then Prime Minister V.P. Singh. He resigned and then the President appointed Chandra Shekhar as the new Prime Minister of a coalition government who could requisition the support of the Congress(I). It witnessed its repetition in 1991 when the President appointed P.V. Narasimha Rao of the Congress (I).

Undoubtedly, the language of Art. 75 (1) is quite vague with regard to the appointment of the Prime Minister by the President. It simply says that the Prime Minister shall be appointed by the President. It therefore say nothing about the discretionary authority of the head of the State in this regard, nor does it lay down anything about the Prime Minister’s being a member of the Parliament at the time of the appointment. To persons having their eyes colored with the English experiments, it seems aromatic to say that the President has very little, almost no chance of using his personal choice in this regard in view of the fact that, under normal conditions, his hands are tied by the convention of selecting none else than the leader of the party commanding absolute majority in the Lok Sabha. It is further inferable from this point that the President may, perhaps, be in a position to exercise his individual judgment under abnormal conditions, that is, in case no party secures absolute majority
in the Lok Sabha. A prima facie examination of the whole arrangement leaves
an compression that the president many appoint anyone as the prime Minister
he is able to carry the majority of the members of the Lok Sabha him, and (ii) in
the event of being a non-member of the he is able to get his seat preferable in
the Lok Sabha within the six months as happened in the case of P.V Narsimha
Rao. The principle that the President must commission only the ledger of text of
the presidential notification in The Hindustan Times (New Delhi), 1979. The
Supreme Court rejected a writ petition and observed that, despite Amendment
Act, the President “acts in his own discretion in choosing Minister.” Madan
Murari V. Chandhary Charan Singh, AIR 1980 Cal. 95. study of this
development see Palkhivala. “The President’s Decision; of Dissolution” in the
Favor. The majority party in the Lok Sabha to form the government and must
not summon anyone else uncles faced with the complicated of either seeing
that his nominee is unacceptable to the majority party that the (premise) has
failed to maintain his government wooing to opposition of his powerful party
men is subject to two essential condition First, as the life of the Ministry
depends upon the pleasure the Sabha, the President must scrupulously party
regard to the verdict of the electorate in order to avoid the emergence of a
series of complex problem leading to the inevitable consequence of his own
impeachment. It follow that, under normal conditions, the president is placed in
an almost option less situation. Second, under abnormal conditions, the
President may seize the initiative and thereby influence the final choice in a situ
of complicated party politics. In such a case, the appointment of the Prime
Minister may amount to his personal nomination by the President like that of
Ramsay Mac Donald made by the English King in 1931. Obvious in such a
causal situation, the President, as former Chief Justice of K.Subba Rao say, “is to choose a person who in his option can form stable government and then leave him to face the legislature.”

It is obvious that, in the letter situation alone, the task of the President goes beyond his concern limited to, what Prof. Jennings says about English system, securing a government. However, a further interpretation of this point stipulates two more extreme situations in which discretionary powers of the President may be said to have limited as we as unlimited aspect. A situation of limited discretion is one where President picks up a man of the party commanding absolute majority in the Lok Sabha on the basis of his private knowledge of that party’s inner state of affirms as Queen Elizabeth II did in 1957 in preferring Harold Macmillan to R.A. Butler. Qualitatively different from this is the situation when the President may exercise his unlimited discretion by inducting minority government into office or taking the imitative in forming a coalition government of the principal parties. In such a case, the matter is to be decided by the attitude of the President himself—co-operative, sympathetic or hostile-towards the party or parties commanding strong and influential position in the Lok Sabha. In such an eventuality, the President may vindicate the lost honour as Queen Victoria did by choosing Gladstone for the Premiership in 1880 against her will and thereby revealed the nuisance value of her great office by paying hardly any regard to the chorus of hostility raised from all sides of the Opposition. In a country like India such an eventuality might be possible in time to come when, what Prof. Harold J.Laski stipulates about his English system, the party situation “does not indicate an obvious government.”
THE DOCTRINE OF THE AUTOMATIC SELECTION OF THE LEADER OF THE PARTY:

Absolute minority in the Lok Sabha as the Prime Minister of India is susceptible to serious doubts not only in view of the future possibilities of a coalition government at the Centre but also in view of the factional politics rampant inside the majority party itself. One might say that the peculiar situation of a single person’s dominance over a single-dominant party in our country (as it prevailed during the days of Nehru and as it had once again been restored by Mrs. Gandhi) is sure to go yielding place, sooner or later, to a new era when the President might have to wait cautiously for the decision of the majority party before issuing initiation to its chosen nominee to form the Council of Ministers unless he happens to harbour some ambition to install a man of his own preference, or forestall the selection of one whom he latently disfavors. The record of the past indicates that while the first President (Prasad) subscribed to the doctrine of automatic nomination of the leader of the majority party (Nehru) in view of his personality of an unchallenged and also unchallengeable Caesar, his successor (Radhakrishnan) act differently under different political circumstance. He appointed Nanda as the interim Premier after he got the decision of the Emergency Committee of the Cabinet; he appointed Shastri as the second Prime Minister after the decision of the Congress parliamentary Party was available, again he appointed Nanda as the sudden death of Shastri in view of the precedent of 1964 and then appointed Mrs. Gandhi as the third Prime Minister after he had got the decision of the CPP. Thus, he managed to save his great office from any allegation of political partisanship. Likewise, Jatti appointed Desai as the prime Minister without
entering into the controversy whether the victorious Janata Party was a party in the strict sense of the term, or that it was a party according to the laws and regulations of the country, or that whether the constituents of this party had declared their resolve to merge their individual entities or not. In this way, he could save himself from any unwarranted criticism of showing an attitude of favour to his party that had seen its first disaster at the polls.

A critical study of the manner in which the prime Minister of India is appointed, or has been appointed, leaves certain important impressions. First, the principle that none but the leader of the majority party should be appointed as the Prime Minister and that he President should take action in this regard after knowing the verdict of the majority party applies to normal conditions alone. The President may make use of his discretionary powers, or might be forced to do so, in this regard in the even of exceptional conditions. Second, neither is there any law, nor have we been able to maintain the healthy tradition that the Prime Minister must be a member of the Lok Sabha at the time of his appointment. Hence, the selection of Mrs. Gandhi in 1966 was highly uncalled for in view of the fact that, at the time, she was a nominated member of the Rajya Sabha. P.V. Narasimha Rao was appointed as he prime Minister in June, 1991 when he was not a member of he Parliament. It is regrettable that the government has not accepted as the Prime Minister in that the Government has not accepted the sound recommendation of the Administrative Reforms Commission, that the person invited to form the Union Council of Ministers must be a member of the Lok Sabha.

Above all the role of the Parliamentary Party (PP) has its own foibles. If the Prime Minister is to be the leader of the majority party in the lower or popular
chamber of the legislature, the matter should be decided by the members of the majority party belonging to that House alone. It is therefore, surprising that the PP (as in the case of Congress so in that of other) includes all members of the party whether they belong to the Lok Sabha or to the Rajya Sabha. The selection of the prime Minister thus becomes a concern of the members of the Upper House as well. Not only the drama of the politics of selection as happened first in 1964 then in 1966 involved the crafty role of the State leaders, most of whom were Chief Ministers, who rushed to Delhi and did a lot of wire-pulling. Even A.P. Jain, Governor of Kerala (as he then was), rushed to the capital to play his part in this political drama. The President of the Party, on these two occasions, proved himself as the King-maker thriving recklessly on the manipulations of the party bosses showing their mettle under his thumb. “it is a pity that the M.P.s generally acquiesced in it. In any case whatever the sanction behind this high politics of the prime Ministerial succession and the compulsions underlying the M.P.’s acquiescence in it, it was patently contrary to the letter and the spirit of the Constitution and the widely known intentions of the Constitution-makers.”^23

**PRIME MINISTER AND COUNCIL OF MINISTERS**

The first and foremost function, even the most difficult of all functions, of the Prime Minister relates to the composition of his Council of Ministers. The text of Art. 75 (1) is very sketchy. It says nothing else than that all ministers’ shall be appointed by the President on the advice of the prime Minister. The point should be stressed once again that the President as we have seen in the appointment of the Prime Minister, has almost freedom to exercise his discretionary authority in regard to the appointment of the ministers. The
selection of the names and the distribution of among them is a matter of exclusive concern of the Prime Minister the appointment of the ministers by the President is just like the observance of a technical formality. In a real sense, the function of the President is accept the list of the ministers with their portfolios submitted to him the Prime Minister if he has the sagacity to keep his great office immune from the allegation of political interference. Naturally, like the British Prime Minister our Prime Minister enjoys the prerogative of selecting his colleagues by virtue of his strong position depending upon the fact of his unassailable position in the party commanding comfortable majority in the popular chamber or the parliament. It however ought to be borne in mind that, like his English counterpart the Indian Prime Minister's authority is circumscribed by various considerations-administrative, Political, territorial, religious and the like.

As the formation of the Council of Ministers should be characterized by the factor of political homogeneity, any experiment like that of a cabinet of all talents is sure to fail. So it happened in our country. In the initial stages, Prime Minister Nehru included in his' cabinet leading non Congressmen like Shanmukham Chetty (a man of parochial disposition by virtue of his initiate association with the Justice Party of Madras) Dr. B.E.Ambedkar (a leader of the depressed classes and highly critical of the Congress policies towards the untouchables), Dr.S.P Mockeries (a man of alleged Hindu communalist disposition by virtue of his long association with the Hindu Maha Sabha) and John Mathai (an advocate of free enterprise) who had to quit the government on account of differences in views with their leader, even though they had accepted the basic policies and programmers of the ruling (Congress) Party in
varying measures. It is interesting to note that even afterwards, despite such experiences. Nehru, as a practical man, did not hesitate in including some very useful men in his ministry like C.D. Deshmukh and M.C. Chagla, through they had never been Congressmen.

The study of cabinet government particularly as it obtains in England leaves an impression that the job of selecting the ministers “is like that of constructing a figure of block which are too numerous for the purpose and which are not of shapes to fit perfectly together.” Some of the ministers consider and claim themselves to be specially cut out for certain jobs and the Prime Minister has to take their claims into consideration in view of his awareness of he political fact that their exclusion “may be a source of embarrassment.” Some instances are available in our country to corroborate the point that Prime Ministers have acceded to the claims of their important colleagues, even though willy-nilly, sometime to save themselves from such embarrassment. Sardar Petel insisted and got the portfolio of Finance while he reluctantly agreed to hold the portfolio of home in the Interim government; T.T Krishnamachari declined the offer Nehru to rejoin in the cabinet after the third general elections of 1962 he was given the portfolio of Finance and while he reluctantly to hold the portfolio of Economic Co-ordination, he could get the portfolio of Finance in August, 1963. In 1989 Yashwant Sinha to accept the office of a minister of State rank and Prime Minister Singh did not oblige him by offering the rank of a Cabinet Minister.

There are some more instances to corroborate our point in this direction Manubhagai Shah refused to take the oath as minister for International Trade in April, 1962 unless he was given cabinet rank despite the fact that his
appointment was publicly announced by the President. It was however for some other considerations that he agreed to join the government of Nehru as a minister of state a few days after. Moltenotable is the case of S.K. Patil who in July, 1963 declared his firm mind to quit the cabinet rather than relinquish the portfolio of the Food and accept the Railways fearing that the mounting criticism of Venment’s food policy might be construed reflection on his administrative efficiency. It is a different matter that, shortly afterwards, Behru managed to sack Patil after accepting his resignation under the Kamaraj Plan. Mrs. Gandhi’s preparedness to take Morarji Desai as her Deputy Prime Minister with the portfolio of Finance instead of Home after the fourth general election of 1967 may be cited as the most glaring case where a powerful party leader could tighten the hands of the Prime Minister resulting in the materialization of a package deal after a lot of intense and tough political bargaining. Prime Minister Desai had to create a new precedent by re-inducting Charan Singh as Deputy Prime Minister No.1 and promoting Jagjivan Ram as Deputy Prime Minister with second position. The appointment of Devi Lal twice as Deputy Prime Minister is another instance of this kind.

Such a glaring case of package deal graphically illustrates the political truth that even the discretionary authority of the Prime Minister in matters relating to the selection of his ministers and distribution of portfolios among them is not unrestricted. The instance of the package deal leads to this interpretation that, in a way, Desai got himself appointed as the Deputy Prime Minister formally by the Prime Minister in the face of her real and understandable disapproval. Such a case is truly applicable to other prominent figures as well not having been disqualified at the polls or fallen out with the
Prime Minister. Thus under the hitherto prevailing condition the selection of stalwarts like Jagjivan Ram, Y.B. Chavan and Swaran Singh looked like a foregone conclusion in view of their popularity among the people and closeness with the Prime Minister. Likewise, the inability of a Prime Minister like Nehru to shift Patil from the Food to the Railways and Mrs. Gandhi’s like inability to take away the Home portfolio from Nanda constitute further instances of the not so unlimited authority of the key-stone of the cabinet arch.

It is obvious that in situations like these even the margin of discretion with the Prime Minister is nominal. However the same point, if viewed in a wider perspective, is amenable to this interpretation as well that while the prime Minister has restricted amount of freedom in choosing the names of his principal colleagues and allotting portfolios among them he has ample, even unrestricted, freedom the selection of the rest of his colleagues and the distribution of departments among them. In such case, there may be a factor of personal friendship contributing to the selection of a man like T.N. Singh by Shastri and G.S Pathak by Mrs. Gandhi; there may be another factor of the reward for political support. Contributing to the inclusion of a man like N. Sanjiva Reddy by Shastri C.Subramaniam by Mrs. Gandhi. The paramount fact remains that it the prime Minister who may take the bold step of listing unknown or known names and pushing them into the world of active politics. Shatri did for T.N. Singh and Sachin Chowdhry, his successor did others like Mohan Kumarmangalam, Dr.Karan Singh, T.A. Pai and Prasad Dhar the notable thing about all of them “is that their into politics began with their induction into the cabinet.”26
The authority of the Prime Minister with regard to the selection of his and
distribution of portfolios among them, however, ought to studied in a very
careful manner and the argument, as discussed above, should be advanced
with a qualified approval. True that the hands of the Prime Minister are
sometimes lightens by the factors of party policies, it is not ply that his
colleagues may have very much to say about their assignment at every turn of
moment. Authentic evidence illustrates point that the party stalwarts, who
stake their claims, are not unaware the fact that any serious point of difference
with the Prime Minister not be taken to a n unmatchable extent as their
dropping out form first selection might entail their exclusion from office not
merely for of the Parliament but for the good of all.27 It ought to be crone that
as a shrewd statesman and also as the supreme leader of the Prime Minister
might willy-nilly yield at a particular time just his ambitious colleague with the
motive of vindicating his stand later date and in a changed political context.
Thus we find that who had dropped the idea of shifting Patil from the Food to
the and rather requested his minister to withdraw his reported protest in July,
1963, managed to push him out shortly afterwards the Kamaraj Plan. Likewise,
Mrs. Gandhi who in March, 1967 had to the force of circumstance in taking
Desai as her Finance Minister formidable designation of the Deputy Prime
Minister, managed him in July, 1963, managed to push him out shortly
afterwards Kamaraj Plan. Likewise, Mrs. Gandhi who in March, 1967 had to the
force of circumstances in taking Desai as her Finance Minister designation of
the Deputy Prime Minister, managed him in July 1967 on the plea of Prime
Minister’s discretion to changes in the portfolios of her colleagues.28 So the
President Deputy Prime Minister Devi Lal on the advice of Prime Minister
Singh.
The Prime Minister Enjoys and prerogative of making has Council of he has the complementary power, equally discretionary in to a quite large extent, of making changes in it subject to the Political considerations before him and the circumstances in which he is caught up. He has he undisputed fright to get appointed, reshuffled or even removed his colleagues in the interest of his effective and efficient administration. He may keep any department under his control or bifurcate, even trifurcate, a department to be placed under the changes of a different minister. He may, in a direct or indirect manner, demand the resignation of his ministers or even advise the President to dismiss one, if he forfeits his confidence. The Prime Minister may cast aspersions on the working of a particular department and thereby desire his minister to quit. The exit of Kamalapati Tripathi and V.C. Shukla respectively from the Union Council of Ministers may be retired to here. Moreover, he may also advise the President to postpone the acceptance of the resignation tendered by a minister incase he desires to sort out the matter in a different way. Such a provision was made to ensure the principle of collective responsibility in an effective manner. As Dr. Ambedkar said, the Prime Minister “is really the keystone of the cabinet arch and until and unless we create that office and endow that office with statutory authority to nominate and dismiss ministers, there can be no collective responsibility.”

It follows that the exit of a minister is a sequel to is own when he tenders his resignation according to his own volition, or it be in deference to express or tacit will of the Prime Minister as a way to avoid his inglorious end at the hands of the President acting the advice of the real working head of the state. Ministers like Deshmukh, M.C Chagla, Mahavir Tyagi and Ashok Mehta left the
on account of their difference with the Prime Minister;’ other like Krishnamachari, Dr. Ram Subhag Singh, Mohan Dharia, Charan Singh and Raj Narain resigned in deference to the wishes of the leader council of Minister. There might arise a situation when a reluctant may have no better course than to resign in order to save the posting the prime Minister feeling equally reluctant to allow his colleague. It happened in the case of Defense Minister Menon in Jan 1963 Nehru willy-nilly yielded to the pressure of circumstances in first and then removing his blue-eyed son from his government.

As the cabinet is a team of very important ministers, the prime Minister carefully includes only those who are his best confidants. Besides element of confidence is quite unstable, changes in the assignments take place from time to time. If Nehru included V.K. Menno (described as a fellow traveler evenly some of his own as a minister without portfolio in the first instance during the his power and prestige and subsequently allotted to him the portfolio and retained him until he was forced to se him out the great criticism of his polices after the debacle in was against he invited Shastri to work as his minister without portfolio after severe attack of illness at Bhubaneshwar in Jan 1964 irrespective fact that he (Shastri) was one of the six Union Minister Kamarajed hardly half a year ago. It infers that any change in the amount of Prime Minister’s confidence would result in the replacement of a Dinesh with a Dhar or the balancing of a Chaudhary wit a Ram. It is quite possible that aware of the complications of party politics, the Prime Minister should shift some trusted colleagues like K.N.Katju, P.C. Sethi, S.S. Ray, Mrs Nandini Satpathy, H.N. Bahuguna, V.P. Singh and V.R. Patil as Chief Minister to some problem State,
or dispatch not so comfortable partners like K.C. Reddy and K.K. Shah as a Governor to some distant State of the Indian Union.

What we have said above is not applicable to a coalition government in the like manner. The way Morarji Desai and V.P Singh formed Council of Ministers in two installments is a clear testimony to this fact that the hands of the leader of a coalition government are very much tied by the tugs and pulls of intra-party politics. Thought the chairman of the Janata party (as Desai then was) hiving clear majority in the Lok Sabha and banking on the sincere support of other parties liked the Akali Dal and the DMK Desai, after the swearing in of some of his colleagues, had to persuade the strong and vocal leaders like Jagjiwan Ram and H.N. Bahuguna of the CFD as well as others like Raj Narain and George Fernandes to join his Council of Ministers. He did it for the immediate sake of saving image of the Janata Party and for the remote consideration of not allowing a potential section to break away and thereby compel it to think or act in the direction of bringing about re-alignment of political farces that might create a formidable challenge to his own position in the changed political situation. Thus the Janata Prime Minister could have the reluctant agree to join his government in the second phase of his ministry-making.

The above discussion relating to the formation and re-formation of the Council of Ministers by the Prime Minister certainly minimizes, to any considerable extent, the scope of the real influence of the President in this regard, it does not finish it altogether. It is by all means an overfilled statement touching the verge of removal of the ministers as the decision the prime minister presents before him the situation of a fait accompli. In order to have a
proper understanding of this delicate subject, the role of the President in such matters should be reckoned with in view of the fact that it is absurd to treat him just like a non-entity. This delicate matter, however, depends upon the personal equation of the office holders and their mutual relationship in the midst of prevailing political conditions. What Prof. Amery said about his English political system well applies to our country also that few doctors, indeed, enjoy such a measure of automatic power as is enjoyed by the British Prime Minster while in process of making the Cabinet.

Analogy of the Indian Prime Minister with the American President is discoverable. As Dr. Ambedkar said that “if any functionary under our Constitution is to be compared with the United States President, it is the Prime Minister and not the President to the Union.”. This arrangement has been rightly envisaged to ensure the effective application of the principle of ministerial responsibility. As Ambedkar said that the Prime Minister is really the keystone of the arch of the Cabinet and unless and until we create that office and endow that office with a statutory authority to nominate and dismiss ministers, there can be no collective responsibility on the lines of the Westminster model.

**PRIME MINISTER AND PRESIDENT**

The Prime Minister is the sole channel of Communication between the President and his Council of Ministers. The Constitution enjoins upon him to communicate to the President all decisions taken by his cabinet and to furnish him information relating to the administration of the country as well as the proposals for legislation as he (President) may call for. The ministers with the
prior approval of the Prime Minister may see the President, but it is for the
Prime Minister alone to report to the President in an official manner the
substance of all decisions taken by his cabinet for the sake of latter's formal
sanction. It well indicates that, like the English monarch, our President has no
official means of knowing anything about cabinet's decision except what the
Prime Minister may choose to tell him. Such a conventional arrangement acts
as the best safeguard against any possibility of mischief at the hands of the
nominal executive to disrupt the unity in the team headed by the real working
head of the state.

It follows that, like the English monarch, our President has the right to be
kept informed. Though the cabinet meeting is never presided over by the
President, it is the duty of the Prime Minister to communicate to the President
either personally or through his ministers all decisions of his Council of
Ministers relating to the administration of affairs of the Union and proposals for
legislation. It is, indeed, by meeting the ministers individually that he (President)
knows about the decisions taken by them relating to the departments and, if he
does not agree with anyone of them, he may ask the Prime Minister to submit a
matter for the consideration of the Council of Ministers provided it has not
already been considered by it. It may be taken that the practice of meeting the
President individually may be inherent with certain dangers in as much as by
such an arrangement he “may not only influence the policies of various
departments, he many also undermine the solidarity of cabinet and the
leadership of the Prime Minister”.$^{33}$ Such a view, however, seems to be an over
simplification of matters. Once again, the point of personal equation figures in
to settle the controversy. Any fear to President’s making a dent into the
solidarity of the cabinet or into the authority of the Prime Minister should be harboured or allayed in view of the political relationship between and personal equation of the President and the Prime Minister.

If the point of personal equation acts as the sole determinant, an enquiry should be made into the political relationship that has subsisted between the two high incumbents in our country. As a powerful leader of the people and, more particularly as a man of progressive views, Nehru had a dislike for Rajendra Prasad’s social philosophy. In certain unguarded moments, he was reported to have considered him a religious revivalist having faith in feudal agrarian values. His open differences with Prasad on matters like Hindu Code Bill, planning, imposition of ceiling on private property, co-operative farming and fast growing use of Hindi language in administration were various areas of differences that prompted him (Nehru) to disfavour the candidature of Prasad both in 1952 and 1957. All this further testifies to the fact that though Nehru respected the practice of seeing the President usually on every Monday around 9 a.m. and allowed his ministers to meet him at least once a month, “at times he was inclined to give (Prasad) less than his due respect as head of the state. He often kept him waiting when he was to call on him by appointment at the Rashtrapati Bhawan”. It was, however, due to the saintly personality of Prasad that stiffness never formed part of his relationship with his Prime Minister and when some occasion ever arose, though inadvertently as we find in case of his address given in the New Delhi on 28th Nov. 1960 at the time of laying the foundation stone of the Indian Law Institute, he took no time in softening the matter by describing his words as a ‘casual reference’.
Situation in this regard underwent some change when Dr. S. Radhakrishnan assumed the office with a mind to build up his public image. Growing signs of friction developed and the relation of the President with the Prime Minister became stiff as the second President after assuming his office “freely expressed his personal views on political issues and privately sought support for them. He nursed an ambition to play an independent role in national politics. Nehru, however, showed little respect for opinions which went counter to his”. Just to cite a case in this regard, the President in a very unusual manner drew Prime Minister’s attention towards the undependable character of Sheikh Abdullah of Kashmir and sought to impress upon him (Nehru) the point of changing his impression in this direction. But what brought about a point of widening gulf between the two was the failure of Nehru’s foreign policy towards China owing to which their relations became less and less cordial. As a result of all this, what little agreement they “had on political issues disappeared and a yawning gulf was evident when China attacked India in the autumn of 1962”. It was due to this ‘yawning’ gulf of differences that the President is reported to have gone to the extent of desiring Nehru’s exist from the government, though what ultimately happened added more to his own consternation after the adoption of the Kamaraj Plan whereby not the Prime Minister but his opponents “had to go ostensibly against the real wishes of the President.”

The political behaviour of Dr. Radhakrishnan on certain occasions proved a source of irritation not so much to Nehru as to his daughter who lacked that element of charisma by virtue of which here father could not be swayed by the weight of Presidential authority. She expressed her reservations with annoyance over some of the utterances made by the philosopher.
President and thus she desired to keep him in the dark about some important matters. Though she accommodated the proposal of the President in Jan., 1966 for not excluding Gulzarilal Nanda from her first ministry and more particularly for not depriving him of the portfolio of Home as the general elections were due within the course of a year or so, she managed to keep him completely in the dark (as in Nov., 1966) when the public at large was debating the issue of the proposed cabinet changes. The resentment of the President had its manifestation in his address openly censured the government for ‘widespread incompetence and the gross mismanagement of resources.’ This further widened the gap and Mrs. Gandhi was reported to have decided then and there against giving Dr. Radhakrishnan a second term. ⁴⁰

As a matter of fact, not the political behaviour of a sagacious man like Radhakrishnan, who sought to exercise a moderate influence with the Prime Minister, but the results of the fourth general elections hinted at the possible ‘nuisance value’ of the President’s office. Under these circumstances, it was not difficult to dawn on the Prime Minister’s wisdom that an unfriendly head of the state, whatsoever with any degree of nominal authority, could seriously dampen the effectiveness of her office. Accidentally, that factor of secular initiative and the desire for saving the tradition of elevating the Vice-President to the highest office synchronized with the friendly personality of Dr. Zakir Hussain who was taken by her as a very suitable person from the standpoint of mutual confidence particularly in the changed political context. The Prime Minister thus supported his candidature as she “was anxious to have a person of her own choice for the presidency, because it was she who would usually deal with him”. ⁴¹
The death of the third President of the Indian Republic hardly two years after his election left the problem unsolved for the Prime Minister as now she witnessed serious attempts on the part of her own party men to circumscribe her authority by inducting an unfriendly person into the Rashtrapati Bhawan. It was very significant to note that this time she faced a formidable challenge not from the side of the opposition but from the side of some of her own partymen who wanted to beat her with the stick of the Presidency elected in the face of Kamaraj’s disapproval, the selection of N. Sanjiva Reddy as the official nominee of the Congress party was an event of great distress compelling her to exclaim: “All over the world the impression has gone round that the Prime Minister is demoted in her own organization. No democracy can function if the head of the government is insulted in the party.” The defeat of the official Congress candidate (N. Sanjiva Reddy) at the hands of an independent (V.V. Giri), though engineered by the master mind of the Prime Minister herself, virtually aborted the pernicious plan of the Syndicate “to destroy the dominance of the Prime Minister and to elevate the President to a position of a decisive arbitrator.”

Such a study of the relationship between the President and the Prime minister leaves an impression that Nehru should be credited with exercising his authority with vigour and confidence so much so that by virtue of his national image and enormous influence he demolished every possible chance for a President with any degree of ambition to stand in his way even though with any amount of restraint. Not only that, he prepared such a ground for his successors that the balance of power between the titular and the real heads refused to budge in the adverse direction in those crucial moments of national
crises when the former endeavoured to make a tilt by the force of his sagacious personality. It is for this reason that Mrs. Gandhi could successfully fight for the sake of having a friendly personality in the Rashtrapati Bhawan in order to avoid the risk of a shift "in the balance of power on the dexterous plea of maximum possible agreement between the two." A controversial situation developed in the State of Haryana in May 1982 when the Governor appointed Bhajan Lal of the Congress (I) as the Chief Minister against the claim of Devi Lal of the Lok Dal who had already been allowed by the Governor the time of one day to prove his majority in the new Assembly. In protest the opposition leaders contacted the President (Reddy) who was reported as ‘having expressed concern’ over this development and ‘promised to look into all points’. Mrs. Gandhi took a very serious view of such an action of the President and sought a personal meeting with him on May 25, 1982. The next day, the President told a delegation of the opposition leaders that he “was bound to act within the four corners of the Constitution”, though he had advised the Governor of Haryana to call an early session of the Vidhan Sabha to settle the question of majority behind the Chief Minister.

It should, however, be added that if the Presidents of our country luckily functioned in a way not making them like a rubber stamp in the hands of their Prime Ministers, the latter, in turn, scrupulously sought to maintain cordial relations with the constitutional head of the state. While Prasad privately expressed his reservations on the successful working of the parliamentary system in this country in view of Nehru's dominant role and his successor in a public statement given at Bombay in Jan., 1963 labelled India’s reverses in NEFA as ‘a matter of sorrow’, shame and humiliation’, the Prime Ministers, in
turn, judiciously refrained from carrying their points of differences to an extent of converting them into potential problems of a constitutional debate. Despite his differences with the first President, Prime Minister Nehru (on the occasion of farewell address presented to Prasad on 8 May, 1962) lauded his contributions in `enriching and embellishing the office' and `leaving behind inspiring traditions'. Likewise, the second President (Radhakrishnan), despite his open differences with Nehru, paid warm tributes to him for the tact and ability with which he had conducted himself in his great office ever since the advent of independence till the end of his life. Earlier in his Republic Day message of 1964, the President not only expressed his anxiety for the health of the ailing Prime Minister but graciously added that Nehru “has brought a modern, secular and scientific outlook to our difficult and diverse problems and has, indeed, reflected the national purpose over these years. More than anyone, our Prime Minister has helped us to put us on the right track in our quest for national integration and orderly path.”

A change in the constitutional relationship between the President and the Prime Minister has occurred as a result of the amendment of Art. 74(1) in 1976 and again the 1978. Now the Prime Minister can take the benefit of the provision whereby the President has become bound to act on the aid and advice of his Council of Ministers. On the contrary, the President, if circumstances permitted, can take the advantage of having not so strong a Prime Minister to give him aid and advice in a way circumscribing his authority. Alternatively, he can require the Council of Ministers to reconsider its advice (vide 44th Amendment) and in the meantime impress a section of the Cabinet with his own views on a certain crucial matter as imposition of emergency in
U.P. in 1997 or in Bihar in the following year. Hence, constitutional issues may crop up to demand their solution in the changed political environment. It may, however, be hoped that as the norms of parliamentary democracy have taken their roots in our country, solution to such problems would be discovered within the constitutional framework without letting the matter have the shape of a disastrous crisis.

**PRIME MINISTER AND PARTY PRESIDENT**

Although the two great offices of the President of the party and the Premiership of the government seem to be essentially complementary in theory, the case is quite different in practice in view of the fact that the latter has emerged as a far more formidable force in the power hierarchy with capability of wrecking any sinister challenge to its authority coming from the side of the former. It has happened ever since Nehru successfully crossed his verbal swords with Acharya Kripalani and P.D. Tandon respectively in 1946-47 and 1949-50 and his daughter did the same some twenty years after with exception of the brief period of interlude when Congress President (Kamaraj) played the role of `King-maker'. The new trend, however, proved a short lived affairs as the influence of the king maker. It confirmed the impression of an American observer, given much earlier than the Congress President “will depend, therefore, not only upon his own leadership capacities but also upon the degree to which he enjoys the confidence of the Prime Minister.”

The history of confrontation between the Party President and the Prime Minister witnessed its first formidable manifestation in 1947 when, shortly after the assumption of power, Nehru crossed verbal swords with the then chief of
the organization (Acharya Kirpalani) who insisted that the former ought to form his cabinet and lay down his policies in consultation with the head of the party. Since Nehru interpreted it as the first serious jolt to the growing authority of the Prime Minister, he took up the cudgels and in the name of Laski-Attlee episode, he brushed aside the logic of the organizational chief. The way Nehru snubbed the Acharya forced the latter to relinquish his office in protest.49 It well signified the first victory of the Prime Minister’s argument that the making or unmaking of the Council of Ministers or the laying down of the policy of the government was a matter of his discretion as the official secrets could not be given to anyone (whether chief of the party) who was under no oath of secrecy and, as such, any proposal of continued reference of the official policy to the Working Committee of the Party “is impossible.”50

The Nehru-Kripalani episode ended without much murmur. But what created a scene shortly after was the episode of Nehru-Patel differences culminating in the victory of P.D. Tandon as President of the party against Nehru’s candidate (Kripalani) in the party elections of 1949. In a true sense, it signified a tussle for power between Nehru and Patel in which the supporters of the candidates had abandoned the Gandhian way completely.51 The result of Tandon’s victory was the emergence of a very unfortunate situation of tension that could not be removed until Tandon resigned in 1951 after the death of his mentor (Patel) to satisfy Nehru who had taken the whole issue as his personal defeat. Thus, the death of Patel and the exit of Tandon brought about a situation where Nehru could not only avenge his defeat without any effective opposition, he also managed to place a very heavy hand on the ambitions of any possible opponent in time to come. By all means, he became the centre of
power in his party as well as in his government after he virtually grabbed the highest office of the party by the apparently unanimous resolve of the AICC in its meeting held in New Delhi in Oct., 1951. Thus, Nehru unleashed the era of unifocal authority even though he remembered that, not long ago, Dr. Rajendra Prasad had set the precedent by leaving the cabinet post to hold the office of the party President. This era of unifocal authority continued even after 1954 when Nehru formally relinquished the office of the party President, in a real sense in favour of his own nominee (Dhebar) and thereby he formally satisfied one important condition of the constitution of the Congress Party that the same person must not hold the two great offices simultaneously. The result of all this is that since then the Prime Minister of India “has become all powerful. At the top of it, if he is the President of the Congress at the same time, his power becomes absolute.”

From now onwards, Nehru acted like a peerless leader of the Congress party and its government till 1962 when his supreme authority witnessed a challenge, though not very potential, from the side of his emerging critics who discovered a big handle of attack in his foreign and defence policies after India’s debacle in the war against China. As a result, the era of unifocal authority seemed to have come to an end when Nehru sought to restore the tarnished image of the Prime Minister’s office by counting upon the authority of the party President elated by his own hands. Under the changed conditions, he veered round to the views that a strong party President “was necessary to supplement his authority and where necessary, balance it”. It signified that instead of surrendering any amount of his authority in favour of the chief of the organization by way of a policy of appeasement, Nehru tactfully adopted the
strategy of beating his uncomfortable partners with the co-operation of his party President. Thus, in Aug. 1963, he lent support to the Kamaraj Plan whereby he could manage to relieve some of his uncomfortable partners like Morarji Desai, S.K. Patil and Jagjivan Ram from the Council of Ministers in a quite democratic manner on the plea that the Congress “does not approve of people being attracted by the office and the power it brings”.55

The way the Kamaraj Plan was adopted by the highest policy-making body of the party and then implemented by Nehru alone in accordance with the mandate given to him by the same body in the post evening hours of his life revealed one important point that, for the first time since independence, effective power was shared between the Congress Prime Minister and its President.56 Another aspect of the real significance of the Kamaraj Plan became more evident when the party President played the role of a king maker in the two wars of succession and thereby he recreated the problem of the balance of authority. The point of tension, however, failed to arise until Lal Bahadur Shastri, a man of meek and passive temperament, exalted his authority after the victory of our armed forces against Pakistan in the war of 1965. However, the premature death of the ‘pigmy giant’ reopened the succession issue after the lapse of some 18 months only in which the king maker found another grand occasion to assert his paramount authority in frustrating the ambitious leader (Desai) by re-requisitioning the support of the Congress Chief Ministers and manufacturing the candidature of Mrs. Indira Gandhi as per his personal predilections as well as in deference to the unwritten will of his own mentor-Nehru.”57
Indira Gandhi started her career as the third Prime Minister of India with ample tact and caution and thereby she made it a point to avoid sensitive areas of conflict between the two great offices until she was forced to choose the line on account of the conditions created by her adversaries. Fearing the consequences of a politically hostile man in the Rashtrapati Bhawan inducted by the chief of the organization with the complicity of his favoured group subsequently known by the notorious appellation of the Syndicate unbendingly opposed to her leadership she played the role of a rank politician by proposing the candidature of the official party nominee (N.Sanjiva Reddy) and yet sabotaging his election campaign by supporting by supporting the bogey of ‘conscience vote’ for no other reason than to avenge her defeat at the Bangalore meet of the Congress Parliamentary Board where the bosses of the Syndicate had left her in great distress by rejecting here proposals of V.V. Giri and Jagjivan Ram and instead imposing the name of Sanjiva Reddy by a majority vote with certain ulterior motives discernible to the Prime Minister without any difficulty. The result was that, for the first time in the history of Indian politics, the official Congress nominee was defeated at the hands of the unofficial Congress candidate – the man of the Prime Minister who had to retrieve her position “not because he was involved, but because the Prime Minister’s office was involved.”58

The split of the Congress and the rout of the Syndicate at the hands of the New Congress in the Lok Sabha elections of March, 1971 and State Assembly elections of Feb., 1972, once again restored the position of a strong Prime Minister controlling both the government and the party in a more or less Stalin like manner. The position became that the Prime Minister grew not only
the maker of ministers, she enjoyed the same position in matters of organizational set up. If Mrs. Gandhi exercised her discretion in the selection of her ‘friends’ like Dinesh Singh and Fabhruddin Ali Ahmed as ministers and the sacking of her ‘foes’ like Morarji Desai and Ram Subhag Singh, she enjoyed the same prerogative in matters to tipping C. Subramaniam as an interim and Jagjivan Ram as a regular President of the party without allowing them to relinquish their ministerial offices as required under the rules of the party constitution. It all shows that, in the last analysis, the substance of power “lies with the government, while the party can only exercise its influence.”

The point may, however, be added in this regard that as the Prime Minister’s office emerged triumphant in the battle for power against the party President in the past without finally setting the vexed question of the nature and extent of formers accountability to the later, the fears of conflict in future couldn’t be rule out in entirety. Like a defeated gambler, the organizational leaders might raise their heads again to settle or resettle the point in their favour keeping in view what had already occurred after the passing away of a powerful leader like Nehru or Indira from the scene. With a clear resolve to circumscribe the authority of the Prime Minister, the Patil Committee had submitted its report strongly desiring that “in all matters involving party decisions of national and international importance, the Government should consult the Congress Working Committee before taking any cation.” The then party President (S. Nijalingappa) attacked the thesis of the Prime Minister that after her election as the leader of the party’s parliamentary wing, the organization should cease to exist or, at least has no right thereafter to guide and advise the Prime Minister whom it has chosen.”
Subsequent developments, however, witnessed that the Prime Minister very cautiously resisted the counter trend and Mrs. Gandhi, after winning the war of do or die, restored the era of Nehru when the organizational leaders used to behave like school boys listening obediently to and fearing their school master. Realising her weak position in the organization and also being aware of her yet-to-be exalted political personality, Mrs. Gandhi tactfully veered round to the strategy of rallying behind her the support of party back benchers in addition to the unequivocal support of some important party leaders occupying high ministerial posts as a safe measure to forestall and ultimately frustrate the ambitions of the party bosses. The strategy adopted by the Prime Minister paid good dividends as a result of which first rival Congress Working Committee, then rival A-ICC and, finally rival Congress party vouchsafed the supreme leadership of Mrs. Gandhi over her party as well as over her government. It was owing to the culmination of grand strategy that the rival CWC lost no time in meeting at her residence and then passing a resolution repudiating the expulsion more of the official CWC adopted on 12\textsuperscript{th} Nov. 1969 and instead asserting that she “continues to be the leader of the party unless the party expresses no confidence in the leader.” The Prime Minister thus overshadowed the party President and proved herself as the unchallengeable leader of both the party and its government. After frustrating every more of her opponents who wanted to dictate things to her, the Prime Minister brought about a position where she became the ‘dictator’ of every matter for the party whether it was related to the distribution of election tickets, selection or sacking of the ministers at the centre or in the States, distribution of portfolios or transposition of ranks in the government and the party. Viewed in this perspective, the observation of an American writer, though made in the pre-
Mrs. Gandhi era, is quite plausible: “Formal powers not with standing, the Prime minister is the defacto leader of the party and government.”

A change in this direction occurred after the termination of the single dominant party system. The Chairman of the Janata Party a conglomerate alliance became the Prime Minister and, for this party did not figure in. A new phenomenon, however, developed now that should be traced in the role of Jayaprakash Narayan. It was he who could bring so many opposition parties together and enable them to win the parliamentary elections in 1977. As such, it was he with whose blessing the selection of Desai as the leader of the Janata Party could take place and the matter relating to the inclusion of some reluctant in the government could be tackled. By no means it could be appreciated as a happy development, since it constituted an unpleasant idiom of Indian politics in view of J.P.’s living away from the world of struggle for power. Not before long, it came to an end. The results of the general election of 1980 once again placed Mrs. Gandhi in a position of unchallengeable sway and the results of the general election held in 1984 placed Rajiv Gandhi in a more powerful position as the two offices remained in the same hands. Narsimha Rao enjoyed the same position from 1991 to 1996.

This scenario has altogether changed now as a result of the termination of the Congress system. It is obvious that it cannot prevail in an era of coalition governments. Since the Prime Minister is the common leader of the coalition partners, no chief of any constituent party may put him under his thumb. It is, however, a different matter that he/she may go to some length in this regard by making use of his/her nuisance value as the Congress chief (Sonia Gandhi) did it in 1998 as a result of which the Gujaral government had to go. It saw its
recurrence in the following years when the Vajpayee government had to go as a result of the step taken by the chief of the ADMK (Jayalalitha). But even in such a set up the Prime Minister may display his mettle and thus keep the chief of a constituent party in good humour as we may see in the dealings of Vajpayee with the chief of the Trinamul Congress, or of the Samatta party, or of the Akali Dal. His strong position in his own party may enable him to induct a man of his choice into the office of the chief of the organization as Vajpayee did for Bangaru Laxman. However, it all depends on the capabilities of the Prime Minister and the nature of the political circumstances.

By virtue of being the leader of the majority party, the Prime Minister functions as the leader of the Lok Sabha as well. In this regard, two practices have developed. First, in case the Prime Minister does not belong to the Lok Sabha (as Mrs. Gandhi was a member of the Rajya Sabha at the time of her first appointment in Jan., 1966) he may nominate any of his ministers as the leader of the House (Lok Sabha), provided he is its members. This practice further enjoins that such a nomination be made in favour of the Minister for Parliamentary Affairs, Second, it has been the practice that during the protracted absence of the Prime Minister as in the event of his going abroad, the Minister for Parliamentary Affairs in consultation with the Prime Minister intimates to the speaker as to who would act as the leader of the House. Thus, the office of the leader of the House has a significance of its own as the Prime Minister is privileged with a dual capacity leader of the Parliamentary Party and of the Lok-Sabha-that makes him the central figure in the Parliamentary business.
The functions of the Prime Minister as the leader of the House are very important. He makes proposals for the dates of summoning and proroguing the session for the approval of the Speaker. He has to draw up the programme of official business to be transacted in a session of Parliament bills, motion, discussions on various important activities of the government and the like. He fixes inter se priorities for various items Business Advisory Committee that determines the allocation of time for official bills and other business on the basis of suggestions made by him from time to time. After laying down a tentative programme for the whole session, he chalks out daily and weekly programmers depending upon the state of progress of work and announces them to the members in advance every week. He shapes the course and content of legislation in as much as often his is the final voice in deciding as to what amendments will be acceptable, what private members bill will receive support of the government, and whether a question should be left to a free vote or a whip be issued invariably.

As the leader of the House, he deals with the procedural matter relating to the business of the House, and advises the House in moments of some difficulty or crisis. He should be supplied with an advance copy of personal statement which a member may make in the explanation of reasons of his resignation from the office of the Council of Ministers. He can request the Speaker to fix a date for the `closed` session of the House or move a resolution that the seat of such a member be declared vacant under clause (4) of Art. 101, or that the proceedings of the House of a `secret` session be no longer treated as `secret`. The Speaker consults him with regard to the arrangement of the government business, discussion of the matters referred to in the address of
the President, transaction of business relating to unofficial bills to be taken up on a day other than Friday, discussion and voting on demands for grants, discussion on any matter of urgent public importance and the like.

Two important points should be noted in this direction. First, while acting as the leader of the House, the Prime Minister not merely behaves like the leader of the Majority party, it is also expected that he should behave like the leader of the House having other parties as well. Thus, the words of the leader of the House are sometimes taken as the voice of the mouthpiece of the whole House. Such instances relate to matters where the party in power and the Opposition have a like interest as, for instance, in their difference of opinion with the Rajya Sabha, or some important in their difference of opinion with Rajya Sabha, or some important matter relating to the external affairs. Second, the Prime Minister by virtue of being the leader of the House, in a way, becomes the guardian of the legitimate rights of the Opposition. He is expected to see as to what the Opposition leaders are really striving for and how far their demands can be conceded. For this he, off and on, holds consultations with the leaders of the opposition parties and thereby tries to maintain a sore of liaison between the Government and the Opposition.

It is, therefore clear that the Prime Minister by virtue of holding the office of the leader of the House functions vis-à-vis three important counts the Speaker, the Government, and the Opposition. He assists the Speaker in maintaining order and in the House so that parliamentary business is conducted smoothly, he represents his `Government’ on the floor of the House so that official bills are piloted and adopted, policies of the Cabinet are explained and approved and the House is kept informed of all important
political developments; finally, he tries to keep liaison with the Opposition parties so that the areas of disagreement are removed as much as possible, and the parties in minority do not feel that they have virtually no role to play in the business of the House. In this way, the Prime Minister as the leader of the House "exercises direct influence on the course of business. The whole policy of the Government, especially so far as it is expressed in the inner life of the House and measures dealing with the course of its business, is concentrated in his person."  

The way Mrs. Gandhi used the Parliament after the proclamation of emergency in June, 1975 showed how a powerful Prime Minister could dwell on the 'viscosity' of the national legislature. The Parliament, being not at all a sovereign body like its English counterpart, was virtually converted into a captive institution. The government could have the sessions of the Parliament without question hour and unofficial business and also without any meaningful opposition as most of the leading lights were placed under preventive detention. Moreover, due publicity could not be given to its proceedings owing to strict press censorship. It was this Parliament that hurriedly passed two important bills (39th and 42nd Constitutional Amendments), made changes with retrospective effect in the Representation of the People Act, gave approval to the changes in the Maintenance of Internal Security Act (MISA), passed a bill to enhance the life of the Lok Sabha for another year and did a host of other things that, as the critics allege, undermined the norms of the rule of law. Thus, Mrs. Gandhi went several steps ahead of what Prime Minister Wilson had once said about the behaviour of his Labour Government: "Our government has been in power so long it has become a little arrogant, a little careless of
Parliament even not bothering to tell Parliament things; and this having its effect on the working of Parliament, and on the esteem of Parliament in the country.”

What is a matter of paramount importance in this direction is that while the Union Council of ministers with the Prime Minister at its head is, in theory, collectively responsible to the Lok Sabha, the Prime Minister, in practice, can become the master of the House. It is true that the President alone can dissolve the House, but it can happen only on the advice of the Prime Minister. It is therefore, one of the constitutional powers of the Prime Minister to have the Lok Sabha dissolved and thereby “bring a refractory House of People to a more reasonable frame of mind.” As the President is bound to act on the advice of the Prime Minister, it becomes latter’s right to demand form the former dissolution of the popular chamber whenever he thinks it fit to do so, and according to the well established parliamentary practice, the President must grant such a request. A premature dissolution is always an object of terror to the rank and file of the members of Parliament, whether of the party in power or of the opposition, because it means facing the trouble and expense of an election and the possibility of the loss of the seat.”

The real authority of the Prime Minister associated with the formal prerogative of the President, thus becomes a dynamic affair within the framework of parliamentary responsibility and makes the executive “a master of Parliament, because it wields a treat of dissolution.” It is for the Prime Minister to study the issue of the dissolution of the Lok Sabha and advise the President accordingly to make use of his powers vide Art. 85 (2) (b) of the Constitution. It is, however, expected that the Prime Minister shall take utmost care and act
with caution and restraint in invoking this highly drastic provision of the Constitution. It is, for this reason, well observed: “A Prime Minister thus has it within his powers to select the most favourable and opportune moment for dissolving the House and holding a fresh poll. The Prime Minister may also ask for dissolution if his overall majority in the House is very slender and he finds it difficult to push his programme through in the hope that his party position would improve after fresh elections.”

The dissolution of the Lok Sabha, for the first time, took place on December, 27, 1970 when the President, acting on the advice of the Prime Minister, made an appeal to the voters to express their mind in a national referendum. Prime Minister Mrs. Gandhi in a broadcast to the nation thereafter said: “There comes a time in the life of every nation when the Government of the day has to take an unusual step to cut through difficulties in order to solve pressing problems with which country is beset. The present is such a time. It is because we are concerned not merely with remaining in power, but with using that power to ensure a better life for the vast majority of our people and to satisfy their aspirations for a just social order. “Its another example can be seen in the dissolution of the Lok Sabha on Jan. 18, 1977 when Prime Minister Mrs. Gandhi in her broadcast to the nation said: “Every election is an act of faith. It is an opportunity to cleanse public life of the confusion. So let us go to the polls with the resolve to affirm the power of the people and to uphold the fair name of India as a land committed to the path of reconciliation.”

In view of whatever is really desired by the spirit of the Constitution and what has already occurred in the past, we can lay down two important points that ought to be taken into consideration by the Prime Minister and the
President while resorting to this drastic measure lest it should become an instrument of power politics or even of blackmail. First, the President must accept the advice of the Prime Minister only when he is not a defeated leader of the Council of Ministers and that there are no prospects of forming an alternative ministry. Lowell well points out that this power should not be misused for party purposes. The President must remember that the position of the constitutional head is impartial and that he must not take up the cause of a particular party. Second, as we have a multi party system, the President should be guided more by the practices of the Dominions than by the English convention alone in this regard. There is a case of Lord Byng, the Governor General of Canada, who in 1925 refused to oblige his Prime Minister of the Liberal Party after his exit and invited the leader of the Conservative Party to form the government. It is a different matter that the Conservative ministry was defeated within a week. Viewed in this perspective, the stand of the Indian President in 1970 was half justified as Mrs. Gandhi was not a defeated Prime Minister; it was half unjustified also as it was a minority government and the President ought to have held consultation with the leaders of the Opposition parties before making use of this great constitutional power. For such reasons, the action of President Reddy in dissolving the Lok Sabha in August, 1979 on the advice of Prime Minister Charan Singh was debated.
NOTES AND REFERENCES


2. Cited in Anthony King (ed.): *The British Prime Minister*, p. 163.


6. It may be pointed out here that the term ‘Cabinet’ has been used in the 44th Constitution Amendment Act of 1978. It occurs in clause 3 added to Art. 352 that defines it as a body consisting of the Prime Minister and other Ministers of the Cabinet rank appointed under art. 75.


9. S.C. Gangal: *Prime Minister and the Cabinet in India*, p. 20.

10. Michael Brecher: *Succession in India*, p. 91.


17. See the text of the Presidential notification in *The Hindustan Times* (New Delhi), Aug. 23, 1979. The Supreme Court rejected a writ petition and observed that, despite the 42nd Amendment Act, the President “acts in his own discretion in choosing the Prime Minister”. *Madan Murari v. Chaudhary Charan Singh*, AIR 1980 cal. 95.

18. For a critical study of this development see Palkhivala: “The President’s Decision : Consequences of Dissolution” in *The Times of India* (New Delhi), Aug 24, 1979. Also see N. Sanjiva Reddy: *Without Fear or Favour*.

19. *Indian Express* (New Delhi), March 25, 1968.

20. Laski: *Parliamentary Government in England*, p. 232. The observation of an Indian writer seems plausible that, while doing so, the President “may even refuse to invite a candidate sponsored by various political as the candidate for the post of the Prime Minister and thereby may prevent them from forming a coalition government” *J.R.Siwach: The Indian Presidency*, p. 142.

21. As Prof. H.M. Jain Visualises: “But, of course, politics is different if the position of the Prime Minister himself within the party is doubtful, if the
support behind him is wavering, if there are second thoughts about his leadership, that is, if the internal rifts of the party become so prominent as to tempt the President to exploit them for his own advantage.” *Op. Cit.*, p. 39.

22. The view of Prof. H.M. Jain is plausible if we take into consideration the politics of normal times. As he says: The practice has, therefore, gown in all parliamentary democracies that, whenever there is a vacancy in the office of the Prime Minister, the majority parliamentary party meets to elect its leader and confront the head of the state with *fait accompli*… If he chooses anyone else, the commission will be declined… If he chooses anyone outside of the majority party, the commission, even if accepted, will be futile,’ *Ibid.*, p. 161.


28. When the Congress Parliamentary Party Executive in its meeting on 20\textsuperscript{th} July witnessed a move initiated by two ‘friends’ of Desai that he should be restored to his original position in the interest of the unity of the party,
the Prime Minister of closed the matter by sharply reacting that it “is the Prime Ministers prerogative to change the portfolios of her colleagues or decide the composition of the cabinet. “The Hindustan Times (New Delhi), July 21st, 1969.


32. Ibid., p. 1159. Also see Sir Ivor Jennings : Cabinet Government, p. 227.


34. See Balmiki Chaudhury : Diary of Rashtrapati Bhawan (Hindi), p. 254.

35. Maj. C.L. Datta : With Two Presidents, p. 40. The same writer, former security officer of the President’s House, further notes that the “general feeling among the higher staff at Rashtrapati Bhawan was that Nehru treated Prasad as the mere titular head of the state.” Ibid., p. 48.


38. Ibid., p. 90.

39. An account given by Maj. Datta is worth recording in this regard : “Before the plan (Kamaraj Plan) was placed before the Congress leaders by Kamaraj, long talks took place between Radhakrishnan and him at
Rashtrapati Nilayam in Hyderabad. The two walked till late in the evening on the lawns attached to the building discussing the proposals. The President cut short his stay in the South and returned to New Delhi early in August. The Congress Working Committee met to discuss Kamaraj Plan at the Prime Minister’s House. The meeting lasted far into the night. Mean while, at the Rashtrapati Bhawan the President paced up and down in his study and bedroom waiting for the expected news that Nehru had agreed to retire. When the news of Working Committee’s decision finally arrived, it was a setback to the President. The Kamaraj axe had bounced. Nehru had seen through the game. He had used the proposals to purge his cabinet of those whom he suspected of wanting to step into his shoes of disloyalty. Among those whose heads rolled were Dr. Shrimali, B. Gopala Reddy and Shastri, all three favorites of the president”. *Ibid.*, p. 121.


44. *The Hindustan Times*, New Delhi, 18th June, 1969.


48. Stanley Kochanek: *The Congress Party of India*, p. 431. A very plausible interpretation of the whole development is thus furnished by a student of Indian politics: “In the post-Nehru period, Kamaraj brought an added dimension to the office of the Congress President by playing a strategic role in the first two successions. But once the election of the Prime Minister is over, half of the glitter of the king maker vanishes and the Congress President’s capacity to influence and bring in vis-à-vis the Prime Minister is seriously damaged”. Harish Kahre: “The Indian Prime Minster-A Plea for the Institutionalization of Powers” in the *Journal of Constitutional and Parliamentary Studies*, New Delhi, Vol. 5, No. 1st Jan.–March, 1971. p. 25.

49. The Acharya claimed: “It is the party from which the government of the day derives its power. Any notion which weakens the organization of the party or lowers its prestige in the people must, sooner or later, undermine the position of the government?” *Congress Bulletin*, 7th Dec., 1947, p. 11.


53. As Morris-Jones Comments: “Nehru’s relations with his cabinet, however, were seldom those of a commander equidistant from a number of inferiors equal among themselves. For when Nehru was strongest there were other strong men like Patel capable of forming subsidiary centres of power, and by the time the great name had vanished, Nehru himself (especially after the punch from China) was less able to have his magic way.” *The Government and Politics of India*, p. 145.


55. Michael Brecher : *Succession in India*, p. 11.

56. A leading correspondent, Krishna Bhatia, wrote in his paper captioned ‘Kamaraj Plan Acquires New Dimension’ that in all likelihood it” has only shifted the venue of the leaders’ internal struggle for supremacy from the cabinet to Congress office”. *The statesman* (New Delhi), 30th August, 1963.

57. As a very senior journalist and Congress worker, J.N. Sahni, observes : “Kamaraj never expected that the party would have to make a second choice within eighteen months. He still felt committed to Nehru’s will that Morarji should be kept as far away from the throne as possible. He had also not forgotten, nor perhaps forgiven the personal challenge that Morarji has posed to his re-election for a second term as Congress President. He tried to bring about a consensus. He failed. Morarji was this time prepared for a confrontation. Kamaraj’s mind was also made up. Whether consensus or co-operation, his choice was Nehru’s daughter, Indira Gandhi.” *The Lid Off*, p. 478.


65. It is a new term implying the ease with which bills, resolutions etc., are passed through the legislature, See L.N. Sharma : *The Indian Prime Minister*, p. 111.


69. Z.M. Quraishi : *Struggle for Rashtrapati Bhawan*, p. 16.

71. *The Indian Express* (New Delhi), 19th January 1977. The Lok Sabha was dissolved despite the fact that its life had been extended in 1976 for another year.


73. Lowell: The Government of England, Vol. I, p. 34. As a leading English constitutional jurist (Sir Ivor Jennings) holds: “The right of dissolution, for instance, is not solely within the competence of the Prime Minister. A sovereign who thought that the power was being put to serious abuse could refuse to allow a dissolution. In other words, there are occasions when the formal functions cease to be merely formal.” *British Constitution*, p. 18.


75. This is a marginally revised form of my paper that appeared under this title in *The Motherland* (New Delhi), 21st April, 1973.