

VIEWS OF THE GOVERNMENT OF
UNITED PROVINCES

ON THE

RECOMMENDATIONS MADE BY THE

INDIAN STATUTORY COMMISSION

APPENDIX.

[Extracts from notes by HON. CAPTAIN NAWAB SIR AHMAD SA'ID KHAN
and His Excellency's Ministers.]

A

Composition of the Ministry.

(i)

I HAVE not been able to understand the position of the official Ministers. In practice these official Ministers are bound to prove a great weakness, instead of strength, to the constitution. Suppose a vote of censure is carried against the Ministry and the Ministry resigns on the ground of joint responsibility. When the new Ministry is formed these official Ministers are again included in it. Will it not bring about another vote of censure for this very reason, that the members of the outgoing Ministry were taken into this new Ministry? I know there may be occasions when a certain action of an individual Minister may be responsible for the vote of censure; but in that case not only the official Ministers but even the non-official Ministers, if included in the new Ministry, will be quite safe. But whenever there is a question of broad policy which is the cause of the motion of censure I do not think there will be any chance for the official Ministers to be able to command the confidence of the house if they are included in the new Cabinet. One can understand the position of the Executive Council on the Reserved side; it is straight and frank. It indicates from the very beginning that the Reserved side is beyond the authority of the legislature. But to make the whole thing Transferred and to keep Ministers who are practically irremovable is a very illogical proposal. It is quite likely that the cause of the vote of censure may be the policy advocated by the official Ministers inside the Cabinet, and in fact, it is more often than not that it will be so. Will it be logical to remove the elected members of the house for a policy with which they had the misfortune to agree and to allow those to be included in the new Cabinet from whom it originated. I think such a proposal will be a constant cause of friction between the legislature and the Governor, and I am unable to understand what will be the fate of such official Ministers except that they will be made to retire on higher pension and others will be selected who will meet with the same fate in a short time and so on—(Sir Ahmad Sa'id Khan).

(ii)

The second point on which the Muslims laid great stress was their inclusion in every Cabinet. I know it is difficult to include such a provision in the Statute; but I think statutory rules can be framed saying that no Cabinet should be composed of members of only one community—(Sir Ahmad Sa'id Khan).

(iii)

It is obvious that the Commission is not opposed to the idea of guaranteeing representation in the Ministry for the important minorities, but they feel that they cannot do so in the Statute. We are of opinion that there should be a provision in the Statute or statutory rules which may guarantee that the representation of the non-Muslims and the Muslims in the Cabinet would be in the proportion of two-thirds and one-third—(Honourable Ministers' joint note).

B

Cabinet procedure.

(i)

It is proposed that there should be an I. O. S. Secretary to record the minutes and that he should have direct access to the Governor "so that whether His Excellency was present at a given meeting or not he would be kept impartially and fully informed of the course of business." I regard this as a very unfortunate proposal. What will be the effect of this proposal on the mentality of the Ministers? They will regard this Secretary as a spy on them. From the very beginning it will mean that the Governor has not got full confidence in his Ministers. In fact, the new Constitution will start in an atmosphere of suspicion and mistrust, while for the success of the Constitution, as far as my experience goes, it is necessary that there must be team-working which cannot be had unless all colleagues have full trust in each other. I will go even a step further; I think for a successful Cabinet there should be among the members a sort of feeling of being members of the same family. It is then and then only that the best can be had out of the men. It seems to me sufficient if the record of the minutes of every meeting of the Cabinet should be submitted to His Excellency for his perusal. I think we can take it for granted that those who will be appointed as Ministers will be honest enough not to misrepresent a case before His Excellency.—(Sir Ahmad Sa'id Khan).

(ii)

We endorse the recommendations of the Commission with regard to the procedure at the meetings of the Ministry generally. We agree that ordinarily such work should be disposed of at the meetings of the Ministers without the Governor being present. We do not think that there should be any official who could be in a position to advise independently the Governor against any of the decisions of the Cabinet. The Governor after reading the proceedings of the meeting may discuss any particular matter with the Ministers and may, if he thinks incumbent upon him to do so, over-ride any decision in the interest of law and order and the interests of the minorities. However, we recognize the necessity of some independent agency which would keep the Governor informed with regard to all matters of the administration carried on by the Ministers without having any power whatsoever, except that which may be necessary for and consistent with his duties to gather information for the Governor from the different departments.—(Honourable Ministers' joint note).

C

Constitutional resolutions.

The proposal that the provincial legislature should have a power to carry "constitutional resolution" providing for—

- (a) changes in the number, distribution or boundaries of constituencies or in the number of members returned by them;
- (b) changes in the franchise or in the method of election; or
- (c) changes in the method or representation of particular communities,

introduced to avoid the necessity of a fresh Act of Parliament before these resolutions can be made. So far as (c) is concerned we are of opinion that the Ministers will not agree to the proposal as they would like permanently to have a system of separate special electorate to send their representatives to the council. In view of the proposal, we think, in spite of the safeguard provided for the minorities,

namely, that a constitutional resolution must be carried by two-thirds of the votes of the legislature and "as part of this majority" by two-thirds of the members representing the community affected may not be acceptable to the Muslims who would not be prepared to give up the present right of separate election till they feel they should give it up of their own accord—(*Honourable Ministers' joint note*).

D

Depressed classes.

THE importance of the depressed classes lies in the fact that they include within their fold lakhs of humble tillers of the soil and also real agricultural castes such as Kachhis, Lodhas, Kurmis, Murao, Koeri, Tharus, Bhuksas, etc. Had it not been for Tharus and Bhuksas the cultivable land of the Tarai would have remained uncultivated . . . The importance of the depressed classes will fully appear from the following very pertinent observations of Sir Tej Bahadur Sapru :—

"I do say what is my most sincere conviction, that unless you are able to solve your own social problems about the depressed classes and the untouchables, I do not see any real prospect for real genuine constitutional advance, and any Constitution that you may get will certainly not arouse any interest in me, because I do feel, howsoever good, howsoever perfect, howsoever ideal your Constitution may be, unless you have got the support of the minorities and unless you command the confidence of those whom in your vanity you may describe as depressed classes, your Constitution will not be worth a day's purchase."

So far as my information goes, suitable representatives of the depressed classes will be forthcoming to fill 40 seats on the Council.

The Simon Commission admit that most of the depressed class associations which appeared before them favoured separate electorates with seats allocated on the basis of population. The United Provinces Adi-Hindu (Depressed Classes) Leaders' Conference was held at Allahabad on July 23. "This Conference while thanking the members of the Indian Statutory Commission for taking a keen interest in the cause of the depressed classes, strongly protests against their recommendation of a joint electorate system and is of opinion that nothing short of a separate electorate would ameliorate the social and political status of the depressed classes." The Simon Commission concede that "Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes." But they are averse from recommending separate electorates for them on the ground that separate electorates will prevent their political amalgamation with other Hindus. They have ignored one important fact. The depressed classes are not a homogeneous body. They consist of a large number of heterogeneous clans which are socially distinct and are kept apart from one another by a spirit of rigid exclusiveness and separation. They entirely lack cohesion and are scattered all over the province. Although according to our *Shastras* as interpreted by the Calcutta High Court the various sub-divisions of the Shudra caste can intermarry but in actual practice intermarriage between them is impossible. The depressed classes have been divided into separate clans by very sharply defined boundaries over which it is impossible for one to pass to another. Ethnologically they are so many tribes and clans, with separate histories and customs. There should be two distinct stages in the process of their political amalgamation with the high caste Hindus. The first stage should be that they should be brought together and welded into one political unit. Their unification into one political unit will be seriously retarded if the system recommended by the Simon Commission is adopted. Their voting strength will be much smaller than

that of the high caste Hindus. A member of the depressed classes who wants to get himself elected will look rather to the ease with which he can secure election to the council than to the political education of his order. He will naturally solicit the support of the high caste Hindus who will be both numerous and influential When such a candidate is returned to the council, he will be a servile follower of the high caste Hindus and will be more concerned to keep their favour than to represent the interests of his own order If the system recommended by the Simon Commission is adopted, the candidates returned to council will not only show no interest in the welfare of the depressed classes but will regard themselves as members of the high castes and in no way allied to the depressed classes. The result will be that the concession proposed by the Simon Commission instead of being a blessing will be a veritable curse to them —
(Raja Bahadur Kushalpal Singh).

E

Representation of great landholders.

(i)

THE chief reason that they have given for the abolition of the special representation of the zamindars is that they have been able to capture enough seats in the legislatures through the general electorates. That is true; but it is equally true in the case of other special constituencies. For instance, graduates, professors, teachers and ex-teachers come into the councils through the general electorates and yet the universities are given representation. Similarly, men of business and commerce in the Assembly and the councils have often been elected through the general constituencies. Is there any reason why they should be given special seats, while the special seats of the landlords should be taken away? If we compare the number of landlords returned to the council in the election of 1924 with those returned in the election of 1927, we find that while in 1924, according to the memorandum of the United Provinces Government, there were 51 landlords, their number has come down to 45 in 1927. With the widening of the franchise I am sure that the chances of the landlords of getting into the councils from the general constituencies will be greatly reduced. But this is not all. The real point is this; that the landlords elected by the general constituencies will perforce try to represent the views of their constituencies in the legislature. Again and again I have noticed in the legislative council that while the landlords representing the special constituencies boldly took a line of their own in regard to a particular proposal, the other landlords, in spite of their sympathy with the proposal, opposed it because they were afraid of their constituencies. A landlord elected by a general constituency will never be able to go against the wishes of his constituents—(Sir Ahmad Sa'id Khan).

(ii)

We are bound to say that the withdrawal of the rights of the zamindars and landlords to be represented through their own associations is a very retrograde and unjustifiable recommendation. The arguments advanced by the Commissioners that the Montagu-Chelmsford Report contemplated only as a temporary arrangement to give representation to the zamindars through a separate special electorate of their own and that they did not desire it to be a permanent feature cannot be accepted as incontrovertible. While it may be arguable on the basis of a certain expression which occurs in the recommendations of the Montagu-Chelmsford Report, namely, "we must give them special measure of representation, if they need it at the outset, but it may be that their political education like the ryots will come mainly by pressure of events" that it was not meant to be a permanent

feature. It cannot be denied that the power of the zamindars, as has been found all over the world, is bound to decline gradually, and if special representation to zamindars was found necessary to be given from the very beginning, it is even more necessary now when the working of the Reforms have shown that the majority of the zamindars has decreased after every general election under the Reforms. The alternative suggested that the Governor may nominate zamindars in the legislature if the representation is not adequate according to the representation guaranteed to them under the present Constitution is, in our opinion, extremely unsatisfactory and cannot be acceptable to the zamindars . . . We are of opinion that at least sixteen seats should be allotted to the Agra Province Zamindars' Association and the British Indian Association of Oudh to return their representatives to the council, as has been recommended by the Indian Central Committee or even more proportionately to the total strength of the council—(*Honourable Ministers' joint note*).

F

Second Chambers.

(i)

As far as this province is concerned I am strongly in favour of a second chamber. This was recommended by the committee elected by our legislature to co-operate with the Simon Commission; it was recommended by the Central Committee also. The Simon Commission has recommended the federal system of government for India. In the majority of cases where there is the federal system different states which form part of that Federation possess their own second chambers. This is a well-recognized form; it has been used in many places as a brake on the democracy and I do not see any reason why we should be deprived of this. Looking ahead one feels that whatever be the form of the Constitution in the near future ultimately the powers of the Governors are bound to disappear, the pressure for their abolition will continue and sooner or later Government will have to modify them. Therefore, the argument used in the Simon Commission's Report, that the existence of this second chamber will be used as an argument to curtail the powers of the Governor is not really a strong argument. That demand will always be made by Nationalist India, and when that time comes people will realize that after all it is a blessing to have a second chamber. I should like to suggest that the future Governors should be directed in the Instrument of Instructions to include a certain number of members of the second chamber in the Cabinet. This will ensure the presence of conservative element there—(*Sir Ahmad Sa'id Khan*).

(ii)

The Commission has discussed the question of a second chamber in the provinces at length and has not given its definite opinion one way or the other. We are of opinion that in view of the provincial autonomy to be established, it is absolutely necessary that there should be a second chamber in the provinces where it is pressed for . . . Specially in the United Provinces the necessity of a second chamber should be recognized. We think that the second chamber should consist of members mainly elected by the recognized landholders' associations, such as the British Indian Association of Oudh and the Agra Province Zamindars' Association and similar bodies in other provinces. Other interests entitled to representation should also be represented. The percentage of the representation of Musalman by separate electorate in this chamber should be the same as that in the lower house. Thirty per cent. representation of the Musalman in the second chamber should be on the basis of 30 per cent. of the elected members in the

chamber including the representatives of the depressed classes. Of course this body will necessarily have to be a much smaller body than the lower house. This house should consist wholly of non-officials and nominated members.

Some of the Cabinet members should also be drawn from the second chamber in the provinces—(*Honourable Ministers' joint note*).

G

System of election to Federal Assembly.

We are definitely of opinion that the direct system of election to the Federal Assembly should continue as it has existed hitherto. But if we are to recognize the force of argument that in a federal system probably it would be better to resort to indirect election, we will say that the system of election may be partly direct and partly indirect. It may be indirect in so far that the representatives of the Hindus and Muslims may be elected in each constituency by an electorate consisting of the Hindu or Muslim members of the upper and lower house of the provinces residing in each constituency, the Hindu or Muslim members of district municipal boards, residing in each constituency and also other Hindus or Muslim representatives representing special constituencies and other bodies existing in each constituency. Other minorities may be represented by nomination from the Government or by direct election from the different bodies representing different interests. We think that if our suggestion is adopted, it is likely to be more effective and probably be accepted more readily by various interests and communities. However, our colleague, Hon. Raja Bahadur Kushalpal Singh, is opposed to this proposal as he thinks the urban element and influences under the present scheme will predominate. Representation by proportional representation would not be acceptable to the Muslims as it is likely to decrease their representation in the Federal Assembly. Moreover, the proposal has not even the merit claimed for the mixed electorate with reservation of seats for Muslims. Thirty per cent representation of the Muslims in this house should be on the basis of 30 per cent of the elected members in the house including the representatives of the depressed classes. We are strongly of opinion that the recognized ~~landholders'~~ 'landholders' associations should have the right to send an adequate number of representatives directly to the Federal Assembly. The British Indian Association at Lucknow, the Agra Province Zamindars' Association at Allahabad, and similar bodies in other provinces, should have a right of electing their representatives to the Federal Assembly according to their demands or even more proportionately to the total strength of the Assembly. These bodies should be treated as separate special electorates to return their representatives to the Federal Assembly. Landholders should continue to retain the right to stand from general constituencies also.

It cannot be said that the zamindars have no vital interests to protect in the Federal Assembly. It will have to be recognized that the zamindars in the Federal Assembly have certain vital interests to protect, such as their share in the postal, aerial and railway services, not to mention the services in the different departments under the Government of India—(*Honourable Ministers' joint note*).

H

The Army.

UNDER this head I wish to deal with the proposals made by the Committee about the Commander-in-Chief and the Indian Army. The changes proposed will definitely reduce the power of the Central Legislature as far as the Army is concerned. First of all, I shall deal with the position of the Commander-in-Chief.

In para. 170 of volume II the Commission has recommended that the Commander-in-Chief should not in future be a member of the Executive Council, and if any question arises in the Indian legislature it will be dealt with by a civilian or perhaps by one of the members of the Executive Council. The effect of the Commission's recommendation is to put the Army under the control of the Viceroy instead of the Government of India with the object, as they say, of assisting "in removing from the path of Indian constitutional progress an obstacle which otherwise threatens to block it for an indefinite time." I admit the Army question is an all-important one, and there is nothing further from my mind than to make any suggestion for any radical change in that direction. I agree that the Army should be treated as a Reserved subject. I agree that the legislature should not be allowed to have too much interference with the Army Budget. I believe this is the present position. The Assembly can only discuss the Budget, and the members during the discussion can only make suggestions, and it is not necessary for the Government of India to accept any cut or to act on any suggestions made by the Assembly. They are quite free to do as they like. In the recommendations of the Commission it is proposed that Indians should not be allowed even to associate themselves with the question of the Army and with the problems of the defence of their country. The Indian members of Government, although they are not in charge of the Army, as members of Government, I believe, discuss the question of the Army and their suggestions carry some weight with the Commander-in-Chief. But as it is proposed, they will have nothing to do with the Army in future and the whole thing will be dealt with by the Commander-in-Chief in consultation with His Excellency the Viceroy. I am aware of the importance of this question, and I do not wish to make any suggestions for a radical change. The present system has worked perfectly well for a long time, and I see no danger if we allow it to continue instead of accepting the recommendations of the Commission—(Sir Ahmad Sa'id Khan).

I

Taxation on Agricultural incomes.

THE question of taxing agricultural incomes is one which may have very far-reaching effects. It deals with the life blood of the agricultural community of India. Apart from the theory whether revenue is rent or tax, there can be no denying the fact that whatever increase is proposed, either as tax or as rent, it will be a further burden on land. The question whether those who wish to impose the tax regard it as rent or tax does not interest the person who will have to pay it. To him it matters little by what name you levy the impost; what interests him is—how much is left for him and his children. Therefore I think that what applies to Government land revenue policy can apply to the taxation of agricultural incomes. Here I may make two quotations giving the views of expert officers on the land revenue policy. These may sound irrelevant because we are dealing with a tax on agricultural incomes; but, as I have said, I treat both in the same light and therefore they are applicable here. Sir Charles Metcalfe observed:—

“ I believe that the happiness of the bulk of the inhabitants of the Western Provinces depends more on revenue settlement than on any other thing whatever.”

Sir Alfred Lyall once observed that—

“ Few human beings could cause so much misery to so many people as a settlement officer who over-assessed a district.”

Here I may mention that whatever be the name, tax or rent, it is a further burden on land and it will be passed on to the cultivator in time to come, if not immediately.

Now, coming to the vexed question whether land revenue is a tax or rent, I know that opinions differ, but the arguments put forward by the Indian Taxation Inquiry Committee, who were an expert body in dealing with a question like this, are interesting and illuminating. They have dealt with this question in para. 78 of their Report. They have dealt with the practice before the British occupation in the time of Muslim and Hindu rule. They have quoted many eminent writers, and I will only quote from them the conclusions arrived at by the Bombay High Court in a case from Kanara which are as follows :—

“This review of the authorities leads us to the conclusion arrived at also (after careful discussion of the question) by Professor H. H. Wilson, that the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus and is not recognized by modern Hindu lawyers as exclusive or incompatible with individual ownership.”

As to Muslim rule, they have quoted Colonel Galloway, who was the greatest authority on the Hanifan school of Islam. He says :—

“The soil was the property of the cultivator as much as it could be. Law gave no power, policy gave no motive to remove him or to disturb him, so long as he paid his taxes. When he did not, his lands could be attached; and so can those of the first Peer holding by the firmest tenure of the English law. The right of the Indian husbandman is the right of possession and of transfer; and the rate of his land tax was fixed; often indeed the amount. In what respect, then, is his right of property inferior to that of the English landholders?”

So far it deals with the times before the British *raj*. On page 64 they have quoted two decisions by the Privy Council. They were of course about Bengal. There the Lord Chancellor stated :—

“Considering with the best attention in my power these papers, they confirm most strongly the opinion I should have derived from the permanent Regulations, namely, that the proprietor of the soil had a permanent interest in it at the time when the English established themselves in that settlement.”

It is admitted that the proprietors of the soil had a permanent interest in the soil when the English established themselves. It may be argued that all this was said of those who live in the permanently-settled districts. But this argument has no force. The members of the Taxation Inquiry Committee agreed on page 66 that “in the generality of cases the zamindars and ryots are respectively the possessors of the proprietary right subject to the payment of land revenue.” Therefore, those who think that land revenue is a tax have got a strong ground to stand upon.

Now, let us take the practical side of the case. It will be very difficult to find out the real sum to be assessed. As we know, landlords do not generally keep accounts, and it will be a great hardship for them to do so; they pay most of their wages in kind; and I do not see any means of finding out exactly what is the income to be assessed, unless it be by some rule providing for taking into consideration, in assessing the tax, the rent of a tenant. We know that the settlements, although they are made in the districts after every forty years, create great disturbance in the life of the village. But this will have to be done annually, and the settlement process on a minor scale will continue in the villages to upset the village life. Then there are suspensions and remissions, and from year to year a fairly large staff will be engaged to find out the real amount that should be assessed.

As to political objections, the Committee themselves have in para. 268 of their Report. I am sure further taxation on agriculture is wrong. It will bring down the price of the land a good deal and create great economic distress. And the political effect of it in future will be such that the income so derived will hardly be worth the bitter feeling that this is sure to create.

In short, the position in the districts which have periodical settlements is that the proprietor of the land has to pay 40 per cent. of his income as land revenue and 10 per cent. as cesses. The question then remains whether there is any justice in taxing him further. If he is to be taxed on the top of this the position will be simply intolerable and to revolutionize the whole structure of rural India he is to be taxed instead of land revenue. It is not clear that it will not be worthwhile to do so—
(Sir Ahmad S

K

The Services.

As to the security services, i.e., the I. C. S. and the I. P. S., I hold the same view which I expressed in 1924 as Minister, i.e., they should be kept as all-India services, recruitment should be made not by the Secretary of State but by the Government of India, and they should have the right of appeal to the Government of India in cases of their promotion, supersession, etc. My reason for proposing this change is that with the further advance of responsible government in this country the services should be responsible to some authority within India and not to an authority outside the country. I know there are certain important points where the control of the Secretary of State should be kept—points of military importance or of Imperial interest; but I do not think that the question of the services is of such importance that the Secretary of State should be responsible for their recruitment. The reason why I did not propose to provincialize these services is this. A certain number of members of these services will always be required for the Central Government, and the present arrangement has worked excellently. They select officers from various provinces, and if the services are provincialized they will either have to recruit separately for the centre or to take officers on deputation from the provinces. In the former case, the efficiency of the central cadre will be very much reduced by the fact that they will have no experience of the provinces. At present irrespective of the views of the local Government the Government of India can benefit a lot from the experience of such officers belonging to the various provinces who happen to be there. In the latter case, i.e., in the case of deputation, there will always be difficulties in their promotions, and they will always look back to their provincial Governments as their masters instead of looking up to the Government of India. Besides this, I agree that it will be desirable to continue recruitment of Europeans in these two services for some time to come. I understand it will be difficult to get recruits if the services are provincialized. It should be easier to get European recruits if the Government of India will give them a guarantee about their pay, pension and prospects. I am told that European recruits would not like to come out unless the services are controlled by the Secretary of State. I do not see why the guarantee given by the Government of India, which is as much part of the British Empire as any other country, should not be regarded as sufficient to induce European recruits to join the Indian services—(Sir Ahmad Sa'id Khan).