CHAPTER 7.
"We desire, that the Council of State should develop something of the experience and dignity of a body of Elder Statesmen."¹

Montagu-Chelmsford

"Every page of the proceedings of the Council of State would show its reluctance to assert itself."²

Shri Hari Singh Gour

The Council of State was the first Second Chamber established in India and came into effect on 3rd February 1921 as a result of the constitutional reforms introduced by the Government of India Act of 1919. In trying to assess its worth and success or failure as a second chamber it is very important to examine the intentions of the constitution makers in establishing this body. Opinion is sharply divided regarding the nature and work of this House. Some praised it while others condemned its character and contribution to the Indian political life. The Indian Statutory Commission reported that in the evidence before them it was generally admitted that the Council of State had played a very useful part in the evolution of the representative Government of India.³ The Simon Commission, therefore, strongly recommended its retention as an integral part of the Central Government as it contained members of experience and distinction who had made valuable contributions to the discussion of Public affairs.⁴ Opinion to the contrary

¹ Report on Indian Constitutional Reforms (1918) p.179.
² Minute of dissent--Vide Report of Indian Central Committee (1929)
⁴ Ibid. p.148.
was often expressed and abolition of the Council of State or at least a radical reformation was demanded.

The problem, therefore, is to be looked at through an administrator's eye and not through that of political agitators. It is important to note that the Council of State was established not to thwart the will of the popular body as is often made out by many, but as a result of the administrative foresight and also the necessity (administrative and legal) under the constitution, to contemplate all possible political deadlocks and to provide a suitable legal and constitutional mechanism for solving those problems. Different people have different objectives in establishing a second chamber, to be considered, therefore, is that the Council of State satisfied or served the intentions of British Parliament. The authors of the Report on the Indian Constitutional Reforms (1918) (Montagu Chelmsford) suggested the creation of a second chamber which should be the final legislative authority in matters which the Government regarded essential. They made it clear that they did not propose to institute a complete bicameral system to start with. What they wanted was some means, for use on special occasions, of placing on the statute book, after full publicity and discussion permanent measures to which the majority of the members of the Legislative Assembly might be willing to assent. But the Joint Select Committee revised the proposal and to use their language "reconstituted the council as a time second chamber." The Act of 1919 gave the Governor-General of India the power to certify a bill rejected by one of the two Houses if he considered it "essential for the safety, tranquility or interests of British India or any part thereof." This provision

6 Ibid, P.177.
7 Section 37 B of the Consolidated Act of 1919.
was substituted by the joint select committee in place of the scheme of the Second Chamber proposed by the Montford Report and embodied in the original bill for securing essential legislature because the Committee did not consider it proper that the Governor-General should conceal his responsibility through the working of the evil system of "official-bloc" in the Council of State.

An estimate of the work of the Council of State can be complete only with an examination and statement of its work as a law-maker, its attitude in financial matters, political and constitutional attitudes, its contribution to the procedural matters and its committee work. An account of its political complexion from time to time and its work is given in earlier chapters. A general sum up and an overall estimate of the Council of State is attempted here.

The working of a constitution is no easy task. And a constitution can be reduced to an absurdity if its constituent parts are unmindful of their responsibility to work it with good-will. According to one member of the Council of State itself "the gentle dignity of the representatives of aristocracy, the benmevolent autocracy of the representatives of the bureaucracy and the sound idealism of the representatives," were all harmoniously blended in this chamber. The composition of the body was aptly described by Lord Reading when he said: 10

8 Vide Chapter on Composition, Powers and functions of the Council of State.
9 Hon'ble Mr. Ramadas Pantulu --Vide Council of State Debates Vol. 7, p.87.
10 Farewell Address of H.E. the Viceroy to the First Council of State on 17th September 1926.
"I see here what I may almost call the hereditary element represented by the great Zamindars, I see the leaders of learned professions and I see men who have climbed the steep ladders which lead to success in the regions of Commerce and industry."

The Council consisted of four lawyers, seventeen landholders, nine merchants, traders and businessmen, six retired Government officials, one professor, seventeen officials and others whose professions could not be classified.

Quality of Debates in the Council:

Discussions were lively and learned and they were of a high order. There was a sense of humour and sometimes members grew poetical too. On one occasion, during a discussion on the problem of franchise for women a member said:11

"The Proceedings of our House are often very dull, and if women are allowed to come in and sit as members of the House, it will tend to enliven the proceedings of this House greatly. I think their presence in this chamber will attract more visitors to the visitors' gallery than this house generally does. Women are very useful now-a-days as members of various bodies.

The poet said:-

They talk about a woman's sphere
As though had a limit
There's not a place in earth or heaven

There is not a task to mankind given
There is not a blessing or a word
There is not a whisper "Yes" or "No"
There is not a life or death or birth
That has a feather weight of worth
Without a woman in it.

If she can be everywhere, I do not see why she cannot
be in this council. I am told however that she is not in one
particular place.

A clergyman, addressing a large audience of women in
America remarked, all of a sudden in the course of the Sermon,
while the ladies were conversing, that there was one place where
women were not to be found and that was Heaven. When the
women looked aghast he quoted the following passage from Bible
as his authority.

"Then there was silence in Heaven for one moment."

There was also a sense of humour in the debates of
the Elder Statesmen.

On one occasion while discussing a resolution the
establishment of an Ayurvedic College, a member of the Council
of State, Sir Umar Hayat Khan began his speech thus:

"I will begin with persian poetry, which, if
translated runs as follows:--

The Angel of Death went to God, He said,
"Either tell me to do something else or tell the Hakim to do
some other job, because whenever I go to take the life of a
man, I find that the Hakim has killed him before I reach." The
Hakim was asked 'Have you ever treated a man'. He said "Well,
go and see the graveyards; all these new additions are mine."
Communal
Communal and Reactionary Character:

The communal and reactionary character of the legislature was often exhibited in the speeches. During the discussion on budget a nominated non-official Sir Umar Hyat Khan made a strong plea for the necessity of close association of the Muslim Community with the Government. He said that they were in a hopeless minority and, therefore, their future was entirely bound up with the British Government and therefore appealed to all the Mohammedans who could think ahead to join the side of the Government and by a combined action save his community.12 On other occasions also the body was reactionary. An appointment of a Royal Commission to enquire into the working of the Indian constitution was suggested by an elected member and the resolution was negatived by the House. Vested interests in the Council opposed any progressive measure. In this case the Maharajadhira of Baradwan plainly said that in any future advance the Government of India as well as the Government in England had to consider "those vested interests which have hitherto believed in them, namely, British rule."13

Functions as a revising chamber:

The Council of State discharged important functions as a revising chamber. On one occasion it reinserted important and useful changes thrown out by the assembly in the Provident Fund Bills. It earned the gratitude of large number of persons by

aiding the assembly to fix the salt tax as a figure which permitted financial relief to the Provinces. On another occasion a resolution regarding salaries of two members of the Judicial Committee of the Privy Council was moved by Government and thrown out by the assembly. But the Council adopted it and the view impressed on this occasion by a nominated non-official is very important.14 "If a useful thing is thrown out by hasty obstructionists the country should not know that all their representatives are such that when a thing so useful comes up it is thrown out by us .......It has given this House the chance of rising to the occasion so as to show that the considered opinion of the country always backs up useful measures."

In the budget discussions also many useful suggestions were made. In spite of the general feeling that the council would always take a sober and staid view of things, it really took a serious view of the fact that the Indian interests were being subordinated to those of Great Britain especially in regard to the administration of military policy. Hon'ble G.A.Natesan(Madras) said:

"My case is that........India is being asked to pay a much high share than really she should be asked to pay.......The poor tax payer is being asked to pay more than he should."

In the budget discussion 1925 useful suggestions were made regarding reduction of military expenditure, reduction of the third class passengers fares and the introduction of a system

of compulsory military training to every Indian.

**Attitude regarding financial matters:**

Very often members protested regarding their lack of sufficient powers in financial matters. Thus Dr. Sir D.P. Sarwadikari a member of the House once observed:

"Our discussion fails absolutely to make any impression upon the situation because we have no power of the purse. Although the finance bill comes to us......we can do nothing, absolutely nothing, to influence the course of events in the slightest degree, except in conveying now and again pious hopes and wishes."

**Committee Work:**

The Council participated with the assembly on joint committees many a time in addition to a lot of committee work in the House itself as testified in the tribute paid by His Excellency the Viceroy when he said:

"I was indebted to the late Council of State not only for the work performed on behalf of India in the Chamber itself, but for the eminent services of individual members of the chamber on important committees and commissions."

**Independent Spirit of the House:**

On many occasions the Council made bold to assert itself even against the Government and justified the tribute paid by Lord Reading who said that when occasions arose even the nominated non-officials protested and spoke against the Government protesting the appointment of the Royal Commission on
Agriculture without consulting the legislature one member asserted that it was hardly the way in which the central legislature was to be treated.

The Division Lists of the Council furnished an abiding record that the nominated non-officials did not hesitate to vote against Government at the dictates of their reason or their conscience. On the other hand they did not shrink from shou-lder the burden of the temporary unpopularity which too often is incurred by those who, undisturbed by waves of passion and prejudice, have applied a calm and sober judgement and have voted with the Government when they were convinced that the higher interests of the country required it, when they were satisfied that those interests were being faithfully served by the Government. The nominated non-official members exercised their functions with the same sense of independence and responsibility as the elected members of the chamber and they formed one body of men with firm principles and broad outlook keenly alive to the responsibilities of their position as members of a second chamber in which they commanded an overwhelming majority. Honourable V. Ramadas Pantulu protested against the Government very often and on one occasion he said:

"I would request to this House to remember that our cooperation is only wanted when something extraordinary is required to be done against the wishes of the whole country and the Assembly. I would ask this House not to be a party to such invitations and not to oblige the Government." 15

Sir Dinshaw Wacha during the budget discussion referred to a callous manner in which budget was rushed through and said:

"Here is a Budget with a whole gamut of point after point of importance. . . . We are asked to do it in twenty minutes. This is a farce...a mockery. I wish that is a sober Council like this [ought] to be no mockery of this character." 16

It is, therefore, a mistake to suppose that the Council of State invariably endorsed the standpoint of execution Government, while unquestionably more conservative in its outlook than the assembly it did not hesitate to carry resolutions against the official vote when circumstances dictated such powers. On another occasion a member speaking on Finance Bill said that the Councils also had responsibilities to their representatives. The Presentation of the Budget to the council was nothing but a confidence of the people. "I find no trace of any element of responsibility. Therefore, I appeal to this House not to delude ourselves and not to delude the country outside this chamber with the idea that the Government was based upon the popular will."

On many occasions the House served as an effective and useful second chamber and was against hasty and precipitate legislation. The views expressed were ever balanced, well-informed, unbiased and free from popular emotion which is the characteristic feature of the popular House. The Council proved

16. Ibid.
to be a stable institution in that it was not swept off its feet by certain emotional speeches made and hasty attempts on the part of some members. The fierce independence and grasp of the subjects as disclosed during the discussions of the budget leave one in no doubt as to the influence the House acquired. The wide range of subjects discussed, the interest taken in various questions, the tone of debates, the sense of responsibility was commendable. The view that a second chamber must always be cautious and restrained in its acts was often stressed by the members themselves. In dealing with measures that came before it the council showed alike qualities of fearlessness and sobriety. It was mainly on questions of finance and constitution that the chambers found themselves in disagreement. Some members themselves stressed the need for dignified and sober discussion. Thus on occasion a member congratulated the House on the great sobriety of thought and dignity and serenity with, which it conducted discussions and said:

"There is an atmosphere here which is far different from that of storms, cyclones and thunders and eruptions heard in another place. So far I consider that the Council of State has really deserved the name of a council of Elders. Dignity and sobriety go together here." 17

The Council of State eminently fulfilled the functions for which it had been designed. It was devised to be a revising chamber to be a reflection of India as she was, to bring within a

small focus, all interests, commercial, landholding, intellectual, official and otherwise in their true proportions, so that when the work of the assembly came up to it for revision it might exercise its judgement in such manner as could secure confidence in every one interested in the stable progress of the country.