

MEMORANDUM

ON THE

MONTAGU-CHELMSFORD REFORM PROPOSALS

BY

- ✓ **The Hon'ble Sir Dinsha Edulji Wacha, KT., J.P.**
Member, Imperial Legislative Council.
Ex-President, Indian National Congress.
Ex-President, Bombay Municipal Corporation.
- ✓ **Sir Narayan Ganesh Chandavarkar, KT., B.A., LL.B.**
Ex-Judge, High Court of Bombay.
Ex-Vice-Chancellor, University of Bombay.
Ex-President, Indian National Congress.
- ✓ **Mr. Chimanlal Harilal Setalvad, B.A., LL.B., J.P.**
Advocate, High Court of Bombay.
Vice-Chancellor, University of Bombay.
Ex-Member, Imperial Legislative Council.
Ex-Member, Bombay Legislative Council.
- ✓ **Sir Bhalchandra Krishna Bhatavdekar, KT., L.M., F.C.P.S., J.P.**
Ex-Member, Bombay Legislative Council.
Ex-President, Bombay Municipal Corporation.
- ✓ **Sir Hormasji Ardesar Wadya, KT., J.P.**
Barrister-at-Law.
President, Deccan Sabha, Poona.
- ✓ **Mr. W. A. Chambers, J.P.**
Fellow of the Royal Institute of British Architects.
- ✓ **The Hon'ble Mr. Gokuldas Kahandas Parekh, B.A., LL.B., J.P.**
Pleader, High Court of Bombay.
Member, Bombay Legislative Council.
- ✓ **Mr. Narayan Vishnu Gokhale, B.A., LL.B.**
Pleader, High Court of Bombay.
- ✓ **Mr. Narayan Madhav Samarth, B.A., LL.B.**
Pleader, High Court of Bombay.
Ex-Member, Bombay Legislative Council.
Member, Congress Deputation to England (1914) to the Secretary of State for India, Lord Crewe.

Memorandum on the Montagu-Chelmsford Reform Proposals.

We, the undersigned, wish to place before the public our view of the reform proposals recently published by the Secretary of State and the Viceroy.

THE CORRECT VIEW-POINT.

The proposed scheme, when put together, forms a complicated structure, capable of improvement in some particulars, especially at the top, but the substantial character of which is apparent when attention is concentrated on its main features as a progressive measure of reform calculated to make the provinces in British India reach, as early as possible, by the operation of machinery inherent in the scheme itself, the promised goal of complete "responsible government" in fulfilment of the terms of the announcement of August 20, 1917. That announcement is binding not only on the Secretary of State and the Viceroy, who have framed their proposals to give effect to it, but also on all other subjects of His Majesty, Indian as well as British. In order to judge fairly and dispassionately whether or not the new reform proposals constitute in reality a substantial advance in compliance with the promise, the limitations and the implications of that announcement, it is necessary to keep steadily in view the terms thereof, namely, "the *increasing association* of Indians in every branch of the administration and the *gradual* development of self-

governing institutions with a view to the *progressive* realisation of responsible government in India as an integral part of the British Empire," to be achieved "by successive stages," "the British Government and the Government of India" to be the "judges of the *time and measure* of each advance," "guided by the *co-operation* received from those upon whom *new* opportunities of service will thus be conferred and by the *extent* to which it is found that *confidence* can be reposed in their *sense of responsibility*," "*substantial steps* in this direction" to be taken "as soon as possible." Criticism which, wittingly or unwittingly, disregards or overlooks the *qualifying* phrases in the announcement, and condemns the reform proposals outright on grounds which amount to saying that they do not give us *full* responsible government *at one bound* or immediate control of the administration in *all* its branches can be of little use in assessing the real value of those proposals. The Congress-League scheme itself was described in the Resolution of the Congress as "a definite *step towards* self-government" and not full self-government at once either in the provinces or in the Government of India. Article I of the Constitution of the Congress speaks of the attainment of self-government by the people of India, *not at once*, but "by bringing about a *steady* reform of the existing system of administration." We propose here to estimate the general operation of the main provisions of the scheme on the political progress of our country, while pointing out, as we proceed, the principal alterations which, we think, may be usefully made at the start in order to make the scheme more liberal and successful in its transitional

stage than it is at present without deviating from the terms of the announcement of the 20th August last and without introducing elements of risk or danger in the design of the contemplated structure.

Congress-League Scheme.

TWO DETERMINING FACTORS AGAINST THE CONGRESS-LEAGUE SCHEME.

2. In doing so, we think it necessary at the outset to note that many of the Congress demands have been accepted and embodied in their scheme by its distinguished authors in a spirit of fair-mindedness. Where they have rejected some of the provisions of the Congress-League scheme, they have reasoned out their conclusions and have proposed measures, in the terms of the announcement, for starting, in the first instance, the provinces on a graded career of "responsible government," that is to say, a system of government in which "the electors send men to the Councils with power to act in their name, and the Councils commit power to ministers, over whom they reserve control in the form of the power of removing them from office." It must be confessed that the Congress-League scheme entirely lacked the elements or beginnings of "responsible government." In addition to this reason for deviating from some of the proposals of the Congress-League scheme, another determining factor with the authors of the reform proposals was the complexion given to the scheme by some of its advocates to the effect that it was deliberately designed to bring about deadlocks between an irremovable executive and an elected legislature

with a substantial popular majority therein, in order that Government may be made to surrender at discretion and concede full responsible government to the people at once. Having regard to the safeguards already contained in the Congress-League scheme and a few others which could easily have been introduced, this presentment of that scheme need not, we think, have frightened Mr. Montagu and Lord Chelmsford. But showing, as it clearly did, the methods and the spirit of those "advocates" of the Congress-League scheme, they cannot be blamed if they have thought it right to discard those features of it which were so interpreted. They rightly observe:—"There is evidence indeed that some of the advocates of the scheme. . . . look forward to producing a deadlock as a means of bringing the executive under the control of the legislature. We have no desire to produce deadlocks. We have no wish to advance only by first making government impossible. On the contrary, we believe that the path of progress lies in another direction. We believe in the possibility of smooth and harmonious progress pursued in a spirit of mutual good-will and devotion to common interests." In regard to the relations between the executive and the legislature, therefore, the Montagu-Chelmsford proposals are naturally framed on lines different from those of the Congress-League scheme so as to ensure, as far as may be, the "co-operation" and "increasing association" of the elect of the people with the Executive Government in the provinces, in the initial stage, by providing checks and safeguards in respect of both of them calculated to make it their common interest to work together in

harmony and avoid castigation, at the hands of a periodic Parliamentary Commission of Inquiry, for recalcitrant conduct or arbitrary exercise of authority.

Congress Demands Granted.

CONGRESS DEMANDS EMBODIED IN THE REFORM PROPOSALS.

3. Subject to the aforesaid two determining factors, which have, in the main, influenced Mr. Montagu and Lord Chelmsford to deviate from the Congress-League scheme, they have, as said above, embodied, wholly or substantially, in their proposals, many of the demands which the leaders of the Congress have pressed on the attention of Government in the past. These may be briefly summarised thus :—

(1) Council form of Executive Government in all the provinces. (2) Increase in the number of Indians in the Executive Government where such form already exists and provision for Indian Executive Councillors being appointed where it comes into existence. (3) Legislative Councils to be enlarged. (4) Substantial elected majority in such Councils. (5) Direct election, as far as possible, on a territorial basis. (6) Franchise to be as broad as possible. (7) Retention of separate electorates for Mahomedans. (This has been conceded in all the provinces except in a province where Mahomedans are in a majority.) (8) Where they have separate electorates, Mahomedans should not participate in general electorates. (9) Complete sepa-

ration of Imperial and Provincial revenues. (10) Abolition of divided heads. (11) Fixed contributions by the Provincial Governments to the Government of India to meet the resultant deficit of the latter. (12) Complete separation of the central and provincial budgets. (13) Financial independence to the provinces with powers of borrowing and taxation, within well-defined limits, for provincial purposes. (14) Legislative independence to the provinces so as not to trench on the sphere of the Government of India. (15) Administrative independence to the Provincial Governments co-eval and co-extensive with popular control. (16) Power to the Legislative Council to alter the whole budget in accordance with the resolutions it may carry. (This has been conceded in the case of Provincial Legislative Councils, except only in so far as to certificated allotment on a reserved subject.) (17) Legislative Councils to have power to modify the present rules and make their own rules of business. (This naturally includes power to modify the present rules of business, with the sanction, of course, of the Governor, so as to provide that the Councils be summoned at stated intervals and that a motion for adjournment be allowed to be brought forward for the discussion of a definite matter of urgent public importance, if supported by a certain proportion of the members.) (18) Increased power of interpellation by supplementary questions by any member being allowed. (19) Complete popular control, as far as possible, in local bodies and the largest independence for them of outside control. (20) Development of the *panchayat* system in villages. (21) Progressive Indianisation of the

higher grades of every service by recruitment in India, exclusive recruitment in England to be no longer in force. (22) The salary of the Secretary of State to be placed on the British Estimates. (23) The Indian tax-payer to be relieved of a part of the other cost of the India Office. (24) The control of Parliament and the Secretary of State to be relaxed and modified in respect of all matters in which responsibility is entrusted to representative bodies in India. (25) Periodic Parliamentary Commissions of Inquiry,—an old demand of the Congress leaders. (26) A Select Committee of the House of Commons on Indian affairs—a proposal first made by Sir William Wedderburn and pressed by the Indian witnesses before the Welby Commission.

A DISTINCT ADVANCE.

4. The embodying of this long list of Congress demands in their proposals by Mr. Montagu and Lord Chelmsford, in spite of adverse official opinion in respect of several of them, is in itself a notable achievement on their part for which the discerning Indian public will, we have no doubt, be thankful to them. Every honest critic will admit that even this list, such as it is, constitutes a distinct advance on present conditions; and when to this are added the several other more important features of their scheme which are designed to start all the provinces in India immediately on the road to responsible government and to provide for their future progress on assured lines till the goal is reached, the great service that they have rendered to the people of India cannot but be gratefully acknowledged by all thoughtful Indians.

Immediate Progress.

PLAN FOR PROGRESSIVE REALISATION OF RESPONSIBLE GOVERNMENT.

5. The authors of the reform proposals, in devising their plan for the "*progressive* realisation of responsible government" for the provinces have, as pointed out above in enumerating the Congress demands accepted by them, duly provided for its three initial conditions, namely, *first*, that the Provincial Governments should be given the widest independence from superior control in legislative, administrative and financial matters, compatible, no doubt, with the due discharge of their own responsibilities by the Government of India; *secondly*, that in each province there should be a Council form of government (that is to say, a Governor in Council); *thirdly*, that the Legislative Councils should contain a substantial elected majority, the electorates being based on as broad a franchise as possible. Having secured this basis, they propose the *progressive* attainment of responsible government in the provinces, first by the devolution of responsibility on the Legislative Councils in respect of certain subjects called "transferred subjects" (all other subjects being called "reserved subjects") and then by gradually increasing this devolution by successive stages until complete responsibility is reached.

TWO COMMITTEES.

6. Two Committees are forthwith to be appointed consisting in each case of a chairman appointed from England, an official and an Indian non-official,—an additional official and an additional Indian non-official in each province to be co-opted

when the Committee is in that province. One of these two Committees is to investigate into the subjects of the franchise, the constituencies and the nominated element in respect of each of the Provincial Legislative Councils, having regard to the principles laid down in the reform proposals. Regulations made on the advice of this Committee by the Secretary of State on the recommendation of the Government of India will be laid before Parliament. The other Committee, similarly composed, will advise the Secretary of State on the question of the separation of Indian from provincial functions, and recommend which of the functions assigned to the province should be "transferred subjects." This Committee will meet and confer with the other Committee, which is to deal with franchises, etc.

7. A good deal will depend on the recommendations of these two Committees; and we trust that these recommendations will be conceived and carried out in a liberal spirit. Every effort should be made to secure a $\frac{4}{5}$ ths elected element in the Provincial Legislative Councils. The franchise again should be so broad as to secure to the "backward communities" their due representation by *election*. Otherwise they would have cause for complaint that their legitimate rights had been unjustly disregarded. In regard to the other Committee, we would urge that it should be directed to adopt a bold line and, with due regard to ensuring successful working, put as much as possible into the category of "transferred subjects" and services and as little as may be absolutely necessary, under present war conditions, into the category of "reserved," *more especially in the advanced provinces*. We trust that every care will

be taken by the Secretary of State and by Parliament to make the regulations framed on the recommendations of these two Committees such as to leave no room for reasonable complaint.

“Transferred Subjects.”

IMPORTANT SUBJECTS PROPOSED TO BE “TRANSFERRED.”

8. The illustrative list showing “transferred subjects” which the Secretary of State and the Viceroy have appended to their Report on the reforms is a fairly large one and comprises many important subjects. The first is “taxation for provincial purposes,” which, as a “transferred subject” gives the ministers and the Legislative Councils a strong weapon in their hands to control the expenditure on “reserved subjects,” it being provided in the scheme itself that “such taxation proposals would be presented to the Legislative Council *only with the approval of the ministers.*” The second “transferred” subject in the list is “local self-government, rural and urban.” Some critics have complained that the hands of the people have been forced in advance by the recent Resolution of the Government of India on the subject, which does not go far enough in their view in giving them a free hand in local self-government. They forget, what the authors of the reform proposals have specifically pointed out in this connection, that the reformed Legislative Councils are expected “to carry forward the work thus begun.” Another item of importance is “Education, primary, secondary and technical.” Then there is “Agriculture,—Civil veterinary, diseases of animals, etc. This “*etc.*” includes “research

institutes and demonstration farms and industries connected with agriculture." The next is "Co-operative Credit." Then follow such important subjects as "Forests," and "Public Works, including minor irrigation and tramways and light and feeder railways." After that comes "Excise," which as a "transferred subject" cannot but give to the substantially elected Legislative Council a complete voice in a matter vitally affecting the moral and physical well-being of the people. Then there is another important subject of vast importance to the material and economic welfare of our countrymen, namely, "Development of arts and crafts and local industries." We have omitted from the list some other of the suggested "transferred subjects" which may not appear to all alike to be important ones. But taking only those we have noted above, would it be fair to say that with these "transferred subjects" in the hands of our ministers and Legislative Councils to manage, the proposed reforms are unreal and unsubstantial? We think it is but justice to admit that the authors of the proposals have offered a substantial instalment at the start in this matter.

Assured Periods of Advance.

PROVINCIAL PROGRESS TOWARDS COMPLETE "RESPONSIBLE GOVERNMENT" AT AN EARLY DATE.

9. Having devised this division between "reserved" and "transferred" subjects, the authors of the proposals introduce the beginnings of "responsible government" by making it obligatory on the Governor to select a minister or ministers from among the

*elect*ed members of the Legislative Council, the said minister or ministers to have charge of the "transferred" subjects, their term to extend only till the expiry of the life of the Legislative Council by the efflux of time or by dissolution, their re-appointment depending, during the first five years, on their re-election by their constituency and afterwards, their salaries to be specifically voted each year by the Legislative Council, a direction to that effect being given either by the Government of India *at the end of five years* or, failing such direction, on a resolution passed to that effect by the Legislative Council, to which the Government of India will then have to give effect, so that ministers from that time onwards would, in fact, become ministers in the parliamentary sense, liable to be turned out of office by the Legislature not voting their salaries or refusing them supplies or passing a vote of censure. This means that within the comparatively short period of *six* years from the time the reformed councils come into existence, it is possible for us to obtain full responsible government in regard to the "transferred" subjects. *At the end of the first five years* again, the Government of India is empowered, either on the application of a Provincial Government or a Provincial Legislative Council, to modify the list of "reserved" and "transferred" subjects, with the sanction of the Secretary of State. This means either adding to the list of "transferred" subjects, if the Legislative Council has dealt with the matters during the preceding period with a due sense of responsibility, or removing to the "reserved" list any subjects already "transferred" if the Legislative Council is held to

have been guilty of "*serious maladministration*,"— in either case, as said above, *not without the sanction of the Secretary of State*. Ten years after the reformed Legislative Councils come into existence, and, thereafter, at intervals of not more than twelve years, a Commission deriving its authority from Parliament itself will be appointed with a mandate to consider "*whether by the end of the term of the legislature then in existence it would be possible to establish complete responsible government in any province or provinces*," also to investigate the progress made in admitting Indians into the higher ranks of the public service, to review the constitutional position both as regards the Government of India and the provinces, to consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation, etc. Complete attainment of responsible government *at an early date* in the case of any province will largely depend, therefore, upon the capacity, public spirit, political judgment, sense of duty and responsibility, in short upon the record of efficient work, of the *elected* representatives of the people in the reformed councils.

"Reserved Subjects."

SERIES OF SAFEGUARDS AGAINST EXTRA- VAGANT EXPENDITURE ON "RE- SERVED" SUBJECTS.

10. In order that the ministers and the Legislative Council may not have any reasonable ground to complain that the supply for "transferred subjects" has been curtailed by extravagant allotments for "reserved subjects," the authors of the reform

proposals have provided a *series of safeguards* which we think, are fairly well devised. In the first place, the ministers form part of the Executive Government of a province, which is to consist of a Governor and Executive Council (of two members, one of whom will be an Indian) and a minister or ministers (nominated by the Governor from the elected members of the Legislative Council, as to whose pay they make no recommendation but which, we think, should be laid down in the statute itself as the same as that of the members of the Executive Council). To these it is proposed to add an additional member or members who will be officials, without portfolios, "for purposes of consultation and advice only." They will have no vote. They also are to form part of the Executive Government though they will get, not the salary of the Executive Councillor, but that which they are entitled to draw as such officials. We think this is an undesirable innovation and should be dropped. The said officials can always be availed of for consultation and advice, whenever needed, and should not be introduced as members of the Executive Government. However, whether these officials without portfolios and without vote are retained as part of the Executive Government or not, the minister or ministers being members of the Executive Government are to participate in the deliberations of the Government as a whole. "In these joint discussions the provincial revenues will be estimated; the contribution to the Government of India will be set apart; the proposed allotments for the reserved subjects will then be carefully scrutinised and examined with a view to facing criticism in the

Legislative Council, and the remainder of the revenue will be at the disposal of ministers. If such residue is not sufficient, it is open to the ministers to suggest extra taxation . . . such taxation proposals would be presented to the Legislative Council *only with the approval of the ministers.*" *Thus the Budget will be considered by the whole Governments acting together.* The Governor has power to summon either part of his Government to deliberate with him separately. Decisions on reserved subjects and on the supply for them in the provincial budget will rest with the Governor and his Executive Council, one member of which, it will be borne in mind, will be an Indian, the other one being ordinarily an English civilian. Thus in the allotments for "reserved" and "transferred" subjects, *the predominant voice will be Indian*, exclusive of the Governor. Moreover, the scheme provides that in order to familiarise other elected members of the Legislative Council besides ministers, with the processes of administration and also to make the relations between the executive and the legislature more intimate, there will be attached to each department or group of departments, *whether "reserved" or "transferred,"* an advisory standing committee elected by the Legislative Council from among their own members. Thus these standing committees representative of the Legislative Councils *not only on finance but attached to all the "reserved" portfolios* will have the opportunity of scrutinising *all* proposals for substantial expenditure and of familiarising themselves with departmental needs. The member of the Executive Council or minister concerned with the subject-matter will preside over the committee and

the members of the committee will have the right, after discussion, to record their opinion upon *all questions of policy*, all new schemes involving expenditure above a fixed limit and all annual reports upon the working of the departments. If their recommendations are not accepted by Government, they would have the right to move a resolution in the Legislative Council in the ordinary way.

Provincial Budgets : Resolutions.

The resolution of a Provincial Legislative Council, on the Budget, including "transferred" as well as *all* uncertificated "reserved" items, will be *binding* on the Government ; and the Budget will be altered accordingly.

Resolutions on other matters, that is to say, except upon the Budget as aforesaid, will not be binding on the Government, according to the reform proposals, because the authors thereof point out that to make them binding on Government, as proposed in the Congress-League scheme, is opposed to English constitutional practice, according to which such resolutions of the House of Commons are not binding on the Cabinet. But they proceed to say that " if a member of the Legislative Council wishes the Government to be constrained to take action in a particular direction, it will often be open to him to bring in a Bill to effect his purpose." In addition to the rights given to the ministers and the standing committees to bring pressure to bear on the Executive Council in regard to allotments on "reserved" subjects, the Legislative Council, as already mentioned, will have the right to discuss the *whole* Budget and vote by resolutions upon the allotments,

both on "transferred" as well as "reserved" subjects. If the Legislative Council rejects or modifies the proposed allotment for any "reserved" subject or subjects, the Governor will have the power to insist on the whole or *any part* of the allotment originally provided, if he certifies that it is "essential to the discharge of his responsibility for the peace or tranquillity of the province or any part thereof, or for the discharge of his responsibility for the reserved subjects." Except in so far as the Governor may deem it necessary to exercise this power, the Budget would be altered, as has been already pointed out, *even in respect of allotments on "reserved" subjects in accordance with the resolutions carried in Council.*

Periodic Inquiry.

A further safeguard is that a periodic Parliamentary Commission will review the proceedings, when there will be an opportunity to the members of the Legislative Council to show, if they can, that "reserved" subjects have been *extravagantly* administered, in other words, that the administration is "top-heavy and ruinously expensive" and to ask for a "transfer" to them of the "reserved" subjects proved to have been extravagantly administered by the Executive Council. *Per contra*, it will be open to the latter to prove "that the attitude of the Legislative Council with regard to the expenditure on reserved subjects has been so unreasonable as to make it unsafe to transfer further powers." This periodic inquiry, with its potentialities and terrors, will, we think, act as a check both on the Governor-in-Council and the Legislative

Council, with the result that neither will be tempted to act arbitrarily or perversely in respect of "reserved" allotments and, by the co-operation of both, the pace on the road to complete responsible government will be considerably quickened and the transitional period appreciably abridged, if not altogether terminated in the case of advanced provinces, *soon after the end of the first ten years* when the first periodic commission will be appointed.

Effective Powers of Control.

FINANCIAL CONTROL.

II. But we attach the greatest importance to the provision that the ministers alone will be responsible for additional provincial taxation and that no such taxation will be imposed *except with their approval*. In actual working, this will result in giving to the Legislative Councils, within a short time, practically complete control of nearly the whole of the provincial finance. This provision has been adversely criticised by some persons. But we think they fail to realise that our countrymen stand to gain by provincial taxation being in the hands of our own ministers, who will be responsible, in the first instance, to their electorate and, soon after, as provided in the scheme, to the whole House, as ministers in the Parliamentary sense, when their salaries are annually voted upon by the legislature. The ministers will naturally, in their own interest, exercise a jealous and vigilant control over the expenditure on "reserved" subjects in order that the "transferred" subjects may get as much allotment as possible so as to obviate the necessity or reduce the extent of additional taxation which

they honestly think could be avoided and which they would, therefore, not be in a position to justify before a legislature, containing a substantial elected majority, upon whose good will and pleasure their tenure of office will depend. They will thus be able to exert pressure on the Executive Council by hesitating and, in extreme cases, refusing to bring forward unjustifiable taxation proposals. The Indian member of the Executive Council may be expected to support and will, we think, in such cases support the ministers, who will have, in addition, the sympathy and support of the elected standing committees of the Legislative Council attached to the "reserved" subjects. As to the "transferred" subjects, the decision of the ministers will be final from the very beginning, subject only to the Governor's advice and control. *The result in practice, therefore, is bound to be an effective control by the legislature, for all practical purposes, of nearly the whole of the provincial finance even during the transitional period.* We consider this to be a great merit of the reform proposals of Mr. Montagu and Lord Chelmsford.

ADMINISTRATIVE CONTROL.

12. Another important feature of the provisions mentioned above is the power which the provincial legislature will have of *dictating*, through the ministers, the policy to be *pursued in matters of administration by the entire official class*, English as well as Indian, of those services which will be increasingly "transferred" from "reserved" ones from time to time into the control of the ministers, who, as pointed out above, will be, *at the end of six years*, responsible to the House, in the parliamentary sense of the

term, if the House so wills. Mr. Montagu and Lord Chelmsford have made no secret of this *inevitable effect* of their proposals. Addressing themselves to the question "how our reforms may react on the position and the numbers of Europeans in the Indian Services," they proceed to make the following observation :—

"We are making over certain functions to popular control, and in respect of these—and they will be an increasing number—English commissioners, magistrates, doctors and engineers will be required to carry out the policy of Indian ministers."

FAR-REACHING EFFECT.

13. To enable the public to appreciate the far-reaching effect and the full significance of the main provisions of the reform proposals, we have thought it necessary to draw pointed attention to the power which the reformed provincial legislature will be able to wield, in the near future, in effectively controlling the provincial purse and in requiring its own administrative policy to be carried out by the official classes. Popular control on legislation, finance and administration is established, even at the start, in regard to "transferred" subjects and services, though not to the whole extent in regard to "reserved" ones. These latter will go on diminishing from time to time and may disappear altogether in an advanced province as the result of the proposed inquiry by the first Parliamentary Commission.

GRAND COMMITTEES.

14. Before concluding our observations on the proposals of Mr. Montagu and Lord Chelmsford

for the "progressive realisation of responsible government" in the provinces, we think it necessary to refer, without detailed comment, to one of the features of the scheme, namely, the machinery of what is called the "Grand Committee," consisting of elected and nominated members of the Legislative Council so as to comprise from 40 to 50 per cent. of its strength, the Governor having the power to nominate a bare majority exclusive of himself. This machinery is devised not only as a check on the Legislative Council in respect of legislation affecting peace or tranquillity or "reserved" subjects but also as a constitutional safeguard against the arbitrary exercise of discretion or authority by the Governor-in-Council in respect of legislation on such subjects.

A REAL AND SUBSTANTIAL MEASURE OF REFORM.

15. From the analysis that we have made above of the main features of the scheme which Mr. Montagu and Lord Chelmsford have proposed for the provinces, it will be conceded by all thoughtful persons that it is not only a real and substantial measure of reform at the initial stage itself in due fulfilment of the terms of the announcement of the 20th August last, but a carefully and sympathetically devised plan to enable the elect of the people, by their capacity and wisdom, to secure for their countrymen complete responsible government in the provinces within as short a period after the first ten years of the reformed councils as their record of work in those bodies may justify. The distinguished authors of the reform proposals deserve

to be cordially congratulated on their achievement in this respect. We frankly admit that their scheme of provincial reconstruction and progress is superior to the Congress-League scheme in conception and design and possesses the merit, *which the latter entirely lacked*, of introducing, at the very start, the idea and the beginnings of "responsible government." It has the further merit of providing for future constitutional growth on assured and regulated lines so as to bring *within the reach of the people*, by the efficient work of their elected representatives, the complete attainment of full responsible government in the provinces *at an early date*, that is to say, at the end, it may be, of only *a dozen years*, especially in the case of an advanced province, from the time the reformed councils come into operation.

GOVERNMENT OF INDIA.

Advance on Present Conditions.

Some Serious Objections.

PROPOSALS REGARDING GOVERNMENT OF INDIA—AN IMPROVEMENT ON PRESENT CONDITIONS.

16. When we examine, however, the proposals of the Secretary of State and the Viceroy in regard to the Government of India, we are unable to speak of the result of their labours in terms of approbation which we have deemed it but right to accord to their scheme for the provinces. We acknowledge that the changes that they have proposed in the structure of the Government of India, both

in its executive and legislative aspects, are, in some respects, an improvement on present conditions and in no respect "retrograde" or "reactionary." The present statutory restrictions in respect of the appointment of members of the Governor-General's Executive Council are proposed to be abolished. The Indian element in that Council is proposed to be increased by the appointment of another Indian member as soon as may be. The authors of the proposals say that "in recommending a second appointment" (*i.e.*, of an Indian member) "we are only pursuing the policy already determined upon in respect of the public services." That policy is to recruit only 33 per cent. of the superior posts in India with an annual increase of $1\frac{1}{2}$ per cent. The authors of the scheme, adopting this percentage, apparently intend to appoint only two Indian members out of the total strength of six, that is to say, one-third. We think the Indian element in the Executive Council of the Governor-General should be one-half. Passing on from the Executive Council to the legislature, we find an advance proposed both as to increasing its total strength to 100 and as to securing in it an elective majority of two-thirds. Besides this, there will be one-third nominated element, out of which not more than one-third will be officials. Thus, there will be 67 elected, not less than 11 non-official nominated, and not more than 22 nominated official members. This is doubtless a great advance over the present state of things. To this "Legislative Assembly of India" is to be superadded a Second Chamber proposed to be called the "Council of State," which we strongly object to and as to which

we shall offer our criticism when we deal with it separately in another paragraph. Its total strength will be 50 exclusive of the Governor-General, who would be President, and will be composed of 15 elected by the non-official members of the Provincial Legislative Councils, and six elected to represent (a) Mahomedans ; (b) Landed classes ; and (c) Chambers of Commerce. Thus there will be 21 elected ; 4 will be nominated non-officials and 25 will be officials. Whatever our objection to the " Council of State " on principle, we admit that the elected element therein of 21 out of 50 is an improvement on the meagre proportion of the elected element in the present Imperial Legislative Council. Under the reform proposals, joint sessions of the two bodies are contemplated under certain contingencies. On such occasions, out of a total strength of 150, the elected members will no doubt be 88. But many of these elected members will be representatives of special interests or separate constituencies and it is not certain what the strength of popularly elected representatives will be. In any case, it can hardly be such as to give them a clear majority in such joint sessions, if it is possible for them to have a majority at all. Hence some friendly critics of the reform proposals have suggested that the number of elected members of the " Council of State " should be half of its total strength, that is to say, it should be 25 instead of 21. If the Council of State is to be retained, this would be a much-needed improvement in the proposed composition of that body. But we hope and trust that the idea of planting this thorny tree in India will be given up and not persisted in by the distinguished

authors of the reform proposals. The Legislative Assembly of India, with its enlarged and $\frac{2}{3}$ ds elective composition will doubtless be in a much better position than the present Imperial Legislative Council to exercise influence and have its voice respected in matters of legislation and administration. The right of interpellation also is proposed to be extended by allowing any member to ask supplementary questions; and the power to the legislature to modify, subject to the sanction, of course, of the Governor-General, the rules governing the procedure for the transaction of its business is also proposed to be given. A limited number of members of the legislature may be appointed to a position analogous to that of Parliamentary Under-Secretaries in Great Britain. A similar provision has been made in respect of provincial legislatures also. These Under-Secretaries are to be appointed for the purpose of assisting the members of the executive in their departmental duties and of representing them in the Legislative Council. The power given to make these appointments will be of greater value, if it is provided or understood that a certain proportion of them shall be elected Indians. This will ensure departmental training to some of the elected Indian members of the Legislative Council, which they have no opportunity at present of acquiring. The proposal, as it stands, is to appoint members of the legislature, "not necessarily elected nor even non-official" to these appointments. While this does not exclude the possibility of any of the elected Indian members being so appointed, it does not *ensure* their appointment either. Thus there is an advance in some respects

on present conditions. In all other respects of great importance, the matters remain *in statu quo*.

Finance.

NEED FOR AN EFFICIENT FINANCE COMMITTEE.

17. The matter to which we attach the greatest importance is the right to control the Budget. This we get, at the very start, in the Provinces, as we have already shown, in respect of *all* allotments on "transferred" as well as "reserved" subjects except a certificated allotment, or part of allotment, if any. In the Legislative Assembly of India, however, there is no improvement of any kind proposed in this respect, except, of course, such improvement as may indirectly follow from the fact of an elected majority making its recommendations by way of resolutions on the Budget. We think, however, that an advance may be usefully made in this respect by providing for the selection of a dozen qualified and competent non-official members from both the elected as well as the nominated portions of the legislature for the purpose of conferring, as an *advisory* Board for the present, with the Finance Member *before* he finally prepares his Budget for submission to the legislature. It should be open to the Government to withhold information to disclose which may be deemed inconsistent with the public interest. Subject to this necessary restriction, the non-official voice *must* be heard *in the preparation of the Budget*. Such a step is absolutely necessary as a preparation for the eventual control of the purse of

the central Government by the Legislative Assembly of India.

FISCAL FREEDOM.

18. The authors of the proposals have done full justice in their report to the Indian view as to the fairness, expediency, and urgent necessity of conceding fiscal freedom to India. But they have been unable to make any proposals in this behalf, because they felt that they were outside the purview of matters which legitimately fell within the scope of their inquiry and recommendations on Indian constitutional reforms. They observe:—"Our inquiry has not been concerned with fiscal questions; and the views expressed upon them have come before us only as the main reason which those who asked for popular control over India's finances gave in support of their request. . . . It has been decided by Parliament that the fiscal relations of all parts of the Empire and the rest of the world should be considered after the war, and we assume that this consideration will be by an Imperial Conference on which India will be adequately represented." We admit that there is some force in this attempted justification for their attitude on this question. But, we ask whether a Parliamentary Bill for the reconstitution of the government in India with a view to give effect to the *policy* of the announcement of His Majesty's Government on August 20, 1917, for "the progressive realisation of responsible government in India as an *integral* part of the British Empire" can be reasonably deemed to be satisfactorily drafted if it contains *no* provision whatever, of however

tentative a character, for the *contingency* of India being granted fiscal freedom *on terms of equality with the Colonies*. Such a provision, we think, is absolutely necessary to make the draft reasonably complete so as to obviate the necessity of coming before Parliament again, immediately after the war, for an amendment of the Statute.

Excessive Caution.

A WRONG FORMULA.

19. While we admit that the executive and legislative structure of the Government of India has been proposed to be improved in some respects so as to constitute an advance on present conditions, we are constrained to say that the proposals in this behalf are excessively cautious and unnecessarily illiberal. They are based on a formula, the correctness and soundness of which we venture to question. The Secretary of State and the Viceroy have laid down that formula in these terms:—

“ The Government of India must remain wholly responsible to Parliament and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of the changes now to be introduced in the Provinces. In the meantime the Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing Government increased.”

We beg to question not only the soundness of the principle and policy embodied in this proposition, but also its compatibility with the terms of the announcement of August 20, 1917. How can it

be said that the position enunciated in the formula is in consonance with the terms of that announcement when *no attempt whatever* is made in the reconstruction of the Government of India itself towards "the *progressive* realisation of responsible government" to however small an extent? We fail to see why "the Government of India *must* remain *wholly* responsible to Parliament" and why even the *beginnings* of responsible government in the Government of India should be *withheld* until, perhaps, a majority of the provinces, advanced as well as backward, have made effective progress in responsible government. Till this contingency happens, the Government of India is apparently to remain without even the seed of responsible government introduced into its system. This, we think, is wrong in principle and is bound to lead to rigidity and unprogressiveness at the centre of the body politic which would react on the freedom, elasticity and growth of provincial administrations. Besides, it is bad policy to make the Legislative Assembly of India so uninviting as contrasted with the provincial Legislative Councils that the best talent of the country would be naturally attracted to the latter on account of the new and fascinating opportunities of service and distinction that would be thrown open to it under the proposed arrangements. It is on account of this wrong formula, on which Mr. Montagu and Lord Chelmsford have taken their stand, that their proposals in regard to the Government of India have suffered in correctness of conception and in liberality. A legislature with a two-thirds elected element therein but in all important matters retaining the characteristics of the Morley-

Minto model, that is to say, mere "criticism unchecked by responsibility," has its perils, and should not be allowed to continue long in this position of irresponsibility. Otherwise there would be a break-down of the machinery long before it is re-adjusted to new requirements at the end of the interval deemed essential by the authors of the formula. We think that sound policy as well as the necessity of complying with the terms of the announcement of August last dictate an immediate modification of the position embodied in that formula.

BEGINNINGS OF RESPONSIBLE GOVERNMENT NECESSARY ALSO IN THE GOVERNMENT OF INDIA ITSELF.

20. We fail to see why the beginnings of responsible government could not be made or should not be made in the Government of India itself, at least to a limited extent, *simultaneously* with the provinces. If our suggestion is given effect to, income-tax, revenue from "general" stamp duty, railways, post, and telegraph (in so far as their general administration other than for military purposes is concerned) and, above all, salt and customs, are some of the items which may be gradually "transferred" into the control of Indian ministers. To our mind, the principal defect of the scheme of Mr. Montagu and Lord Chelmsford is its failure to give any control, however small, over the Government of India to the people's representatives in the beginning or to provide for such control in the future with the same directness and firmness with which the growth of popular control is provided for in the Provincial Governments. We think the

British Cabinet and Parliament must be requested to introduce into the Bill some measure of transfer of power to the Legislative Assembly of India and to provide for future progress towards complete responsible government of the Government of India itself by specifically authorising the proposed periodic Parliamentary Commission to inquire into the matter and recommend to Parliament such further advance as may be necessary or desirable in that behalf.

Proposed Second Chamber.

COUNCIL OF STATE.

21. We think the legislative structure which the Secretary of State and the Viceroy have proposed for the reconstruction of the machinery of the Government of India has been unwisely complicated by the *annexe* of a Second Chamber the introduction of which into the Constitution of India is highly undesirable. It is, on the whole, a discredited device ill-calculated to serve a useful purpose in the constitutional development of India on smooth and harmonious lines. It would, we think, lead to heat, irritation and bad blood, imperilling the Constitution itself,—the more so, when it is so constituted and empowered as to be a mere Government machine contrived to supersede or set aside as non-existent, in certain matters, a legislature containing an elected majority. A Second Chamber, wherever introduced, has been far from successful. Even in the advanced countries of France and the United States, it was deemed an exotic. The institution is peculiarly British and congenial to British soil, but even there it has evoked

hostile criticism and a demand from some for its abolition and from others for its reformation. Lord Bryce's Committee's proposals are the result, though even in respect of them there are divergent views. One of the chief recommendations of Lord Bryce's Committee in connection with the "legislative functions of the Second Chamber" is that it "shall not have power to amend or reject a financial Bill." In the reform proposals, however, the "Council of State" is given power, including power to amend, in respect of all "Government Bills"; and "fiscal legislation," say the authors of the scheme, "will of course be subject to the procedure we have recommended in respect of Government Bills." There are other points upon which if the composition and functions of the "Council of State" were tested in the light of weighty opinion of political thinkers and writers or even in the light of the conclusions arrived at by Lord Bryce's Committee, the novel structure proposed to be set up in India would scarcely bear examination. The authors of the reform proposals contemplate the perpetuation of the "Council of State" as a permanent institution in this country in the modified form eventually of a mere revising chamber, instead of its being both a revising and a superseding body, as at present proposed, over the head of the Legislative Assembly of India. We are firmly convinced that this perpetuation would be a grievous blunder; and we would, therefore, earnestly urge that this objectionable feature of the proposals be forthwith dropped. We would suggest instead an adaptation of the plan of Grand Committees proposed by the authors of the Reform scheme for the provinces. The reasons given for

the rejection of this contrivance in the case of the Government of India are, to our mind, unconvincing. The merit of this device is that while it can be utilised, by providing appropriate composition and powers, as a check on hasty legislation or arbitrary exercise of authority on the part of Government, it can also effectively prevent a predominantly elected but temporarily distempered legislature from making its *sic volo* prevail, but in either case the purpose is effected not by means of a rival or extraneous body but by a part of the body itself so as to preserve its unicameral character and prevent its unhealthy development as a body perpetually at war with another.

CONCLUDING REMARKS.

22. If the principal alterations that we have suggested above are adopted, the scheme, we think, will be more symmetrical and more acceptable. The distinguished authors of the report have described the subject therein dealt with as a matter of "great intricacy and importance," and have invited "reasoned criticism" of their proposals. We are fully conscious of the correctness of that description and have responded to their invitation, as best we could, in the course of our observations in the foregoing paragraphs. We need scarcely mention, however, that even after the consideration we have been able to bestow on their proposals, the views we have expressed and the suggestions we have made are capable of revision or modification should fresh light be thrown upon the matter before a final decision is taken. But whatever the imperfections of their scheme, it is but right and due

to them to acknowledge its merits as a real and substantial measure of reform for the early attainment of complete responsible government in the Provinces—a measure evolved with great care and forethought and conceived in a spirit of genuine sympathy with Indian political aspirations, for which they are entitled to the country's gratitude.

D. E. WACHA.

N. G. CHANDAVARKAR.

C. H. SETALVAD.

BHALCHANDRA KRISHNA.

H. A. WADYA.

W. A. CHAMBERS.

G. K. PAREKH.

N. V. GOKHALE.

N. M. SAMARTH.

BOMBAY, *July 25th*, 1918.

Suggestions made in this Memorandum.

1. The elected element in the Provincial Legislative Council should be four-fifths of its total strength.

2. The franchise should be so broad as to secure to the "backward communities" their due representation by *election*.

3. With due regard to ensuring successful working, as much as possible should, at the start, be put into the category of "transferred" subjects and services and as little as may be absolutely necessary, under present war conditions, into the category of "reserved," *more especially in the advanced provinces*.

4. The pay of the Ministers should be laid down in the statute itself as the same as that of the Members of the Executive Council (other than the Governor).

5. The proposal to appoint an additional Member or Members, from among the senior officials, without portfolios and without vote, for purposes of consultation and advice only, *as Members of the Executive Government* in the provinces, should be dropped.

6. The Indian element in the Executive Council of the Governor-General of India should be one-half of the total number of Members of the said Council (exclusive of the Governor-General).

7. As to the appointment of some members of the Legislature to a position analogous to that of Parliamentary Under-Secretaries in Great Britain, it should be provided or understood that a certain proportion of them *shall* be from among the *elected* Indian members.

8. A dozen qualified and competent non-official members should be selected from among the elected as well as the nominated members for the purpose of conferring, as an *advisory* Board for the present, with the Finance Member *before* he finally prepares his Budget for submission to the Legislative Assembly of India. It should be open to the Government to withhold information to disclose which may be deemed inconsistent with the public interest. Subject to this necessary restriction, the non-official voice *must* be heard *in the preparation of the Budget*.

9. In the Bill, to be brought before Parliament, embodying the proposed reforms, a section or clause should be inserted ensuring to India, in regard to fiscal freedom, *terms of equality with the Colonies*, when the fiscal relations of all parts of the Empire and the rest of the world are considered and decided upon.

10. Beginnings of "responsible government" should be made in the Government of India itself, at least to a limited extent, *simultaneously* with the provinces.

11. The British Cabinet and Parliament must be requested to intróduce into the Bill *some* measure of transfer of power to the Legislative Assembly of

India and to provide for future progress towards complete responsible government of the Government of India itself by specifically authorising the proposed periodic Parliamentary Commission to inquire into the matter and to recommend to Parliament such further advance as may be necessary or desirable in that behalf.

12. The proposal for creating a Second Chamber called the "Council of State," in the legislative machinery of the Government of India, *should be forthwith dropped.*

13. We suggest instead an adaptation of the plan of "Grand Committees" proposed for the provinces.

14. But if the proposed "Council of State" is to be retained, its composition should be so altered as to ensure that one-half of its total strength shall consist of elected members. We are, however, strongly opposed to the planting of this thorny tree in India.