

**CONSTITUTIONAL REFORM
IN JAIPUR**

**REPORT
OF THE
COMMITTEE ON CONSTITUTIONAL REFORM
1943**



**JAIPUR:
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Proclamation

OF

**HIS HIGHNESS SARMAD-I-RAJAHA-I-HINDUSTAN
RAJ RAJENDRA SHRI MAHARAJA DHIRAJ
SAWAI MAN SINGHJI BAHADUR II, G. C. I. E.,
MAHARAJA OF JAIPUR.**

THIS SIXTH DAY OF PAUSH SHUKLA OF THE YEAR
TWO THOUSAND OF THE VIKRAM SAMVAT
CORRESPONDING TO
THE FIRST DAY OF JANUARY ONE THOUSAND NINE
HUNDRED AND FORTY-FOUR IN THE TWENTY-SECOND
YEAR OF MY RULE.

My beloved subjects,

It has been the cherished aim and endeavour of my life to promote, in every way open to me, the happiness, prosperity and political advancement of my people. Among the measures sanctioned by me towards the fulfilment of that aim, I may recall the establishment, four years ago, of the Central and District Advisory Boards with a view to enabling my Government to ascertain the wishes of my people and affording them opportunities for bringing matters affecting their interests to the notice of my Government. I realize that these institutions, however useful and effective when they were created four years ago, can no longer satisfy the aspirations of my people; and firmly believing that the strength of a State lies in its being broadbased on the contentment and co-operation of the people, I have

decided, after taking due counsel, that further steps should now be taken to associate my people more closely with my Government in the administration of the State.

Accordingly, I hereby ordain as follows:—

The Central and District Advisory Boards as well as the Consultative Committee of Sardars shall be abolished, and there shall be established a Legislative Council consisting of fifty-one members with an elected majority, and with my Prime Minister as President. Of the fifty-one members, thirty-seven will be elected by constituencies specifically formed for the purpose; and the remaining fourteen will consist of my Ministers, and nominated members, both official and non-official. Of the elected members, twenty-five will be returned by territorial constituencies; and in recognition of their special position in the State, my Sardars will be entitled to elect nine members; and three members will be returned by special constituencies representing respectively Trade and Industry, Women, and Labour.

Subject to prescribed limitations, the Council shall have the power of making laws, of discussing and voting on the State Budget, of eliciting information from Government by means of interpellations and of moving resolutions on matters of public interest, including motions for adjournment to discuss definite matters of urgent public importance.

There shall also be established a Representative Assembly consisting of one hundred and twenty-five members with my Prime Minister as President and my Ministers as Vice-Presidents, *ex-officio*. Of the one hundred and twenty-five members, eighty-nine will be elected by territorial constituencies, twenty-five by the Sardars, and two each by the special constituencies of Trade and Industry, Women, and Labour. The remaining five will

be filled by nomination. The power to nominate in this case, as in the case of the Legislative Council, is reserved in order to provide a means of enlisting the services, as members of the Legislature, of men whose advice and guidance may be useful to the Council and the Assembly and to provide for the representation of such interests as may not otherwise be represented.

Subject to prescribed limitations, the Assembly will have power to make representations to Government and to elicit by means of interpellations information on matters of public interest.

The question of providing adequate representation for my Muslim subjects in the two Houses has engaged my careful attention. Happily, communal discord has not disfigured the history of Jaipur. Politically, the interests of the Muslims and the Hindus are identical; and in spite of the Muslim demand for separate electorates, the outcome of newborn political consciousness, it is my firm conviction that given the mutual confidence which has been a marked characteristic of my people throughout the years, the Muslims do not stand in need of any special statutory protection. I have, therefore, decided that my Muslim subjects should seek election to the legislature on the basis of joint electorates. Nevertheless, to ensure the return of an adequate number of Muslims, I consider that four out of the twenty-five general seats in the Legislative Council and eleven out of the eighty-nine general seats in the Representative Assembly should be reserved for the Muslim community. I trust that my Muslim subjects will recognise the fairness of this decision.

The term of both Houses will be three years.

My Government shall summon the Legislative Council not less than twice, and the Representative Assembly at least once in a year.

It is my desire that the members of both Houses shall enjoy, subject to prescribed conditions, freedom of speech and freedom from arrest under civil process.

My Council of Ministers, with the Prime Minister as President, *ex-officio*, shall continue to function as hitherto. I am, however, conscious of the public demand for the introduction of a popular element in the Ministry; and it is, therefore, my desire that in the new constitution there should be no bar to the appointment, as Minister or Ministers, of one or more non-officials qualified by their character and ability duly to discharge the duties of this high office. The choice of such Minister or Ministers shall not be restricted to any class or community or description of my people.

The reforms which I have briefly outlined above will be given effect to immediately through a Constitution Act which will be duly promulgated by me.

I have endeavoured at all times faithfully to bear in mind the motto of my House, यतो धर्मस्ततो जयः "Where there is Righteousness there is Success", and in inaugurating these reforms, I have attempted to do justice to all communities and interests in the State.

I trust that my people, on whom now rests the responsibility of working the new institutions, will rise to the occasion, forget all differences, and take the opportunity provided by the new constitution for building a noble edifice of statesmanship upon the foundations already laid. If they work with toleration and goodwill, subordinating personal, local or class interests to the greater good of the State, they will certainly build better than they know.

May the measures now inaugurated bring prosperity, happiness and contentment to my people under the benign Providence of God!

SAWAI MAN SINGH



PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF JAIPUR

READ—

1. Government Order No. 104-S. C., dated the 26th October, 1942, appointing a committee to report on Constitutional Reform in Jaipur.

2. Letter dated the 12th April, 1943, from the Chairman, Constitutional Reforms Committee, submitting the Report of the Committee with dissenting minutes.

GOVERNMENT ORDER No. 1-S.C.

Jaipur, the 1st January, 1944.

In their Order No. 104-S.C., dated the 26th October, 1942, the Government of His Highness the Maharaja appointed a representative committee to examine the question of constitutional reforms in the State. The Committee was requested to formulate "having due regard to past history, the present state of education and public spirit, the growing political consciousness of the people and other relevant factors, comprehensive proposals in order to secure the steady and harmonious constitutional progress of the State from the point of view of all interests concerned".

2. The Committee commenced its sittings on the 4th November, 1942. To elicit public opinion, the Committee issued a questionnaire, on the main problems involved, to prominent public men and associations in the State, representing the various communities and interests; and also examined thirty-two witnesses orally. The evidence tendered by these witnesses and the replies received, about one thousand in number, were carefully and thoroughly considered, and the Report embodying the Committee's recommendations on the points referred to was signed on April 2, 1943.

3 His Highness the Maharaja, after taking due counsel, has graciously announced, in a Proclamation on the first day of January, 1944, his decisions on the main recommendations contained in the Report.

Intro-
ductory:
Appoint-
ment of a
Committee
and Terms
of Refer-
ence.

The work
of the
Committee:
Procedure

and
Principle.

Government propose, in this Order, to explain those decisions in further detail.

4. The efforts of the Committee represent the first landmark on the road to the effective association of the representatives of the people with the administration. The spread of education in the State, improvement in communications and the great changes witnessed in British India, and, in fact, all over the world, in recent times, have quickened the political consciousness of the people, and many representations have been received from them by Government for an improvement in their political status. Government recognise that the Central and District Advisory Boards constituted in 1939, with their restricted powers and functions, cannot satisfy the growing aspirations of the people; for they do not give them any real and effective voice in the government of the country. Government have accordingly taken a definite step forward and devised a machinery which provides for the enactment of the laws in public, affords an opportunity to the representatives of the people for legitimate criticism of the policies and actions of the administration, and, generally, brings the people into a closer and a more real and effective association with the administration of the State. The task has not been an easy one. For it must be conceded that, in framing a constitution for the State of Jaipur, regard should be had to the illiteracy, ignorance, and poverty prevailing in the rural areas and the lack of political experience in the people, and adequate safeguards must be provided for the protection of minorities and special interests. And in an Indian State it is essential that the new reforms should be in harmony with its past history and traditions. Above all, the prerogatives, and privileges of His Highness the Maharaja should remain unaffected and intact.

5. The Committee has, as stated before, examined the various suggestions and schemes placed before it by the representatives of all sections of the people. Government agree with the Committee that the schemes proposed by the Sardar Sabha, by the Anjumen-i-khadimul Islam, and by some others are not suited to conditions in Jaipur. In formulating its own proposals, the Committee has kept in view the principles enunciated in the preceding paragraph. Government, therefore, accept, with certain modifications, the proposals embodied in the Committee's Report.

6. The main recommendations of the Committee are as follows—

Summary
of Recom-
mendations.

(1) the establishment of a Legislative Council, consisting of sixty members including the President, with a majority of elected members, for making laws, discussing and voting on the budget, putting questions, and considering resolutions on matters of public interest;

(2) the establishment of a Representative Assembly, composed largely of representatives from rural areas and elected on a much lower franchise than the Legislative Council, whose chief functions would be to ventilate popular grievances and provide a platform for the middle and lower classes of the population, who, ordinarily, would not be able to obtain representation in the Legislative Council ;

(3) the introduction of a popular element in the Ministry ;

(4) the adoption of measures for securing the independence of the Judiciary ;

(5) the establishment of a Public Service Commission; and

(6) a declaration by the Ruler of certain rights, known as fundamental rights, in a proclamation.

The Legis-
lative
Council.

7. Government accept the proposal for the establishment of a Legislative Council with the powers suggested in the Committee's recommendations, as also the principle that there should be an elected majority in the House. They consider, however, that the strength proposed for the Council is too large. Taking into account the total population of the State, and the fact that the rural population, which forms the great majority, will, under the proposed constitution, have a large body of representatives in the Representative Assembly, Government consider that the Legislative Council should consist of fifty-one members of whom thirty-seven will be elected in the manner described below:—

Its Com-
position.

Territorial constituencies	....	25
Sardars	....	9
Trade & Industry	....	1
Women	....	1
Labour	....	1

37

The remaining fourteen will consist of the Ministers and nominated members, both official and non-official.

The House, thus constituted, will have an elected majority of twenty-three; and even if the sardars are counted with the nominated *bloc*, it will still have an elected majority of five.

Represent-
ation of
the Muslim
community

8. The Committee has recommended that the elections to the territorial seats should be on the basis of joint electorates and that, of the thirty territorial seats five should be reserved for the Muslim community, representing a weightage of about 96%.

In paragraph 31 of the Report, it is stated that opinion on the question of separate electorates for the community

was equally divided in the Committee, and that the consensus of Muslim opinion is in favour of separate electorates, while Hindu opinion is in favour of joint electorates. There is thus divergence of opinion in regard to a matter which has hitherto proved almost incapable of compromise in British India. Happily, conditions in Jaipur are different; and although the new political consciousness has made the Muslim community wakeful and zealous for its rights and interests, the relations between His Highness' Hindu and Muslim subjects are quite friendly. While, therefore, taking note of the difference of opinion, Government are satisfied that the system of joint electorates with reservation of seats will, all things considered, offer the most feasible solution of the problem of Muslim representation so far as this State is concerned.

Government have accordingly decided to accept the recommendations of the Committee. Since, however, it has been decided to reduce the size of the Council from sixty to fifty-one members and consequently the number of territorial seats from thirty to twenty-five, the seats reserved for Muslim community will correspondingly be four instead of five.

9. The Sardars in Jaipur enjoy a special position owing to historical causes, and Government are anxious that their claim for adequate representation and safeguards in the new constitution should be fully recognised. The Committee proposed that in a House consisting of fifty-nine members, of whom thirty were to be returned from territorial constituencies, the Sardars should be given ten seats. As Government have decided to make a reduction in the total strength of the House, and the number of territorial seats is to be twenty-five, the allotment of nine seats to represent the Sardars' special interests would be fair and reasonable. In Bengal, Bihar

Special
representa-
tion of
Sardars.

and the United Provinces, the zamindars and landholders have very large interests at stake; but the representation that has been given to them is six against two hundred and eleven territorial seats (or 2.8 per cent) in Bengal, four against one hundred and thirty-six (or 2.9 per cent) in Bihar, and six against two hundred and nine (or 2.9 per cent) in the United Provinces. It may be stated that the landholders of British India do not occupy a position identical in all respects with that of the Sardars in Jaipur; and Government have recognised the fact by allotting to the Sardars nine seats, as against twenty-five territorial seats, a proportion of 36 per cent. The Committee has given full reasons in support of its views on this question; and Government do not consider it necessary to add to its observations, except to remark that they will always be prepared to protect the Sardars from any attempt at encroachment on their legitimate rights and privileges.

Special
Interests.

10. As regards the allotment of one seat each to the special interests, namely, (i) Trade and Industry (ii) Women, and (iii) Labour, one of the members of the Committee, Raja Sardar Singhji Bahadur of Khetri, has objected to the special representation of these interests on the ground that they are not sufficiently organized in Jaipur. Government desire, however, for that very reason, to give the representatives of these interests a voice in the legislature, as such representation is calculated to promote their welfare. Women, particularly, are in an extremely backward condition and require special facilities for representation.

Representa-
tion of
Graduates.

11. The Committee has recommended the allotment of one seat to the graduates in the State. Government regret their inability to accept this proposal. They see no justification for providing special representation of

graduates as such, as they do not come under the category of a community or a special interest.

12. In the composition of the House, provision has been made for nomination of members. Government consider that this is necessary, firstly to bring into the Council men who have risen to eminence in various walks of life and who may be expected to take a dispassionate view of public questions and by their knowledge and experience of public affairs to take a useful part in the debates; secondly, to provide for the representation of the tenants, for example, who may not find it convenient to stand for election to the Council; and thirdly, to ensure that the Muslim community is properly and adequately represented.

Nomina-
tion.

13. The Committee has recommended that the President of the Council may be the Prime Minister for the first term, and that he may be nominated by His Highness the Maharaja thereafter. Government, however, consider that, there is great weight in the observations made by the Chairman in paragraph 36 of the Report. The people have had no opportunity in the past of acquiring experience in the working of self-governing institutions. In the formative stage of the new constitution healthy conventions and practices have to be built up, and the proceedings should always be conducted with dignity, decorum, firmness and impartiality. They are, therefore, of opinion that, for the present, the Prime Minister should be the President of the Council, *ex-officio*. The question of conceding to the members the privilege of electing their own President will be considered after the new constitution has been in operation for some time.

President
and Vice-
President
of the
Council.

Government approve of the proposal of the Committee that the Minister, senior-in-rank in the Council of

Ministers, shall be Vice-President of the Council, *ex-officio*.

Powers and
Procedure
of the
Legislative
Council.

14. The Committee has made detailed proposals regarding the powers and procedure of the Legislative Council. Government accept these proposals with certain modifications in the matter of previous sanction to the introduction of bills into the Council, reference of a bill to a Select Committee, special powers of legislation of His Highness the Maharaja and the disallowance of an adjournment motion by the Prime Minister. The proposals as modified by Government are as follows:—

Legislative:

The Council will be competent to make, amend, or abolish any law for the whole or any part of the State of Jaipur, for all subjects of His Highness the Maharaja, wherever they may be, and on all matters except those which are to be specifically excluded from its purview. The introduction of every bill must have received the previous sanction of His Highness the Maharaja; and all bills passed by the Council can become law only after His Highness' assent is given, with such additions, alterations and amendments as His Highness may deem fit to make.

The following stages will be prescribed in regard to the passing of bills:—

- (a) leave to introduce a bill; and
- (b) the taking into consideration of the bill and discussion of its principles; or
- (c) reference of the bill to a Select Committee for consideration; and
- (d) consideration of the report of the Select Committee, when the bill is referred to a Select Committee; and,

(e) the final passing of the bill.

The bill will then be submitted for the assent of His Highness the Maharaja.

The Prime Minister may, instead of submitting it for the assent of His Highness, return it to the Council for reconsideration, in whole or in part, together with any amendments which he may recommend.

It shall be competent to the Council to suspend the rules of business and pass a bill without the above formalities in cases where it considers such suspension of the rules necessary.

Emergency Legislation:

In cases of emergency, Government will be empowered to legislate on matters within the purview of the Council. Such a measure will have the force of law on receiving the assent of His Highness the Maharaja, for such period as may be specified therein not exceeding six months, but

- (a) it may be extended for a further period not exceeding six months and
- (b) it may be withdrawn at any time by His Highness the Maharaja.

If, however, the Legislative Council is in session at the time when an emergency legislation is deemed by Government to be necessary, it should be placed before the Council. In such a case, the President should have the power to suspend the rules of business of the Council in order that the legislation may be passed in one day.

If at any time it appears to His Highness that for the purpose of enabling him to discharge his responsibilities under the constitution, the enactment of a certain legisla-

tion is essential, and, if the legislature refuses to enact such legislation, he may, notwithstanding such refusal, enact it in accordance with his requirements. Such legislation will have the same force and effect as an Act of the Legislature assented to by His Highness.

Financial:

(1) In respect of every financial year a statement of the estimated receipts and expenditure of the State for that year should be laid by Government before the Council.

(2) The estimates of expenditure embodied in the annual financial statement should show separately—

(a) the sums required to meet the expenditure described as expenditure on excluded heads; and

(b) the sums required to meet other expenditure proposed to be met from the revenues of the State.

No proposal for the appropriation of any revenue or moneys for any purpose should be made except on the recommendation of Government.

The estimates relating to expenditure other than on excluded heads should be submitted to the Council in the form of demands for grants, and the Council should have power to assent or to refuse to assent any demand or to assent to any demand subject to a reduction of the amount specified therein.

If, in respect of any financial year, further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, a supplementary statement showing the estimated amount of that expenditure should be laid by Government before the Council.

No proposal—

- (a) for imposing or increasing any tax, or
- (b) for regulating the borrowing of money or the giving of any guarantee by Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by Government, should be made in the Council except on the recommendation of Government.

(1) The Prime Minister should be empowered to authenticate by his signature a schedule specifying—

- (a) the grants made by the Council,
- (b) the several sums required to meet the expenditure on excluded heads, but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Council.

If the Council has not assented to any demand for a grant or has assented subject to a reduction of the amount specified therein, the Prime Minister may, if in his opinion the refusal or reduction would affect the efficiency of any department or the due discharge of Government's responsibility, include in the schedule such additional amount, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary.

(2) Schedule so authenticated should be laid before the Council, but shall not be open to discussion or vote.

Interpellations:—

The power to ask questions to elicit information from Government will be given to the Council. Each member may ask five questions in a session. The members may be empowered to put supplementary questions.

Resolutions:—

The members of the Council will be empowered to move resolutions on matters of public interest or importance relating to the administration of the State. No member will be permitted to move more than two resolutions in the same session.

Adjournment Motions:—

Adjourn-
ment
Motions.

A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made in the Council with the consent of the President.

The Prime Minister may, at any time, after notice has been given of a motion for adjournment, notwithstanding the consent of the President or before that consent has been given, take cognizance of such motion and disallow it on the ground that it could not be moved without detriment to the public interest, and if he does so, the adjournment motion shall not be permitted by the President, and no further discussion of the motion shall take place. The Prime Minister's powers of disallowing such motions will not, however, become operative so long as the office of the President is held by the Prime Minister, *ex-officio*.

Term of
Council.

15. The Committee has proposed that the life of the Council should be three years; that it should be summoned at least twice in every year, one session being, ordinarily, of ten days' duration, which will be the budget session, and the other being, ordinarily, of not less than four days' duration; and that Government should have the power to summon a session of the Council, to extend, adjourn or prorogue it, and also to dissolve the Council.

Government accept the above recommendations.

In view of the reduction in the strength of the Council, Government consider that twenty-four members should constitute a quorum. Quorum.

They approve of the proposal that the Council should have a secretary and such staff as it may deem necessary.

16. Government have considered the interesting observations of Dr. A. Berriedale Keith, regarding the desirability of having special committees of the legislature for definite purposes, quoted in paragraph 55 of the Report, and accept the Committee's recommendation for the appointment of three standing committees, namely, (i) The Taxation and Finance Committee, (ii) The Local Self-Government Education and Public Health Committee, and (iii) The Public Works and Railway Committee. Government are of opinion that the members of the Representative Assembly should also be associated with these committees, whose functions would be, as recommended in the Report, of a purely advisory character. Special
Commit-
tees.

17. The powers conferred on the Council will be subject to certain limitations. The Committee has explained, in paragraph 56 of the Report, the reasons for the exclusion of certain subjects from its purview. Government agree, and accordingly, approve of the exclusion from the purview of the Council of the following subjects:—

- (a) the prerogatives, rights and powers of His Highness the Maharaja; Excluded
Subjects.
- (b) the Ruling Family of Jaipur;
- (c) the relations of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;

- (d) matters governed by treaties or conventions or agreements, now in force or hereafter to be made by His Highness the Maharaja;
- (e) the relations of the Sardars with His Highness the Maharaja and their personal or hereditary privileges, rights and status, granted or recognised by His Highness the Maharaja;
- (f) the State army;
- (g) the provisions of the Constitution Act; and
- (h) such matters as may, from time to time, be specially reserved by His Highness the Maharaja.

The exclusion stated in clause (e) above is intended to protect the Sardars of the State from any attempt at encroachment on the privileges, rights, and status which they are now enjoying under the protection of His Highness the Maharaja.

18. On the motion of Mr. Shah Alimuddin Ahmad, the Committee adopted the resolution embodied in Clause (i) of paragraph 57 of the Report, namely,—

“That the matters affecting Muslim religion, religious usages, social custom and practices governed by religion and other matters exclusively concerned with the Muslim community, shall not be passed unless three-fourths of the Muslim members in the legislature vote for them”.

Adequate protection has been provided against any possible invasion by the legislature of the religious, linguistic or cultural rights of any community or the legitimate rights of any special interest, like the Sardars. In the first place, there is an initial safeguard in the provision that no legislation shall be introduced into the Council without the previous sanction of His Highness

the Maharaja, and then there is the additional safeguard in the power which is retained by His Highness the Maharaja to veto, amend or alter any objectionable provision in the bills passed by the Council. No serious danger to the rights of any community has resulted from the absence of such a restriction either in British India under the Government of India Act, 1935, or in Mysore, under the old or the new constitution. Government, therefore, agree with the Chairman that there is no need to make a special provision relating to any community in the State, as recommended in clause (i) of paragraph 57.

19. In paragraph 59 of the Report, the Committee has prepared a list showing the expenditure under "Excluded Heads" which shall not be submitted to the vote of the Council. Government approve of the list, which is as follows:—

(a) the Palace, including the staff and household of His Highness the Maharaja and the Palace troops;

Excluded
Heads of
expendi-
ture.

(b) the pensions of public servants and the rozinas of rozindars;

(c) expenditure relating to or affecting—

(i) the relations of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;

(ii) matters governed by treaties or conventions or agreements now in force or hereafter to be made by His Highness the Maharaja;

(iii) interest on loans and charges on account of sinking funds guaranteed at the time of raising loans; and

- (iv) expenditure of which the amount is specified by or under any law;
- (d) expenditure on the State army;
- (e) payments to jagirdars, thikanedars, and bhomias in lieu of excise duties, customs duties, bhom chauthan or namak-khari, as the case may be, where claims to such payments have been or may be recognised by Government; and
- (f) the salaries of the Prime Minister, the other Ministers and the Judges of the High Court.

Representative
Assembly.

20. Besides the Legislative Council, the Committee has recommended the establishment of a Representative Assembly. Before considering this recommendation, Government wish to deal with a proposal made by Thakur Kushal Singhji of Geejgarh and four other members in the dissenting minute presented by them. They have proposed the establishment of a bi-cameral legislature composed of two Houses with co-equal powers, both in legislation and in finance. The Upper House is to consist of fifty-nine members, of whom nine are to be officials, and the Sardars are to have twenty-six seats, while the rest of the population is to be represented by twenty-four members. The Lower House is to have one hundred and twenty members, elected and nominated. Government have considered the scheme, and they agree with the Committee that a bi-cameral legislature is too complicated a system for Jaipur, and that, so long as the prerogatives, powers and privileges of His Highness the Maharaja remain intact, there is no need for a revisory second chamber. The constitution proposed by the Committee does not confer plenary powers on either house and the argument for a delaying or revising Upper House, therefore, disappears. Government regret, therefore, that they are unable to accept this proposal. One of

the Sardars' representatives on the Committee, Raja Sardar Singhji Bahadur of Khetri, has not approved of the proposal, but is in favour of the Committee's scheme, though he differs from it on certain points.

Reverting now to the question of instituting a Representative Assembly, Government agree with the Committee's observation that on account of the general backwardness of the people in rural areas, it is necessary to have a chamber in which His Highness' subjects in these areas can have effective representation and a means of putting their needs and wishes directly before Government. The first assembly of this kind in India came into existence over sixty years ago in Mysore, under conditions somewhat similar to those now obtaining in Jaipur, and met similar needs. The Assembly has, as the Committee on Constitutional Reform in Mysore observed, caught the popular imagination. And in spite of the subsequent establishment of a Legislative Council with larger powers, public opinion in Mysore would not approve of the abolition of the Assembly. One advantage in the creation of such a House is that, while every section of the population will be able to place before Government its views and criticisms on policies and measures, there will be no occasion for conflict between this House and the Legislative Council. The two Houses will be complementary rather than competitive in their functions. Government, therefore, accept the proposal for the establishment of a Representative Assembly.

The Committee has recommended that the Representative Assembly should consist of one hundred and twenty members, of whom eighty-nine are to be elected by territorial constituencies, twenty-five by the Sardars and two each by (1) Trade & Industry, (2) Women, and (3)

Strength
and
Composi-
tion.

Labour. The Committee has further recommended that eleven of the territorial seats should be statutorily reserved for the Muslim community.

Government accept the Committee's recommendations, save in respect of the strength of the Assembly, which, Government consider, should be increased to one hundred and twenty-five, so as to provide for the nomination of five members.

Government also approve of the suggestion of the Committee that the officers of Government may be required to be present in the Representative Assembly and have the right to answer questions and offer explanations on behalf of Government. They further agree that the Prime Minister shall be the President of the Assembly and the Ministers Vice-presidents in the order of seniority.

21. The Committee unanimously recommends that the following powers may be given to the Representative Assembly:—

- (a) Any member of the Assembly may, at a meeting of the Assembly, submit a representation for the consideration of Government on any matter of public interest or importance relating to the administration of the State.
- (b) As in the case of the Council, the members of the Assembly should have the power of interpellation. Each member may ask one question in a session. Supplementary questions may be allowed by the President in his discretion.
- (c) The annual financial statement should be placed by Government before the Assembly, but the Assembly will not have the power to vote on the budget.

Representations.

All the powers referred to above will be subject to the same limitation as in the case of the Legislative Council.

Government accept the above recommendation, and in doing so they wish to emphasise that the privilege conferred on the members of making representations to Government on matters of public interest has elsewhere been found to be a valuable concession to the people in the rural areas, as it enables them freely to place before Government their wants and difficulties and to make suggestions in matters relating to the welfare of the people.

22. The Committee has recommended that the term of the Assembly should be three years; that there should be at least one Session of the Assembly in a year, and ordinarily of eight days' duration; and that forty members should constitute a quorum. The Committee has further recommended that Government should have the power to summon a session of the Assembly and to extend, adjourn, prorogue, or dissolve it.

Term, summoning of session, dissolution and quorum.

Government accept the above recommendations.

The Assembly will have a secretary and such staff as may be deemed necessary by Government.

23. The Committee has recommended that the privileges of freedom of speech and immunity from arrest under Civil Process, explained in paragraph 72 of the Report, may be accorded to the members of the Legislative Council and the Representative Assembly, and, further, that any person who publishes by, or under the authority of, the legislature any report, paper, votes or proceedings, shall not be liable to any legal proceedings. Government accept these proposals.

Privileges of members of both Houses.

They also approve of the recommendation in paragraph 73, regarding the desirability of the members of both

Oath of members.

Houses taking the oath of allegiance to His Highness the Maharaja, before taking their seats in the respective Houses.

Honoraria of members.

Government will, by a separate order, fix the honoraria and allowances payable to the members of both Houses.

Matters *sub-judice* and conduct of Judges of the High Court.

They approve of the proposal that conventions might be built up that matters *sub-judice* and the conduct of Judges of the High Court of Jaipur in the discharge of their duties, should not be brought under discussion either in the Legislative Council, or in the Representative Assembly.

Powers of the President to prevent disorderly conduct.

24. Government accept the recommendation in paragraph 76 that adequate powers should be conferred on the President of the Legislative Council, and of the Representative Assembly, to deal with members whose conduct is found to be grossly disorderly, and they consider it also necessary that the President of both Houses should be deemed to possess inherent power to give effect to their decisions in this respect.

Saving Clause.

25. The recommendation in paragraph 78 of the Report, that a clause saving the prerogatives, powers and privileges of His Highness the Maharaja should be incorporated in the Constitution Act, is approved.

Franchise.

26. The difficult question of franchise has now to be considered. The intelligentsia in the State are in favour of a very low franchise qualification for both the Council and the Assembly. There are, however, important considerations which militate against the acceptance of this view. The people have not so far had any opportunity of working democratic institutions. In view of this disability, and the general ignorance and backwardness of the people in rural areas, any proposal for introducing

a low franchise appears premature. As observed by the Chairman, an uninstructed and inexperienced electorate is a fatal weakness in a democratic constitution. There are besides, serious administrative difficulties in the way. The preparation of large electoral rolls and the satisfactory conduct of elections at various centres will necessitate the employment of a large and well trained official staff, which at present is lacking in the State. Government agree with the Chairman that care must be taken to see that the elections under the new constitution should not be vitiated by confusion, or corrupt or irregular practices. Government are not yet in possession of full information regarding the total number of agricultural holdings and the rent paid by tenants in the thikana areas. They have called for this information, and on its receipt, orders will be passed prescribing the franchise qualifications under various categories in respect of each House. Government accept the recommendation of the Committee in paragraph 82, that lower qualifications should be prescribed for women and persons belonging to the depressed classes or the primitive tribes.

27. In paragraph 79, the Committee has enumerated the various disqualifications which should render a person ineligible for membership of either House, and Government accord approval to them.

Disqualifications for membership.

Government also accept the list of general qualifications prescribed in the case of candidates for either House in paragraph 81 of the Report. This list as well as a list of disqualifications is printed as an annexure to this Order.

General Qualifications.

Government accept the view of the Committee, expressed in paragraph 75 of the Report, that "a sitting member of either House should vacate his seat if he

Resignation of members.

becomes subject to a disqualification for membership. He may also vacate his seat by submitting his resignation to the Prime Minister written in his own hand."

No differential qualifications for voters and candidates except in certain cases.

28. Government agree with the view of the Committee, expressed in paragraph 80, that there is no need for differentiation in the qualifications to be prescribed for voters and for candidates of the two Houses, except in regard to (1) age, and (2) literacy in respect of candidates whose candidature is based solely on a literary qualification.

Questions raised by Sardars.

29. The representatives of the Sardars have raised certain questions - which have been discussed by the Committee in paragraphs 93, 94 and 95 of the Report. Their first contention is that the proviso in clause (1) of paragraph 81 whereby a Sardar is declared ineligible to stand for election in territorial constituencies should be deleted, as such a disability has not been imposed on zamindars or landholders in British India. This is true, but, as is pointed out in paragraph 7, the Sardars in Jaipur will have, in the new constitution, proportionately far larger representation than is accorded to their *confreres* in British India, in addition to the other general and special safeguards embodied in paragraph 7. If, besides the nine seats reserved for them, they are also allowed to compete for the territorial seats, there is the risk of fewer representatives of the general public being returned by these constituencies. As pointed out by the Committee, the total number of Sardars in the State is about 700 while the population of the State is 30 lakhs. Government, therefore, consider it right that for some time to come, at all events, this provision for the protection of the interests of the general public should be retained. At the same time, Government trust that the time is not far distant, when, by a coalescence of the interests of all

parties concerned it will become possible for them to remove this provision from the Statute Book.

The second request of the Sardars is that, in respect of the seats reserved for them, they might be authorised to appoint nominees to stand for election. Government regret their inability to accept this proposal, which is against all accepted principles of representation and finds no place in any constitution.

The third suggestion of the Sardars is that the elections, to both Houses, should be indirect, that is, certain panchas should be elected by the primary voters in the first instance and the panchas may then record their votes for the contesting candidates. Government are unable to approve of this proposal. They agree with the Committee that an indirect system of election of this kind would be unpopular and would weaken the sense of responsibility of the candidates to the electors by the introduction of a third party.

30. In paragraph 96, the Committee has proposed the appointment of a small committee for the consideration of the following questions:—

Special
Committee.

(1) Delimitation of territorial constituencies, rural and urban, and allocation of seats, Hindu and Muslim;

(2) Formation of constituencies for—

(a) Trade & Commerce;

(b) Labour; and

(c) Women;

(3) Prescribing qualifications for the voters who are to elect the Sardars' representatives to the Council and the Assembly; and

(4) Distribution of the seats assigned among the various classes of State-grantees.

Government approve of the above recommendation.

The
Ministry.

31. The administration of the State is now conducted under the direction of His Highness the Maharaja, by a Council of Ministers with the Prime Minister as the President, *ex-officio*. The portfolios of the several departments are distributed among the Ministers, and rules are prescribed for the conduct of business in the Council. The Ministers are appointed by His Highness the Maharaja and hold office during his pleasure. So far, Ministers have generally been chosen from the services, either within the State or outside or from among the Sardars. The Committee has recommended that at least one-half of the Ministers (excluding the Prime Minister) may be appointed by His Highness the Maharaja from amongst the elected members of the Legislative Council. Government are in sympathy with the aspiration for the introduction of a popular element in the Ministry, but they agree with the Chairman that it would be unwise, in the initial stages, to restrict the field of selection to the elected members of the Legislative Council. Government are of opinion that it would be sufficient, as a first step, if one at least of His Highness' Ministers is chosen from the non-official public of the State, without restricting the field of choice as suggested above, when, in His Highness' judgment, the time has come for such an appointment. In making this appointment the popular desire for the selection of the Minister from among the elected members of the Council will always be borne in mind and given effect to whenever practicable. The popular Minister thus appointed will, as recommended by the

Committee, have the same position, rank and emoluments as his colleagues, and will be eligible to hold any portfolio which His Highness may assign to him. The term of office of the Minister will be co-terminous with the life of the Legislative Council.

32. Government have noted the recommendation of the Committee, that the term of the other Ministers and of the Prime Minister should, ordinarily, not exceed five years, and the further suggestion that the Ministers should always be appointed from among the subjects of His Highness the Maharaja, and that the Prime Minister should also, ordinarily, be selected from among them. In this connection one of the members of the Committee, Mr. Shah Alimuddin Ahmad, made a proposal that at least one of the Ministers appointed from among the elected members should be a Muslim; and another member, Thakur Kushal Singhji of Geejgarh, was of opinion that half the number of seats in the Ministry should be reserved for the Sardars. Government agree with the Committee that there should be no such statutory limitation as is suggested by the two members on the powers of His Highness the Maharaja to make appointments to the Council of Ministers. Government agree that it is desirable that all the important communities, including Muslims, and all the important interests, like the Sardars, should, as far as may be practicable, have representation on the Council of Ministers. But, as stated by the Committee, these are matters to be settled by convention, and not by statutory restrictions.

Term of
other
Ministers.

33. The Committee has considered several miscellaneous matters in Chapter VI of the Report. In paragraph 105, it has recommended certain principles for adoption in order to secure the independence of the

Miscellaneous
subjects:
Independence of
the
Judiciary.

judiciary in the State. An important step in this direction was taken by Government in July, 1942, when they separated the office of the Chief Judge of the Chief Court from that of the Judicial Minister in the administration, and raised the status of the Chief Court to that of a High Court, constituting it the highest court of superintendence, appeal, reference and revision in all civil and criminal matters. Certain powers which Government had of dealing with these matters ceased from that date. The Committee now recommends that the judges of the High Court may be appointed by His Highness the Maharaja, that their age of superannuation should be fixed by statute, and that they should hold office during good behaviour, provision being made for their removal by His Highness on grounds of physical or mental infirmity. Government accord approval to these proposals. Government agree with the Committee that the above provisions need not prevent the appointment of judges on a special contractual basis, and they accept the suggestion that the spirit of the above regulations should, as far as possible, be kept in view in fixing the terms of employment in such cases.

Public
Service
Commis-
sion.

34. In paragraph 106 and 107, the Committee has recommended the establishment of a Public Service Commission for regulating recruitment of candidates to the services. Government observe that a Public Service Commission is already in existence in the State, with definite rules for the selection of candidates. The recommendations of the Committee in regard to the composition of the commission and its functions differ to some extent from the rules now in force, and Government have reserved the subject for separate consideration.

Fundamen-
tal Rights.

35. The next recommendation of the Committee has reference to a declaration of what are known as funda-

mental rights. Government are aware that there is wide popular demand for a declaration of this kind, but opinion differs as to the necessity and the efficacy of such declarations, and there are also other difficulties in the way. The question requires careful consideration, and Government have, therefore, decided to defer orders on this proposal.

36. The remaining recommendations of the Committee refer to Local Self-Government, the expansion of education, general and technical, and the creation of an Economic Development Board. Government recognise that a constitutional scheme would not be complete without a satisfactory system of local administration, both urban and rural. They have already appointed a committee to frame suitable legislation for the establishment of Municipal Councils in Jaipur City and other towns, as well as for the administration of rural areas on the panchayat system. More recently, they have constituted a special board under the Chairmanship of the Prime Minister for giving continuous attention to rural improvement in general.

Local Self-Government.

Expansion of elementary education, establishment of technical schools, and the creation of a university which would provide higher education, literary, scientific and technical, are under the active consideration of Government.

Expansion of Education

The question of establishing an Economic Development Board will be considered separately.

Economic Development Board.

37. In paragraph 119 of the Report, the Committee has recommended that "Government may review the working of the constitution after it has been in operation for a period of five years with a view to effecting

Revision of the Constitution.

further improvements". Government are unable to appreciate the necessity of this provision. Referring to the decennial revision of the constitution sanctioned under the Montagu-Chelmsford Reforms in British India, the Joint Parliamentary Committee observe—

“The deplorable and paralysing effect of prescribing a fixed period for constitutional revision requires no comment in the light of events since 1919”.

There is no advantage in preparing in advance a timetable for the revision of a constitution, which should be undertaken whenever a real need is felt.

Government have now dealt with all the main recommendations in the Committee's Report, and in doing so they have tried to be as responsive to popular aspirations as circumstances permit. The decisions recorded in the preceding paragraphs will be given effect to under a Constitution Act which will be promulgated by His Highness the Maharaja.

Government desire to place on record their obligation to the Chairman and the Members of the Committee for their valuable Report, and high appreciation of the thoroughness and sense of reality with which they have discharged the task entrusted to them.

Government trust that the representatives of the public on whom will devolve the responsibility of working the new constitution will help to make it a success by bringing to their labours a spirit of harmony, sobriety, political insight and loyalty to the best interests of the State.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur.

ANNEXURE, (*vide* PARAGRAPH 27 OF THE ORDER)

Disqualifi-
cations
for
member-
ship.

I. (1) A person shall be disqualified for being chosen as, and for being, a member of either House—

- (a) if he holds any office in the civil or military service of His Highness the Maharaja, other than an office declared by rule made under the Constitution Act not to disqualify its holder; or
- (b) if he is of unsound mind; or
- (c) if he is an undischarged insolvent; or
- (d) if, after the passing of the Constitution Act, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by any Act or rules made under the Constitution Act to be an offence or practice entailing disqualification for membership of either House, unless such period has elapsed as may be specified in that behalf by the provisions of that Act or rule; or
- (e) if, whether before or after the passing of the Constitution Act, he has been convicted of any other offence involving moral turpitude or violence and sentenced to imprisonment for not less than one year by a court in Jaipur or elsewhere, unless a period of five years, or such less period as the Government may allow in any particular case, has elapsed since his release. Whether an offence involves moral turpitude or violence, is a question for Government to decide, and their decision will be final; or

- (f) if he has been dismissed from the civil or military service of His Highness the Maharaja, unless five years have elapsed from the date of dismissal or the Government has removed the disqualification; or
- (g) if, having been a legal practitioner, he has been debarred or is under suspension from practising as such by order of a competent court, the disqualification in the latter case being operative during the period of such suspension or the term of the House, whichever is longer; or
- (h) if, having stood as a candidate for election to either House or having acted as an election agent of any person who has so stood, he has failed to lodge a return of election expenses within the time and in the manner required by any Act or rule made under the Constitution Act, unless five years have elapsed from the date by which the return ought to have been lodged, or the Government have removed the disqualification:

Provided that a disqualification under clause (h) of this provision shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Government may in any particular case allow.

(2) A person shall not be capable of being chosen a member of either House while he is serving a sentence of transportation or of imprisonment for a criminal offence.

(3) Where a person, by virtue of conviction or a conviction and a sentence, becomes disqualified, his seat shall not become vacant by reason of the disqualification until three months have elapsed from the date thereof, or, if within those three months an appeal or petition for revi-

sion is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this provision he shall not sit or vote.

(4) The disqualification mentioned in clause (a) above shall not be applicable to Ministers or to such officers as may be nominated to the Council by the Government.

II. (1) A person shall not be qualified to be chosen to fill a seat in either House, unless he has attained 25 years of age.

Qualifications for membership.

(2) Save as provided in sub-rule (3), a person shall not be qualified to be chosen to fill a seat in either House, unless—

(1) his name appears in the roll of electors of the House; and

(2) he has been residing continuously in the State for six months immediately preceding the date of preparation of the roll of electors;

(3) A person whose name appears in the roll of electors solely by virtue of the literacy qualification, shall be qualified to be chosen to fill a seat in either House, if he has been residing in the State for 5 years immediately preceding the preparation of the roll of electors and, in the case of a seat in the Legislative Council, is also a graduate of 5 years' standing:

Provided always that a Sardar, as defined in the Constitution Act, shall not be eligible to be chosen to fill a seat in a constituency other than a constituency specially formed for the Sardars.

NOTE 1—A person shall be deemed to be resident in any area within the State if he ordinarily lives in that area or maintains a dwelling house therein ready for occupation in which he occasionally dwells.

NOTE 2—A person shall be deemed to be a graduate if he has passed the Degree examination of any recognised University, or such other examination as Government may specify in this behalf.

CHANDRA PAL SINGH,

Chief Secretary to the Government of Jaipur.

CONFIDENTIAL.

No. 940/CRC.

12th April, 1943.

From

**RAJASEVASAKTA S. HIRIANNAIYA, M.A., B.L.,
CHAIRMAN, CONSTITUTIONAL REFORMS COMMITTEE, JAIPUR.**

To

AMIN-UL-MULK

**SIR MIRZA M. ISMAIL, K.C.I.E., O.B.E.,
PRIME MINISTER, JAIPUR.**

SIR,

The Government of His Highness the Maharaja were pleased to appoint, in their Order No. 104-S. C. of 26th October, 1942, a Committee to advise and make recommendations on the constitutional reforms required in Jaipur at the present juncture. The Committee began its work on the 4th November, 1942, and concluded its sittings on 2nd of April, 1943. At the earlier meetings, the Committee decided to elicit public opinion, on the questions referred to it, by the issue of a questionnaire and by inviting the oral evidence of representative spokesmen of different communities and interests in the State. The questionnaire was published in the Gazette and local newspapers and copies in English, Hindi and Urdu were circulated among public bodies and associations and leading non-official gentlemen, both in the rural and urban areas. The Committee received 1,037 written replies containing the signatures of 3,273 persons, and of 56 persons, who were invited to give evidence, 32 gentlemen responded and appeared before the Committee. Necessary information was obtained from various departments of Government and though on one or two points the Committee would have wished for fuller information, there was on the whole adequate data to come to a decision on nearly all the questions involved.

2. At the conclusion of the oral evidence and with the information referred to above in their possession the Committee met on thirteen days and discussed with great care all the questions

involved in, and preparatory to, the framing of a new Constitution. As there is no constitutional machinery in the State at present, the task of the Committee was rendered easy in some respects, but difficult in others.

3. I have now the honour to submit the Report of the Committee embodying its conclusions on all the points referred to it. Six of the members, for no apparent reason, did not attend the concluding sittings held on the 31st March, and 1st and 2nd April, 1943, for the consideration and adoption of the draft report. We feel that our colleagues might well have shown more consideration and courtesy to the Committee by attending the meetings and appending their signatures to the Report, reserving liberty to attach minutes of dissent on issues on which they could not accept the decision of the majority. The Report is signed by the remaining thirteen members.

4. Barring the views of the section representing the Sardar Sabha and their political sympathisers referred to above, I am happy to state that the main recommendations of the Committee have received the support of all sections of political opinion in Jaipur, including the Muslim group. The recommendations comprise—

- (1) the principle of an elected majority in the Legislative Council and its size,
- (2) the conferment of full powers—Legislative, Financial and Deliberative—on the Council, and
- (3) the introduction of a popular element into the Executive.

5. I am now to request that the Government may be pleased to give early and sympathetic consideration to the recommendations of the Committee and take all the further steps necessary to inaugurate the new Constitution at as early a date as may be convenient.

6. Before concluding, the Committee desires me to record its high appreciation of the valuable services of the Secretary, Mr. K. Iswara Dutt. His sound judgement and the knowledge of the Assistant Secretary, Mr. Krishna Kumar Sharma, in matters pertaining to constitutional law and practice, as well as the zeal, industry and intelligence of the staff* were invaluable in bringing the labours of the Committee to a speedy and satisfactory conclusion.

I have the honour to be,
 Sir,
 Your most obedient servant,
 S. HIRIANNAIYA,
Chairman.

Documents accompanying:

1. Report.
2. Seth R. N. Podar's letter of 1st April, 1943.
3. Minutes of dissent of Messrs. (1) S. Alimuddin Ahmad, (2) S. Hasan Mujtba and (3) Hamidulla Khan.
4. Minutes of dissent of Messrs. (1) K. C. Patni, and (2) T. R. Paliwal.
5. Minute of dissent of Mr. N. C. Kasliwal.
6. Minutes of dissent of Messrs. (1) C. L. Agarwal, and (2) Vidyadhar Kulhari.

*Messrs.—1. T. D. Bhargava,
 2. O. B. Nag and
 3. K. B. Saxena.

REPORT OF THE COMMITTEE ON CONSTITUTIONAL REFORM IN JAIPUR

CHAPTER I. INTRODUCTORY.

1. AN enquiry into the constitutional problem of a particular region or territory must necessarily be prefaced by a survey, however brief and rapid, of its socio-economic structure and political conditions. Indian States present a striking diversity of characteristics—geographical, economic and political—and the constitutional problem which arises in connection with one State has sometimes not much in common with that of another, or perhaps, with that of any unit in British India. Each State, cast in its own distinctive mould, calls for development on its own lines. The framing of a constitution for Jaipur is thus clearly conditioned by its special features, its past history and present requirements.

Background
of the
Constitution:

2. Jaipur is a part of the largest continuous non-British region on the political map of India. With an area of 15,601 Sq. miles, it has a population of over 30 lakhs, the largest of any State in Rajputana. Nearly three-fourths of the land is in the possession of an aristocratic order known as sardars which is unlike any other outside Rajputana. Side by side with this landed aristocracy, Jaipur is also the home of great industrialists, men whose enterprise has conferred distinction on many a Provincial capital. These merchant princes have played a notable part in the larger life of India and have also closely maintained their connections with the homeland and endowed with great munificence educa-

Features of
Jaipur:

tiocal and other institutions for the benefit of their fellow-citizens in Jaipur. At the other end of the scale there is a large peasantry, poor, ignorant and resourceless, and holding on to a few bighas of land either directly under the Government or under the sardars.* The introduction of survey and settlement operations has somewhat softened the rigour of their lot in the Government or, as it is called, the khalsa area, and the cultivator has now been guaranteed a tenure of at least ten years on a fixed rent, but with the exception of some thikanas, the bulk of the land under the sardars continues to be under the old system. The north-western parts of the State partake mostly of desert conditions; rainfall is scanty and the cultivator scrapes together an uncertain harvest. The central and south-eastern parts receive better rainfall and the peasantry are more prosperous. Bund and sub-soil irrigation is a marked feature, and important crops, like wheat, barley and bajra are grown. The State has contributed to this prosperity by constructing several irrigation works at a cost of over a crore of rupees.

3. The theory in Jaipur that all land belongs to the State has resulted in the denial of full occupancy rights to the cultivators. The sardars have no powers of alienation and each succession will be recognised by the State only after the payment of a fee called "matmi". Agriculture is starved as there is no incentive for improving the land owing to the limited nature of the holder's rights.*

4. Between the aristocracies of land and wealth on the one side and the poor cultivators on the other, there is almost a total absence of a strong and well-knit middle

*Khan Sahib A. A. Kherie and the Law Secretary do not wish to associate themselves with this remark.

class in the rural areas. Literacy is low and owing to lack of education and the prevalence of the purdah system, the position of women is extremely backward. The Constitutional Reforms Committee in Jaipur had the unusual experience of not being able to get even one woman witness to place the woman's point of view before it. Owing to causes, which we need not enter into here, newspapers have not flourished in the State, and there is hardly anything that can be described as an organised press.

5. In refreshing contrast to this picture we find that the relation between the Hindu majority and the Muslim minority has been, in the main, singularly harmonious, and there is notable homogeneity in the language, culture and traditions of the people, and among all classes there is a laudable unity of loyal sentiment towards the Throne.

6. A striking feature of the socio-economic structure of Jaipur is the existence and ascendancy of the sardars to which we have made a reference in paragraph two. The whole State may be divided into khalsa area or land directly under the Government, and the thikana or jagir area, the revenue of which has been alienated to sardars and other state grantees on different conditions. These thikanas are scattered all over the State and vary in size, income, and status. Some of them cover a considerable area while others hardly extend beyond a thousand bighas. There are some that count their tenants in thousands; others have less than one hundred of them. Subject to the State's supervision, three of them employ their own police and exercise some judicial powers, while the remaining have no administrative powers. With regard to the tenure of the estates, these grantees

have been classified as jagirdars, mansabdars, subeguzars, istimarardars, muamlaguzars, chakotidars, udakies, inamies and tankhadars. One common feature of the State-grants is that they are inalienable, and can be enjoyed only by the descendants of the original grantee. As a class, the sardars are jealous of their position and privileges and while men with modern outlook are not rare, they may, as a rule, be regarded, both socially and politically, as a conservative force in the country.

Present
Administrative
Arrangement.

7. His Highness the Maharaja is the fountain source of all authority and power by virtue of his being the sovereign of the State. The theory of kingship in Jaipur is based on the conception that the ruler is the agent of the deity 'Govind Deoji' and that he derives his power, authority and dignity from God and is His representative on earth to protect the people from anarchy.

8. The system of administration that obtains at present is more or less of recent development. The previous Ruler, Maharaja Sir Sawai Madho Singhji Bahadur, carried on the Government with the assistance of a Council. A Cabinet was constituted during his illness to deal with matters reserved for his personal decision. After his demise and during the minority of the present Maharaja a minority Government was established to conduct the administration. There were two executive bodies, *viz.*, the Cabinet, and the Council but the administration was to be guided in certain specified matters by the advice of the Resident at Jaipur. The Cabinet was invested with important powers and the Council was empowered to pass final orders on all matters not reserved for the Cabinet. In August, 1925, the Council was abolished, and the entire executive authority

was vested in the 'Cabinet' which was named the 'Council of State' or Mahakma Khas.

9. The assumption of full ruling powers by His Highness the Maharaja on 14th March, 1931, marked a new development. From that date the Government was carried on by His Highness assisted by the Council of State consisting of seven members. The Council was presided over by His Highness. Other changes were introduced in 1934 and in 1937. In 1934 the post of Vice-President of the Council of State was created; he was empowered to exercise general powers of supervision over all departments; and he thus became the only channel through which all important matters could be brought before His Highness. In 1937 the office of Prime Minister was created for the first time.

10. Further changes took place in July, 1942, when the name of the Council of State was changed into Council of Ministers and its number reduced from seven to four, excluding the President. The most notable feature of this change was that His Highness relinquished the position of the President of the Council and the Prime Minister became the President *ex-officio*. The other members of the Council are Finance, Revenue, Army and Home Ministers. The Ministers are in charge of the departments under their portfolios, and all important matters are decided in the Council by a majority of votes. The appointments as well as the removal of Ministers rest entirely with His Highness the Maharaja. There being no legislative body under the Constitution, the Council is vested with legislative powers also and any legislation passed by the Council becomes an Act on receiving the assent of His Highness the Maharaja.

Central
Advisory
Board;

11. With a view to ascertain the needs of the people regarding administrative question and to afford them opportunities of bringing to the notice of the Government matters of public concern, a Central Advisory Board was formed towards the end of the year 1939. It consists of forty-eight members, out of whom thirty-five are non-officials and thirteen officials. Out of the thirty-five, nine seats are allotted to State grantees, five to trade and commerce, one to lawyers, one to the medical profession, one to school managers, one to mutawallis, one to Jain trusts, one to the Jaipur municipality, one to other municipalities and thirteen to the representatives of the district advisory boards. The Chairman is appointed by the Government. The constituencies, other than municipalities and district advisory boards, elect a panel of persons five times the number of seats allotted to them, out of whom the members are nominated by the Minister-in-charge. The members of municipalities and district advisory boards elect their representatives. The term of office of the members of the board is four years. The subjects on which recommendations may be made by the board to the Government are laid down by rules. Neither the Prime Minister, nor the other Ministers attend the meetings, and the functions of the board, as its name indicates, are purely advisory. As will be explained later, this measure failed to give satisfaction to the people.

Another adjunct of the administration is a Consultative Committee of sardars. Its function is to advise the Government on such matters as may be referred to it, particularly those relating to the rights and privileges of sardars.

Political
Consciousness.

12. Higher education, speedy communications, and the radio have stimulated aspirations for a democratic form of government. Political ideas do not respect

frontiers and the influence of the British Indian Press, the proximity to the Imperial Capital and the activities of Indian politicians have had their inevitable repercussions within the State. Associations have been formed by the people for carrying on social and political propaganda, the most important of them being the Jaipur Rajya Praja Mandal, whose aim is to realise "Responsible Government under the aegis of His Highness the Maharaja". In his Presidential address to the first session of the Mandal, the late Seth Jamna Lal Bajaj, who was a citizen of the Jaipur State remarked that "the objects of the Mandal were candid and constitutional and its way open and peaceful". The Praja Mandal launched a movement in 1939 to secure for the people the right of free association and public meeting. Till recently the previous permission of the Government was necessary for holding of a public meeting and even now associations cannot be formed for any purpose whatsoever without previous registration under the Jaipur Public Societies Act, which the Government have the liberty to grant or refuse.

13. Differences of opinion regarding the methods to be adopted for the fulfilment of their aims have recently appeared in the Mandal organisation. One section recently seceded from the Mandal because the other was not for withholding co-operation from Government, if thereby their objectives could be achieved. It is obvious from the above narrative of recent events that, as in British India, there is some political unrest* in the country and that, as in British India, the people are aspiring for an improvement of their political status. At present, there is no elected legislature, laws are made in secret, there is no oppor-

*Khan Sahib A. A. Kherie and the Law Secretary do not wish to associate themselves with this remark.

tunity for the people to discuss the State Budget and there is no constitutional outlet for popular discontent.* Though the level of education is low, the people are not lacking in natural intelligence, shrewd commonsense and business acumen. They have exhibited great qualities, largeness of conception, organising ability and power of disciplined management in successful building industrial concerns in British India, and it would not be unreasonable to assume that they would bring the same qualities to service if they are given opportunities to share in the political and administrative work of the country. Leaving aside the views of the extremist section, it cannot be said that aspirations for political power are not legitimate. Timely satisfaction of just aspirations will allay popular discontent and strengthen the hands of Government.* In this context we may refer to the remark made by His Excellency the Viceroy, Lord Linlithgow, at the State Banquet, held in Jaipur on the 28th February, 1939:—

“This is a period when old standards call in many cases for re-examination and adjustment in the light of circumstances, when throughout the world the ebb and flow of changing conditions is marked to a greater degree than has been for many years the case, when in all countries the long view, and long-term planning, have assumed an importance far greater than they have occupied even in the critical years of the post-war period. In such conditions the importance of providing opportunities to enable public opinion to express itself, and to place on record, for the assistance of those of whom the burden of responsibility falls, the

*Khan Sahib A. A. Kherie and the Law Secretary do not wish to associate themselves with this remark.

views and the opinions of the ordinary citizen, is greater far than it has been in the past, and in the light of modern requirements it is plainly necessary that there should be some machinery whereby Your Highness can be satisfied that any legitimate wants or grievances of your subjects can be brought to the notice of your Government so that they may be freely and promptly set right. I trust sincerely that the steps which you have taken and which you have mentioned to us tonight, will achieve your Highness' object of securing the closer association of your subjects with the development of your administration and that, within the frame-work of the State and of the Constitution, they will give your people the opportunity to bring to the notice of your Highness and your Government considerations which may be relevant or germane to the decisions which fall to be taken within the area concerned. That in any arrangement of this nature there must inevitably be much of a provisional and an experimental character, goes without saying. All history gives evidence of that. And the passage of time and the practical test of experience, may well show that in one way or another modifications of the scheme which you have now devised will be called for to secure the objects you have mentioned. It is clearly necessary that any machinery devised to meet those objects should be susceptible of re-adjustment as occasion may arise. I am confident that, should that be the case, the same appreciation of the direction of modern thought, and

of the necessity of adjusting administrative and other standards to the trend of modern development, will characterise the decisions which Your Highness may feel called upon to take."

14. Four years have elapsed since these sentiments were expressed by His Excellency Lord Linlithgow—years which have witnessed large changes all over the globe. The time has now arrived in the far-sighted view of His Highness' Government for "adjusting administrative standards to the trend of modern development", and to this Committee has been entrusted the task of formulating a scheme of reforms which will achieve that end.

CHAPTER II.

EXAMINATION OF THREE SCHEMES.

15. The Committee received several proposals for a new constitution. Three schemes, which may be taken as typical, though with important variations, of the rest, have been printed in Appendix "VII". We will proceed to examine these three schemes separately.

16. Both on account of its intrinsic importance and its completeness the scheme submitted by the Sardar Sabha, which is an organ of the sardars in the State, may first be taken for consideration. The Sabha proposes a constitution comprising two Chambers, an Upper and a Lower; the former Chamber to be reserved exclusively for the sardars, but if this is not practicable they should have 70% of the total seats in that Chamber. In the Lower House they claim 70% of the total number of seats for themselves and the people of their thikanas. The exact number of seats to be allotted to the latter should, according to the Sabha, be left to the discretion of the sardars, and these are to be filled, at the sardars' discretion, either by nomination by them or by elections conducted under their control. The elections, such as they are, both in the khalsa and thikana areas, are to be indirect, *i. e.*, through the "panchas" elected by primary voters.

The Scheme
of the Sardar
Sabha:

As regards the powers, the sardars suggest that any proposal not passed by the Upper Chamber should be dropped, but that the proposals passed by both the Houses, which would be of a recommendatory character, may be submitted to the Government.

Amongst the subjects proposed for exclusion from the purview of the legislature are to be the following:—

1. The relations of His Highness and his Government with the sardars and the privileges, rights, powers and status of sardars and thikanas and matters affecting the stability, revenue, finance and internal administration of thikanas.
2. Sardars and their families.

17. A majority of the Committee, after due consideration, regret that they are unable to accept the scheme.

The sardars in Jaipur constitute an aristocracy of birth as well as of hereditary land-holders. Racially, the majority of them belong to the Rajput stock and it has been the practice to adopt, when the succession to the Throne failed, a scion of one of the Rajawat families who stand in close kinship to the Royal House. There are, however, a small number of sardars belonging to other communities. Representatives elected from this small and restricted electorate would be indistinguishable from hereditary legislators and a double Chamber, in which the system of hereditary legislators will be the predominant feature in one House and a marked feature in the other, is unknown to any constitution in civilized countries. Even if the hereditary element had been confined only to the Upper House, the objections to the scheme would lose none of their force, as the history of the House of Lords in England will show. A House of this description would be a citadel of reactionary forces hindering all popular progress.

18. The British Parliament has been a model for many western countries but none of them has copied the hereditary system for the construction of an Upper House or Senate. We are anxious not to be understood as in any way seeking to underrate the importance of the rank, position and influence of the sardars in Jaipur State, but this is entirely different from conceding to them, a position higher than, or superior to, what may be accorded to the thirty lakhs of His Highness' subjects. Hereditary legislators are an anachronism, and it is unlikely that public opinion in Jaipur would support the creation of two Chambers on the model of the Sardar Sabha's scheme. The sardars have a notable part to play in any constitutional scheme and it is by sitting in a common chamber along with the representatives of the people that they would be able to exert effectively their legitimate influence.

19. The sardars claim 70% of the seats in the Upper House on the analogy of the representation given to the Princes in the Council of State under the Government of India Act, 1935. The Princes are given 40% seats on the ground that they *rule* over 40% of the area in India, and they represent in the Federal Legislature not merely themselves but also the *people subject to their rule*. It is true that the sardars and other land holders hold over 70% of the total land in Jaipur, but they cannot claim to exercise any element of sovereignty over the land or the people living within the thikanas. After all, the people of a country are more important than the land which they inhabit or occupy. The Princes are in political relationship with the Government of India, and however subordinate, politically, their position may be to the Imperial Crown, they are not subjects of the King-Emperor, and the

British Parliament cannot legislate either for them or their subjects. It is unnecessary to state that the sardars do not hold such a position in relation to His Highness the Maharaja of Jaipur. Even the three thikanas, which exercise a derivative jurisdiction, to a limited extent, in civil and criminal matters, cannot claim to stand to the Ruler of Jaipur in the position in which the Princes stand to the British Crown.* An argument was advanced on behalf of the Sabha by our colleague, Thakur Kushal Singhji, that certain "estates and jagirs" in British India are also included in the 40% representation in the Council of State, but this view appears to us to be based on a misconception; for under Section 311 (1) of the Government of India Act, 1935, the expression "Indian State" includes any territory, whether described as a State, an estate, a jagir or otherwise, belonging to or under the *suzerainty* of a Ruler who is under the suzerainty of His Majesty and *not being a part of British India*". In other words even the "estates and jagirs" must be in "political relationship" with the Government of India and must not form part of British India. The thikanas are not under the suzerainty of the sardars and they form part of Jaipur State.

20. The sardars claim that the representation of the people living in the thikanas should be made through them. We see no justification for this unusual proposal. The people living in the thikana areas are in no sense the subjects of the sardars, and no one can claim to come between them and their Ruler.

21. Two other features of the scheme are also open to

*Vide Government Order No. 465/P. M. O. dated 14th April 1939. (Vide Appendix-VIII).

serious objection. In the subjects which are proposed to be kept out of the purview of the legislature, there may be some reason for the sardars to claim that their personal rank, status and privileges should not be interfered with by the legislature. But there are no good grounds for the further claim of exemption asked for in respect of "sardars and their families" who are legally in the same position, *visa-vis* the sovereign, as other subjects of His Highness the Maharaja, and we see no reason for accepting the suggestion made by the Sardar Sabha in this respect. An exemption of this kind is really a prerogative of the Ruling Family.

22. Finally, a large majority of the witnesses and persons who have sent written replies were decidedly in favour of a Single Chamber. A Double Chamber may be necessary only in cases where a fully democratic Lower House with plenary powers is set up. In such a case an Upper House may be needed to act as a brake on hasty or ill-considered action by the Lower House. As the establishment of such a Lower House in the immediate future is not envisaged by us, the necessity for a Second Chamber disappears.

25. The scheme submitted by Anjuman-i-Khadim-ul-Islam also contemplates a Double Chamber, an Upper House of 48 members and a Lower House of 160. Both the Houses are to have *full and co-equal powers* in respect of legislation, finance and discussion of matters of public interest, and in both the Houses the Muslims claim 25% of the seats on *separate electorates* against their population strength of 8.5% in the State. Our objection to a bi-cameral scheme, which does not envisage immediate establishment of full responsible government, applies to this scheme also. The possibility of a deadlock, owing to conflict between the Houses enjoying equal powers, is another weakness of the

The Scheme
the Anjuman-i-
Khadimul-
Islam ;

scheme, and we are not satisfied that a complicated constitution of this kind is needed in Jaipur, at present at any rate.

**The Scheme of
the Jaipur
Rajya Praja
Mandal:**

24. The third scheme has been received from Mr. Hira Lal Shastri, who may be said to represent the nationalist or Prajamandalist section of political opinion in Jaipur. Avowedly, the scheme is based on the prospect of realizing immediately full responsible government under the aegis of His Highness the Maharaja. The scheme proposes a single House of 100 members, all of whom are to be elected. The House is to enjoy plenary powers of legislation, finance and taxation, and the entire Executive of "not more than half a dozen Ministers should be formed from amongst the members of the legislature and, as such, should be responsible to it. His Highness the Maharaja should, from his high and unassailable position, exercise a harmonising and stabilising influence and keep the balance, but the work of His Highness' Government should be carried on by the people's representatives and according to the people's will as expressed through the legislature". All that we need remark on this project is that, as things stand at present, the realization of full responsible government, immediately, is by no means practicable. The very first instalment of political reform in the State, which so far has not had any kind of constitutional machinery, cannot, in reason, be expected to be full-fledged responsible government of the British Parliamentary type. No such government exists even now in British India.

CHAPTER III.

THE COMMITTEE'S PROPOSALS.

25. In framing a constitution for the Jaipur State it is necessary to remember two facts—that we are writing on a clean slate, and that at present there is no constitutional contact between the Government and the people. The former circumstance may be an advantage, but the latter implies lack of opportunities to the people to acquire political experience or training. Western ideas have stimulated aspirations for a democratic form of Government, the minority community of Muslims is asking for special safeguards and guarantees, and the existence of a privileged class of sardars introduces another complication. The Government Order appointing this Committee requires us, in formulating our scheme, to have “due regard to the past history of the State, the present state of education, of public spirit, the growing political consciousness of the people and other relevant factors, in order to secure the steady and harmonious constitutional progress of the State from the point of view of all interests concerned.” A reconciliation of these apparently differing aims and objectives is difficult, but in our view not impossible, and in this hope we will proceed to frame our proposals. In doing so, theory, logic and symmetry must, to a certain extent, be sacrificed, as no scheme that we can think of would be proof against criticism based on *a priori* considerations. Our scheme is designed to meet existing conditions in Jaipur and its merits must be judged from that standpoint.

26. The administrative arrangements referred to in paragraphs 7-11 of the Introductory Chapter may well be described as a rule of the bureaucracy under a benevolent and enlightened monarch. The central advisory board,

constituted just three years ago by a mixed process of indirect election and nomination and being avowedly advisory in its functions, cannot be said to possess the power of influencing the policy and the measures of the Executive. The deliberations of this body are not attended by the Prime Minister or his colleagues. A few Government officers are present and take notes or supply information. There can be no reality or seriousness in a political assembly if the members of the Executive Government are not present to hear the views and criticisms of the people's representatives and furnish the explanations which only the Government will be in a position to offer. There can be no government by open discussion—which is the essence of all democracy—when the Government and the popular representatives do not sit face to face and discuss openly the political and administrative problems that confront them. It is no wonder that the vast majority of the public, with the exception of the Sardar Sabha, have expressed dissatisfaction with the composition, powers and functioning of the advisory board. The following extract from the written reply of the Islamia Panchayat is an instance in point:—

“The Advisory Boards were not intended to provide a constitutional machinery to the people of Jaipur, and as such they proved of no help to the people in acquiring a share in the administration or learning experience in the art of government. They were not taken seriously by anybody—by those who created them and those who worked them. They were a sop to those who cried for constitutional agencies to control the Government of the State. Its decisions had no force and were not binding upon the administration and in many cases no consideration was paid to them. There was no true representation in the Board and the true voice of the people had no place in its deliberations. The members.....refused to take it seriously.”

The language may be somewhat strong but there is little doubt that the view of the Panchayat is shared by a very large section of political opinion in the State.

Khan Sahib A. A. Kherie and the Law Secretary do not wish to associate themselves with this remark.

27. Our proposals are based on certain fundamental considerations. Firstly, there must be provision for the enactment of the laws of the State in public—the first essential of a civilised administration. Secondly, the representatives elected by the people must have a real and effective voice in the shaping of Government policies and measures, and an adequate opportunity for legitimate criticism of the actions of the Executive. Thirdly, safeguards must be provided for the minorities and the interests of the sardars. Fourthly, while a definite forward move is necessary, the absence of political experience and the general backwardness of the people in the rural areas must be kept in view. And lastly, there must not be too sudden a break with past history and tradition.

28. Bearing the above considerations in mind the Committee proposes

- (1) a Legislative Council, consisting of 60 members including the President, with a majority of the elected members, for making laws, discussing and voting on the Budget, putting questions and considering resolutions on matters of public interest;
- (2) a Representative Assembly, of 120 members, composed mainly of representatives from the rural areas and elected on a much lower franchise, whose chief functions would be to ventilate popular grievances and provide a platform for the middle and lower classes of the population, who, ordinarily, would not be able to get a seat in the Council;
- (3) the introduction of a popular element into the Executive;
- (4) measures for securing the independence of the Judiciary and the establishment of a Public Service Commission; and
- (5) to ensure perfect reign of law, a declaration of certain elementary rights in a Royal Proclamation.

29. We will now proceed to explain our proposals in detail.

Legislative
Council

We recommend that of the fifty-nine members (excluding the President) of the Council, forty-five members may be elected and fourteen nominated. Among the elected members, thirty seats, or just over a half, will be allotted to territorial constituencies and ten to sardars. The nominated *bloc* will include not more than nine officials. The thirty elected seats are intended to provide representation on a geographical basis to all the communities in the State including the Muslims. But as the latter are a minority community, representing a strength of 8.5 % of the population, the Committee has resolved to reserve for them, on the basis of joint electorates, five seats (which represents a weightage of about 96%), with liberty to contest the other territorial seats. The five functional seats will be distributed as follows:

Trade and Commerce	....	....	2
Women	...	....	1
Labour	....	....	1
Graduates....	....	....	1
			<hr/>
			5
			<hr/>

30. The ten seats for the sardars are intended to give representation to the landed aristocracy, which occupies a place of special importance in the State. Special reservation has not been made for the primitive tribes and the depressed classes as the Hindu members in the Committee represented that by doing so a new line of cleavage would be introduced into the politics of the State which does not now exist and that the Hindus would agree to a convention under which a certain number of territorial seats would be reserved for these classes. We recommend approval of this arrangement.

31. We regret to observe that our Muslim colleagues did not accept the proposal for joint electorates. Many of the Muslim witnesses, that appeared before us, have urged separate electorates for Muslims, with a weightage extending upto 30% of the total seats. A few Muslim witnesses have spoken in favour of joint electorates, and a few Hindu witnesses, when questioned whether they would not concede the claim of the Muslims for separate electorates if that community were particular about, expressed the view that in that event they would not object. On the whole, there is no doubt that the bulk of Muslim opinion in Jaipur is in favour of separate electorates. We do not propose to enter into any discussion on this vexed question of joint *versus* separate electorates. It has been discussed threadbare all over India and we have no new arguments to advance in favour of either view. The opinion in the Committee on this question was equally divided,* as the representatives of the sardars and three of our colleagues,† who sympathised with their views, voted in favour of the Muslims' request for separate electorates. The Chairman, had, in the circumstances, to give his vote, and he did so with the observation that he was in favour of joint electorates with very liberal weightage, more liberal than what the members, who had voted for joint electorates, were prepared to offer. The Chairman regrets that it has not been possible to secure the assent of our Muslim colleagues to the view which has prevailed in the Committee, and he wishes to express the earnest

* For: (1) Seth Ramnath Podar, Messrs (2) C. L. Agrawal, (3) N. C. Kasliwal, (4) K. C. Patni, (5) V. D. Kulhari, (6) T. R. Paliwal, and (7) Seth Suraj Buksh Gbiya.

Against: (1) Thakur Kushal Singhji, (2) Thakur Surendra Singhji, (3) Captain Chiman Singh, (4) Seth Chiranji Lal Loyalka, (5) Maulvi Hamidullah Khan, Messrs (6) L. N. Yadava, and (7) Shah Alimuddin Ahmad.

Neutral: (1) Khan Sahib A. A. Kherie, and (2) the Law Secretary.

† Seth C. L. Loyalka, Capt. Chiman Singh and Mr. L. N. Yadava.

hope that, before the orders of Government are passed on the recommendations of the Committee, a reasonable compromise, acceptable to all sections, would be arrived at. Such a consummation is not impossible as the relation between the two communities in Jaipur is one of complete cordiality.

32. A word is necessary about the allocation of functional seats in the Council. A majority* of the Committee has voted in favour of a seat for the graduates. The Chairman doubts whether it would be proper to do so. The graduates, as such, do not represent a community or a trade or a calling or profession and it is difficult to find a satisfactory reason for giving them special representation in the Council. As graduates they will be eligible to vote and to stand as candidates under certain conditions, and if the project for a University for Jaipur materialises, as we earnestly hope it will, the educational interests will, we have no doubt, be given suitable representation in the Council. In the Chairman's view the proposal for the special representation of graduates should be dropped.

33. An explanation is necessary about the representation given to the sardars. The number of seats allotted to them represents one-third of the territorial seats in a Council of sixty. Some of the witnesses that appeared before the Committee, were against the special representation of the sardars, while others were not in favour of giving

*For: (1) Seth Ramnath. Podar, Messrs (2) N. C. Kasilwal (3) C. L. Agrawal, (4) Shah Alimuddin Ahmad, (5) T. R. Paliwal, (6) V. D. Kulhari, (7) K. C. Patni, (8) Maulvi Hamidullah Khan, and (9) Seth Suraj Buksh Ghiya.

Against: (1) Khan Sahib A. A. Kherie, and (2) the Law Secretary.

Neutral: (1) Chairman, (2) Thakur Kuskal Singhji, (3) Thakur Surendra Singhji, (4) Captain Chiman Singh, (5) Mr. L. N. Yadava, and (6) Seth Chiranjil Lal Loyalka.

them more than two or three seats. But we feel that, by the part the sardars have played in the history of Jaipur and the large interests which they have at stake, they are entitled to claim representation of sufficient strength to give them a sense of security under the new constitution. The sardars seem to think that the Committee's proposal falls short of what they might legitimately expect. We regret we cannot share this view. The taluqdars of Oudh in the United Provinces, the zamindars in Bengal, Bihar and Madras, represent landed interests of a very high order and the representation given to them in the respective Provincial Assemblies by the Government of India Act, 1935, which is reproduced below, will show that our proposal is not merely fair but generous to the sardars in Jaipur.

Name of the Province.	Total seats.	Territorial seats:	Seats allotted to land-holders.
Madras	215	188	6
Bihar	152	136	4
Bengal	250	211	5
United Provinces	228	209	6
Punjab	175	161	5
Jaipur (Proposal of the Committee)	60	30	10

34. Of the nominated *bloc* of fourteen members we propose that not more than nine should be officials. The remaining five seats are intended to provide for bringing into the Council eminent men, who might be expected to take a non-partisan view on political questions, and for the representation of such communities and interests, as for instance, the cultivating tenants, as may be considered by Government to require representation.

President and
Vice-President
of the Council:

35. The Committee is of opinion that for the first term the Prime Minister should be the President of the Council, and for the second term the President may be nominated by His Highness the Maharaja.

36. The Chairman considers that at least for the first two terms of the Council, the Prime Minister should be the President. In his view, the President of an assembly should be able to give guidance to the members in building up healthy conventions and practices; he should be capable of making his influence felt and of conducting the proceedings with fairness, firmness, dignity and expedition. Untried men cannot all at once be appointed to such a place, and the Prime Minister is; therefore, the fittest person to occupy it during the formative stages of the constitution. *

37. The Committee also resolved that for the first term the next senior Minister may be the Vice-President of the Council.

38. The Committee proposes that the following powers may be conferred on the Council:

Legislative:

The Council should be competent to make, amend, or abolish any law for the whole or any part of Jaipur State, for all subjects of His Highness the Maharaja, wherever they may be, and on all matters except those which are to be excluded from its purview. Every bill intended to be introduced into the Council must have received the previous consent of the Prime Minister. The bills passed by the Council can become law only after the assent of His Highness the Maharaja is given, with such additions, alterations and amendments as His Highness may deem fit to make.

* Khan Sahib A. A. Kherie and the Law Secretary wish to associate themselves with the views expressed above.

39. The following stages may be prescribed in regard to the passing of bills :—

- (a) Leave to introduce a bill.
- (b) Discussion of the principles of the bill.
- (c) The appointment of a select committee to consider the bill.
- (d) Consideration of the report of the Select Committee.
- (e) Final passing of the bill.

The bill will then be sent up for the sanction of His Highness the Maharaja.

The Prime Minister may, instead of submitting it for the assent of His Highness, return it to the Council for reconsideration, in whole or in part, together with any amendments which he may recommend.

40. It should be competent to the Council to suspend the rules of business and pass a bill without the above formalities in cases where it considers such suspension of the rules necessary.

Emergency Legislation:

41. The Committee is unanimously of opinion that, in cases of emergency, the Government may be empowered to legislate on matters within the purview of the Council. The measure will have the force of law on receiving the assent of His Highness the Maharaja, for such period as may be specified therein not exceeding six months,—

- (a) but it may be extended for a further period not exceeding six months; and
- (b) be withdrawn at any time by His Highness the Maharaja.

If, however, the Legislative Council is in session at the time an emergency legislation is deemed by the Government to be necessary, the Committee considers

that it should be placed before the Council. In such a case the President should have the power to suspend the rules of business of the Council in order that the legislation may be passed in one day.

Power and
Procedure :

Financial :

42. (1) In respect of every financial year a statement of the estimated receipts and expenditure of the State for that year should be laid by the Government before the Council.

(2) The estimates of expenditure embodied in the annual financial statement should show separately—

(a) the sums required to meet expenditure described as expenditure on excluded heads (*vide* para 59 *infra*); and

(b) the sum required to meet other expenditure proposed to be made from the revenues of the State.

43. No proposal for the appropriation of any revenue or moneys for any purpose should be made except on the recommendation of the Government.

44. The estimates relating to expenditure other than on excluded heads should be submitted to the Council in the form of demands for grants, and the Council should have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

Supplementary
statement of
expenditure:

45. If, in respect of any financial year, further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, a supplementary statement showing the estimated amount of that expenditure should be laid by the Government before the Council.

Special provi-
sions as to
financial pro-
posals :

46. No proposal—

(a) (for imposing or increasing any tax; or

- (b) for regulating the borrowing of money or the giving of any guarantee by the Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Government ;

should be made in the Council except on the recommendation of the Government.

47. (1) The Prime Minister should be empowered to authenticate by his signature a schedule specifying—

Authentication
of schedule of
authorised
expenditure :

- (a) the grants made by the Council;
- (b) the several sums required to meet the expenditure on excluded heads, but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Council:

If the Council has not assented to any demand for a grant or has assented subject to a reduction of the amount specified therein, the Prime Minister may, if in his opinion the refusal or reduction would affect the carrying on of any department or the due discharge of the Government's responsibility, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary.

(2) The schedule so authenticated should be laid before the Council, but shall not be open to discussion or vote.

Interpellations:

48. The power to ask questions to elicit information from the Government should be given to the Council. Each member may ask five questions in a session. The members may be empowered to put supplementary questions.

Interpellations:

Resolutions:

Resolutions: 49. The members of the Council may be empowered to move resolutions on matters of public interest or importance relating to the administration of the State. No member should be empowered to move more than two resolutions in the same session.

Adjournment motions:

Adjournment Motions: 50. A motion for an adjournment of the business of the Council for the purposes of discussing a definite matter of urgent public importance may be made in the Council with the consent of the President.

The Prime Minister, at any time, after notice has been given of a motion for adjournment, notwithstanding the consent of the President or before that consent has been given, take cognizance of such motion and disallow it on the ground that it could not be moved without detriment to the public interest, and if he does so, the adjournment motion shall not be permitted by the President and no further discussion of the motion shall take place.

**Sessions,
Summoning,
Prorogation
and Dissolu-
tion:**

51. The Committee is of opinion that the Council should be summoned at least twice in every year. One would be a Budget session of ordinarily ten days' duration and the duration of the other may be not less than four days. The Government will have the power to summon a session of the Council, extend, adjourn, prorogue and dissolve it.

Term: 52. Three years may be fixed as the life of the Council.

Quorum: 53. Thirty members may constitute a quorum.

Officers: 54. The Council should have a secretary and such staff as may be deemed necessary by the Government.

55. We are unanimously of opinion that the system of having special committees of the legislature for definite purposes may be adopted. Dr. A. B. Keith has observed:

Standing
Committees

"It would appear possible.....to develop the use of such committees and to assign to them the duty of studying the desirability of legislation, the effects of existing legislation, and cognate matters, so that the legislature would be able to deal as intelligently as possible with issues presented to it. Such committees might be kept in touch with the heads of the several departments of State, so that they could be asked to advise on major administrative issues apart from proposals of legislation. In this way the legislature could be kept in touch with the executive without adopting responsible government in the ordinary form. Representatives to such committees would naturally be selected by the members of either House of the legislature in an agreed proportion."

Three such committees may be appointed, namely,—

- (1) The Taxation and Finance Committee,
- (2) The Local Self-Government, Education and Public Health Committee, and
- (3) The Public Works and Railway Committee.

We would add that the annual Budget and all proposals for fresh taxation should be placed before the Taxation and Finance Committee, confidentially, for their consideration before being presented to the Council.

The functions of the Committee would be purely advisory.

EXCLUDED SUBJECTS.

56. The legislature in an Indian State is in a peculiar position owing to its relations with the Paramount Power and the necessity of safeguarding the Ruler's prerogatives, powers and privileges. Such matters cannot, appropriately or without embarrassing complications, be

Legislative
Exclusions

brought under open discussion in a legislative body. It is, therefore, usual to specify those subjects which may not be included within the purview of the legislature. Adopting the principles, which have found acceptance in other Indian States, we recommend that the following subjects may be excluded from the purview of the Council:—

- (a) The prerogatives, rights and powers of His Highness the Maharaja;
- (b) The Ruling Family of Jaipur;
- (c) The relations of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;
- (d) Matters governed by treaties or conventions or agreements, now in force or hereafter to be made by His Highness the Maharaja;*
- (e) The provisions of the Constitution Act;
- (f) Such matters as may, from time to time, be specially reserved by His Highness the Maharaja;

A brief explanation is necessary in regard to clause (a). It is possible to interpret this clause too widely so as to bring under it every act of the Government and of their officers, which, in a sense, may be considered as those of His Highness the Maharaja, who is the fountain-head of all authority. To exclude the possibility of such an interpretation a suitable explanation should be added to the clause in the Constitution Act.

57. The Committee also recommends the exclusion of the following subjects:—

- (g) the relations of the sardars with His Highness

* Mr. T. R. Paliwal dissents regarding Clause (d).

the Maharaja and their personal or hereditary privileges, rights and status, granted or recognised by His Highness the Maharaja.*

(h) the State Army.†

(i) On the motion of our colleague, Mr. Shah Alimuddin Ahmad, a resolution was passed that "the matters affecting Muslim religion, religious usages, social customs and practices governed by religion and other matters *exclusively* concerned with the Muslim community, shall not be passed unless 3/4ths of the Muslim members in the Legislature vote for them".‡

*For: (1) Thakur Kushal Singhji, (2) Thakur Surendra Singhji (3) Captain Chiman Singh, (4) Seth Chiranji Lal Loyalka, (5) Maulvi Hamidulla Khan, (6) The Law Secretary, Messrs. (7) Khan Sahib A. A. Kherie, (8) L. N. Yadava, and (9) Shah Alimuddin Ahmed.

Against: Messrs. (1) V. D. Kulhari, (2) N. C. Kasliwal, (3) T. R. Paliwal, and (4) K. C. Patni.

Neutral: (1) Chairman, (2) Mr. C. L. Agarwal, and (3) Seth Suraj Buksh Ghiya.

†For: (1) Thakur Kushal Singhji, (2) Thakur Surendra Singhji (3) Captain Chiman Singh, (4) Seth Chiranji Lal Loyalka, (5) Maulvi Hamidullah Khan, (6) The Law Secretary, (7) Khan Sahib A. A. Kherie, (8) Mr. L.N. Yadava and (9) Mr. Shah Alimuddin Ahmad.

Against: Messrs. (1) C. L. Agarwal, (2) N. C. Kasliwal, (3) T. R. Paliwal, (4) K. C. Patni, and (5) V. D. Kulhari.

Neutral: (1) Chairman, and (2) Seth Suraj Buksh Ghiya.

‡For: (1) Thakur Kushal Singhji, (2) Thakur Surendra Singhji (3) Captain Chiman Singh, (4) Seth Chiranji Lal Loyalka, (5) Maulvi Hamidullah Khan Messrs. (6) Khan Sahib A. A. Kherie, (7) L. N. Yadava, and (8) Shah Alimuddin Ahmed.

Against: (1) Chairman, (2) The Law Secretary, and Messrs. (3) N. C. Kasliwal, (4) T. R. Paliwal, (5) C. L. Agarwal (6) V. D. Kulhari.

Neutral: (1) Mr. K. C. Patni, and Seth Suraj Buksh Ghiya.

58. The Chairman wishes to remark that there is no necessity for introducing a special provision of this kind relating to one particular community in the State.

Financial
Exclusions :

59. The Committee decided by a majority that the following expenditure should be regarded as coming under "excluded heads":* —

- (a) the Palace, including the staff and household of His Highness the Maharaja and the Palace troops;
- (b) the pensions of public servants and the rozinas of rozindars;
- (c) expenditure relating to or affecting—
 - (i) the relations of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;
 - (ii) Matters governed by treaties or conventions or agreements now in force or hereafter to be made by His Highness the Maharaja;
 - (iii) Interest on loans and charges on account of sinking funds guaranteed at the time of raising loans; and
 - (iv) Expenditure of which the amount is specified by or under any law.
- (d) Expenditure on State Army;
- (e) Compensation for Excise to jagirdars, for bhomchauthan to thikana Diggi, for excise to the Bhomias of Torawati, for customs to thikanas of Sheikhawati; and
- (f) The salaries of the Prime Minister, the other Ministers and the Judges of the High Court.

* In regard to Clauses (a), (b) and (c) (i), (iii) and (iv) the Committee was unanimous.

The Committee was unanimous in recommending the exclusion of the salaries of the Judges of the High Court but a majority was in favour of the exclusion of the salaries of the Prime Minister and the other Ministers also.

REPRESENTATIVE ASSEMBLY.

60. The question, whether the Legislature under our scheme should consist of a single chamber or should be bicameral has received our close attention. It is not our intention to discuss here the theoretical arguments in favour of or against the two theories. These were brought out in our deliberations, and after giving due consideration to them a majority of us are of opinion that neither of the above proposals is feasible and that under the conditions at present in Jaipur a legislature composed of two Houses, but not of a bicameral character, would offer the best solution.

61. The genius of Dewan Rangacharlu conceived the idea, for the first time in India, of calling together an assembly of ryots and merchants with the double object of providing a constitutional forum for the ventilation of popular grievances and an opportunity to the Government to explain to the people's representatives their intentions, measures and policies. For more than two decades this Assembly fulfilled an essential purpose in Mysore, and even after the establishment of the Legislative Council with much larger powers, it has not lost its hold on the popular imagination. In Jaipur the general backwardness of the people, both in the khalsa and thikana areas, requires special constitutional arrangements for their protection. The effective

representation in a chamber, predominantly their own, of tenants, the smaller tradesmen, the primitive tribes and such other sections of the population is, therefore, an imperative necessity. These people cannot ordinarily hope to get a place in a chamber elected on a high franchise.

62. It is this consideration and not the creation of a "bicameral legislature" that has weighed with us in proposing two chambers. These two Houses do not stand in the relation of a Lower and an Upper House but are intended to be supplementary to each other. The Council will not be a Senate designed to act as a brake on a democratic Lower House but the real effective chamber where measures of legislation will be considered, the budget discussed and voted upon, where questions will be put on matters of public interest and resolutions, expressive of the popular will, considered and passed. The Assembly will perform more limited functions. It will not take part in legislation; the budget will not be submitted to its vote though discussion would be allowed; its main function will be to bring to the notice of Government the wants and difficulties of the people by means of representations and hear the answers of Government to those representations. The Government may also consult the house on any matter on which they might wish to elicit public opinion. In short, it will be a house for "representation, reference and consultation".

Composition
of the Assembly;

63. The Committee is of opinion that the Assembly may be composed of 120 members, excluding the President. All the members would be elected. Out of this number, 89 seats will be allotted to territorial constituencies, 25 to sardars, and six to functional groups. Out of the territorial seats the Muslims are to

get eleven reserved seats (representing a weightage of 50%). The Chairman considers that at least a weightage of 96%, as given in the Council, may be given to the Muslims in the Assembly also. Out of the six functional seats, two may be reserved for women, two for Labour and two for Trade and Commerce.

64. In our opinion there should be no official or nominated bloc in the Assembly. Officers of Government will be present and have a right to give answers to questions and offer explanations on behalf of the Government, but will not have the power to vote.

POWERS AND FUNCTIONS OF THE ASSEMBLY.

65. The Committee is unanimously of opinion that the following powers and functions may be given to the Assembly :—

(a) Any member of the Assembly may, at a meeting of the Assembly, submit a representation for the consideration of the Government on any matter of public interest or importance relating to the administration of the State.

Representations :

(b) As in the case of the Council, the members of the Assembly should have the power of interpellation. Each member may ask one question in a session. Supplementary questions may be allowed by the President in his discretion.

Interpellations :

Discussion of
the State
Budget :

(c) The Assembly may be empowered to discuss the general principles of the State Budget. The annual financial statement may be placed by the Government before the Assembly for such discussion every year. The Assembly will have no power to vote on the Budget.

President and
Vice-Presi-
dents :

66. The Committee unanimously recommends that the Prime Minister should be the President of the Assembly. The Ministers should be Vice-Presidents in the order of seniority.

Officers

67. The Assembly may have a Secretary and such other staff as the Government may think necessary.

Term of the
Assembly :

68. Three years may be fixed as the term of the Assembly. The Committee is of opinion that the elections to the Council and the Assembly may be held simultaneously.

Sessions,
summoning,
prorogation &
dissolution :

69. There should be at least one session of the Assembly of ordinarily eight days' duration in a year. The Government will have the power to summon a session of the Assembly, extend, adjourn, prorogue and dissolve it.

Quorum :

70. Forty members may constitute a quorum.

Excluded
Subjects :

71. The Committee is of opinion that the subjects excluded from the purview of the Council should also be excluded from the Assembly.

MISCELLANEOUS.

Privileges to
Members :

72. Members of the Legislature in British India and certain Indian States enjoy freedom of speech in the Legislative Chamber and they are not liable to any

proceedings in any Court in respect of anything said or any vote given by them in the Chamber or in any of its Committees. They are not liable also, to arrest or detention in prison under a civil process during the continuance of any meeting of the Chamber of which they are members. Further, any person who publishes, by or under the authority of the Legislature, any report, paper, votes or proceedings will not be liable to any legal proceedings.

In the opinion of the Committee, these privileges may be accorded to the members of the Council and the Assembly in Jaipur.

73. The Committee considers it desirable that the members of the Council and the Assembly should take the oath of allegiance to His Highness the Maharaja, before taking their seats in their respective houses, in a form that may be prescribed by the Government.

Oath to members :

74. The question of allowances to be paid to the members of the Council and the Assembly may be left to the decision of the Government.

Allowances & honoraria to the members :

75. A sitting member of either house should vacate his seat if he becomes subject to the disqualifications for membership. He may also vacate his seat by submitting his resignation to the Prime Minister written in his own hand.

Vacation of Seats.

76. The Committee is unanimously of opinion that the President of the Council and the President of the Assembly should have the power to direct any member, whose conduct is grossly disorderly, to withdraw from the House and any member so ordered shall do so forthwith, and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second

Powers of the President to order withdrawal of Members

time in the same session, the President may direct the member to absent himself from the meeting of the House for any period, not longer than the remainder of the session, and the member so directed shall absent himself accordingly.

Restrictions as
to discussion

77. It was unanimously agreed that a convention should be built up that matters *sub-judice* and the conduct of judges of the High Court of Jaipur in the discharge of their duties should not be brought under discussion either in the Council or in the Assembly.

Savings
Clause:

78. The Committee unanimously agreed that the following savings clause may be incorporated in the Constitution Act.

" Nothing shall affect or be deemed to have affected the prerogative of His Highness the Maharaja to make and pass Acts, Proclamations and Orders in His Highness' discretion without reference to the Council or the Assembly, which right is hereby declared to be and to have always been possessed and retained by His Highness the Maharaja."

CHAPTER IV.

**DISQUALIFICATIONS AND QUALIFICATIONS FOR
MEMBERSHIP AND FRANCHISE.**

79. The Committee considered the question what disqualifications should render a person ineligible for membership of the two Houses and have decided that the following provisions, based on the Government of India Act, 1935, and the Mysore Constitution Act, may be adopted here:—

Disqualifica
tions.

- (1) A person should be disqualified for being chosen as, and for being, a member of either House—
 - (a) if he holds any office in the civil or military service of His Highness the Maharaja, other than an office declared by rules made under the Constitution Act not to disqualify its holder;
 - (b) if he is of unsound mind;
 - (c) if he is an undischarged insolvent;
 - (d) if, after the passing of the Constitution Act, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of any offence or corrupt or illegal practice relating to elections which has been declared by any Act or rules made under the Constitution Act to be an offence or practice entailing disqualification for membership of either House, unless such period has elapsed as may be specified in that behalf by the provisions of that Act or rule;

- (e) if, whether before or after the passing of the Constitution Act, he has been convicted of any other offence involving moral turpitude or violence and sentenced to imprisonment for not less than one year by a court in Jaipur or elsewhere, unless a period of five years, or such less period as the Government may allow in any particular case, has elapsed since his release. Whether an offence involves moral turpitude or violence, is a question for Government to decide, and their decision will be final;
- (f) if he has been dismissed from the civil or military service of His Highness the Maharaja, unless five years have elapsed from the date of dismissal or the Government has removed the disqualification;
- (g) if, having been a legal practitioner, he has been debarred or is under suspension from practising as such by order of a competent court, the disqualification in the latter case being operative during the period of such suspension or the term of the House, whichever is longer;
- (h) if, having stood as a candidate for election for either House or having acted as an election agent of any person who has so stood, he has failed to lodge a return of election expenses within the time and in the manner required by any Act or rule made under the Constitution Act, unless five years have elapsed from the date by

which the return ought to have been lodged, or the Government has removed the disqualification:

Provided that a disqualification under Clause (h) of this provision shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Government may in any particular case allow.

- (2) A person shall not be capable of being chosen a member of either House while he is serving a sentence of transportation or of imprisonment for a criminal offence.
- (3) Where a person, by virtue of conviction or a conviction and a sentence, becomes disqualified, his seat shall not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this provision he shall not sit or vote.
- (4) The disqualification mentioned in clause 1 (a) above shall not be applicable to Ministers and to such officers as may be nominated to the Council by the Government.

An explanation is necessary in respect of clause 1 (e). The Committee, after full consideration, is of opinion that a sentence of imprisonment for an offence

should not operate as a disqualification, unless that offence involves, in the opinion of the Government, moral turpitude or violence.

**Qualifications
for Membership.**

80. We have considered the question whether the qualifications for voters and candidates should be different and come to the conclusion that there is no need for such differentiation, except in respect of (1) age, and (2) literacy in respect of candidates whose candidature is based solely on a literacy qualification.

81. The following general qualifications may be prescribed in the case of candidates for either House:—

- (1) he must be qualified as a voter for the House for which he wishes to stand as a candidate;

Provided that a sardar, as defined in the Constitution Act, shall not be eligible to stand for election in a territorial constituency.

- (2) he must have resided continuously for six months in the State before the preparation of the electoral roll;

- (3) he must be of 25 years of age; and

- (4) a person can stand solely on the literacy qualification:—

(a) for the Council, if he is a graduate of five years standing; and

(b) for the Assembly, if he has passed the Matriculation examination.

Provided that, in the case of both, he should have resided in the State continuously for a period of five years.

Explanation:—A person shall be deemed to be resident in any area within the State if he ordinarily lives in that area or maintains a dwelling house therein ready for occupation in which he occasionally dwells.

82. The Committee is of opinion that in order to encourage women and members of the primitive tribes and depressed classes to stand as candidates, the prescription of a lower franchise in their case is justified. We, therefore, suggest that where a woman or a candidate belonging to the primitive tribes or depressed classes stands solely on a literacy qualification—

- (a) for the Council, he/she should have passed the Matriculation examination, and
- (b) for the Assembly he/she should have passed the Vernacular Middle examination.

It may be mentioned here that we have similarly reduced certain other qualifications for these candidates.

83. The Committee recommends that intending candidates for the Council and the Assembly may be required to make a deposit of Rs. 150/- and Rs. 50/-, respectively. This deposit should be liable to forfeiture if a candidate fails to secure 1/8th of the total votes cast at the election.

FRANCHISE.

84. On the important question of franchise the Committee decided by a majority to prescribe the following qualifications for a voter for the Council and the Assembly.

The common qualifications for both the Houses are, that no person shall be enrolled in an electoral roll, unless he—

- (i) is a subject of His Highness the Maharaja,—by birth, or domicile,

(ii) is of sound mind, and.

(iii) has attained the age of 21 years.

85. For the Council a person should be entitled to be included in the electoral roll of any territorial constituency—

- (a) if he pays Rs. 50/- per annum as rent or revenue in cash or kind for land in the constituency, or
- (b) if he is entitled to vote in a municipality within the constituency, or
- (c) if he is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Highness' regular military forces, or
- (d) if he, in a rural area where there is no municipality, owns or resides in a house, or part of a house, within the constituency, the value of which is not less than Rs. 600/-, or
- (e) if he is an inami, muafidar, tankhadar or udaki, possessing twenty bighas of *chahi* or 80 bighas of *barani* land in the constituency. (For this purpose one bigha of *chahi* land may be treated as equivalent to four bighas of *barani* land.)
- (f) or if he has passed the Matriculation examination.

86. A person may be enrolled as a voter for the Assembly in a territorial constituency—

- (a) if he pays Rs. 25/- per annum, as rent or revenue, in cash or in kind for land in the constituency, or

- (b) if he is entitled to vote in a municipality within the constituency, or
- (c) if he, in an area where there is no municipality, owns, or resides in a house, or part of a house, within the constituency, the value of which is not less than Rs. 300/-, or
- (d) if he is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Highness' regular military forces, or
- (e) if he is an inami, muafidar, tankhadar or udaki, possessing ten bighas of *chahi* or 40 bighas of *barani* land in the constituency. (For this purpose, as in the case of the Council one bigha of *chahi* may be treated as equivalent to four bighas of *barani* land.)
- (f) or if he has passed the Vernacular Middle examination.

87. In reference to Clause 4 (a) and (b) of paragraph 81, Clauses (a) and (b) of paragraph 82, Clause (f) of paragraph 85 and Clause (f) of paragraph 86 prescribing literacy qualification for either House, the Government may also declare which examinations may be regarded as equivalent to the Degree, the Matriculation and the Vernacular Middle examinations.

SPECIAL ADDITIONAL QUALIFICATIONS.

88. A woman shall also be qualified to vote both Women.
for the Council and the Assembly

- (a) if she is a pensioned widow or the pensioned mother of a person who was an officer or non-commissioned officer or soldier of His Highness' regular military forces, or

(b) if she is proved to be literate.

Primitive
tribes and
Depressed
classes.

89. A person who is a member of the depressed classes or the primitive tribes may be included in the electoral roll of a territorial constituency of the Council

(a) if he is proved to be literate, or

(b) owns or resides in a house within the constituency the value of which is not less than Rs. 25/-, or

(c) if he pays Rs. 25/- as rent or revenue for land situated in the constituency.

90. For the Assembly, the Committee recommends in addition to the qualifications in clauses (a) and (b) above, that the payment of Rs. 12/8/- as rent or revenue for a land situated in the constituency may qualify a person belonging to these classes to be included in the electoral roll of the territorial constituency.

91. The Chairman regrets that he is unable to support the recommendations in Clause (a) of paragraphs 85 and 86 fixing the payment of revenue or rent of Rs. 50/- as the qualification for the Council and of Rs. 25/- for the Assembly. In spite of its best efforts the Committee was unable to get, except with reference to Sikar, Khetri and Uniara, full and accurate information regarding the total number of agricultural holdings in thikana areas. It received, however, valuable information in respect of the whole of the khalsa area through the courtesy of the Settlement Commissioner. But as this forms less than 30% of the total area of the State and the Committee understands that no information is available in the records regarding the number of state-grantees coming under the categories of muafidars, inamies, udakies, tankhadars etc., the information at the disposal of the Committee, for the determination of the question, could at best be described as only a very rough approximation. Judging, how-

ever, from the data at our disposal we may take it that the total number of holdings in the State is 5,32,000 and the approximate number that would come under enfranchisement on the basis of payment of rent or revenue alone would be 1,54,000 for the Assembly and 70,000 for the Council. To this, the number of muafidars, literates, pensioned military officers, house owners and municipal voters, that would be enfranchised, have to be added. This would mean that the number of voters for the Assembly, enfranchised on the land revenue (or rent) qualification alone, would be 1,54,000 as against 1,50,000, which was the number in the Mysore State till a couple of years ago for a population of over 7 million. Apart from the difficulties that would be caused in the preparation of electoral rolls, a large number of trained officers would be required to conduct the elections even if only 50% of the voters actually cast their votes. The Chairman feels that, in Jaipur, the resources in qualified officials to deal satisfactorily with such a big electorate, are inadequate, and he, therefore, recommends that before a decision on this question is arrived at, the Government may obtain the further information which is now lacking, and consider the size of the electorate which could satisfactorily be dealt with by the administrative staff at their disposal. It is of great consequence for the future of the new constitution that the first elections to the legislature should not be vitiated by confusion or irregularities, due to lack of trained and effective supervision. The officials in the State, except perhaps in Jaipur City, have not had any experience in the conduct of elections and it is important, therefore, that the electorate should be of manageable proportions. In this connection, attention may be invited to the remarks, reproduced below, of the Indian Franchise Committee, which was presided over by the late Lord Lothian:—

“The presiding officer is, in the main, the bottleneck of the polling system. He (or she) must be a person of sufficient authority and competence to manage the officials and control the agents of candidates, the voters, and if necessary the police in the polling station. He must be capable of understanding the law and practice relating to the conduct of elections sufficiently to enable him to decide any disputes that may arise. And, above all, he must be of such standing and reputation for integrity that he will be above suspicion of abusing his power in the interest of any candidate or parties, and that candidates, their agents, and the general public will have confidence in his impartiality. The number of suitable persons available as presiding officers varies in every province, and from district to district, in every province. In the main Government officers above a certain grade and salary have been used hitherto, supplemented in greater or less degree by non-officials. Even with these restricted classes, complaints, allegations of malpractices and the presentation of election petitions have been frequent. Such petitions may be expected to be more numerous in future, owing to the keener interest which is likely to be taken in future elections and the larger number of candidates. Presiding officers, therefore, of the necessary character and competence are essential.”

The Chairman would therefore, suggest that for the first two elections the size of the territorial electorates may be somewhat as follows:

In each tehsil, not more than one thousand

electors for the Legislative Council and not more than three thousand for the Representative Assembly.

An uninstructed and inexperienced electorate is a weakness and the wisdom of having a restricted franchise in the earlier stages of a constitution cannot be doubted.*

92. Finally, the Chairman agrees with the Committee that the whole question of franchise may be reconsidered by Government at the end of the first term of the two Houses.

93. The Committee wishes to make one remark regarding the disqualification in proviso to clause (1) of paragraph 81. Our colleague Thakur Kushal Singhji contended that the sardars should be permitted to contest seats in the territorial constituencies also, as zamindars and land-holders who have been given special representation in the British Indian Councils are not disqualified from contesting such seats. The analogy suggested by the Thakur Sahib is correct—nevertheless the Committee regrets its inability to accept his proposal, as, to do so, would not be fair to the general population. Owing to the special position which they occupy the sardars have been given a much larger representation in our scheme, proportionately, than their *confreres* have received in British India (*vide* paragraph 33). Further, if the sardars are allowed to contest the territorial seats, there is a danger of their capturing many of them to the detriment of the interests of the general public. Out of the total population of thirty lakhs, about *eighteen* lakhs live in thikana areas and under existing

* Khan Sahib A. A. Kherie and the Law Secretary also wish to associate themselves with the views expressed above by the Chairman.

conditions,—social and economic,—there is no doubt that the sardars generally exercise great influence over the tenants. A large portion of the jagir area is yet unsettled and the tenants enjoy neither certainty of rent nor stability of tenure. After giving full consideration to the matter and with every desire to meet the wishes of the jagirdars, the Committee is unable to recommend acceptance of their proposal.

94. Another suggestion made by the sardars requires consideration. They proposed that in respect of the seats reserved for them, either the sardars themselves or their nominees might be authorised to contest their seats. The Committee is unable to agree to this system of vicarious candidature. We are not aware of such a practice prevailing in any other constitution.

95. Another proposal made by the sardars was also not accepted by the Committee. A suggestion was put forward that the elections to both the Houses should be indirect, *i. e.*, certain panchas may be elected by the primary voters and the former would then record their votes for the contesting candidates. We need only say that the system of indirect elections is now out of favour as it is supposed to be undemocratic. The most serious objection to it is that it separates the candidate altogether from the elector by introducing a third party and the responsibility of the candidate to the elector is thereby weakened, if not eliminated.

APPOINTMENT OF A SPECIAL COMMITTEE.

96. After orders of the Government are passed on the recommendations of this Committee, we would recommend the appointment of a small committee to consider the following questions:—

- (1) Delimitation of territorial constituencies—
rural and urban—and allocation of seats—
Hindu and Muslim;
 - (2) Formation of constituencies for—
 - (a) Trade and Commerce;
 - (b) Labour;
 - (c) Women; and
 - (d) Graduates;
 - (3) Prescribing qualifications for the voters who
are to elect the sardars' representatives to
the Council and the Assembly; and
 - (4) Distribution of the seats assigned to sardars
among the various classes of state-grantees.
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CHAPTER V. THE EXECUTIVE.

97. In the Introductory Chapter we have given a brief description of the Executive Government as it stands today. The administration is now carried on under the direction of His Highness the Maharaja by a Council of Ministers consisting of a Prime Minister and four other Ministers. We believe the structure to be sound* and we consider the arrangement, whereby His Highness the Maharaja relinquished the office of the President of the Council of State and assigned it to the Prime Minister, to be an improvement. His Highness will thereby secure the benefit of independent advice from the ministers while retaining for himself full liberty of action on the recommendations of the Ministers. He will also be in a much stronger position to enforce the responsibility of his Ministers for the good government of the State.

98. The only change which the Committee would now recommend is the introduction of a popular element—which is now lacking—into the Council. This would be in accordance with the practice in several Indian States. The recommendation of the Committee is that at least one-half of the Ministers (excluding the Prime Minister) may be appointed by His Highness the Maharaja from amongst the elected members of the Council. The popular Ministers will have the same position, rank and pay as their other colleagues and

* Messrs. K. C. Patni and T. R. Paliwal wish to disassociate themselves with this view.

In line 4 of paragraph 98, read "Council of Ministers" for "Council" and in line 9, for "Council" read "Legislative Council".

will be eligible to hold any portfolio which His Highness may assign to them.*

99. The Chairman would wish to remark that, while he is whole-heartedly in sympathy with the idea of liberalising the administration by the introduction of a popular element into the Executive, he fears that statutory restriction of the choice of Ministers to the elected members of the Council might prove embarrassing in practice and hinder the appointment of the best available men. Character, integrity and capacity are essential qualifications for occupying the place of a Minister and it, not infrequently, happens that men possessing these qualifications hesitate to face the hazards of an election. Slogans and party cries sometimes move the electors more than the merits of a candidate, and the Chairman of the Joint Committee has expressed the view that a limitation of the kind under reference would unduly restrict the field of choice.

-
- ° 1. The Chairman proposed that there may be one popular Minister in the Council.
 2. Mr. T. R. Paliwal proposed that an executive of five Ministers including the Prime Minister should consist of the elected members of the legislature, and that the Ministers should resign on an adverse vote of the House.
 3. Mr. S. A. Ahmad proposed that besides the Prime Minister, half the Ministers should be from the elected members of the Legislative Council.

Mr. T. R. Paliwal's proposal:—

For:— Messrs. (1) K. C. Patni, (2) T. R. Paliwal, (3) V. D. Kulhari, and (4) Seth Suraj Buksh Ghiya.

Against:— Messrs. (1) S. A. Ahmad, (2) S. H. Mujtaba, (3) Khan Sahib A. A. Kherie, (4) the Law Secretary, (5) Thakur Kushal Singhji, (6) Thakur Surendra Singhji, and (7) Captain Chiman Singh

Neutral:— Messrs. (1) C. L. Agarwal, and (2) N. C. Kasliwal (subject to an explanatory note).

Mr. S. A. Ahmad's proposal:—

For:— Messrs. (1) C. L. Agarwal, (2) N. C. Kasliwal, (3) K. C. Patni, (4) T. R. Paliwal (5) V. D. Kulhari, (6) S. A. Ahmad, (7) S. H. Mujtaba, and (8) Seth Suraj Buksh Ghiya.

Against:— (1) Chairman, (2) the Law Secretary, and (3) Khan Sahib A. A. Kherie.

Neutral:— (1) Thakur Kushal Singhji, (2) Thakur Surendra Singhji, and (3) Captain Chiman Singh.

100. The following observations contained in the Chairman's draft of the Joint Parliamentary Committee Report are very pertinent:

"Indian opinion appears to attach great importance to this qualification as securing in the most effective manner control by the Legislature over the Executive. It is unknown to the constitutional law of the United Kingdom; but it has long been the rule in this country that a Minister must either find a seat within a reasonable time or resign his appointment, unless the Prime Minister should see fit to recommend him for a peerage; so that the qualification exists in practice, if not in law, though during the War there were instances of Ministers who had a seat in neither House. On the other hand we were impressed by the argument that at least in some Provinces the Governor might find it difficult to constitute an efficient Ministry from the members of a small and inexperienced Legislature; and it is no doubt true that in India owing to the very small proportion which the educated classes bear to the total population, there is no certainty that in the smaller Provinces the Legislatures will always contain men fit or experienced enough to assume the heavy responsibilities which Provincial Autonomy under the new order must necessarily involve. It was, therefore, suggested to us that the Governor ought not to be thus restricted in his choice, and that he ought to be in a position, if the need should arise, to select a Minister or Ministers from persons otherwise qualified for appointment but to

whom the doubtful pleasures of electioneering might make no appeal.

“The real difficulty arises in the unicameral Legislatures, most of which are likely to be found in the smaller and poorer Provinces.

“We have come to the conclusion, after giving our best consideration to the matter, that it would be wise in the circumstances not to limit the Governor’s choice of Ministers in the manner proposed by the White Paper, and that the first of the above suggestions should be adopted. The fear that the control of the Legislature over Ministers would be thereby weakened is, in our opinion, greatly exaggerated; in France, for example, where instances of Ministers appointed from outside the two Chambers are by no means unknown, there seems to be no evidence of any weakening of Parliamentary control over the Governments of which they were members.”*

It is well known that the Congress Prime Minister of a British Indian Province had to go outside both the Legislative Assembly and the Legislative Council (containing between them 261 elected members) to find a Minister enjoying his confidence. It is not suggested that only “safe” men should be appointed to the Ministry. On the other hand the Chairman considers that every effort should be made to appoint a Minister from among the elected members, but there should be no statutory direction limiting the selection to the elected members, at least for the first two terms of the Council. He would further suggest a slight elaboration of the Committee’s recommendation. It should be provided by statute that one at

* See paras 81, 82 and 83, pages 78 and 79 of I. C. R. Vol I., Pt. II.

least of the non-official Ministers should *not* be a sardar.

101. The Committee is agreed that the term of the popular Ministers should be coterminous with that of the Council. The term of the other Ministers and of the Prime Minister should, ordinarily, not exceed five years. It also recommends that the Ministers should always be Jaipurians and that the Prime Minister should, ordinarily, be a Jaipurian.

102. Our colleague, Mr. Shah Alimuddin Ahmad, proposed that at least one of the Ministers appointed from among the elected members should be a Muslim, and our colleague, Thakur Kushal Singhji, was of opinion that half the number of seats in the Ministry should be reserved for the sardars.* The Committee, however, is of opinion that there should be no statutory provision circumscribing the power of His Highness the Maharaja to make appointments to the Ministry in the way suggested by our colleagues. It recognises that it is desirable that all important communities, including the Muslims and important interests like those of the sardars should, as far as possible, get representation on the Council of Ministers. But these are matters to be settled by convention. The Committee is not aware of any constitution which prescribes statutory restrictions in such matters.

103. The Prime Minister will continue to occupy a leading position in the Ministry; he will have a special responsibility for the conduct of the administration on efficient and progressive lines; he will be expected to show initiative, energy and imagination. and must, therefore, have the power and authority adequate to the discharge of his responsibility.

* *Vide* also last but one paragraph of the Sardar Sabha's Scheme, (Appendix VII)

CHAPTER VI.
MISCELLANEOUS.

104. An essential feature of a civilised government and a much valued safeguard of civic liberty is an independent judiciary which would function free of all suspicion of executive influence. With the introduction of a democratic element into the Constitution, it becomes all the more necessary to prevent political or party bias invading the temple of Justice.

Independent
Judiciary.

105. We are glad to note that this principle has been recently given effect to in the State. Till a few months ago the Chief Justice of the Chief Court was also the Judicial Minister *ex-officio* in the administration. This arrangement was done away with in July, 1942, and the Chief Court was raised to the status of a High Court and was constituted the highest court of superintendence, appeal, reference and revision in all civil and criminal proceedings (*vide* Section 10 of the High Court Act). We would now recommend that the principles embodied in Section 220 of the Government of India Act, 1935, may be adopted.

The judges of the High Court may be appointed by His Highness the Maharaja, their age of superannuation should be fixed by statute, and they should hold office during good behaviour—provision being made for their removal by His Highness on the ground of physical or mental infirmity. These regulations need not, however, prevent the appointment of judges on a contractual basis, though we would suggest that, as far as possible, the spirit of the above recommendations should be kept in view in fixing the terms of employment.

Civil Service

106. An efficient and incorruptible Civil Service, free from every taint of political influence, is a *sine qua non* of a progressive administration and the best of democracies cannot function without its help and guidance. In our opinion, the introduction of a popular element into the Executive renders it specially necessary that there should be an independent Public Service Commission to ensure impartial recruitment of capable young men to the public services.

Public Service
Commission.

107. The proposal of establishing a Public Service Commissioner, instead of a Commission, does not commend itself to us. The Commission that we propose may consist of a Chairman and such number of members as the Government may decide to appoint, but at least one-half of the members must be persons who, at the date of their appointment, have held office for at least ten years under His Highness' Government. The tenure of office and the conditions of service of the members and the Chairman may be determined by the Government, but neither during their term of office nor subsequently should they be eligible to hold other offices of profit under the Government. The functions of the Committee should be purely advisory.

As in British India it should be the duty of the Commission to conduct examinations for appointments to the State Services. The Government of Jaipur may in their discretion exclude any service or services, from the purview of the Public Service Commission. Apart from such services, the Commission may be consulted

- (a) on all matters relating to the principles and methods of recruitment to the *Civil Services* and civil posts;
- (b) on the principles to be followed in making promotions and transfers from one service

to another and on the suitability of candidates for such appointments, promotions or transfers;

- (c) on disciplinary matters affecting a person serving the Government in a civil capacity;
- (d) on any claim by or in respect of a person who is serving or has served the Government in a civil capacity that any cost incurred by him in defending legal proceedings instituted against him in respect of acts done in execution of his duty, should be paid out of the revenue of the Jaipur State; and
- (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving the Government in a civil capacity.*

The Commission should not be consulted on the distribution of posts between various communities in the State.

108. A declaration of what has come to be known as Fundamental Rights is a favourite demand of nationalist politicians all over India, and Jaipur is no exception. A large majority of the witnesses, Hindu and Muslim, that appeared before the Committee, and a number of public bodies and associations have asked for such a declaration.

**Fundamental
Rights.**

109. The demand was, however, couched in general terms, and the witnesses were unable to suggest specific formulae. The question has received considerable attention in the Round Table Conference, at the hands of the Joint Committee and of a Committee of British Indian

* See Section 266 (3) Government of India Act, 1935.

politicians, but there is no unanimity of opinion regarding the efficacy of such declarations. Sir Tej Bahadur Sapru, in one of his published papers, has observed as follows:—

“I am aware of the objections that are urged against fundamental rights being specially mentioned in the Constitution, on the ground that when they are not enforceable in a court of law, they are no more than mere moral maxims, and that they generally amount to a limitation of the powers of the legislature. Many of the post-war constitutions have, however, included fundamental rights. It seems to me that in the peculiar circumstances of India, and particularly with a view to give a sense of security to the minorities and the depressed classes, it is necessary that too much emphasis should not be laid on the orthodox British legal point of view, regarding fundamental rights, but that some of them should find a place in the statute itself, and others might, as stated in the White Paper, find expression in the Royal Proclamation.”*

The Joint Parliamentary Committee observed:—

“The question of so-called fundamental rights, which was much discussed at the three Round Table Conferences, was brought to our notice by the British-Indian Delegation, many members of which were anxious that the new Constitution should contain a declaration of rights of different kinds, for reassuring minorities, for asserting the equality of all persons before the law,

* See page, 69. Memorandum on The White Paper by Sir T.B. Sapru.

and for other like purposes; and we have examined more than one list of such rights which have been compiled.....But there are also strong practical arguments against the proposal, which may be put in the form of a dilemma: for either the declaration of rights is of so abstract a nature that it has no legal effect of any kind, or its legal effect will be to impose an embarrassing restriction on the powers of the legislature and to create a grave risk that a large number of laws may be declared invalid by the Courts because inconsistent with one or other of the rights so declared.”*

110. We are of opinion that it is sound in principle not to impose ‘embarrassing restrictions, on the powers of a legislature’, as by doing so its proceedings would be liable to be challenged in courts of law, but as the request for a declaration has been voiced by almost every section of opinion in Jaipur, except the sardars, we recommend, though we have no illusion as to its practical efficacy, that a declaration of certain elementary rights may be included in a Royal Proclamation at the time of the promulgation of the new constitution.

111. The declaration that we would recommend may be somewhat as follows:—

- (1) No person should be deprived of his property or interfered with in the enjoyment of his property, except under the authority of law; †
- (2) The liberty of a person should not be interfered with, except under the authority of law;

* I. C. R. Report Vol. (Part I) para 366.

† See Sec. 299 (1) Government of India Act, 1935.

- (3) So far as may be, the subjects of His Highness the Maharaja, of whatever race or creed, should be freely and impartially admitted to offices in the Government service, the duties of which they may be qualified by their education, ability, and integrity duly to discharge;
- (4) The protection of the culture, language, script and education should be guaranteed to all minority communities; * and
- (5) The protection of the culture, language, script and education should be guaranteed to all communities. †

112. The Chairman is, however, of opinion that clauses (4) and (5) of the suggested declaration may be omitted as they lack definiteness and as difficulties may be encountered in giving practical effect to them. The concept of "culture" is susceptible of different interpretations and it is not clear what exactly is meant by "guarantee of education of minorities and of all communities". Questions of finance and administrative feasibility require solution before such a declaration could be made and it would seem to be unwise for Government to commit themselves to it.

**Local Self
Government.**

113. A constitutional scheme would not be complete if it provided only for the structure of the central government. Without proper delegation of functions and powers to local authorities in local affairs, there would be no satisfactory arrangement for looking after some matters which most vitally affect the population. Local Self-Government includes the management of the civic affairs of big

* Proposal of Mr. Shah Alimuddin Ahmad.

† Proposal of Mr. Karpoor Chandra Patni.

cities like Jaipur, of the smaller towns and of the villages. We understand that a special committee is sitting to frame a scheme of municipal government for Jaipur City and towns having a population of 5,000 and above. The labours of this committee are said to be nearing completion and we have no remarks to offer except that a suitable scheme of municipal government may soon be brought into force.

114. Eighty percent of the people live in rural areas. The formation of panchayats for each village, or a group of villages, with power and resources to manage local affairs is an essential preliminary. Rural improvement is impossible, unless the interest and the public spirit of the rural population is enlisted in that work, and no outside agency, be it government or any other, can do for the village folk what they can, and ought to do, for themselves. But they require help, guidance and financial resources, and it should be the duty of the government to provide them in the fullest measure permitted by their resources. We would quote in this connection the following valuable suggestions made by Mr. G. D. Birla, in his reply to the Committee's questionnaire:—

“As most of these problems concern the daily life of the villager, it is my firm opinion that until the villages have a direct hand in the solution of these matters, the villager could never be politically educated. And as long as he has to depend for the solution of his immediate problems on the politician, he will continue to be exploited even by his own champion and thus the evils of the political reforms would in the end defeat the very end.

“This does not mean that the villager is a happy person today. He is a much-exploited creature.

But if our aim be to stop this exploitation and try his uplift, then we should all suggest only such ways and means as would ultimately make the villager his own liberator. He must be taught to stand on his own legs.

“Our object, therefore, should be that the villager must have a direct hand in the solution of his problems. I would, therefore, suggest that we should build a pyramid from bottom to top and not from top towards the bottom as we have been doing so far in India..

“My suggestion, to put it in concrete shape, is that every village should be organised on a gram-panchayat system.”

115. The constitution of the panchayat should be thoroughly democratic. It may consist of not less than five and not more than nine members elected on a very low, and if possible adult franchise. The chairman of the panchayat may, in the first instance, be nominated but the right of election may be granted, as soon as the panchayats show themselves competent to exercise that power. How to provide the panchayats with financial resources; whether by the levy of a small tax on houses or by the imposition of a cess on revenue or rent, are matters which require careful consideration. In any case the Central Government should set apart every year a definite sum which would be distributed among panchayat generally in proportion to the spirit of self-help and self-reliance which they may show.

116. The ideal should be that every village should have a good approach from the main road, a good drinking water well, a simple system of drainage for carrying off the storm water and sullage, a school in the village or near-by, a co-operative society, a reading room, a common

hall where the panchayat and the villagers may meet, common grazing ground for the cattle and a small village forest from which fire-wood and timber required for the domestic purposes of the villagers may be obtained. It is hoped that in course of time the villagers will develop sufficient public spirit to tax themselves moderately for initiating and maintaining the works of improvement in their villages. There should not be too much official interference with the management of the affairs of the panchayat but the opposite mistake should not be made by leaving them entirely to themselves. There should be official guidance from the tehsildar, and supervision over the money transactions, but this supervision should, as far as possible, be kept in the back-ground and the panchayat must be made to feel that it would be trusted if it deserved trust. If a system of village government is developed somewhat on these lines, the initiative, and the dormant public spirit of the rural people will be stimulated and they will acquire valuable experience and qualify themselves for handling the larger political affairs concerning the State as a whole. We trust that the Government will give consideration to these proposals and sanction a comprehensive system of rural self-government for the whole State. We are definitely against the formation of district boards which exist in British Indian Provinces. To co-ordinate the work of panchayats and consider the wants of a tehsil or a nizamat, we would suggest the holding of district and tehsil conferences under the auspices of the nazim or suitable non-official gentlemen.

117. A constitution should be the instrument for the social and economic betterment of the people and for this purpose we recommend the formation of an Economic Development Board, which should meet periodically for the discussion of questions relating to education, agricul-

Economic
Development
Board.

ture and industries and commerce in the State. The Board should consist of high officers of Government, administrative and technical, and of businessmen, landholders, technicians and non-official gentlemen from the public life of the country. The Minister-in-charge of the Development Department may be the President of the Board and an adequate financial grant should be made annually from State funds for the work of the Board which may include inquiries and research into problems bearing on the economic life of the country. Under the auspices of the Board an annual conference may be held to review progress and prepare the programme for the next year.

Education.

118. The Committee feels that it should make a brief reference to the progress of education in the State. At present literacy is low, being only 5·3 percent, and the expansion of elementary education, particularly among women, is an urgent necessity. A technical high school for the teaching of civil, mechanical and electrical engineering will diminish unemployment among educated middle classes by equipping them with qualifications for suitable careers. The young men who pass out from the State Colleges are finding it increasingly difficult to get into the medical, engineering and science colleges in British India with the result that, for filling important technical posts in the State, qualified men have to be imported from outside. The establishment of a University in Jaipur will, we hope, remedy this defect and that suitable provision will be made for the professional education of the youth of the country.

119. Finally, we would recommend that the Government may review the working of the Constitution after it has been in operation for a period of five years, with a view to effecting further improvements.

CONCLUDING OBSERVATIONS.

120. It is a truism that the success of a constitution largely depends on human factors. Among the many elements that make for its success, nothing is more essential than the type of men available for the legislature and the spirit in which they work the constitution. For, "the success of a constitution depends", to quote the words of the late Lord Lothian, "far more on the moral courage, the public spirit and the integrity of the politicians than on the terms of the constitution itself". If popular representatives do not place the interests of the country above party, community or sect, the best of constitutions must fail. Our experience in the work of this Committee has filled us with the hope that public spirit, moderation, and a sense of realism will be forthcoming among the members of the new legislature. We are equally confident that the sardars will recognise the trend of new forces and respect the strength of popular aspirations; cordiality of relations between them and the people is indispensable if a healthy atmosphere for the working of the new Constitution is to be created. The responsibility for bringing into existence such an atmosphere lies, as much on the Government, as on the sardars and the representatives of the people, for the officers of Government, who have hitherto had no occasion to sit and work side by side with popular representatives, will have to change their outlook and methods of approach to public questions. Harmony between different communities happily exists to-day but there is the danger that the prospect of political power may have a disturbing effect. Toleration and goodwill more than ever will be necessary under the new Constitution. May we conclude with the hope that those, to whom will be entrusted the task of making these

reforms a success and helping the growth of the Constitution, will rise to the height of their opportunities, fulfil the expectations of His Highness the Maharaja and earn the gratitude of the people!

S. HIRIANNAIYA,
(Chairman).

A. A. KHERIE.

JAI DEV SINGH.

*N. C. KASLIWAL.

*C. L. AGARWAL.

*TIKA RAM PALIWAL.

*KARPOORCHANDRA PATNI.

*VIDYADHAR KULHARI.

*SHAH ALIMUDDIN AHMAD.

*HAMIDULLAH KHAN.

*S. HASAN MUJTABA.

*SURAJ BAKSH GHIYA.

Sd. { RAM NATH PODAR.
(Vide letter attached.)

K. ISWARA DUTT,
(Secretary).

2-4-1943.

SUMMARY OF RECOMMENDATIONS.

(The recommendations are of the majority.)

The Committee recommends—

PARAS.

(a) a Legislative Council for making laws, discussing and voting on the Budget, putting questions and considering resolutions on matters of public interest, and

28

(b) a Representative Assembly composed mainly of representatives from the rural areas and elected on a much lower franchise, for ventilating popular grievances and providing a platform for lower and middle classes of the population, who, ordinarily, would not be able to get seat in the Council.

28

I. THE LEGISLATURE.

Legislative Council:

Composition:—The Legislative Council may consist of 59 members (excluding the president) of whom fourteen may be nominated by the Government and forty-five elected. The composition of the elected bloc may be as under:—

29

Territorial constituencies (five seats reserved for the Muslims on the basis of joint electorates, which represents a weightage of 96% with liberty to contest other territorial seats).

30

PARAS.	Sardars	...	...	...	...	...	10
	Functional seats:						
	Trade and Commerce					2	
	Women					1	
2000	Labour					1	
	Graduates					1	
						<hr/>	
						5	5
							<hr/>
							45

32 (The Chairman regards the representation to graduates as unnecessary.)

31 Of the nominated bloc of 14 members, not more than 9 may be officials and not less than five non-officials. By nomination, representation may be provided to such communities and interests, for instance, the cultivating tenants, as may be considered by Government to require representation.

35 *President*:—For the first term the Prime Minister should be the President, and for the second term, the President may be nominated by His Highness.

36 (The Chairman considers that at least for the first two terms the Prime Minister should be the President.)

37 *Vice-President*:—For the first term the next senior minister may be the Vice-President.

POWERS.

Legislative:—The power of making all laws with the exception of those concerning the excluded subjects, for the whole or any part of Jaipur State and for all the subjects of His Highness the Maharaja, wherever they

may be, should be given to the Council. All bills passed by the Council would become Acts only after the assent of His Highness the Maharaja. PARAS.
38

All bills should receive the previous consent of the Prime Minister before they are introduced in the Council. 38

Legislative Procedure:—The following procedure regarding legislation may be adopted and rules may be framed accordingly by the Government:—

- (a) Leave to introduce a bill.
- (b) Discussion of principles of the bill.
- (c) The appointment of a Select Committee to consider the bill.
- (d) Consideration of the report of the Select Committee.
- (e) Final passing of the bill. 39

The bill will then be sent up for the sanction of His Highness the Maharaja. 39

The Prime Minister may, instead of submitting it for the assent of His Highness, return it to the Council for reconsideration, in whole or in part, together with any amendments which he may recommend. 39

The Council should have the power to suspend the rules of business in regard to the passing by it of any measure of legislation. 40

Emergency Legislation:—In cases of emergency, the Government may be empowered to legislate on matters within the purview of the Council. The measure will have the force of law on receiving the assent of His Highness the Maharaja, for such period not exceeding six

PARAS. months. It may be extended for a further period not exceeding six months, and be withdrawn at any time by His Highness the Maharaja.

41

If, however, the Legislative Council is in session at the time an emergency legislation is deemed by the Government to be necessary, the Committee considers that it should be placed before the Council. In such a case the President should have the power to suspend the rules of business of the Council in order that the legislation may be passed in one day.

41

Financial Power and Procedure:—For every Financial year a statement of the estimated receipts and expenditure should be laid by the Government before the Council.

42

The estimates of expenditure should show separately:—

(a) the proposed expenditure on excluded heads; and

42

(b) other expenditure.

No proposal for the appropriation of any revenue or moneys for any purpose should be made except on the recommendation of the Government.

43

The estimates relating to expenditure other than on excluded heads should be submitted to the Council in the form of demands for grants and the Council should have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

44

Supplementary statement of expenditure:—If, in respect of any financial year, further expenditure from the revenues of the State becomes necessary over and above

the expenditure theretofore authorised for that year, a supplementary statement showing the estimated amount of that expenditure should be laid by the Government before the Council. PARAS. 45

*Special provisions as to financial proposals:—*No proposal—

(a) for imposing or increasing any tax; or

(d) for regulating the borrowing of money or the giving of any guarantee by the Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Government;

should be made in the Council except on the recommendation of the Government. 46

Authentication of schedule of authorised expenditure:—(1) The Prime Minister should be empowered to authenticate by his signature a schedule specifying—

(a) the grants made by the Council;

(b) the several sums required to meet the expenditure on excluded heads, but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Council: 47

If the Council has not assented to any demand for a grant or has assented subject to a reduction of the amount specified therein, the Prime Minister may, if in his opinion the refusal or reduction would affect the carrying on of any department or the due discharge of the Government's responsibility, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary. 47

PARAS. (2) The schedule so authenticated should be laid
 47 before the Council, but shall not be open to discussion
 or vote.

Interpellations:—The right of interpellation should
 be given to the Council. Each member in the Council
 may ask five questions in a session. The members may be
 48 empowered to put supplementary questions.

Resolutions:—Resolutions may be moved by the
 members of the Council on matters of public interest
 within the cognizance of the Council. No member can
 49 move more than two resolutions in the same session.

Adjournment motions:—A motion for an adjourn-
 ment of the business of the Council for the purposes of
 discussing a definite matter of urgent public importance
 may be made with the consent of the President. Appro-
 priate rules may be framed by the Government in this
 50 connection.

The Prime Minister, at any time after notice has
 been given of a motion for adjournment notwithstanding
 the consent of the President or before that consent has
 been given, take cognizance of such motion and disallow it
 on the ground that it could not be moved without detri-
 ment to the public interest, and if he does so, the adjourn-
 ment motion shall not be permitted by the President and
 no further discussion of the motion shall take place.
 50

Sessions etc:—The Council should be summoned at
 least twice in every year. One would be a Budget session
 ordinarily of ten days duration and the duration of the
 other may not be less than four days. The Government
 will have the power to summon a session of the Council,
 51 extend, adjourn, prorogue and dissolve it.

Term:—Three years may be fixed as the life of the Council. PARAS. 52

Quorum:—Thirty members may constitute a quorum. 53

Officers:—The Council should have a secretary and such staff as may be deemed necessary by the Government. 54

Standing Committees:—The system of having special committees of the Legislature for definite purposes may be adopted. Three such committees may be appointed, namely,—

- (1) The Taxation and Finance Committee.
- (2) The Local Self-Government, Education and Public Health Committee, and
- (3) The Public Works and Railway Committee. 55

The annual Budget and all proposals for fresh taxation should be placed before the Taxation and Finance Committee confidentially. 55

EXCLUDED SUBJECTS. 55-56

Legislative:—

The following subjects may be excluded from the purview of the Council:—

- (a) the prerogatives, rights and powers of His Highness the Maharaja;
- (b) the Ruling Family of Jaipur;
- (c) the relation of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;
- (d) matters governed by treaties or conventions or agreements, now in force or hereafter to be made by His Highness the Maharaja;

PARAS.

- (e) the provisions of the Constitution Act;
- (f) such matters as may, from time to time, be specially reserved by His Highness the Maharaja;
- (g) the relations of the sardars with His Highness the Maharaja and their personal or hereditary privileges, rights, and status, granted or recognised by His Highness the Maharaja;
- (h) the State Army; and
- (i) on the motion of Mr. Shah Alimuddin Ahmad a resolution was passed that "the matters affecting Muslim religion, religious usages, social customs and practices governed by religion and other matters *exclusively* concerned with the Muslim community shall not be passed unless $\frac{3}{4}$ ths of the Muslim members in the Legislature vote for them."

56-57

The Chairman thinks that there is no necessity for introducing a special provision of this kind relating to one particular community in the State.

56

It is possible to interpret clause (a) too widely so as to bring under it every act of the Government and of their officers, which, in a sense, may be considered as those of His Highness the Maharaja, who is the fountain-head of all authority. To exclude the possibility of such an interpretation a suitable explanation should be added to the clause in the Constitution Act.

57

Financial exclusions:— The following expenditure should be regarded as coming under "excluded heads":—

- (a) the Palace, including the staff and household of His Highness the Maharaja and the Palace troops; PARAS.
- (b) the pensions of public servants and the rozinas of rozindars;
- (c) expenditure relating to or affecting—
- (i) the relations of His Highness the Maharaja with His Majesty the King-Emperor or the Crown Representative;
 - (ii) matters governed by treaties or conventions or agreements now in force or hereafter to be made by His Highness the Maharaja;
 - (iii) interest on loans and charges on account of sinking funds guaranteed at the time of raising loans; and
 - (iv) expenditure of which the amount is specified by or under any law.
- (d) expenditure on State Army;
- (e) compensation for excise to jagirdars, for bhomchauthan to thikana Diggi, for excise to the bhomias of Torawati, for customs to thikanas of Sheikhawati; and
- (f) the salaries of the Prime Minister, the other Ministers and the Judges of the High Court, 59

REPRESENTATIVE ASSEMBLY.

Composition—The Representative Assembly may be composed of 120 members, excluding the President. All the members are to be elected. The allocation of seats may be as follows:—

PARAS.

Territorial:—

89

(eleven seats representing a weightage of 50% reserved for Muslims on the basis of joint electorates and with liberty to contest other general seats. The Chairman considers that a weightage of at least 96%, as given in the Council, may be given to the Muslims in the Assembly).

Functional:—

Women	2	
Trade & Commerce	2	
Labour	2	
	6	6
Sardars		25
		120

There should be no official or nominated bloc. The officers of Government will be present and have a right to give answers to questions and offer explanations on behalf of Government, but will not have the right to vote.

64

POWERS AND FUNCTIONS OF THE ASSEMBLY.

Representations:—Any member of the Assembly may, at a meeting of the Assembly, submit a representation for the consideration of the Government on any matter of public interest or importance relating to the administration of the State.

65

Interpellations:—The members of the Assembly should have the power of interpellation. Each member may ask one question in a session. Supplementary questions may be allowed by the President in his discretion.

65

Discussion of the State Budget:—The Assembly may be empowered to discuss the general principles of the State Budget, but will have no power to vote on it. PARA
65

President & Vice-Presidents:—The Prime Minister should be the President of the Assembly. The Ministers should be Vice-Presidents in the order of seniority. 66

Officers:—The Assembly may have a secretary and such other staff as the Government may think necessary. 67

Term:—Three years may be fixed as the term of the Assembly. The elections to the Council and the Assembly may be held simultaneously. 68

Sessions etc:—There should be at least one session of the Assembly of ordinarily eight days' duration in a year. The Government will have the power to summon a session of the Assembly, extend, adjourn, prorogue and dissolve it. 69

Quorum:—Forty members may constitute a quorum. 70

EXCLUDED SUBJECTS.

The subjects excluded from the purview of the Council should also be excluded from the Assembly. 71

MISCELLANEOUS.

Privileges to Members:—Members of the Council and the Assembly may be accorded the privilege of freedom of speech in their respective Houses and should not be liable to any proceedings in any court in respect of any thing said or any vote given by them. They should also not be liable to arrest or detention in prison under a civil process during the continuance of any meeting of the

PARAS. Chamber of which they are members. Further, any person who publishes, by or under the authority of the Council and the Assembly any report, paper, votes or proceedings will not be liable to any legal proceedings.

72

Oath to members:—The members of the Council and the Assembly should take the oath of allegiance to His Highness the Maharaja, before taking their seats in their respective houses, in a form that may be prescribed by the Government.

73

Allowances and honoraria to members:—The question of allowances to be paid to the members of the Council and the Assembly may be left to the decision of the Government.

74

Vacation of seats:—A sitting member of either House should vacate his seat if he becomes subject to the disqualifications for membership. He may also vacate his seat by submitting his resignation to the Prime Minister written in his own hand.

75

Powers of the president to order withdrawal of members:—The President of the either House should have the power to direct any member, whose conduct is grossly disorderly, to withdraw from the House and any member so ordered shall do so forthwith, and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meeting of the House for any period, not longer than the remainder of the session and the member so directed shall absent himself accordingly.

76

Restrictions as to discussion:—A convention should be built up that matters sub-judice and the conduct

of Judges of the High Court of Jaipur in the discharge of their duties should not be brought under discussion either in the Council or in the Assembly. PARAS.
77

Savings Clause:—The following savings clause may be incorporated in the Constitution Act:—

“Nothing shall affect or be deemed to have affected the prerogative of His Highness the Maharaja to make and pass Acts, Proclamations and Orders in His Highness’ discretion without reference to the Council or the Assembly, which right is hereby declared to be and to have always been possessed and retained by His Highness the Maharaja”. 78

II. DISQUALIFICATIONS AND QUALIFICATIONS FOR MEMBERSHIP AND FRANCHISE.

Disqualifications:—

(1) A person should be disqualified for being chosen as, and for being, a member of either House— 79

(a) if he holds any office in the civil or military service of His Highness the Maharaja, other than an office declared by rules made under the Constitution Act not to disqualify its holder; 79

(b) if he is of unsound mind; 79

(c) if he is an undischarged insolvent; 79

(d) if, after the passing of the Constitution Act, he has been convicted, or has, in proceedings questioning the validity or regularity of an election, been found to have been guilty of

PARAS.

any offence, or corrupt or illegal practice relating to elections which has been declared by any Act or rules made under the Constitution Act to be an offence or practice entailing disqualification for membership of either House, unless such period has elapsed as may be specified in that behalf by the provisions of that Act or rule;

79

(e) if, whether before or after the passing of the Constitution Act, he has been convicted of any other offence involving moral turpitude or violence and sentenced to imprisonment for not less than one year by a court in Jaipur or elsewhere, unless a period of five years, or such less period as the Government may allow in any particular case, has elapsed since his release. Whether an offence involves moral turpitude or violence, is a question for Government to decide, and their decision will be final;

79

(f) if he has been dismissed from the civil or military service of His Highness the Maharaja, unless five years have elapsed from the date of dismissal or the Government has removed the disqualification;

79

(g) if, having been a legal practitioner, he has been debarred or is under suspension from practising as such by order of a competent court, the disqualification in the latter case being operative during the period of such suspension or the term of the House, whichever is longer;

79

(h) if, having stood as a candidate for election for either House or having acted as an election agent of any person who has so stood, he has failed to lodge a return of election expenses within the time and in the manner required by any Act or rule made under the Constitution Act, unless five years have elapsed from the date by which the return ought to have been lodged, or the Government has removed the disqualification.

PARAS.

79

(2) A person shall not be capable of being chosen a member of either House while he is serving a sentence of transportation or of imprisonment for a criminal offence.

79

(3) Where a person, by virtue of conviction or a conviction and a sentence, becomes disqualified, his seat shall not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this provision he shall not sit or vote.

79

(4) The disqualification mentioned in Clause 1 (a) above shall not be applicable to ministers and to such officers as may be nominated to the Council by the Government.

79

Qualifications:—Qualifications for candidates and voters should not be different except in respect of (1) age, and (2) literacy in respect of candidates, whose candidature is based solely on a literacy qualification.

80

PARAS. The following general qualifications may be prescribed for a candidate for either House:—

81

(1) he must be qualified as a voter for the House for which he wishes to stand as a candidate, provided that a sardar, as defined in the Constitution Act, shall not be eligible to stand for election in a territorial constituency;

81

(2) he must have resided continuously for six months in the State before the preparation of the electoral roll;

81

(3) he must be of 25 years of age; and

81

(4) a person can stand solely on the literacy qualification:—

81

(a) for the Council, if he is a graduate of five years standing; and

(b) for the Assembly, if he has passed the matriculation examination.

Provided that, in the case of both, he should have resided in the State continuously for a period of five years.

81

Explanation:—A person shall be deemed to be resident in any area within the State if he ordinarily lives in that area or maintains a dwelling house therein ready for occupation in which he occasionally dwells.

81

Where a woman or a candidate belonging to the primitive tribes or depressed classes stands solely on a literacy qualification:—

82

- | | |
|--|--------------|
| (a) for the Council, he/she should have passed the matriculation examination, and | PARAS.
82 |
| (b) for the Assembly, he/she should have passed the vernacular middle examination. | 82 |

Deposits:—Intending candidates for the Council and the Assembly may be required to make a deposit of Rs. 150/- and Rs. 50/- respectively. This deposit should be liable to forfeiture if a candidate fails to secure 1/8th of the total votes cast at the election.

83

FRANCHISE.

The common qualifications for both the Houses are, that no person shall be enrolled in an electoral roll, unless he—

84

- | | |
|--|----|
| (i) is a subject of His Highness the Maharaja by birth, or domicile, | 84 |
| (ii) is of sound mind, and | 84 |
| (iii) has attained the age of 21 years. | 84 |

For the Council a person should be entitled to be included in the electoral roll of any territorial constituency—

85

- | | |
|--|----|
| (a) if he pays Rs. 50/- per annum as rent or revenue in cash or kind for land in the constituency, or | 85 |
| (b) if he is entitled to vote in a municipality within the constituency, or | 85 |
| (c) if he is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Highness' regular military forces, or | 85 |

PARAS. 2

85

(d) if he, in a rural area where there is no municipality, owns or resides in a house, or part of a house, within the constituency, the value of which is not less than Rs. 600/- or

85

(e) if he is an inami, muafidar, tankhadar or udaki, possessing twenty bighas of *chahi* or eighty bighas of *barani* land in the constituency. (For this purpose one bigha of *chahi* land may be treated as equivalent to four bighas of *barani* land).

85

(f) or if he has passed the matriculation examination.

86

A person may be enrolled as a voter for the Assembly in a territorial constituency:—

86

(a) if he pays Rs. 25/- per annum, as rent or revenue, in cash or in kind for land in the constituency, or

86

(b) if he is entitled to vote in a municipality within the constituency, or

86

(c) if he, in an area where there is no municipality, owns, or resides in a house, or part of a house, within the constituency, the value of which is not less than Rs. 300/-, or

86

(d) if he is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Highness' regular military forces, or

86

(e) if he is an inani, muafidar, tankhadar or udaki possessing ten bighas of *chahi* or forty bighas of *barani* land in the constituency. (For this purpose, as in the case of the Council, one bigha of *chahi* may be treated as equivalent to four bighas of *barani* land).

(f) or, if he has passed the vernacular middle examination. PARAS. 86

In reference to Clauses 4 (a) and (b) of paragraph 81, Clauses (a) and (b) of paragraph 82, Clause (f) of paragraph 85 and Clause (f) of paragraph 86 prescribing literacy qualification for either House, the Government may also declare what examinations may be regarded as equivalent to the degree, the matriculation and the vernacular middle examinations. 87

Special additional qualifications.—A woman shall also be qualified to vote both for the Council and the Assembly. 88

(a) if she is a pensioned widow or the pensioned mother of a person who was an officer, or non-commissioned officer, or soldier of His Highness' regular military forces, or 88

(b) if she is proved to be literate. 88

Primitive tribes and depressed classes.—A person who is a member of the depressed classes or the primitive tribes may be included in the electoral roll of a territorial constituency of the Council 89

(a) if he is proved to be literate, or 89

(b) owns or resides in a house within the constituency the value of which is not less than Rs. 25/-, or 89

(c) if he pays Rs. 25/- as rent or revenue for land situated in the constituency. 89

PARAS. For the Assembly, in addition to the qualifications in clauses (a) and (b) above, the payment of Rs. 12/8/- as rent or revenue for a land situated in the constituency may qualify a person belonging to these classes to be included in the electoral roll of the territorial constituency.

90

The Chairman, Khan Sahib A. A. Kherie and the Law Secretary dissent with the recommendations in clause (a) of paragraphs 85 and 86 fixing the payment of revenue or rent of Rs. 50/- as the qualification for the Council and of Rs. 25/- for the Assembly.

91

The Chairman, Khan Sahib A. A. Kherie and the Law Secretary suggest that for the first two elections the size of the territorial electorates may be somewhat as follows:

91

In each Tehsil not more than one thousand electors for the Legislative Council and not more than three thousand for the Representative Assembly.

91

The whole question of franchise may be reconsidered by Government at the end of the first term of the two Houses.

92

The sardars have been given separate representation. There is no necessity of allowing them to contest general seats.

93

The sardars' nominees cannot be authorised to contest seats reserved for sardars.

94

A small committee may be appointed to consider the following questions:—

96

- (1) Delimitation of territorial constituencies—rural and urban—and allocation of seats—Hindu and Muslim;

(2) Formation of constituencies for—

PARAS.

- (a) Trade and Commerce,
 - (b) Labour,
 - (c) Women, and
 - (d) Graduates;
- (3) Prescribing qualifications for the voters who are to elect the sardars' representatives to the Council and the Assembly; and
- (4) Distribution of the seats assigned to sardars among the various classes of state-grantees.

III. EXECUTIVE.

There shall be a Council of Ministers consisting of a Prime Minister, who will be the president *ex-officio* and such other ministers as His Highness may be pleased to appoint.

97

A popular element may be introduced into the Council. At least one-half of the ministers, excluding the Prime Minister, may be appointed by His Highness the Maharaja from amongst the elected members of the Legislative Council.

98

(The Chairman, while agreeing to the introduction of a popular element into the executive fears that statutory restriction of the choice of ministers to the elected members of the Council might prove embarrassing in practice and hinder the appointment of the best available men.)

99-100

The term of the popular ministers should be coterminous with that of the Council. The term of the other ministers and of the Prime Minister should, ordinarily,

not exceed five years. The ministers should always be Jaipurians and the Prime Minister should, ordinarily, be a Jaipurian. PARAS. 101

The representation of all important communities including the Muslims and important interests like those of sardars on the Council of ministers are matters to be settled by convention. 102

The Prime Minister will continue to occupy a leading position in the ministry and therefore, must have power and authority to the discharge of his responsibility. 103

IV. MISCELLANEOUS.

Independence of Judiciary:—The judges of the High Court may be appointed by His Highness, their age of superannuation should be fixed by statute, and they should hold office during good behaviour—provision being made for their removal by His Highness, on the ground of physical or mental infirmity. These regulations need not, however, prevent the appointment of judges on a contractual basis, though, as far as possible, the spirit of the above recommendations should be kept in view in fixing the terms of employment. 104-106

Public Service Commission:—It is necessary that there should be an independent Public Service Commission to ensure impartial recruitment to the public services. 107

The Commission may consist of a Chairman and such number of members as the Government may decide to appoint, but at least one-half of the members must be persons who, at the date of their appointment, have held office for at least ten years under His Highness' Government. The tenure of office and the conditions of service

of the members and the Chairman may be determined by the Government, but neither during their term of office nor subsequently should they be eligible to hold other offices of profit under the Government. PARAS 107

The functions of the Commission should be purely advisory. 107

The functions of the Commission may be to conduct examinations for appointments to the State services. The Government may in their discretion exclude any service or services, from the purview of the Commission. The Commission may be consulted— 107

(a) on all matters relating to the principles and methods of recruitment to the *Civil Services* and civil posts; 107

(b) on the principles to be followed in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers; 107

(c) on disciplinary matters affecting a person serving the Government in a civil capacity; 107

(d) on any claim by or in respect of a person who is serving or has served the Government in a civil capacity that any cost incurred by him in defending legal proceedings instituted against him in respect of acts done in execution of his duty, should be paid out of the revenue of the Jaipur State; and 107

PARAS. (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving the Government in a civil capacity.

107

The Commission should not be consulted on the distribution of posts between various communities in the State.

107

Fuudamental Rights:—A declaration of certain elementary rights may be included in a Royal Proclamation at the time of promulgation of the new Constitution. The declaration may be some what as follows:—

111

(1) No person should be deprived of his property or interfered with in the enjoyment of his property, except under the authority of law;

111

(2) The liberty of a person should not be interfered with, except under the authority of law;

111

(3) So far as may be, the subjects of His Highness the Maharaja, of whatever race or creed, should be freely and impartially admitted to offices in the Government service the duties of which they may be qualified by their education, ability, and integrity duly to discharge;

111

(4) The protection of the culture, language, script and education should be guaranteed to all minority communities; and

111

(5) The protection of the culture, language, script

and education should be guaranteed to all communities. PARAS. 111

The Chairman is however, of opinion that clauses (4) and (5) may be omitted as they lack in definiteness and difficulties may be encountered in giving practical effect to them. 112

Local Self-Government:—A scheme of local self-government may be evolved and panchayats may be established for each village or group of villages, with powers and resources to manage local affairs and with a democratic constitution. Each village panchayat may consist of not less than five and not more than nine members elected on a very low, and if possible, adult franchise. The chairman of the panchayat may, in the first instance, be nominated but the right of election may be granted, as soon as the panchayats show themselves competent to exercise that power. District Boards need not be established. To co-ordinate the work of panchayats, district and tehsil conferences may be organised. 113-116

Economic Development Board:—An economic development board may be formed which should meet periodically for the discussion of questions relating to education, agriculture, industries and commerce in the State. Under the auspices of the Board an annual conference may be held to review progress and prepare the programme for the next year. 117

Education:—At present literacy is low and there is urgent necessity for the expansion of elementary education particularly among women. Suitable provision should be made for the professional education of the youth of the country. 118

PARAS. *Review of the Constitution*:—The Government might review the working of the Constitution after it has been in operation for a period of five years, with a view to effecting further improvements.

119

APPENDIX I.

**Government Orders relating to the Committee on
Constitutional Reform in Jaipur.**

(1)

GOVERNMENT OF HIS HIGHNESS THE
MAHARAJA OF JAIPUR.**Government Order No. 104-S. C., dated Jaipur, the 26th October, 1942.**

The last ten years have witnessed a quickening in the political life of the State and a rapid growth in the political consciousness of the people and in their interest in public affairs. His Highness the Maharaja welcomes this development, and it is his earnest desire that the co-operation of the people should be utilised to the full in the solution of the varied problems which confront the administration.

Question of
Constitutional
Reforms :

The Government of Jaipur constituted in the year 1939 a Central Advisory Board with the object of ascertaining the views of the people through their representatives on all matters of public interest or importance. His Highness' Government now consider that the time has come for a further advance in that direction so that the people of the State may be more intimately associated in the work of government.

With this object in view the Government have decided to appoint a Special Committee to examine the whole question of Constitutional Reforms in Jaipur. The Committee is requested to formulate, having due regard to the past history of the State, the present state of education and public spirit the growing political consciousness of the people and other relevant factors, comprehensive proposals in order to secure the steady and harmonious constitutional progress of State from the point of view of all interests concerned.

In particular, the Committee is requested to deal with the following questions :—

Terms of
Reference :

- (1) The composition, functions, and powers of any representative body or bodies which may be proposed.
- (2) Their sessions, duration and dissolution.
- (3) Their Presidents and other functionaries.
- (4) Allowances and honoraria payable to their members and officers.
- (5) Their privileges and the privileges of their members, and remedies in case of breach of privilege.
- (6) The safeguards necessary for minority groups, special interest and emergencies.
- (7) The nature and extent of the franchise, together with the representation that may be given to special interests and minorities.

II

The Committee will have power to enquire fully into the above and all cognate questions, to call for information and opinions from members of the public, to interview and examine witnesses, and to make recommendations on all constitutional matters with the object of promoting the contentment and well-being of all classes of His Highness' subjects and increasing the scope for their exercise of the duties and responsibilities of citizenship.

Constitution
of the
Committee

The personnel of the Committee will be as follows :—

Chairman

Rajasevasakta S. Hiriannaiya, M.A., B.L.

Official Members

1. KHAN SAHIB M. ALTAF AHMAD KHERIE.
2. THE LAW SECRETARY TO THE GOVERNMENT.

Non-official Members

3. THAKUR DEVI SINGHJI OF CHOMU.
4. RAJA SARDAR SINGHJI BAHADUR OF KHETRI.
5. THAKUR KUSHAL SINGHJI OF GEEJGARH.
6. MR. CHIRANJI LAL AGRAWAL, M.A., LL.B.
7. MAULVI HAMIDULLAH KHAN.
8. MR. KARPOOR CHANDRA PATNI.
9. MR. NEMI CHAND KASLIWAL, M.A., LL.B.
10. SETH RAMNATH PODAR.
- ✓ 11. MR. SHAH ALIMUDDIN AHMAD, M.A., LL.B.
12. SETH SURAJ BUKSH GHIYA.
13. MR. TIKARAM PALIWAL, B.A., LL.B.
14. MR. VIDHYADHAR KULHARI, B.A., LL.B.

Secretary

MR. K. ISWARA DUTT.

Eight members will constitute a quorum.

The Committee is requested to submit a report to the Government as soon as possible.

CHANDRA PAL SINGH,

Chief Secretary to the Government of Jaipur.

III

(2)

**Government Order No. 376-S. C., dated Jaipur,
the 10th December, 1943.**

In modification of the Government Order No. 104-S. C., dated the 26th October, 1942, the Government of His Highness the Maharaja are pleased to direct that the quorum of the Constitutional Reforms Committee shall constitute of six members.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur.

(3)

**Government Order No. 104-S. C.-A., dated Jaipur,
the 23rd January, 1943.**

Government are pleased to nominate the following gentlemen as additional members of the Constitutional Reforms Committee, constituted under G. O. No. 104-S. C., dated the 26th October, 1942:—

1. SETH BALDEO DAS BAJORIA.
2. CAPTAIN CHIMAN SINGH, SARDAR BAHADUR, O. B. I., I. D. S. M.
3. MR. LAXMI NARAIN YADAVA, B. A., LL. B.
4. MR. SYED HASAN MUJTABA, M. A., LL. B.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur.

(4)

**Government Order No. 104-S. C.-B., dated Jaipur,
the 23rd January, 1943.**

Government are pleased to nominate Thakur Surendra Singhji of Khachariawas as a member of the Constitutional Reforms Committee in place of Thakur Devi Singhji of Chomu resigned.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur

IV¹

(5)

**Government Order No. 104-S. C.-C , dated Jaipur,
the 23rd January, 1943.**

Government are pleased to direct in modification of G. O. No. 104-S. C. dated the 26th October, 1942, that ten members will constitute a quorum of the Committee.

B. G. BHATTACHARYA,
for Chief Secretary to the Government of Jaipur.

(6)

**Government Order No. 122-S. C., dated Jaipur,
the 8th February, 1943.**

Government are pleased to nominate Seth Chiranji Lal Loyalka, Pilani as a member of the Constitutional Reforms Committee, in place of Seth Baldeo Das Bajoria, who has resigned for reasons of health.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur.

(7)

**Government Order No. 67-S. C., dated Jaipur,
the 20th January, 1943.**

Mr. Krishna Kumar Sharma, M. A., LL. B. is appointed wholetime Assistant Secretary to the Constitutional Reforms Committee.

CHANDRA PAL SINGH,
Chief Secretary to the Government of Jaipur.

APPENDIX II.

Inaugurating the proceedings of the Constitutional Reforms Committee at 7 Civil Lines, Jaipur, on November 4, 1942, Rajasevasakta S. Hiriannaiya, (Chairman), addressed the Committee as follows ;

GENTLEMEN,

I deem it a great privilege to welcome you to the first meeting of the Committee appointed by His Highness' Government to consider and advise on the Constitutional reforms necessary at this juncture in the State. Political ideas have stirred the imagination of the people, and world events have precipitated great changes in every sphere of human activity.

In Jaipur as in British India, there has been a great awakening and it is no longer possible to be content with the constitutional arrangements which, though they might have served well enough in the past, may not be in harmony with modern developments in political thought. The appointment of this Committee is an indication that the Government of His Highness are aware of the needs of the times and are prepared to accept and give effect to proposals for reform designed to ensure orderly progress.

As I was leaving for Jaipur a sincere friend said to me ; " You naturally ask in respect of schemes before you, ' Will they work ? ' But I would suggest that you ask " Will they satisfy ? " The caution is, I think, justified. A Government must be not merely efficient but must have its roots in popular affections. I think it was Lord Morley who once said that the politic satisfaction of popular aspirations will strengthen and not weaken the prestige and authority of Government. The formulation of well thought-out proposals which will raise the political status of the people without affecting the integrity and efficiency of the Government organization is the task entrusted to this Committee. And it needs all our resources in political experience, knowledge of local conditions, toleration and respect for one another's views and capacity for compromise. The representation on this Committee of all the important economic and social elements in the State is a guarantee that those qualities will be forthcoming in our deliberations.

For over a quarter of a century now, since the Montagu-Chelmsford reforms were on the anvil, there have been keen public discussions on constitutional questions. Not unnaturally a subject of such far reaching importance has given rise to a variety of solutions, widely differing from one another. A plan which would reconcile in some measure varying interests and secure the harmonious progress of the people should be our aim, and let me hope that with your valued help and co-operation it may be possible for us to find a satisfactory solution.

VI.

I am a stranger to Jaipur and have a great deal to learn and perhaps something to unlearn; but I may claim the privilege of kinship with you in one respect, namely, that like you I am a citizen of a progressive Indian State. Conditions doubtless differ between Mysore and Jaipur. But there are also important points of contact and agreement. The only contribution that I can hope to make is the experience gained in the course of a varied official career, and some knowledge of the practical working of political institutions in Mysore, which as you are doubtless aware was the first Government in India to inaugurate a popular assembly, now more than 60 years ago. I know my deficiencies will be more than supplied by you and let us therefore begin our work in the prayerful hope that by our united efforts we may be able to recommend a scheme of reform which will promote the prosperity of the State and its people.

APPENDIX III.

Constitutional Reforms Committee.

QUESTIONNAIRE ISSUED TO THE WITNESSES.

PRELIMINARY

1. Explain briefly how you would frame a Constitution for Jaipur, having due regard to the past history of the State, present state of education and public spirit, the growing political consciousness of the people and other relevant factors.

2. How have the District and Central Advisory Boards functioned in the past?

THE LEGISLATURE

3. Assuming that you would propose deliberative bodies, state whether you are in favour of a Single Chamber or a Double Chamber.

4. In either case give your opinion as to the strength of the Chamber or Chambers, and how you would allocate the seats geographically.

5. How would you appoint the members—by election or by nomination or both? Would you admit a limited number of officials as members?

6. Under the headings—Legislative, Financial and Deliberative (including interpellations)—indicate what powers you would entrust to these bodies

7. How should the Presidents of the Chamber or Chambers be appointed, *ex-officio*—by nomination or by election?

8. How many sessions of the Chamber or Chambers would you have in a year and of what duration?

9. What subjects have to be excluded from the purview of the Chamber or Chambers?

THE ELECTORATE

10. If the members of the Chamber or Chambers are to be elected what qualification would you fix for (i) voters, (ii) members? Would you suggest differential qualifications for men and women?

11. If payment of land revenue or rent is to be one basis, what minimum would you fix in the case of the Chamber and if you are in favour of two Chambers, of either Chamber?

12. Would you admit literacy of a certain grade as a qualification?

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13. What are your views regarding the safeguards necessary for Sirdars and other landholders, other Special Interests, Minority groups, and Emergencies?

MISCELLANEOUS

14. What privileges and immunities should be conferred on the proposed House or Houses ?

15. What allowances would you propose:—

(i) for the President and Deputy President, if any, of the proposed House or Houses;

(ii) for the members:

THE EXECUTIVE

16. Indicate briefly your idea as to how the Executive Government of the State be organised ?

17. Are you in favour of introducing a popular element into the Executive ?

FUNDAMENTAL RIGHTS

18. Would you like a Declaration of Fundamental Rights to be embodied in the constitution ?

7, CIVIL LINES,
JAIPUR.

SECRETARY,
Constitutional Reforms Committee.

APPENDIX IV.

Essential Information About Jaipur.

Jaipur is the third largest state in Rajputana; in revenue it ranks second, coming next to Jodhpur; and in population it occupies the first place. The State covers an area of 15,601 Sq. miles with a population of 30,40,876. The density of population is 194.9 per Sq. mile. According to the latest Census Report, there are 24,68,801 Hindus, 2,49,215 Muslims, 31,842 Jains, 2,93,880 primitive tribes, 569 Sikhs, 10 Jews, 38 Parsees, and 1,503 Christians (including Anglo-Indians, Indian Christians and Europeans). The primitive tribes are mostly Hindus. Jaipur, the capital city has a population of 1,75,810. The urban population comprises 68% Hindus, 27% Muslims and 3% Jains, and others about 2%.

**Area and
Population**

The Aravali hills traversing Rajputana from north-west to south-west, cut the territory into two main divisions—the north-western and the south-western. This division causes a triangular table-land which, in its extensions, includes the city of Jaipur, and constitutes a natural boundary between the sandy desert tract of Sheikhwati and the fertile plain of Jaipur proper.

**Natural
Divisions:**

For purposes of revenue, civil and judicial administration the State is divided into 11 units. Jaipur City is also an administrative unit. These units known as nizamat or districts vary in size, from 68 Sq. miles to 3,580 Sq. miles, Kotkasim being the smallest of them and Sheikhwati the biggest. For revenue collections the tehsil forms a unit of which there are twenty-nine.

**Administra
tive Divisions**

The whole State may be divided into khalsa area or land directly under the management of the Government, and jagir area, the revenue of which has been alienated to state-grantees on different conditions. Roughly speaking, 72% of the land is in the possession of state-grantees. They are mostly Rajputs, though there are some belonging to other castes. The estates of jagirdars, sometimes known as thikanas, present a picture of great diversity, in size and income. Some of them "cover a considerable area while others hardly "extend beyond a thousand bighas". There are some "that count their tenants in several thousands;" others have less than one hundred inhabitants. Subject to the State's supervision three of them possess their own police and enjoy limited judicial powers, while the remaining have no administrative powers. With regard to the tenure of these estates, the thikanedars have been classified as jagirdars, mansabdars, subeguzars, istimarardars, nuamlaguzars, chakotidars

**Thikanas
and Jagirs:**

udakies, inamies and tankhadars. One common feature of the state grants is that they are inalienable, and can be enjoyed only by the descendants of the original grantee. There are in all, about seven hundred and sixteen jagirs and a number of small udakies, inamies and tankhadars.*

Education and Literacy.

Literacy, both among males and females, made steady progress during the decade 1931-41; male literacy increased by 71 percent and female literacy by 124 percent. The number of literates in the State is 1,62,243, out of whom 1,49,938 are males and 12,305 females. There are 1,31,391 Hindus and 15,939 Mohamadan literates, respectively. Literacy among the primitive tribes is much lower, only 1,941 males and 44 females being literate. Amongst Jains, the number of literates is 11,625. The total number of educational institutions in the State is 1,115 out of which 762 are recognized and 353 are chatshalas and maktabas. The number of scholars in the recognized institutions is 51,767 and 10,962 in the chatshalas and maktabas.

There are two colleges, nine secondary anglo-vernacular schools, 28 secondary vernacular schools, one sanskrit pathshala, 218 primary schools for boys, and 24 primary schools for girls, one technical school for boys, two training schools for men and one training school for women,—all maintained by the State. There are two english colleges, 8 sanskrit colleges, one arabic and persian college, 51 anglo-vernacular secondary schools for boys, 18 secondary vernacular schools for boys, 14 secondary schools for girls, and 112 sanskrit pathshalas maintained by private agencies.

In 1941-42, Rs. 12,90,415 were spent on education, the State's share being Rs. 6,32,475; the thikanas spent Rs. 1,19, 025 and private agencies Rs. 5,39,043. The Education Department is administered in accordance with an Education Code sanctioned by the Government and introduced in 1938.

Rural Population and Agriculture:

The population of the State is mainly rural. Out of the total population of 30,40,876 the rural population is 25,19,144 *i.e.* 82'6%. The number of villages in the State is 5,938 while the number of towns is 38.

Occupations of the people:

Agriculture is the most important occupation of the majority, absorbing 67% of the total population. 21,79,767 persons are employed in the production of raw materials. Industry absorbs 3,92,110 persons. 71,487 persons are employed in textiles, 61,036 in hides and skins, 56,724 in industries of dress and toilet. 2,13,868 persons are engaged in trade and commerce.

Industries & Commerce:

Agriculture and allied industries are the mainstay of the rural population. Apart from rural industries, there is an iron works and ramda factory.

*Information regarding Jagirs is taken from the Jaipur Album.

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and ice-candy factory, printing presses, wool-carding factories and polishing factories. There are a number of handlooms producing khadi, and amongst arts & crafts, water-colour painting, pottery, brassware, marble-carving, gold and silver jewellery, carpets and durries, sandle-wood and ivory toys, garnets and crystals are practised by the people.

The cultivation of land is often a most acute problem to the cultivator in Rajputana, where scanty rainfall combined with the arid nature of the soil renders his position not often precarious. The Government have been alive to this great problem and have been pursuing a progressive irrigational policy. The total number of irrigation-tanks is 260 with a total capacity of 19,130 M. Cft. and the maximum area that can be irrigated is 2,39,130 bighas. The total area irrigated in the year 1940-41 was 88,585 bighas and the income derived from this area Rs. 3,91,890. The expenditure by the State during the last five years on the remodelling of canals and the opening of new tanks was Rs. 8,79,307. Proposals to remodel some existing tanks and to construct new ones are engaging the attention of the Government.

Irrigation:

The total length of roads metalled and unmetalled, maintained by the State is 873'57 miles. The recurring expenditure for the upkeep and maintenance of the roads is nearly Rs. 4'5 lakhs a year.

Communication:

The management of the State Railway, which prior to 1936 was with the B. B. & C. I. Railway Company, was resumed by the Jaipur Government from 1st April, 1936; 66 miles of new Railway have since been added making a total of 246 miles. A direct line from Sheodaspura to Jaipur *via* Sanganer Town, covering a distance of 15'23 miles which is estimated to cost Rs. 74 lakhs, is nearing completion. The State's total capital outlay on Railways upto the end of March, 1942, amounted to Rs. 1'36 crores in addition to a sum of Rs. 85 lakhs invested in the Nagda-Muttra Section of the B. B. & C. I. Railway. The gross earnings of the State Railway were 18 lakhs in the year 1941-42 as against 11'8 lakhs in 1935-36; while for the official year 1942-43 they are expected to go upto Rs. 20 lakhs.

(a) MUNICIPALITIES:—The conception of local self-government, as understood and the extent to which it has developed in British India, is yet in its infancy in Jaipur. In the sphere of municipal government, prior to the Jaipur Municipalities Act, 1938, there was a nominated municipal body for Jaipur City under an official chairman functioning for some years. The Act of 1938 empowered the Government to declare any area as a 'Municipality'. But so far, apart from Jaipur City, only Hindaun has been so declared. The Act of 1938 introduced the system of elections, not less than 50% of the members being elected and not more than 25% being officers of Government. Owners of houses of the value of Rs. 2,000/- or above, graduates and persons getting

Local Self-Government:

a salary or pension of Rs. 100/- and persons who pay Rs. 10/- as house-rent, are entitled to vote. The number of voters in the city is 4,575, i. e., 2.6% of the population. The chairman is appointed by the Government and the executive officer with their approval.

The municipalities are given limited powers of taxation. They can levy, with the previous sanction of the Government, and subject to the confirmation of the Government, a tax on vehicles, a house-scavenging tax, and conservancy tax on private latrines. The functions of the municipalities relate mostly to sanitation and public-health.

The Chief Controlling Authority, who is the minister-in-charge of the Municipal Department, exercises control and has the power to suspend the action taken by the Municipal Committee and to provide for the execution of work which the Committee is empowered to do. His Highness' Government can supercede the Committee in case of incompetence.

In the year 1940-41 the income of the Jaipur Municipality was Rs. 98,095 and expenditure Rs. 2,03,625. The chief source of income was rent of land and buildings and licencing fee on vehicles viz., Rs. 41,297 and 38,028 respectively. The chief item of expenditure was on conservancy staff.

(b) PANCHAYATS :—To foster a spirit of public service and to avoid unnecessary litigation the Jaipur Panchayat Act was enacted. Uptill 1940-41. 74 panchayats were established. Villages having a population of 1,000 to 5,000 are eligible to have panchayats. The panchayats consist of six to eight members with one out of them as sarpanch. The members are to be nominated by the District Magistrate and the sarpanch by the Revenue Commissioner of the Division. The Panchayats have two-fold functions:—administrative and judicial. Sanitation of the village comes under the former head and power to deal with petty revenue cases under the latter. The panchayats have power to impose fine upto Rs. 10/-. The decision of the panchayats is final. These panchayats disposed of 855 cases in 1940-41.

(c) THE JAIPUR STATE SMALL TOWN COMMITTEE :—The Jaipur State Small Town Rules provide for a committee of seven to nine members for any village, suburb and bazar which is declared by the Government as a small town. The members are to be nominated by the minister-in-charge. The nazim is the member *ex-officio* and its president. The term of the committee is two years. The function of the committee is to provide sanitation and other amenities for the area. The income of the committee is from the proceeds of the sanitation tax. The Revenue Commissioner has the power to suspend the resolutions of the committee if the committee makes a default in the mandatory services. A Small Town Committee can be suspended by the Government on the ground of incompetence.

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The district advisory boards were established in 1939 by the Jaipur Government with a view to ascertaining the needs of the rural people, and to afford them an opportunity of bringing to the notice of the Government matters of public importance. All Tehsildars of the district and one member from each of the state-grantees, large cultivating classes, trading communities, labour and other interests, from each tehsil, with the District Magistrate in the chair, constitute the district advisory board. The members are nominated by the minister-in-charge, from a panel of 10 members selected by the classes concerned.

District Advisory Boards :

The qualification for the representative of each class is different, literacy, i. e., ability to read and write, being common. The member from the cultivating classes must be paying Rs. 50/- as rent. A member from the trading community must have an investment of not less than Rs. 2,000/-. For the representation of labour and other interests the influence of the nominee is taken into consideration. A member must be above 21 years of age and be a *bonafide* resident of Jaipur. The term of the board is two years.

A district advisory board can make suggestions on matters relating to education, sanitation etc. It may also give its opinion on any other matter that may be referred to it.

The central advisory board came into existence a few months later, towards the end of the year 1939. It consists of forty-eight members, out of whom 35 are to be non-officials and 13 officials. Out of the 35 seats, nine seats are allotted to state-grantees, 5 to trade and commerce, one to lawyers, one to the medical profession, one to school managers, one to Mutawallis, one to Jain trusts, one to Jaipur Municipality, one to other municipalities and 13 to the representatives of the district advisory boards. The chairman is appointed by the Government. The constituencies, other than municipalities and district boards, elect a panel of persons five times the number of seats allotted to them, out of whom the members are nominated by the minister-in-charge. The members of municipalities and district advisory boards elect their representatives. The term of office of the members of the advisory board is four years. As in the case of district advisory boards, subjects, on which recommendations may be made by the board to the Government, are laid down by rules, but the scope of the subjects is wider than in the former.

Central Advisory Board :

The total receipts and expenditure of the State in the year 1941-42 were Rs. 1,54,27,000 and Rs. 1,54,06,300, respectively. Out of the total receipts Rs. 89,30,000 were received from land-revenue, Rs. 19,60,000 from customs, Rs. 17,00,000 from railways, Rs. 8,23,000 from Excise, 5,04,000 from bakshi khana jagir, Rs. 4,78,000 from electricity and Rs. 6,91,000 from

Income and Expenditure :

His Highness the Maharaja is the fountain source of all authority and power by virtue of his being the sovereign of the State. The theory of kingship which is revered in Jaipur State is based on the conception that the ruler is the agent of the deity Govind Deoji—who is the king of the land. This is evidenced by all the 'pattas' given to the state-grantees, which invariably begin with 'Dewan Vachnat'. In Jaipur, it is both a sacred conviction and an accepted theory that the ruler derives his power, authority and dignity from God and is His representative or agent on earth, to protect the people from anarchy.

General Ad-
ministration:

The system of administration that obtains at present is more or less of recent development. The previous Ruler, Maharaja Sir Sawai Madho Singhji Bahadur, carried on the Government with the assistance of a Council. A Cabinet was constituted during his illness to deal with matters reserved for his personal decision. After his demise and during the minority of the present Maharaja, a minority Government was established to conduct the administration. There were two executive bodies, *viz.*, the Cabinet and the Council, but the administration was to be guided in certain specified matters by the advice of the Resident at Jaipur. The Cabinet was invested with important powers and the Council was empowered to pass final orders on all matters not reserved for the Cabinet. In August, 1925, the Council was abolished, and the entire executive authority was vested in the 'Cabinet' which was named the 'Council of State' or Mahakma Khas.

The assumption of full ruling powers by His Highness the Maharaja on 14th March, 1931, marked a new development. From that date the Government was carried on by His Highness, assisted by the Council of State consisting of seven Ministers. The Council was presided over by His Highness. Other changes were introduced in the Constitution in 1934 and in 1937. In 1934 the post of a Vice-President of the Council of State was created; he was empowered to exercise general powers of supervision over all departments; and he thus became the only channel through which all important matters could be brought before His Highness. In 1937 the office of Prime Minister was for the first time created.

Further developments took place in July, 1942, when the name of the Council of State was changed into Council of Ministers and its number reduced from seven to four, excluding the President. The most notable feature of this change was that His Highness relinquished the position of the President of the Council and the Prime Minister became the President *ex-officio*. The other members of the Council are the Finance, Revenue, Army and the Home Ministers. The Ministers are in charge of the

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departments under their portfolios, and all important matters are decided in the Council by a majority of votes. The appointment as well as the removal of Ministers rests entirely with His Highness the Maharaja. There being no legislative body under the Constitution, the Council is vested with legislative powers also and any legislation passed by the Council becomes an Act on receiving the assent of His Highness the Maharaja.

APPENDIX V.

TABLE No. 1.

Abstract statement showing the area and population of Jaipur State. [Vide Jaipur Census Report 1941]

Name of the District	Area in sq. miles.	POPULATION.								
		Persons.			Males.			Females.		
		Total.	Urban.	Rural.	Total.	Urban.	Rural.	Total.	Urban.	Rural.
Jaipur State ...	15,594	30,40,876	5,21,732	25,19,144	15,95,068	2,70,534	13,24,534	14,45,808	2,51,158	11,94,610
Jaipur City ...	25	1,75,810	1,75,810	...	93,479	93,479	...	82,331	82,331	...
Nizamāt Amber ...	1,158	2,31,041	21,989	2,09,052	1,19,692	11,336	1,08,356	1,11,849	10,653	1,00,696
„ Dausa ...	1,125	2,99,426	21,029	2,78,397	1,56,415	10,837	1,45,578	1,43,011	10,192	1,32,819
„ Gangapur ...	677	1,28,025	15,235	1,12,790	67,365	7,997	59,368	60,660	7,288	53,422
„ Hindaun ...	628	1,97,528	19,645	1,77,883	1,04,769	10,535	94,234	92,759	9,110	83,649
„ Jaipur Sawai ...	1,226	2,15,448	4,416	2,11,032	1,12,431	2,263	1,10,168	1,03,017	2,153	1,00,864
„ Kot Kasim ...	68	18,103	...	18,103	9,673	...	9,673	8,430	...	8,430
„ Madhopur Sawai ...	1,649	2,04,559	8,392	1,96,167	1,07,186	4,248	1,02,938	97,373	4,144	93,229
„ Malpura ...	1,904	1,66,813	17,903	1,48,910	87,493	9,489	78,004	79,320	8,414	70,906
„ Sambhar ...	1,772	2,20,433	11,054	2,09,379	1,15,181	5,811	1,09,370	1,05,252	5,243	10,009
„ Sheikhawati ...	3,580	3,73,142	73,352	2,99,990	1,99,917	37,559	1,62,358	1,73,225	35,793	1,37,432
„ Torawati ...	1,782	3,23,320	33,974	2,89,346	1,68,287	17,244	1,51,043	1,55,033	16,720	1,38,303
Thikana Khetri ...	...	1,75,280	30,315	1,44,965	90,908	15,456	75,452	84,352	14,859	69,493
„ Sikar ...	...	2,71,359	63,833	1,87,526	1,41,043	41,847	99,196	1,30,316	41,986	88,330
„ Unjara ...	...	40,809	4,785	36,024	21,229	2,433	18,796	19,380	2,352	17,028

TABLE No. 2.

Abstract Statement showing the No. of Towns with a population of 5,000 and above.
(Vide Jaipur State Census Report 1941)

1 State, City, Nizamats, or Thikanas.	2		3		4		5	
	5,000 No.	10,000 Population.	10,000 No.	20,000 Population.	20,000 No.	50,000 Population.	50,000 No.	and above Population.
Jaipur State	24½	1,78,466	6	81,614	3	76,207	1	1,75,810
Jaipur City ... ..	...	...	...	...	...	...	1	1,75,810
Nizamats Amber	2	14,801	...	...	...	...	...	...
„ Dausa	3	21,029	...	...	...	...	...	...
„ Gangapur ... ..	...	...	1	11,050	...	...	...	...
„ Hindaun	1	5,841	1	13,304	...	...	...	...
„ Jaipur Sawai ... ..	...	...	...	...	...	...	...	...
„ Kot Kasim ... ..	...	...	...	...	...	...	...	...
„ Madhopur Sawai	1	8,392	...	...	...	...	...	...
„ Malpura	3	17,903	...	...	...	...	...	...
„ Sambhar	1½	13,570	...	...	...	...	...	...
„ Sheikhwati	7	48,976	1	16,874	1	20,620	...	...
„ Torawati	4	29,279	...	...	...	...	...	...
Thikana Khetri	2	18,675	1	11,640	...	...	...	...
„ Sikar ... ..	...	...	2	28,246	2	55,587	...	...
„ Uniara ... ..	...	...	...	...	...	...	...	...

TABLE No. 3.

Abstract Statement showing the urban population and its division in towns having more than 10,000 and the population of important communities therein (Vide Jaipur State Census Report 1941).

Name of the town or City.	Total urban population.	Hindus and Jains.	Muslims.	Primitive tribes.	Others.
1. Jaipur State	5,21,732	3,55,619 + 14,803	1,39,211	11,038	1,061
2. Jaipur City	1,75,810	1,10,681 + 4,646	52,464	3,208	696
3. Sikar (III)	32,334	17,197 + 855	14,002	257	23
4. Fatehpur	23,253	14,405 + 722	8,112	14	Nil
5. Nawalgarh	20,620	16,027 + 10	4,567	11	5
6. Jhunjhunu	16,874	9,314 + 185	7,371	4	7
7. Ramgarh	13,202	9,614 + 40	3,528	14	6
8. Lachhmangarh	15,044	11,952 + 60	2,984	48	Nil
9. Hindaun	13,804	10,932 + 321	2,501	43	7
10. Chirawa	11,640	9,864 + 20	1,755	Nil	Nil
11. Gangapur	11,050	7,551 + 170	2,673	388	268

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For information regarding towns less than 10,000 population, please refer to Census Report 1942. Pages 28 to 31.

TABLE NO. 4.

Abstract Statement Showing the Distribution of Population by Community in Jaipur City,
Nizamats and Thikanas [Vide Jaipur State Census Report 1941].

Name of area.	Hindus.			Muslims.			PRIMITIVES TRIBES.					
	Total.	Males.	Females.	Total.	Males.	Females.	Hindus.			Muslims.		
							Total.	Males.	Females.	Total.	Males.	Females.
Jaipur State ...	24,63,801	12,93,307	11,70,494	2,49,215	1,28,833	1,20,382	2,93,880	1,55,008	1,38,872	17	7	10
Jains ...	31,842	16,802	15,040	...	...	...	...	...	...	...	...	...
Sikhs ...	569	336	233	...	...	...	...	...	...	...	...	...
Jaipur City ...	1,10,681	58,668	52,013	52,464	27,868	24,596	3,204	1,950	1,254	4	3	1
Jains ...	8,760	4,646	4,114	...	...	...	...	...	...	...	...	...
Sikhs ...	241	146	95	...	...	...	...	...	...	...	...	...
Nizamats												
Nizamats Amber ...	1,92,226	99,452	92,774	7,777	3,598	4,179	30,099	16,179	13,920	...	...	...
Jains ...	821	398	423	...	...	...	...	...	...	...	...	...
Sikhs ...	118	65	53	...	...	...	...	...	...	...	...	...
Nizamats Dausa ...	2,22,131	1,15,615	1,06,516	7,821	4,335	3,486	67,774	35,538	32,236	2	...	...
Jains ...	1,290	726	564	...	...	...	...	...	...	...	...	...
Sikhs ...	16	13	3	...	...	...	...	...	...	...	...	...
Nizamats Gangapur.	88,831	46,851	41,980	8,490	4,441	4,049	29,833	15,601	14,232	...	...	...
Jains ...	602	315	287	...	...	...	...	...	...	...	...	...
Sikhs ...	35	22	13	...	...	...	...	...	...	...	...	...
Nizamats Hindaun.	1,44,168	76,802	67,366	11,322	5,981	5,341	40,390	21,062	19,328	...	...	...
Jains ...	1,641	920	721	...	...	...	...	...	...	...	...	...
Sikhs ...	2	2	...	...	...	...	...	...	...	...	...	...
Niz. Sawai Jaipur.	1,76,788	92,463	84,325	4,873	2,538	2,335	31,599	16,272	15,327	...	...	...
Jains ...	2,171	1,149	1,022	...	...	...	...	...	...	...	...	...
Sikhs ...	10	6	4	...	...	...	...	...	...	...	...	...
Niz. Kot Qasim ...	15,903	8,335	7,368	2,052	1,051	1,001	138	81	57	...	...	...
Niz. S. Madhopur.	1,50,326	73,245	67,081	15,401	7,950	7,451	45,795	24,331	21,464	...	...	...
Jains ...	3,081	1,656	1,377	...	...	...	...	...	...	...	...	...
Niz. Malpura ...	1,43,210	74,912	68,298	7,352	3,889	3,463	12,129	6,505	5,624	...	...	...
Jains ...	4,065	2,150	1,915	...	...	...	...	...	...	...	...	...
Niz. Sambhar ...	1,96,126	1,02,355	93,771	14,807	7,847	6,960	4,568	2,397	2,171	...	...	...
Jains ...	4,472	2,337	2,135	...	...	...	...	...	...	...	...	...
Niz. Sheikhawati.	3,22,586	1,73,929	1,48,657	45,248	23,160	22,088	4,651	2,486	2,165	...	...	...
Jains ...	652	...	...	...	...	...	...	...	...	...	...	...
Niz. Torawati ...	2,95,501	1,53,794	1,41,707	14,870	7,627	7,243	12,060	6,453	5,607	...	...	...
Jains ...	888	...	...	...	...	...	...	...	...	...	...	...
Thikana Khetri ...	1,57,718	82,006	75,712	13,815	6,974	6,841	3,655	1,886	1,769	...	...	...
Thikana Sikar ...	2,26,209	1,18,390	1,07,819	41,388	20,764	20,624	1,438	773	655	...	...	...
Jains ...	2,288	1,100	1,188	...	...	...	...	...	...	...	...	...
Thikana Unjara ...	31,397	16,290	15,107	1,535	810	725	6,547	3,494	3,053	...	...	...
Jains ...	1,117	628	489	...	...	...	...	...	...	...	...	...

N. B.—The total number of Minas-tribe in the State:—2,91,563

TABLE No. 5.

Abstract Statement showing Literacy by Communities [Vide Jaipur State Census Report, 1941].

	HINDUS.				MUSLIMS.				PRIMITIVE TRIBES.			
	Persons.		Literates.		Persons.		Literates.		Persons.		Literates.	
	Males.	Females.	Males.	Females.	Males.	Females.	Males.	Females.	Males.	Females.	Males.	Females.
Jaipur State	12,93,307	11,70,494	1,23,174	8,217	1,28,833	1,20,382	14,081	1,858	1,55,015	1,38,882	1,941	44
Jains	16,801	15,041	10,039	1,586								

APPENDIX VI -A

**List of witnesses examined by the Committee on
Constitutional Reforms.**

1. Dr. Mohammad Umar, Jaipur.
2. Pandit Shiva Behari Tiwari, Proprietor, Shivraj Iron Works, Jaipur.
3. Syed Hussain Khan Esqr., Head Master, Muslim School, Jaipur.
4. Pandit Badri Nath Shastri, Jaipur.
5. Mr. Md. A.K. Khan Yusufi, Member, Central Advisory Board and Municipal Commissioner, Jaipur.
6. Mr. Marghoob Ahmad, vakil, Jaipur.
7. Mr. Md. Ghaffar Ali, Jaipur.
8. Syed Agha Hussain Esqr., vakil, Jaipur.
9. Syed Badi-ul-Hasan Zaidi, Esqr., vakil, High Court, Jaipur.
10. Pandit Devi Shanker Tiwari, vakil, Jaipur.
11. Seth Sunder Lal Tholia, jeweller, Jaipur.
12. L. Inder Lal Shastri Jain, member, Central Advisory Board, Jaipur.
13. Chaudhri Allah Buksh Esqr., vakil, High Court, Jaipur.
14. Prof. Jawahir Lal Jain, Podar College, Nawalgarh.
15. Mr. Bansilal Luhadia, vakil, Sambhar.
16. Chaudhry Khetrām, Udaipur (Sheikhawati).
17. Pandit Ram Pratap Joshi, Dausa.
18. Mr. Kesar Lal Kataria, representative of the Cloth Merchants' Association, Jaipur.
19. Mr. Ramniwas Kanodia, Ramgarh (Sheikhawati).
20. Mr. Satyanarain Jhunjhunuwala, Ramgarh (Sheikhawati).
21. Mr. Abdus Samad Khar Rajasthani, Chomu.
22. Mr. Matadin Bhageria, Chirawa.
23. Seth B. Golcha, jeweller president, Jaipur Hitkarini Sabha, Jaipur.
24. Thakur Agam Singh, general secretary, Rajput Sabha, Jaipur.
25. Vaidya Swami Gulzari Lal, Hasampur.
26. Seth Ramdeo A. Podar, Jaipur.
27. Mr. Kanwal Nain Bajaj, Wardha.
28. Syed M. Ziaul Haq, vakil, Jhunjhunu.
29. Rao Bahadur Narsingh Das Haldia, Jaipur.
30. Chaudhry Har Lal Singh, Jhunjhunu.
31. Chaudhry Net Ram of Gori, Jhunjhunu.
32. Mr. K. D. Acharya, Director of Industries and Commerce, Jaipur.
33. Pandit Pashupati Nath Kaul, Settlement Commissioner, Jaipur.

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APPENDIX VI B

**Details of the sittings of the Committee on
Constitutional Reform.**

<i>Session.</i>	<i>Date.</i>	<i>Nature of work done.</i>
I	4th November, 1942.	Preliminary discussions regarding procedure etc.
II	5th November, 1942.	
III	24th November, 1942.	General discussion on the terms of reference.
IV	25th November, 1942.	Taking of evidence. Three witnesses examined.
V	28th November, 1942.	Three witnesses examined.
VI	29th November, 1942.	Four witnesses examined
VII	8th December, 1942.	Two witnesses examined.
VIII	10th December, 1942.	Three witnesses examined.
IX	13th December, 1942.	Four witnesses examined.
X	14th December, 1942.	Three witnesses examined.
XI	15th December, 1942.	Two witnesses examined.
XII	24th January, 1943.	Two witnesses examined.
XIII	25th January, 1943.	Two witnesses examined.
XIV	26th January, 1943.	Five witnesses examined.
XV	2nd February, 1943.	Two witnesses (including the Director of Industries and Commerce) examined.
XVI	3rd February, 1943.	Settlement Commissioner examined informally. Oral evidence concluded.
XVII	12th February, 1943.	Informal discussions and exploratory talks.
XVIII	20th February, 1943.	Discussions on independence of judiciary, privileges of members, oath to members, allowances and honoraria to members, disqualifications of members, vacation of seats and exclusion of subjects.
XIX	22nd February, 1943.	Discussions regarding Public Service Commission and submission of a draft scheme by the Chairman regarding Legislative Council and Representative Assembly.

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- XX 23rd February, 1948. General discussions on the Chairman's scheme.
- XXI 24th February, 1948. The Chairman's scheme as amended by the Committee was passed and the powers of the Assembly were discussed.
- XXII 25th February, 1948. Discussions regarding the allocation of seats in the Assembly.
- XXIII 26th February, 1948. Discussions regarding allocation of seats to the Muslims in the Representative Assembly, president and vice-president, sessions and official members of the Assembly.
- XXIV 27th February, 1948. Discussions regarding allocation of seats in the Legislative Council
- XXV 1st March, 1948. Discussions regarding summoning, prorogation and dissolution of the Assembly etc.
- XXVI 2nd March, 1948. Discussions regarding the vice-president of the Council, disqualifications of members, and excluded subjects.
- XXVII 3rd March, 1948. Discussions regarding qualifications of members of the Council and the Assembly, excluded subjects (Legislative and Financial) election of a candidate, definition of corrupt practices, election petitions, deposit to be taken from the candidates.
- XXVIII 4th March, 1948. Discussions regarding Budget proposals, franchise; special additional qualifications for women, primitive tribes and depressed classes; reviewing of the franchise by the Government after the first term and fundamental rights.
- XXIX 6th March, 1948. Discussions regarding the presentation of a Bill for His Highness' assent, power of making rules by the Government, executive, Council of Ministers, popular element in the ministry etc.
- XXX 31st March, 1948. Consideration of the first three chapters of the draft report.
- XXXI 1st April, 1948. Consideration of the remaining chapters of the draft report.
- XXXII 2nd April, 1948. Adoption and signing of the report.

APPENDIX VII

(1)

**The reply of the Sardar Sabha, Jaipur, to the Questionnaire
issued by the Constitutional Reforms Committee, Jaipur.**

PRELIMINARY.

Kshatriyas, whose governments have been based on the principles of Ancient Hindu Polity, have been rulers in India from time immemorial. In Jaipur and Rajputana this tradition of Hindu Monarchy persists and affords incontrovertible proof of the enduring power and value of this type of State. The structure of the contemplated constitutional reforms must, therefore, be built on the solid foundation of our own political heritage. It would be disastrous to adopt any exotic political ideology and to try to imitate the constitution of any foreign country. If the objective be wrong, matters would not be improved by saying that it would be reached by stages. World events have proved that the ever-changing social and political order of modern times is not more conducive to the promotion of the best interests of humanity than our own administrative system of Ancient India.

The basis of Indian polity is Dharma which embodies humanitarian spiritual and eternal principles. A Ruler, thus, regards it his sacred duty to govern in accordance with these principles, holding himself responsible to God, to Dharma and to the people, morally and spiritually. The Ministry, however, remains responsible to the Ruler. The modern western idea of Responsible Government makes the Ministry removable by the Legislature or the Electorate, but this constitutional position is inconsistent with, and has no place in, our indigenous system of administration. The conception of the Dharmaic type of natural, moral and spiritual responsibility of a Ruler is of a much higher order.

What is needed is revival of the best features of our Ancient Indian Polity and removal of any defects that may have crept in. The Ruler remains the source and centre of all secular authority, acting in the manner that he deems best in the interests of all, and attaching due weight to the counsel of his advisors and the voice of his people. This is the ideal which still appeals to the bulk of our population and in which our salvation lies. It is this form of government which alone can save the State from socio-political upheavals, class conflicts, the evils of party Government, and the tyranny of the so-called majority which inevitably entails seriously objectionable curtailment of human liberty.

It is also necessary to mention here that no scheme of constitutional reform can be satisfactory so long as almost all the important posts are held

by outsiders and no effective steps are taken to ensure the employment of local men for all posts, including technical ones, for which training must be given to Jaipurians according to a definite scheme.

The Central and District Advisory Boards have worked satisfactorily.

THE LEGISLATURE:—

The most important and progressive countries of the world have a Double Chamber. We propose two deliberative bodies for Jaipur.

The first Chamber should be a large Assembly, so as to give the people an opportunity of expressing their views.

The existence of the important class of the landed aristocracy and the advisability of preventing the adoption of hasty and ill-considered measures makes the second Chamber necessary.

Measures rejected by the Second Chamber should be dropped.

In case the Second Chamber is not exclusively reserved for the Sardars and other land-owning classes, they should be given 70% of the total number of seats in that Chamber.

In the first Chamber 70% of the total number of seats should be reserved for Sardars, land-holders and the people of their areas. The exact number of seats to be allotted to the people of these areas and their appointment by nomination or election should be left to Sardars and land-holders to be determined by them.

For either Chamber there should be Rural and Urban constituencies for Khalsa and Thikana areas separately. Functional representation must also be provided.

Details of the number and allocation of seats will be given when exact information regarding the population etc. of Thikanas, for which we have asked is supplied to us.

Members may be appointed both by election and nomination, and a certain number of officials may be admitted.

The function of both the bodies should be advisory and recommendatory.

Discussion and interpellation on all subjects, excepting those excluded from the purview of the Chambers, should be allowed. In the case of the Budget, its principles only may be discussed.

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In the first instance the Presidents of both the Chambers should be nominated by His Highness the Maharaja Sahib Bahadur from amongst Jaipurians and the Deputy Presidents be elected.

There should not be less than two sessions of each Chamber in a year, each session lasting as long as necessary.

The following subjects should be excluded from the purview of both the Chambers;

1. The prerogative, rights and powers of H. H. the Maharaja Sahib Bahadur.
2. The Ruling Family.
3. His Highness's relations with the Paramount Power and with foreign Princes and States.
4. Matters governed by treaties or conventions or agreements now in force or hereafter to be made by His Highness with the Paramount Power or the Ruler or Government of any State in India.
5. The relations of His Highness and his Government with the Sardars and the privileges, rights, powers and status of Sardars and Thikanas and matters affecting the stability, revenue, finance and internal administration of Thikanas.
6. Sardars and their families.
7. The Army of the State.
8. The Constitution.
9. Ecclesiastical matters and matters affecting Religion, Religious usages and practices; and social customs and practices governed by Religion.
10. Such other matters as may, from time to time, be excluded by His Highness from the purview of these Chambers.

THE ELECTORATE

The election for the First Chamber should be through Associations and Panclayats in the following manner :—

1. Election of Members representing Sardars and other land-owning classes should be effected through constituencies established by and under the supervision of their Association. Such representatives of the people of the areas of Thikanas as may be returned by election should be elected through Panchayats under the supervision of the Thikanas concerned.

2. For Rural and Urban areas a system of electing members through Panchas should be adopted. Every village with a population of not less than 1,000 and not more than 2,000 shall elect 5 Panchas and those above 2,000 shall elect 1 Panch extra for each increase in population of 1,000 persons or part thereof. In Towns each Mohalla shall elect a Panch. A Mohalla shall consist of not less than 25 and not more than 75 inhabited houses. All such Panchas shall be the electors.

3. In Jaipur proper the electors should be those who are on the electoral rolls of the Municipality.

Electors should not be less than 21 years of age. This will introduce the principles of universal adult franchise.

For the first Chamber all literate men not below the age of 25 years should be qualified to be members.

For the second Chamber the qualifications of electors and members should be as follows :—

1. Tazimi and Khas Chouki Sardars.
2. A member of other land-owning classes having not less than 50 Bighas of land.
3. A member of land-owing classes who has passed the Matriculation or any equivalent examination in the Urban area and V. F. or any equivalent examination in the rural area.
4. Any person who owns immovable property worth Rs. 50,000/- or has investments to the value of Rs. 50,000/-.

Electors should not be less than 21 years of age and members not less than 30 years of age. In the case of Sardars the minimum age, both for electors and members should be 18 years for either Chamber.

SARDARS AND THIKANAS ETC.

From ancient times the system of graded aristocracy has been a permanent and essential feature of the Hindu State. In the Rajput State of Jaipur the landed Rajput aristocracy enjoys a privileged position of special and great importance. The following quotations from an authority on the subject give some indication of the political status of this order:—

“On the whole, these States are still essentially the possessions of clans”.

“A Rajput Chief is the head of a clan which have for many centuries been lords of the soil, or of the greater part of it, lying within the State's

limits, and, as a ruler, instead of being an absolute despot, he exercises a jurisdiction more or less limited over an aristocracy consisting principally of his kinsmen and connections, while in the cities and throughout the districts not within the estates of the great fief-holders, his authority is absolute".

"The interior economy of a complete Rajput family has often suggested the analogy of feudalism, though in fact there are essential differences. There is, however, a chain of mutual authority and subordination which runs from the Chief by gradations downwards to the possessor of one or more villages. The lands are for the most part divided off and inherited among the branch families of the dominant clan, some considerable estates being held by families of a different clan, who have come in by marriage or by interior settlement in the country."

"The proportion of territory under the direct fiscal and administrative control of the Chief varies widely in different States; where the clan organisation is strongest and most coherent, the Chief's personal dominion is smallest." "Very large estates are held by the hereditary heads of the branch septs who have spread out from the main stock, and by kindred families, which are as boughs to the great branches. These estates are owned and inherited by Chiefs who much resemble the State Chief in miniature, where they are strong and independent."

"So long as the minor Chiefs fulfil their customary obligations, they hold their estates, on conditions as well founded and defined as those on which the ruling Chief governs his territory, and their tenure is often just as ancient, and their authority, within their own limits, often as absolute."

"In fact the system upon which the land is distributed among the branch families and other great hereditary land-holders, is the basis of the political constitution of a Rajput State and forms its characteristic distinction. And this system is not, speaking accurately, feudal, though it has grown in certain States into something very like feudalism. The tenure of the great clansmen involves military service and payment of financial aids, but its source is to be found in the original clan occupation of the lands and in the privileges of kinship and purity of descent from the original occupants or conquerors."

"The subordinate Chiefs really claim to be co-partners with the rulers in their right to dominion over the soil and to the fruits of it".

"Some of the alien clans have been brought in later by marriage alliances, or by having come as a contingent to aid the Chief of the country in some hard-fought war or distant expedition, services for which they received

an allotment of land. The heads of these alien families or clans often hold high rank in State."

"All large estates are held under implied condition of keeping up the Police within their borders, protecting traffic, preventing heinous crimes and pursuing offenders."

Sir Alfred Lyall (Gazetteer of Rajputana).

"This territory is divided into nineteen States, of which sixteen, are possessed by Rajput Clans and the Chief of the clan or sept is the State's ruler."

"Of these States the highest in rank and most important politically are the States of Udaipur, Jodhpur and Jaipur."

"In this way the whole country of Rajputana was occupied by the clans and septs which we now find there, and their territories are now called by us States: but these States are constitutionally quite unlike any others in India. For while everything else in the political order of India has changed, the Rajput States have managed to preserve unaltered much of their original structure."

"In a Rajput State of the best preserved original type we still find all the territory (with a few exceptions in favour of particular grantees) partitioned out among the Rajputs in whose hands is the whole political and military organisation."

"In Rajputana the Chief is supposed to be the nearest legitimate descendant in direct male line from the founder of the State according to the genealogy of the tribe, and the heads of the branches from this main stock are the leading Rajput nobles, the pillars of his State."

"A Rajput State, where its peculiar structure has been least modified, means the territory over which a particular clan or division of a clan, claims dominion for its Chief, and political predominance for itself, by right of occupation and conquest. A Rajput Chief is the hereditary head of a clan whose members have for centuries been lords of the soil, or of the greater part of it, within the States' limits."

"It is least damaged in the Western and North-Western States, which are held by the clans of the Kuchwahas, the Rathores, and Sesodias; but even in these States the organism is, as we have shown, superficially overlaid by feudal growth, the state of incessant war having prominently developed the obligations of military service. Nowhere, however, has the system become entirely feudal, that is, nowhere has military tenure obliterated altogether the original tenure by blood and birth-right of the clan."

"The cement of the system was something much stronger than feudalism."

"Indeed, it is universally assumed in every clan of Rajputana, that the Chief and ruler of the State is only *primus inter pares*".

"Land tenure is not the base of this noblesse, but their pure blood is the origin of their land tenure".

"In Rajputana the noblesse are the clan, and the clan is the State." (Sir Alfred Lyall, *Asiatic Studies*).

In view of the special status of this class it is absolutely necessary that it should be assured of effective and adequate representation and other safeguards by definite provision in the constitution. The following are some of the reasons why reservation of 70% of the total number of seats in each Chamber, in the manner indicated above, would be only fair and just:—

1. Under the Government of India Act of 1935, 40% of the seats in the Upper House and about 23% of the seats in the Lower House of the Central Legislature were reserved for the States, Estates and Jagirs, because their area was 40% of the total area of India.

These States, Estates and Jagirs fall into three main categories, *viz.* (1) those enjoying full legislative and jurisdictional powers, (2) those enjoying limited jurisdictional powers and (3) those having no legislative or jurisdictional powers at all. The political relationship of the second and third categories of States, Estates and Jagirs to the British Crown may be considered to be similar to that of Thikanas to the Jaipur Durbar. The following quotations throw light upon the status of some of the lesser Indian Chiefs who were included among those for whom 40% seats were reserved:—

"It must also be pointed out, however, that the gradation of sovereignty in the case of the smaller princelings of Kathiawar and Bundelkhund and the Simla States, who are mediatised chiefs rather than rulers, vanishes almost to the point of nothingness. Their position has little in common with that of the independent States, though they also enjoy right and privileges such as belonged to the feudal lords of medieval Europe."

"A large number of the states of Orissa, Central Provinces and the Simla hills are undoubtedly feudatory, for their relations with the sovereign from whom their alliance was transferred were of that kind. Thus the chiefs of Mahikanta Agency were petty tributaries of the Gaekwar, and some of the Maratha Jagirdars were no more than officials of the Peishwa."

"The mediatised states, which form the strictly feudatory portion of the Indian States, constitute an order by themselves, whose prerogatives, privileges and political rights differ fundamentally from those of the sovereign states."

"It is clear that the source, extent and nature of the rights possessed by these States differ fundamentally from the rights of ruling states. These rulers who hold under Ikrarnamah have no sovereignty of any kind, and their authority is derivative and not inherent. The rule was continued 'by grace' and they hold their territory subject to conditions made explicit in the Ikrarnamah. They have military and political obligations, and the residuary rights do not belong to them. Their subjects have the right of direct appeal. The political tie is feudal, and is not based on reciprocal obligations."

(K. M. Panikkar—Indian States and the Government of India)

"I engage on pain of forfeiture of the grant to pay implicit obedience to any advice or remonstrance which the British agent may have occasion to offer on their behalf." (Aitchison's Treaties, Volume VIII, page 325).

"Be it known that the grant has been made on condition of good behaviour and of service, military and political, at any time of general danger or disturbance." (Text of another grant).

"That the territory was acquired by cession from the Peishwa (or any other sovereign ruler, as the case may be) and annexed to British Dominions." (Aitchison's Treaties, Volume V, page 17).

"They bind the Chiefs to implicit submission, loyalty and attachment to the British Government. They are liable to such control as the British Government may see fit to exercise, and the rights and powers of the Chiefs are limited to those that have been expressly conferred" (Aitchison's Treaties Volume V, page 17).

"I am a Chieftain, under the administration of the Chief Commissioner of the Central Provinces. I have now been recognised by the British Government as a feudatory, subject to the political control of the Chief Commissioner." (An agreement quoted in the "Native States of India", Sir W. Lee-Warner).

"As tributary Chiefs and Taluqdars have only a life interest in their estates they cannot charge them with debts beyond their own lives; the principle, therefore, that no debts incurred by the predecessors of a ruling Chief or Tributary Taluqdar (including sub-sharers) without his concurrence or subsequent recognition or without the written consent of the Political Agent should be recognised, is to be strictly observed." (Kathiawar Agency Gazette of 24th March 1898, page 84).

"And the entire jurisdiction in the case of Taluqdars not included in the seven classes, was assumed by the British Government." (Bombay Gazetteer Vol. VIII Kathiawar p. 309).

K. R. R. Sastry in "Indian States" gives the following quotation from the "British Year Book of International Law" regarding the Indian States:—

"Looked at internationally from the outside by foreign powers, they are British. Looked at, however, from within, they are not British." We may say that viewed from outside, the Thikanas are units inside the Jaipur State, but within the State a distinction has always been observed between Thikana and Khalsa territory.

(2) The area under Thikanas and the land-owning classes is 70% of the total area of the State.

(3) No analogy can completely and correctly describe the status of the Rajput Sardars which is *sui generis*, being a special characteristic of the Ancient Hindu Polity that is more preserved in Rajasthan than anywhere else. Certain peculiarities, including their ties of kinship to the Ruler, their martial and historical contribution to the establishment and preservation of the State and the political predominance, they have enjoyed by immemorial custom, make the position of the Rajput Sardars in relation to their Ruler superior to that of the lesser Indian Chiefs *vis-a-vis* the British Crown.

(4) The Sardars, on the basis of the long established usage of having a dominant voice in the affairs of State and on the strength of their inherent importance, are entitled to the representation and safeguards they are asking for.

Under the new constitution the internal autonomy of Thikanas must be maintained and preserved. Sardars would be willing to establish Panchayats and local bodies under their own control. Village autonomy and the system of Panchayats, which formed an important part of the ancient Indian system of administration, must be encouraged and over-centralisation must be avoided.

In connection with all matters affecting Sardars and Thikanas under the new constitution, attention is invited to article 8 of the Treaty of 1818 which runs thus:—

"The Maharaja and his heirs and successors shall remain absolute rulers of their territory and their dependents according to long established usage"

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THE EXECUTIVE:

The Executive Government must be responsible to His Highness the Maharaja Sahib Bahadur who will select his Ministers from among Jaipurians. The term of office of Ministers should be five years. This will automatically introduce the popular element into the Executive. Half of the total number of Ministers must be Rajput Sardars. With our tradition of Panch Musahbat (a Council of Ministers consisting exclusively of five Rajput Sardars) this provision is necessary.

FUNDAMENTAL RIGHTS:

By convention fundamental rights are at present enjoyed by all and there is no need for any formal declaration in this behalf.

**Replies to the Questionnaire by Anjuman-i-Khadim-ul-Islam,
Jaipur.**

PRELIMINARY:

(a) In framing a constitution for Jaipur the following points are to be minutely considered:—

- (i) That the Appendix 'G' to the Wills' Committee Report, appointed by the Government of His Highness the Maharaja Sahib Bahadur of Jaipur, clearly shows that how a number of Muslim Jagirs have been adjusted to form this big State of Jaipur.
- (ii) That throughout the period of crisis, which, as a matter of fact, ensued after the death of Maharaja Sawai Jai Singhji and terminated in the time of Maharaja Jagat Singhji, when the British Protection of 1818, came to the rescue, it was only the blood and bone of the Muslim martial races, which proved to be the only basis of defence and action, in support of and loyalty to their Maharajas. The meritorious civil and defence services by the Muslims are surely the cause of restoration and re-habilitation of the Raj-supremacy in the South against the Marathas and in the East against the Jats.
- (iii) That the Treaty of 1818 with the British Government is the great land-mark in the history of Jaipur and for our purposes serves as a mile-stone on the way to constitutional progress in the State. Article *viii* of the said Treaty is reproduced as follows:—

"THE MAHARAJA AND HIS HEIRS AND SUCCESSORS SHALL REMAIN THE ABSOLUTE RULERS OF THEIR TERRITORY AND THEIR DEPENDENTS ACCORDING TO THE "long established usages." AND THE BRITISH CIVIL AND CRIMINAL JURISDICTION SHALL NOT BE INTRODUCED INTO THAT PRINCIPALITY."

In the first part of the above Article, the British Government has pledged and guaranteed that the Government of Jaipur shall be conducted in a way and manner, which is in accordance with the 'long established usage'. This pledge and guarantee of 'usage' by the British Government, as incorporated in Article *viii*, may be interpreted as the best pledge and guarantee for the Muslims.

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In view of the above mentioned historical background and having regard to the religious, linguistic, cultural and other characteristics of the Muslims, the logical consequence is that the Muslim community should be treated as a 'separate entity' and not 'a mere minority'.

Hence, the shape and structure of the Administrative Body should not be framed in a way that there might be any apprehension of the transference of power and responsibility to such people and parties, whose heads and hands have never felt the labour of conjuring up its "Summer-Sunshine" or coalescing its "Winter-Winds", that have so many times swept over its destinies in the past.

(b) Having a limited scope, the Central and District Advisory Boards could not serve any useful purpose.

THE LEGISLATURE:

(a) If the Government is really keen to introduce reforms in its constitution we are in favour of Double Chamber.

(b) The Upper Chamber should consist of 48 seats, while the Lower Chamber should consist of 160 seats, including nominated members and officials. For our purposes one Muslim seat should be fixed on a population of 20,000 Muslims in the Upper Chamber, and one Muslim seat on a population of 6,000 Muslims in the Lower Chamber. The constituencies may be formed in Urban and Rural areas.

(c) The Legislature should consist of a majority of elected members. Nominated members should also be appointed. A limited number of officials may also be admitted.

(d) (i) The Legislature should be given full powers of legislation on all matters of public interest.

(ii) In financial matters the Legislature should be empowered to discuss the budget, move resolutions on the major heads and make suggestions relating to the expenditure of several departments.

(iii) The Legislature should have power to discuss and deliberate upon the imposition of new taxes or the enhancement of the existing taxes.

(vi) The members should be allowed to put questions.

(e) For the first time the Presidents and Deputy Presidents, in both the Houses, should be nominated by the Government and should be *ex-officio*; an

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thereafter, they should be elected from amongst the elected members of the Legislature by rotation, that is, once a Hindu and once a Muslim.

(f) Two sessions in a year, *i.e.*, Summer Session and Winter Session, of a month's duration each

(g) EXCLUDED SUBJECTS

I. LEGISLATIVE

- (i) The Ruling family of Jaipur
- (ii) The relation of Maharaja with the Paramount Power and with foreign Princes ;
- (iii) Matters governed by treaties, conventions and agreements then in force or hereafter to be made by the Maharaja with the Paramount Power.

II. FINANCIAL :

- (i) The palace including the staff and household of the Maharaja ;
- (ii) The body-guards of His Highness ;
- (iii) The pension of the Public servants and Rozmas ;
- (iv) Expenditure prescribed or authorised by Law.

ELECTORATE:

- (a) There must be a separate electorate for the Muslims.
- (b) For purpose of election we have already divided the constituencies into Urban and Rural. Hence, the qualifications of voters may be traced accordingly.

The compulsory qualifications for a voter in both the constituencies and for both the Houses are as follows: -

1. That he must be a bonafide resident of Jaipur, having attained the age of 18 years, and be of sound mind.
2. That he must not be an undischarged insolvent, a debarred legal practitioner and a convict of an offence of moral turpitude.

Along with the above mentioned compulsory qualifications a voter should possess any of the following qualifications for both the Houses and constituencies

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UPPER HOUSE—URBAN

- (i) That he must be a Matriculate or have passed an equivalent examination of any recognised institution, or
- (ii) That he must own an immovable property worth Rs. 5,000/-, or
- (iii) That he must be paying Rs. 10/- monthly as house rent.

UPPER HOUSE--RURAL

- (i) That he must have passed the Vernacular Middle Examination or any equivalent examination of a recognised institution; or
- (ii) That he must own an immovable property worth Rs. 2,000/-; or
- (iii) That he must be paying Rs. 50/- annually as house rent or land revenue.

LOWER HOUSE—URBAN AREA

- (i) That he must have passed the Vernacular Middle Examination, or any other equivalent examination of recognised institution; or
- (ii) That he must own an immovable property worth Rs. 2,000/-; or
- (iii) That he must be paying Rs. 5/- monthly as house rent.

LOWER HOUSE—RURAL AREA

- (i) That he must have passed the Upper Primary Examination or any equivalent examination of a recognised institution; or
- (ii) That he must be owning immovable property worth Rs. 500/-; or
- (iii) That he must be paying Rs. 25/- annually as house rent or land revenue.

QUALIFICATIONS FOR A MEMBER

Compulsory qualifications for a candidate in both the Houses are as follows:—

- (i) That he must be a bonafide resident of Jaipur, having attained the age of 25 years and be of sound mind.
- (ii) That he must not be an undischarged insolvent, a debarred legal practitioner and a convict of an offence of moral turpitude.

Along with the above mentioned qualifications, he should possess any of the following qualifications in either House.

UPPER HOUSE

- (i) That he must be a Graduate of a University; or
- (ii) That he must be owning an immovable property worth Rs 25,000/-;
- (iii) That he must be paying Rs. 100/- monthly as house rent or land revenue.

LOWER HOUSE

- (i) That he must be a Graduate of a University; or
- (ii) That he must own an immovable property worth Rs. 5,000/-; or
- (iii) That he must be paying Rs. 250/- annually as house rent or land revenue.

N. B.— A graduate can contest election in both the Chambers from any of constituencies, but not more than one.

SAFEGUARDS:

A. FOR MUSLIMS

- (i) Having regard to the past meritorious services and sacrifices of the Muslims, for the honour and welfare of the State and their religious, cultural and social, traditions, by which the Muslims form to be a 'separate entity'; the Muslims of Jaipur State are quite justified in demanding such a 'weightage' as would give them at least 25% representation in the Legislature, and a 'separate electorate' by which alone their true representation can be secured.
- (ii) Bills, affecting Muslim Religion, and other matters exclusively concerned with their community shall not be passed unless 3/4th of the Muslim members in the Legislature vote for them.

B. FOR SARDARS

- (i) The interests of the Sardars and other land-holders, who form an important and considerable group in the State, should also be safeguarded.
- (ii) The other minority groups and special interests require no safeguard.

C. EMERGENCY

The right of veto and some other Emergency Powers may be retained by His Highness.

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MISCELLANEOUS:

- (a) The members in the Legislature should enjoy freedom of speech.
- (b) The Presidents, Deputy Presidents and the members of the Legislature, should be paid for the period when the Legislature is in session and when they attend.

THE EXECUTIVE :

At least half the Ministers must be taken in the Executive from amongst the elected members of the Legislature of whom at least one third must be Muslims.

FUNDAMENTAL RIGHTS :

A declaration of these rights may be made.

Sd: MD. ABDUL WAHEED,
Secretary,
Anjuman-i-Khadim-ul-Islam, Jaipur.

(III)

**Replies to the Questionnaire by Mr. Hira Lal Shastri, on behalf
of Jaipur Rajya Praja Mandal.**

(1) PRELIMINARY.

The purpose of the first question seems to be to ascertain the lines on which a Constitution may be framed for Jaipur. The only straight answer to this question can be that a Constitution for Jaipur should be framed on truly and fully democratic lines. I think there is enough of education, public spirit and political consciousness in Jaipur. But I must make it clear that any of these things cannot be made a condition precedent to the inauguration of a democratic system of Government which itself would really be followed by any amount of education, public spirit and political consciousness. We have to remember that these are times of rapid change which can hardly wait to take past history into account and that the Indian States cannot but be brought in line with the Provinces as soon as possible. I, therefore, stand for the establishment of full responsible Government under the aegis of His Highness the Maharaja, and with this end in view the Constitutional Reforms Committee should proceed to frame a Constitution for Jaipur. The people of Jaipur should have the fullest freedom to carry on His Highness' government and His Highness should occupy the exalted position of a constitutional ruler far above party politics. Jaipur should enjoy full responsible government as an integral part of free and independent India.

About the functioning of the District and Central Advisory Boards the less said the better. The truth is that the Boards had not a shadow of reality about them and therefore the people as a whole did not take any interest in them. I wonder if it was ever made known what advice the Advisory Boards offered and how much of it was accepted by Government. It seems to me however that we can learn a lesson from the experience of the Boards and that lesson is that whatever may be proposed by the Constitutional Reforms Committee should be real and substantial.

(2) THE LEGISLATURE.

I am definitely in favour of a Single Legislative Chamber for the simple reason that a Second Chamber is not at all necessary in Jaipur. We do not really require an unwieldy Legislature, and I feel sure that a Single Chamber would be the best and the simplest machinery to express the true will of the people.

The strength of the Chamber may be a hundred members and the seats may be allocated territorially on population basis. Some of the constituencies will have to be treated as urban and the rest as rural. The question of

delimitation is one of technical detail and I would suggest the appointment of a Sub-Committee to deal with it.

All the members of the Chamber should be directly elected on the basis of joint electorates. In any picture of full responsible government there can be no place in the Legislature for an unelected member; even the members of the Cabinet would have to be elected members of the Chamber.

The Legislature should be entrusted with full legislative, financial and deliberative powers.

The President of the Chamber should be elected by the members from amongst themselves.

The Chamber should hold every year not less than two sessions of about a month's duration each. The life of the Chamber may be three years. The language to be used in the Chamber should be Hindustani.

The person and personal affairs of His Highness the Maharaja should be excluded from the purview of the Chamber.

(3) THE ELECTORATE.

As a matter of principle I am for adult franchise. But in the case of the first elections I can agree to the imposition of certain qualifications for the voters. With a view to reach the stage of adult franchise all possible efforts for the spread of free, universal and compulsory primary education should be made from now onwards to the time of the second elections.

For the first elections every man or woman who is 21 years or above and (1) knows how to read and write or (2) possesses property worth not less than Rs. 200/- or (3) pays annually Rs. 15/- as land rent or Rs. 6/- as house-rent, should have the right to vote in rural constituencies.

In urban constituencies, every man or woman who is 21 years or above and (1) has passed the Upper Primary examination or (2) possesses property worth not less than Rs. 500/- or (3) pays Rs. 15/- annually as land-rent or house rent, should have the right to vote.

In the case of joint property or the joint payment of rents every co-sharer whose share is not less than the above said amounts should have the right to vote.

Every woman (even in urban constituencies) who knows how to read and write and every woman whose husband is entitled to vote should also be treated as a voter.

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Every voter, provided that he or she is not less than 25 years of age, should be entitled to stand for election to the Chamber.

Except certain emergency powers for the Executive, I would oppose the idea of safeguards for any community, class or interest, for I believe that in a truly democratic State the interests of all the citizens are identical and no citizen should have any fear about his or her interests. I am a well-wisher of Sardars and other land-holders, but I think that they are already too strong to require any safeguards for themselves. The members of the so-called majority and minority communities have lived in Jaipur State as loving neighbours and in peace and harmony, and there is no doubt that these conditions will continue in future. I am strongly opposed to all separatist tendencies. I am convinced that the safeguards cannot and do not help those for whom they are devised. The greatest and the most effective safeguard for all is mutual trust and goodwill; without this safeguard, none can hope to be protected by any sort of technical devices. Having said all this, I would not oppose reservation of seats on joint electorate basis for those who might feel nervous about the return of their candidates from general constituencies.

(4) MISCELLANEOUS.

I think that the members of our Legislature should be entitled to enjoy the same usual privileges and immunities as elsewhere.

As regards allowances, it will be best to leave them to be decided by the Chamber itself.

(5) THE EXECUTIVE.

As an advocate of full responsible government I can only say that the entire Executive, being a Cabinet of not more than half-a-dozen Ministers, should be formed from amongst the members of the Legislature and, as such, should be responsible to it. His Highness the Maharaja should, in his high and unassailable position, exercise a harmonising and stabilising influence and keep the balance but the work of His Highness' Government should be carried on by the people's representatives and according to the people's will as expressed through the Legislature.

(6) FUNDAMENTAL RIGHTS.

It is most essential that the Constitution guarantees to every citizen freedom of person, freedom of speech, freedom of assembly and association, freedom of the press, freedom of worship, freedom of culture and language, equality of status without any political and other disabilities due to birth, sex, caste, religion, colour, or material standing, complete equality in the eyes of the law, cheap and speedy justice, free education and equal opportunities to work at minimum living wage.

(7) EXTRA SUGGESTIONS.

I find that there are no questions about the Judiciary, the Public Service Commission and the Auditor-General etc. But I hope that the Reforms Committee will make necessary recommendations for the establishment of an independent Judiciary and an impartial Public Service Commission and also for the appointment of an Auditor-General, who will be responsible for the proper keeping of accounts in the State. I further hope that side by side with Constitutional Reforms a thorough-going Scheme of Local Self-Government will also be put through.

The Indian Federal Legislature may not be an immediate issue, but I feel that it is necessary to emphasise even at this stage that whenever the time comes, the State's representatives on the Federal Legislature should be appointed by election in a democratic manner.

(8) AN APPEAL.

I have thus made a brief and simple statement of my views which I feel sure are the views of all progressively thinking citizens of the State. I believe that a democratic Constitution as indicated above is the best and the safest for His Highness, for the Sardars, for the minority groups, and for all the rest. We must all understand that constitutional progress cannot be stayed any longer and that it will not pay anybody to fear the advent of democratic government. As a realist I can appreciate the difficulties that lie ahead, but I wish to address an humble appeal to all members of the Constitutional Reforms Committee that they would extend their help to remove the difficulties and that they would not allow any difficulty to overwhelm their own minds. I have no doubt that His Highness and his present Government would do all that lies in their power to overcome the difficulties. And I can only hope that even from outside the State, a helping hand will be forthcoming. The time has come for a real transfer of power to the people of India, including the States and every Jaipurian, whatever his status in life, should be proud to think that Jaipur may well become a model of constitutional progress to be followed by our neighbours in due course of time.

Sd: HIRA LAL, SHASTRI,

11-12-42.

APPENDIX VIII.

THE STATUS OF CERTAIN SARDARS.
ORDER.

Dated Jaipur, the 14th April, 1939.

No. 465/P. M. O.—In May, 1932, the accidental discovery of an attempt to sell certain valuable State papers to interested parties drew the attention of the Durbar towards the safety and protection of the ancient State Archives. The investigation which followed revealed the fact that malpractices of a serious nature had been committed in the Diwani Huzuri and allied offices for a long time past. The Durbar, therefore, decided to place the State Archives under strict control, and to have the old records of the State carefully scrutinized, properly classified and systematically arranged under expert supervision.

2. This preliminary scrutiny brought to light valuable documents of a hitherto unknown character relating to the superior land tenures of the Jaipur State. It was eventually decided to employ Mr. C. U. Wills, C. I. E., I. C. S. (Retired), lately Commissioner of the Nagpur Division of the Central Provinces, to examine the material thus made available and submit a report, in the light of that material, on the status of the different classes of Thikanedars in the State.

3. After a detailed study of the old records of the State and of selected records reserved in the Archives of the Imperial Government in Calcutta and England, Mr. Wills submitted a report dealing with the Thikanedars of:—

- (1) Panchpana-Singhana (including Khetri) (2) Sikar, (3) Khandela,
- (4) Udaipurwati, (5) Patan, and (6) Uniara

Mr. Wills had come to the conclusion that these were the only Thikanedars whose origin, history and status called for careful investigation.

4. The tentative conclusions reached by Mr. Wills were:—

- (1) that all the above Thikanedars—with the exception of the landholders of Udaipurwati, who hold their lands on a 'Bhumia' tenure entirely distinct from that of the other Thikanedars—were in the first instance, directly established by Maharaja Sawai Jai Singhji as his Ijaredars in the tracts that they now hold; that they are neither 'Feudatories' who were settled upon their Estates as a reward for their share in an original conquest, or who carved out that share for themselves, nor tribal 'Tributaries' linked politically to their overlord by the tie of kinship;

- (2) that although these Thikanedars secured a great measure of independence during the general confusion that prevailed in India in the latter half of the 18th and the early years of the 19th centuries, yet, in view of the fact that, in 1818 (A. D.), a formal 'Settlement' was made between Maharaja Sawai Jagat Singhji and his Thikanedars and the terms of this 'Settlement' (which was a corollary to the Treaty of that year between the British Government and the Maharaja of Jaipur, by which the former recognized and declared the latter to be the absolute Ruler of his territories and his dependents) were endorsed at the time by the British Government, these Thikanedars cannot base any claim to independence, or semi-independence, upon the situation which prevailed prior to that 'Settlement';
- (3) that these Thikanedars hold, what may be described in general terms, as a 'perpetual lease', whose assessments are, within strictly defined limits, liable to variation;
- (4) that the title of the Raja of Khetri in the Taluqa of Babai is defective;
- (5) that certain deductions hitherto allowed to some of these Thikanedars by the State were open to question;
- (6) that His Highness the Maharaja would be justified in asserting the Durbar's Sovereign Right to all "major" minerals which may be found within the boundaries of the State. Mr. Wills recommended that His Highness should do so, but should recognize the prescriptive claim of the Thikanedars to the enjoyment of the "minor" minerals; and
- (7) that His Highness would be justified in extending the Customs *cordon* of the State up to its territorial frontiers; Mr. Wills recommended that His Highness should do so, paying reasonable compensation to the Thikanedars for the disturbance of such legitimate vested interests as they have long enjoyed.

5. Although Mr. Wills produced overwhelming documentary evidence—much of it entirely new—in support of his conclusions, and although his recommendations were moderate and reasonable, considering the far-reaching nature of the inferences which could be drawn from a study of the old records, His Highness the Maharaja Sahib Bahadar, after very careful consideration, came to the conclusion that before he passed orders on Mr. Wills' report, the Thikanedars concerned should be given the fullest possible opportunity of rebutting the conclusions which Mr. Wills had reached: as regards Udaipurwati, His Highness decided that no action should be taken on Mr. Wills' report so

far as the Bhomias of Udaipurwati were concerned. His Highness accordingly decided, in November, 1933, to appoint a Committee of Inquiry, composed of:-

- (1) Mr. C. U. Wills, C. I. E., I. C. S. (Retired) President.
- (2) Rai Bahadur Pandit Seetla Prasad Bajpeyi, C. I. E.,
Judicial Member, Council of State, and Chief Justice
Jaipur State Member
- (3) Thakur Mahendrapal Singh of Kotla, Deputy
Collector, United Provinces Member.
With Rai Bahadur Sardar Singh, M. B. E. United Pro-
vinces Civil Service (Retired), as Secretary.

to investigate the following three main issues and to submit its opinion and recommendations, after giving full consideration to Mr. Wills' Report and to any representations which may be made by the Thikanedars concerned in regard to the tentative conclusions that he had reached:—

- “(1) whether the revenue payments of these Thikanas are permanently fixed, or are, in view of the facts and circumstances disclosed by Mr. Wills' report, liable to revision, and if they are liable to revision, what revision would now be justified;
- “(2) whether His Highness the Maharaja Sahib Bahadur should, or should not, assert his sovereign right to the minerals found within the limits of these Thikanas; and
- “(3) whether the existing Customs *cor.lon* of the Jaipur State should, or should not, be extended to the territorial frontiers of the State. If it should be so extended, whether compensation should, or should not, be paid to these Thikanedars for any future reduction of income which can be legitimately attributed to this extension of the Customs *cor.lon*. If such compensation is to be given, on what basis or principle should it be assessed?”

His Highness further ordered that this Committee should also investigate fully the question raised by Mr. Wills in his report regarding the tenure on which the Raja of Khetri holds the Taluqa of Babai.

It was made quite clear that the recommendations embodied in Mr. Wills' Report were neither exhaustive, nor binding upon His Highness.

His Highness directed that the Committee of Inquiry should sit in Jaipur from the beginning of January, 1934, and should submit its report by the beginning of March, 1934.

6. A Copy of Mr. Wills' printed report together with a copy of the Notification mentioned in the foregoing paragraph was sent—in November, 1933 to

each Thikanedar in Panchpana-Singhana (including Khetri) to the Vakils of both the Panedars in Khandela, and to the Vakils of Sikar, Uniara and Patan.

7. All the records on which Mr. Wills' report was based were made available to the Thikanedars concerned and the work of showing the records to them commenced from the 23rd of November, 1933. The Thikanedars were allowed to inspect not only the State records, which would normally have been treated as confidential, but also the copies of the old papers obtained by the Durbar from the Archives of the Government of India. They were also supplied with certified copies of any papers pertaining to their Thikanas that they required. In all, 876 copies of the State papers were supplied to the Thikanedars. Permission was also obtained for the inspection of the Imperial Records at Calcutta on behalf of the Thikanas, and Mr. John Jackson, a Barrister-at-Law from Lucknow, who had been engaged as Counsel by the Khetri Thikana in relation to the case regarding Babai, was allowed to inspect the Imperial Records on behalf of the Thikanas. At the request of the Thikanedars copies of certain old British records selected by Mr. Jackson were obtained from the Imperial Records Department and supplied to the Thikanas.

8. In order to facilitate the proceedings of the Committee, the Vakil of each of the Thikanas concerned was asked, by the Secretary to the Committee, to forward, at least one week before the hearing of his Thikana's case, a written statement in regard to the three issues framed for the Committee's consideration; and it was arranged that the Secretary should intimate to the Vakils the exact date by which written statements in each case should be submitted.

9. The Committee of Inquiry started its work in January, 1934, and it was hoped that the report would be forthcoming in the following March; but difficulties arose regarding the representation of their case by the Thikanedars and the submission by them of such further evidence and information as was required to enable the Committee to arrive at findings on the terms of reference. The enquiry was accordingly not completed until March, 1935, when the Committee submitted a separate report on each of the six following areas:—

- (1) Panchpana-Singhana (including Khetri)
- (2) Babai,
- (3) Sikar,
- (4) Uniara,
- (5) Patan, and
- (6) Khandela (both Panas).

The report on each of the six areas is unanimous.

10. The conclusions reached by the Committee of Inquiry may be summarized as follows:—

- (1) that no Thikana whose status the Committee had investigated can offer any historical justification for its assertion of a separate

political jurisdiction: all were direct creations of the Ruler of Jaipur. The only occasion on which some of them were able to assert political independence was during the period from 1790 to 1818 A. D.—when the central authority of the State was, for various reasons, considerably weakened—but that assertion was deliberately and formally rejected by the British Government under the Treaty and “Settlement” of 1818 A. D., the former of which declared the Maharaja of Jaipur to be the “*absolute Ruler of his territory and his dependents*”. This sovereignty of the Durbar is undivided. No Thikanedar is a ‘tributary’ of the Durbar. At the most they are ‘feudatories’ holding under a grant, to which liability to both service and assessment is attached. Some of the Thikanedars have exercised certain sovereign *functions* within the territorial limits of their Thikanas; but they have done so either by delegation or unauthorized encroachment. They have themselves no inherent sovereign *rights*;

- (2) that the Revenue payments of these Thikanas are not permanently fixed but are liable to revision: the Committee have recommended certain enhancements in the case of Panchpana-Singhana, Sikar and Patan, and have also recommended that the assessments as now revised be declared to have been fixed in perpetuity;
- (3) the Committee have recommended that all the Thikanedars, whose status they (the Committee) had investigated, with the exception of Khandela, should be classified as ‘Istimrar Muamlaguzars’; Khandela (both Panas) should be classified as ‘Istimrar Ijaredars’;
- (4) that none of these Thikanas possesses mineral rights: the Committee have recommended that His Highness should assert the Durbar’s Sovereign Right to all “major” minerals found within the limits of these Thikanas—the prescriptive claim of the Thikanedars (with the exception of that of Khandela, who are Istimrar Ijaredars) to the enjoyment of “minor” minerals being conceded;
- (5) that none of the Thikanas possesses Customs rights: the Committee have recommended that His Highness should extend the Customs *cordon* of the State to its territorial frontiers, paying compensation to the Thikanedars for such future reduction of income as can be legitimately attributed to this extension of the Customs *cordon*. The Committee have suggested the basis on which compensation should be calculated in each case; and
- (6) that the title of the Raja of Khetri in the Taluqa of Babai is defective. The Raja is a “tenant-at-will” of His Highness

the Maharaja for this tract, which he holds in accordance with the terms expressed in the document of the 15th of July, 1818, which was a simple lease for *three years*. The tenancy is a simple tenancy terminable on either side at the close of any one year.

In the case of Babai the Committee have suggested a compromise. *viz*, that, on attaining his majority, the Raja of Khetri should be invited to surrender his right to "major" minerals in his main Thikana (a right which was conceded in 1891 (A. D.) in ignorance of certain essential facts) in return for a permanent territorial title in Babai giving him a perpetual lease on a quit-rent of Rs 44,000/- per annum: the Committee have pointed out that this would not be driving a hard bargain, as the mines have not been worked since 1872 A. D. and the Raja would be asked to surrender merely a potential source of income. The Committee have also expressed the opinion that the Raja must also surrender those exceptional powers which, by reason of a continued misconception of his real position in the tract, he has been able to assert for so long a period, *i. e.*, right to levy "Zakat" or "Rahdari", claim to mineral rights in the Babai Parganah and claim to police and civil and criminal jurisdiction in that Parganah.

11. After the proceedings of the Committee had closed in March, 1935, a Hindi version of the Articles of Agreement between Maharaja Jagat Singhji and the Thakurs of the Jaipur State, framed in June, 1818, at the suggestion of Sir David Ochterlony, was found among the records of the office of Panch Musahibs; and Mr. Wills was invited to state his views as to the significance of this paper—which contains the signatures, amongst others, of:—

Rao Raja Bhiv Singh of Uniara, Rao Raja Lichman Singh of Sikar, Kumar Bakhtawar Singh, son of Raja Abhey Singh of Khetri, Raja Abhey Singh of Khandela, Thakur Udai Singh of Nawalgarh, Thakur Shyam Singh of Jhunjhunu, and Thakur Sheo Singh of Jhunjhunu.

Mr. Wills has now expressed his views. He holds that, although it is certain that this paper is not the original document signed by the Thakurs in 1818, it is unquestionably an authoritative copy of the Hindi document signed by them in that year, and the list of the Thakurs who signed it may be accepted as authoritative. Mr. Wills considers that the paper provides emphatic confirmation of the correctness of the Inquiry Committee's conclusions at every point at which it has any bearing on those conclusions. It shows, for example, that in 1818, Sikar, Khetri, Uniara, etc, were treated precisely as all the other Thakurs of the State were treated; that the Articles were of general application and that they were signed by all.

12. Copies of (transliteration of) the newly discovered paper and of Mr. Wills' note have been embodied in the copies of the Committee's Report.

13. The enquiries were now complete; but, owing to unforeseen circumstances, many of which were outside the control of His Highness' Government, the consideration of the Committee's report took longer than was anticipated. The examination of the reports and the record has, however, now been completed. His Highness is entirely satisfied that the Thikanedars concerned were given the fullest possible opportunity of putting forward their representations before the Committee of Inquiry, of rebutting, if they could, the tentative conclusions that Mr. Wills had reached in his report, and of convincing the Committee of the correctness of the views urged by them (the Thikanedars). His Highness feels that no one who studies the Committee's Report with an unbiased mind can escape the conviction that the Committee have given irrefutable arguments in justification of each one of their findings and recommendations and have made out an unassailable case.

14. After deep deliberation, and most careful consideration, His Highness is now pleased to announce that he accepts the conclusions and findings of the Committee of Inquiry on the various points at issue, that is to say:—

- (1) that the Thikanedars whose status the Committee had investigated, viz:—
 - (1) Panchpana-Singhana (including Khetri), (2) Sikar, (3) Uniara, (4) Patan, and (5) Khandela (both Panas) are direct creations of the Ruler of Jaipur and do not possess any separate political jurisdiction of their own;
- (2) that the revenue payments of these Thikanas are not permanently fixed but are liable to revision;
- (3) that none of these Thikanas (with the exception of Khetri whose claim to mineral rights was conceded by the Durbar in 1891 A. D. in ignorance of certain essential facts) possesses mineral rights;
- (4) that none of these Thikanas possesses Custom's rights properly so called; and
- (5) that the title of the Raja of Khetri in the Taluqa of Babai is defective.

15. Turning to the specific recommendations made by the Committee of Inquiry, the most important of which is the revision of the revenue payments of the (1) Panchpana-Singhana, (2) Sikar and (3) Patan Thikanas, it is perhaps unnecessary to point out that His Highness has the inherent power to enhance, if he deems proper, the amount of Muamla payable by any Thikana,

but he has no wish to alter arrangements in this connection that have had the sanction of time. Out of regard for his Thikanedars, therefore, His Highness is not only prepared to forego the enhancement—aggregating over Rs 70,000/—a year as recommended by the Committee of Inquiry, but he had also been graciously pleased to order that the Muamla be declared to be permanently fixed at the existing figures in all cases.

16. As regards the status of the Thikanedars, His Highness accepts the Committee's recommendation on this point, as he is satisfied that the proposed classification is the correct one.

17. As regards the practical assertion of the Durbar's Sovereign Right to the minerals found within the limits of the Thikanas with which the Committee of Inquiry has dealt, His Highness agrees with the Committee that mineral rights are definitely Sovereign Rights; but, while accepting this principle, His Highness is not disposed to upset, in practice, the arrangements that already exist. Should, however, any change be necessary hereafter in the interest of the future development of the State, the position may have to be reconsidered.

18. As regards the actual extension of the Customs *cordon* of the State upto its territorial frontiers, His Highness is of opinion that it is essential that, in a modern State, the Customs *cordon* should conform with the frontiers of that State. The existing Customs arrangements in the areas dealt with by the Committee of Inquiry are definitely out of date, and irksome to, and not in the best interests of, the people and the State. In these circumstances, His Highness feels that he has no alternative but to accept the Committee's recommendation on this issue. At the same time, His Highness has no intention of inflicting financial hardship on the Thikanas concerned and has been pleased to order that before implementing this decision a careful inquiry should be made to ascertain the amount of compensation that should be paid to these Thikanas for any reduction of their income which can be legitimately attributed to the extension of the Customs *cordon* of the State upto its territorial frontiers.

19. Finally, with regard to the compromise suggested by the Committee of Inquiry in respect of the Taluqa of Babai, His Highness considers that the compromise suggested is a fair and equitable one; but, as the Raja of Khetri is still a ward, final orders on this point will not be passed until he has been invested with administrative powers.

20. His Highness trusts that the Thikanedars concerned will appreciate the consideration he has shown in dealing with this difficult problem and hopes that they, on their part, will loyally co-operate with his Government in implementing the above decisions.

LIII

21. In conclusion, His Highness directs that a copy of ;
- (1) the relevant report of the Committee of Inquiry ;
 - (2) the document mentioned in paragraph 11 above ; and
 - (3) this Order

may be sent to each of the Thikanedars concerned.

By His Highness' Command,
H. BEAUCHAMP ST. JOHN,
Prime Minister, Jaipur State, Jaipur.

MINUTES OF DISSENT

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A NOTE.

The Report of the Constitutional Reforms Committee is printed separately along with the Government Order—and is priced at Rs. 2/- only.

This volume contains the Minutes of Dissent recorded by some members of the Committee. They are arranged in chronological order.

It is regretted that no better quality of paper was available for printing these Minutes.

K. ISWARA DUTT,

Secretary,

Jaipur.

CONSTITUTIONAL REFORMS COMMITTEE.

**Minute of Dissent by Mr. Shah Alimuddin Ahmad, M.A., B.L.,
Syed Hasan Mujtaba, M.A., LL.B., and
Maulvi Hamidullah Khan.**

We sign this Report subject to the following note of dissent:—

1. In Jaipur a legislature composed of two houses of a bicameral character would be more expedient.

2. We are of opinion that the safeguard necessary for the Muslims is to grant them the right of separate electorates, with a weightage extending upto 25% of the total seats, both in the Council and in the Assembly.

Having regard to the consensus of Muslim opinion as evidenced by the overwhelming support to the manifesto issued by the Muslim Political Organization, we are of opinion that nothing short of the above mentioned provision would satisfy the Muslims.

We, therefore, respectfully urge that this unanimous demand of the Muslims whose services and sacrifices have always been requisitioned and utilized for the honour and welfare of the State, should be granted in toto.

3. We do not agree with the remark of the Chairman that there is no necessity for introducing a special provision of this kind relating to one particular community in the State, regarding

matters affecting Muslim religion etc., in the legislature. When matters affecting religion are not excluded from the purview of the legislature, safeguards as proposed and passed by Committee are very necessary.

4. We are of opinion that at least one of the Ministers, appointed from among the elected members, should be a Muslim. Upto the present, there has been an unwritten convention to have at least one Muslim Minister in the Council. We, therefore, propose that it should be provided by statute that one at least of the Ministers should be a Muslim.

5. We do not agree with the Chairman's opinion that clause (4) of the suggested declaration may be omitted, as we consider that such protection is essential.

SHAH ALIMUDDIN AHMAD.
SYED HASAN MUJTABA.
HAMIDULLAH KHAN.

**Minute of Dissent by Mr. Karpoor Chandra Patni
and Mr. Tikaram Paliwal, B.A., LL. B.**

The popular demand for the establishment of full responsible government under the aegis of His Highness the Maharaja, as indicated in the answers to the Constitutional Reforms Committee's questionnaire, submitted on behalf of the Jaipur Rajya Prajamandal, was supported by no less than 3113 persons, out of a total of 3273, who replied to the questionnaire. But we are sorry to say that the constitutional reforms proposed in the Report do not anywhere approach the fulfilment of the said popular demand. For instance, we think that the proposals regarding franchise, composition and powers of the Legislative Council, the extent to which popular element is to be introduced into the Executive and fundamental rights, are utterly inadequate and unsatisfactory. Moreover, it is obvious that the too many safeguards and restrictions proposed throughout the Report are sure to hamper real progress. Nevertheless we have associated ourselves with the Report in the same spirit of helpfulness in which we originally decided to co-operate with government in the work of constitution-making.

We stand for a constitution framed on fully democratic lines and we believe that too much emphasis laid in the Report on the conciliation of apparently varying interests goes against the spirit of democracy. We feel that claims which cannot but be regarded preposterous should not have been put forward on behalf of the 'sardars' (by the way a word used in the Report as a misnomer for jagir-

dars and other State-grantees in general). We must make it clear that we are not at all agreeable to the idea of giving separate representation to the 'sardars'—for the simple reason that the same cannot be beneficial to them. Apart from this, we cannot help saying that special representation to the extent of 10 seats for about 700 jagirdars and other state-grantees in the Legislative Council, providing only 30 territorial seats for 30 lakhs of people, would, on the very face, look absurd. Similarly, the allotment to the 'sardars' of 25 seats in the Representative Assembly would tend to defeat the very purpose for which the Assembly is going to be created, *viz.*, to provide "effective representation in a chamber, predominantly their own, of tenants, the smaller tradesmen, the primitive tribes and such other sections of the population" who "cannot ordinarily hope to get a place in a chamber elected on a high franchise."

Likewise, it is our painful duty to submit that the demands made by the Muslims are entirely one-sided and unfair. Since Muslim representation far beyond the proportion of their population has already been reserved with liberty to contest other territorial seats, we fail to understand the significance of the suggestion about a 'reasonable compromise' made in the penultimate sentence of paragraph 31. Certainly we do not think there is any room at all for any further compromise. We are sorry that we do not share the opinion (expressed in the same paragraph) that "the bulk of the Muslim opinion in Jaipur is in favour of separate electorates". Those who press for separate electorates we would ask to

see whether they are thereby serving the best interests of the Muslim community itself. For ourselves, we regard separate electorates in any form as a deadly poison for the body politic, and as such we place on record our emphatic and uncompromising opposition to them.

Having thus stated our views about some of the fundamentals, we do not feel encouraged to go into further details. However, with the object of making the proposals contained in the Report less objectionable, at least from the moderate point of view, we would like to conclude this brief note with the following suggestions:—

1. The President of the Legislative Council should be an elected non-official from the very beginning;

2. The previous consent of the Prime Minister for the introduction of a Bill into the Legislative Council should not be necessary;

3. There should be no restriction on the number of resolutions to be moved or questions to be asked by the members in the Legislative Council;

4. The Prime Minister should not have the power to disallow an adjournment motion after the receipt of the consent of the President of the Legislative Council;

5. Neither of the two sessions of the Legislative Council should be of less than a fortnight's duration;

6. The quorum for the Legislative Council should be fixed at 25;

7. His Highness' privy purse should be fixed;
8. The State Army should not be excluded from the purview of the Legislative Council, nor should the expenditure under the heads (1) 'army', (2) compensation for excise to jagirdars, for bhomchauthan to thikana Diggi, for excise to the Bhomias of Torawati, for customs to thikanas of Sheikhawati, and (3) the salaries of the Prime Minister and other Ministers, be regarded as expenditure under excluded heads.
9. Clause (g) under para 67 about the relations of the sardars with His Highness and their privileges etc. should be deleted.
10. The provision suggested in the last sentence of para 42, regarding the power of additions, alterations and amendments in a bill after it has been passed by the Legislative Council should be removed.

KARPOOR CHANDRA PATNI.

TIKARAM PALIWAL.

**Minute of Dissent by Mr. Chiranjilal, M.A., LL.B.,
and Mr. Vidyadhar Kulhari, B.A., LL.B.**

While we generally agree with the main recommendations of the Constitutional Reforms Committee, we feel that we are failing in our duty if we do not put our view-point on various subjects before the Government. The foremost question is of the goal of constitutional progress. We may frankly submit that in the modern age when the problems of government have grown and are still daily growing more complicated, when the strength of a government lies upon its popular backing and not upon its armies, and when constant touch and consultation with the people is necessary for a government to function properly, there can be no two opinions about Responsible Government. A government of the people is the universal cry. Out of about 3000 replies received by the Committee to its questionnaire, 98 per cent demand full Responsible Government immediately. The demand is backed by merchant magnates, medical practitioners, advocates, and professors, leaving aside the general masses who are crazing for it. There is no dearth of talent in Jaipur State and good many citizens of the State have graced the legislatures and ministries in British India. We feel that the Committee would have been absolutely justified had it recommended the establishment of full Responsible Government in the State. But as uptill now there were no representative institutions in the Jaipur State and as the sardars are unduly nervous about the democratic institutions and want to stick to feudal traditions and their so-called privileges and rights, the

Committee has made very modest recommendations. The Committee was actuated by a spirit of realism and is not likely to proceed too fast. We being certain that there was no chance of taking the entire Committee or at least the majority with us on the point of immediate grant of Responsible Government by His Highness the Maharaja Sahib Bahadur, we remained neutral on the proposal. But it does not follow that if full fledged responsible government can not be established in the State at present, there is any thing wrong in the declaration of the goal of constitutional progress. We, therefore, request the Government to make a declaration that it is the policy of His Highness' Government to increase association of the people with the administration of the State with a view to establish full Responsible Government under the aegis of His Highness the Maharaja Sahib Bahadur.

We may further submit that a time-limit should also be fixed in which the necessary changes should be brought and full responsibility conferred upon the representatives of the people. The case of Phillipines is an important instance. Such fixing of time-limit would electrify the masses and would inspire them with more energy, more enthusiasm, and more ambition. The various sections of the public would try to adjust themselves to the coming reforms and the evolution will be peaceful, orderly and methodical.

We may here say that immediately two or three public men may be co-opted in the administration to strengthen it and to give an opportunity to them to learn the art of government. The war has

created many complicated problems, and not only it affords an opportunity for rapid industrialisation of the country—hampered though we are, on account of lack of proper machinery, but it has brought great many miseries in the shape of high prices, increasing cost of living, and disruption of normal trade and commerce. We require an efficient system of planned economy and we think that such expansion of the cabinet would prove a source of strength to the administration.

At present only officials and Ministers are deputed to represent Jaipur State in so many all India committees and conferences and it is in fitness of things that some public men should also be deputed.

Though our terms of reference are limited to constitutional reforms, yet life cannot be separated in water-tight compartments. We expect that the administration would try to eradicate illiteracy, poverty and general backwardness. Literacy campaigns may be started in co-operation with municipal committees and public organisations like the Praja-mandal, Anjman Islamlia, Hindu Sabha, Sardar Sabha etc. We may cite the example of Aundh State. The entire illiteracy of the State was wiped out in a period of three months before the new reformed constitution came into operation.

In conclusion we express our fervent hope that the rich and poor, sardars and commoners, officials and non-officials, merchants, artisans and the agriculturists, would all join together in making the greatness of Jaipur.

C. L. AGARWAL.

VIDYADHAR KULHARI.

**Minute of Dissent by Mr. Nemi Chand
Kasliwal, M. A., LL. B.**

I have generally agreed to the recommendations of the Committee as contained in its Report. I only append a note herewith on some of those points with which I find myself in disagreement.

Declaration re: Responsible Government:

Although the Committee's Report has provided for a review of the constitution after five years, it has not said anything about the goal. The Government order appointing the Committee acknowledges a rapid growth in the political consciousness of the people and their interest in public affairs. But it no where says that the goal of this steady and harmonious constitutional progress of the State is Responsible Government. I would suggest that the proclamation of His Highness the Maharaja should contain a declaration that it is the settled policy of His Highness' Government that there will be greater association of His subjects in the work of government with a view to the progressive realization of Responsible Government in the State.

The constitution will be reviewed by a Committee and it will be incumbent on that Committee to report as to what extent the principle of Responsible Government could be established.

It may be said that my stand for a declaration is not consistent with what took place in the Committee on Mr. Paliwal's resolution on Responsible Government on which I remained neutral. From its very inception, members had been aware of the

immense difficulties facing the Committee in its labours and it was felt that demands not compatible with the existing circumstances would have the effect of retarding the work of the Committee rather than of aiding it. It was, therefore, only in the fitness of things, that some of the members including the representatives of the Praja Mandal decided to adopt a spirit of moderation consistent with the prevailing atmosphere. I would like to state that I equally stand for the attainment of Responsible Government under the aegis of His Highness the Maharaja, but taking a realistic view. I feel that Responsible Government at one stroke is not feasible.

Muslim Representation:

In agreeing to give seats for the Muslims in the Legislative Council, I feel that it is adequate enough to give them sufficient weightage and a voice in the deliberations of the House. I would, however, say that a weightage, more than what we have suggested in the Report, would smack of over-representation of the Muslims. As Dr. Beni Prasad in his book, "Hindu-Muslim Unity" says, "A weightage in order to be reasonable must not be so large as to jar on the sense of justice and fairness and require the exertion of force rather than an appeal to the twin principles of justice and political expediency for its maintenance". A weightage which gives almost double the number of seats to the Muslim community which it would otherwise be entitled to, on population basis, is, in my opinion, reasonable.

Representation of Sardars:

Ten seats have been reserved for the sardars in the Legislative Council. They have been given ten

times the weightage their confreres in British India have received. It is, therefore, correct to say that the sardars would be extremely over-represented in the Legislative Council as well as in the Representative Assembly which neither their history nor their status would justify. The Government have made it clear after an exhaustive enquiry that they are creations of the Rulers of Jaipur and as such they are in a better position than the ordinary subjects of His Highness. I have agreed to this disproportionate reservation for the sardars purely on grounds of political expediency.

State Army:

I am opposed to the exclusion of the State Army from the purview of the Legislative Council. Nearly 1/5th of the State Budget concerns the State Army. And if discussion on the Army is excluded, this item of the Budget is also excluded. Besides, it is a dangerous policy to increase expenditure on the army without previously consulting the popular element, as an increase in that side would result in starvation of the nation-building departments. The regulation of the personnel of the army may rest with His Highness. But the Budget item on it must remain a matter for discussion and vote in the Legislative Council.

Cut motion in the salary of Ministers:

A cut motion to criticise the policy of a Minister regarding the working of a particular department under his charge is a valuable right of the members of the Legislative Council. It is used primarily to focus attention on some particular feature of the policy of the Minister in the administration of the department about which the motion is tabled; which

a cut motion under the head of general administration may quite fail to do. My attention has been drawn to the provisions of the Government of India Act 1935, by which salaries of Ministers are no longer amenable to a vote of the House. But this has no application here as there is no joint responsibility here, nor is there a provision for a vote of no-confidence being passed against the Ministers. A cut motion in the salary of a particular Minister in the British Indian provinces would be tantamount to a motion of no-confidence against the whole Ministry which, if passed, would compel the Ministry to resign because there is joint responsibility. I do not think there is any danger of this right being misused, as the Chairman seems to think. It should remain with the legislators as a cherished right of theirs.

12-4-43.

N. C. KASLIWAL.

**Minute of Dissent by Raja Sardar Singhji Bahadur
of Khetri.**

While I am in general agreement with the recommendations of the Committee on Constitutional Reform, there are certain points on which I differ from the view of the majority. The present note embodies these points of difference and my views and suggestions regarding them.

Paragraph 29 of the Committee's Report deals with the allotment of seats in the Legislative Council. The Committee recommends that in a House consisting of fifty-nine members (excluding the Chairman) the seats should be allotted as follows:—

Nominated	...	...	...	14
Territorial constituencies (including				
5 Muslim seats)	...	...	...	30
Sardars	...	...	...	10
Trade and Commerce—	...	...	...	2
Women	...	...	...	1
Labour	...	...	...	1
Graduates	...	...	...	1
				59

I would suggest that this arrangement leaves out of account a number of factors. In the first place, the sardars are given only 10 seats or just over 22% of the elected seats. In view of the part which the thikanedars have played in the history of Jaipur and in view of the fact that the thikanas consist of about two-thirds of the entire state, both in area and in population, they should be given a representation of at least 33%, namely, 15 seats, in

the Legislative Council. The Committee admits the importance of the sardars as a class in the State, but unless they are given a substantial representation in the Council, there will be an inadequate recognition of this order.

In the second place, I would suggest that there should be no functional seats in the Council. To the best of my knowledge, no Constitution in the world has recognised that graduates represent any special interest and are entitled to seats on that score. In all democratic bodies representation is given to particular interests only when they are of an economic or political character different to that of the majority. But graduates cannot claim special consideration on that score, for a graduate may be a thikanedar or a peasant, a Hindu or Muslim, an industrial magnate or an office clerk.

With regard to the other functional seats, I would say that the interests which it is proposed that they should represent are not sufficiently developed in Jaipur at this stage to require special representation in the Council. Neither Trade and Commerce nor Labour is sufficiently developed or organised to have interests which come into clash with the rest of the body politic. These interests could, therefore, be adequately represented through the general territorial constituencies for the time being. Similarly, I see no reason why women should be given a special seat. The day is not far off, I hope, when women will contest the territorial constituencies on an equal footing with men. To give them a special seat now will retard the process of their progress, for it will always make them feel that they are weak and entitled to special

consideration on the basis of their weakness and backwardness.

Should these five functional seats be done away with, they could be added on to the ten allotted to the sardars. Thus the sardars could be given their 15 seats without decreasing the 30 seats allotted for popular representation.

With regard to representation in the Assembly, I would suggest that here again the sardars have not been given an adequate number of seats. The 25 seats allotted to them represent just over 20% of the strength of the entire house whereas they should be given 25%, namely, 29 seats. Moreover, as the Assembly is mainly a deliberative body, the sardars should be given the alternative of sending their representatives to attend the meetings, instead of themselves. This will save a good deal of embarrassment and unpleasantness as there will be a number of cases in which tenants will bring up complaints about their thikanedars.

So far as the Assembly is concerned, I am in favour of introducing functional representation as suggested by the Committee. As the main function of this body will be to discuss and deliberate over public matters, it would be very desirable to have it as widely representative a gathering as possible.

Paragraph 94 (1) of the Committee's Report reads—

“he must be qualified as a voter for the House for which he wishes to stand as a candidate;

“Provided that a sardar, as defined in the Constitution Act, shall not be eligible to stand for election in a territorial constituency.”

The reason for this proviso is explained at length in paragraph 93 where it is stated that although zamindars and landholders who have been given a special representation in British Indian Councils are allowed to contest general seats, the sardars here should not be allowed to do so as they may use improper methods to induce the electorate to vote for them.

In the first place, when a section of the body politic is given special representation it is never debarred by that fact from its rights to contest general territorial seats. For instance, in this same Report, the Muslims, Trade and Commerce, Labour, women and graduates are given special seats, but this does not debar them from standing for the general territorial constituencies. Why then should the sardars be thus handicapped?

In the second place, if the only reason for this proviso is the fear that the sardars may coerce the electorate by improper means, there will still be cause for apprehension, for if the sardars really are in a position to exercise such coercion, what is to prevent them from using it on behalf of their nominees even though they cannot contest the constituencies themselves? I would suggest that the use of improper means for obtaining votes can only be prevented by the growth of political consciousness in the masses, not by constitutional provisos which handicap a particular class.

With regard to the exclusion of certain subjects from the purview of the legislature, I support the view of the majority of the Committee which recommends that the following subjects should be added to the list of excluded subjects ;

- (a) the relations of the sardars with His Highness the Maharaja and their personal or hereditary privileges, rights and status, granted or recognised by His Highness the Maharaja.

The Chairman, on the other hand, while agreeing with the desirability of introducing a popular element into the Council fears that statutory restriction of the choice of Ministers to the elected members of the Council might prove embarrassing in practice and hinder the appointment of the best available men.

- (b) the State Army.

Paragraph 112 embodies the Committee's recommendation that in order to introduce popular element into the Council, at least one-half of the Ministers (excluding the Prime Minister) may be appointed by His Highness the Maharaja from amongst the elected members of the Council.

I am in complete agreement with the view of the Chairman that no fetters should be placed on the choice of His Highness the Maharaja to appoint his Ministers. His Highness has shown a keen desire to associate his people more and more in the administration and we may feel certain that his Ministers will be chosen to an ever-increasing extent from among the elected representatives of his people.

SARDAR SINGH,
RAJA BAHADUR OF KHETRI.

Minute of Dissent by Thakur Kushal Singhji of Gejgarh, Mr. Laxmi Narain Yadava, Thakur Surendra Singhji of Khacharlawas, Captain Chiman Singh, and Mr. Chiranjilal Loyalka.

1. Fundamental differences of opinion have constrained us to write this separate Report in which we shall briefly indicate our views and proposals regarding Constitutional Reform in this State. In the prefatory remarks to their Report, our learned colleagues have referred to the existence of diversity in the characteristics of Indian States and to the necessity of relating the constitutional problem to the special features, past history and present requirements of the State. These very considerations have led us to conclusions which differ, in important respects, from those arrived at by the other members of the Committee.

2. Historically the constitution of a Rajputana State like Jaipur is a modified continuation or a product of the ancient Indian polity. A patriarchal type of monarchy, in which the interests of the ruler and the ruled are identified, is the distinguishing feature of this system of government. While the protection of the subjects and the promotion of their welfare is the highest duty imposed on a ruler by Divine dispensation, sovereignty vests in the ruler, not in the people.

3. A constitution based on these principles is still considered by the bulk of the population to be the most desirable form of government. Political theories and constitutions of foreign countries are unknown to the masses. There is no general discontent or unrest in the State. The desire to gain political power by imitating the Western democratic

form of government is a phenomenon restricted to a small section of those who have received modern education. We are not suggesting that our system of administration does not stand in need of improvement or that there should be no reform so long as there is no agitation. Statesmanship requires that steps should be taken to introduce a carefully considered scheme of reforms calculated to revive the true spirit of our own political organisation and to secure the closer association of the people with the administration.

4. In paragraph 3 of our colleagues' Report, there is a reference to the inalienability of land. The correct position is that land in thikana areas as well as that held by landholders of all types is, by custom and usage, inalienable. We do not also consider some portions of the description of sardars and thikanas given in paragraph 6 of that Report to be correct. It was outside the purview of our Committee to determine the status, rights, powers and privileges of sardars and thikanas. The importance of the aristocratic order of sardars is self-evident and history bears ample testimony to it.

THREE SCHEMES

5. We wish to offer some observations regarding the three schemes which have been criticised by our learned colleagues in chapter II of their Report. The Sardar Sabha's scheme does not envisage the establishment of a hereditary house on the lines of the British House of Lords, because it is not suggested that all the sardars should sit in the Upper House which is to include a certain percentage of members belonging to other classes also. It does

not seem to be intended that the representation of sardars should be a marked feature in the Lower House where the representatives of the people would naturally be expected to be in a decided majority. When sardars are to be returned by election to both the Houses, they cannot be called hereditary legislators.

6. It has been mentioned in paragraph 18 that none of the Western countries has copied the hereditary system of the British Parliament for the constitution of an Upper House. On this point Sir Henry Maine says:—

“There is much reason to believe that the British House of Lords would have been exclusively or much more extensively copied in the Constitutions on the Continent but for one remarkable difficulty. This is not in the least any dislike or distrust of the hereditary principle, but the extreme numerousness of the nobility in most continental societies, and the consequent difficulty of selecting a portion of them to be exclusively privileged.

The 'Abbe Sieyes insisted that the fatal obstacle to the engrafting of a House of Lords on to the Constitution 'made' for France in 1791 was the 'number and theoretical equality of the nobles'.

Still the nobility was very substantially represented on the Upper Houses of Italy, Spain, Sweden, Austria, Prussia, Saxony, Bavaria, Wurtemberg, Baden, Hesse, and Japan. Even the modern "Canadians desired to follow the British model but as hereditary membership (like that in the English House of Lords) could not be arranged, Senators are appointed for life."

Hungary, where the nobles owned one eighth of the land in the Kingdom, had the House of Magnates which resembled the British House of Lords. In countries where hereditary aristocracy does not exist, the Upper Chamber has necessarily to be composed of different personnel.

7. The question of sovereignty and jurisdiction raised in paragraph 19 of the other Report is, in our opinion, not germane to the issue. According to the Government of India Act of 1935, those for whom 40% seats were reserved in the legislature included not only Ruling Princes but also others known by different names and possessing no sovereignty or jurisdiction at all. For example, a very large number of talukdars of Kathiawar belong to the latter category. In such cases, the Crown Representative legislates and exercises jurisdiction. Many of these units, before their allegiance was transferred to the British Crown, were thikanas subordinate to Ruling Princes. The recent decision of His Excellency the Crown Representative to attach such units to neighbouring States shows how greatly the status of these talukdars differs from that of Ruling Princes enjoying full legislative and jurisdictional powers. The position of these non-jurisdictional units in relation to the British Crown is not better than that of thikanas in relation to their suzerain Rulers. Indian States form part of the British Dominions, though not of British India. Thikanas form part of a State, though they are distinguished from khalsa territory. While the relationship of sardars with the Jaipur Throne is of a special nature, its political aspect cannot be ignored. We have referred to some of the points mentioned by our learned colleagues but we consider it quite unnecessary, for our present purpose, to go further into these controversial questions. It was not because the nobles enjoyed sove-

(1) Sir J. A. R. Marriott: *The Mechanism of the Modern State*,
—Vol. I, page 412.

(2) V. S. Rana and B. M. Sharma: *Modern Government*—page 289.

reign powers or exercised jurisdiction that the House of Lords was constituted in England or the Upper Houses, containing a predominance of nobles, were established in the countries mentioned above.

8. The quotations given on pages XXVIII to XXX of the Sardar Sabha's reply to the Questionnaire make it abundantly clear that the possession of sovereignty or jurisdiction was not the criterion for the inclusion of any unit among those for whom 40% seats were reserved. It should be noted that the claim of sardars for adequate representation and safeguards is not based exclusively on the analogy of the Government of India Act, 1935. They themselves say that "no analogy can completely and correctly describe the status of the Rajput sardars which is *sui generis*." They have stated, in reply to the Questionnaire, other grounds also in support of their claim. These grounds may be summarised thus:—

- (i) Possession of 72% of the total area of the State by sardars and landholders.
- (ii) Their ties of kinship to the Ruler.
- (iii) Their martial and historical contribution to the establishment and preservation of the State.
- (iv) Their position of special and great importance and their political predominance in the State, enjoyed by immemorial custom and tradition.
- (v) Possession of certain hereditary status, rights, powers and privileges.

(vi) Long established usage of their having a dominant voice in the affairs of state.*

(vii) Article 8 of the Treaty of 1518.

“The Maharaja and his heirs and successors shall remain absolute rulers of their territory and THEIR DEPENDANTS ACCORDING TO LONG ESTABLISHED USAGE.”

9. All these considerations put together afford ample justification for the claim of sardars for adequate and effective representation and necessary safeguards. Their desire for an Upper House, consisting exclusively of the aristocracy or of 70% seats for their order, cannot be considered to be unreasonable. In view, however, of the modern trend of thought and events, we would propose a *via media* which we shall discuss later.

Bicameral Schemes

10. Nine important public bodies have proposed a bicameral constitution. We shall deal with this question later.

Mr. Hiralal Shastri's Scheme.

11. We now come to the scheme of Mr. Hiralal Shastri “who may be said to represent the nationalist or Prajamandalist section of political opinion in Jaipur.” He wants that “Jaipur should enjoy full responsible government as an integral part of free and independent India.” Our learned colleagues remark that as things stand at present, the realisation of full responsible government, immediately, is by no means practicable. The very first

* “Sardars are the chief counsellors of the Jaipur Chief.” History—of Jaipur” by T. Fateh Singh.

instalment of political reform in the State.....can not in reason, be expected to be full-fledged responsible government of the British parliamentary type." If the implication of this be that although the goal of full Responsible Government is not realizable immediately, it might be realised hereafter, we record our dissent from such a view.

12. There is no place for irresponsibility in our conception of Government. The moral and spiritual responsibility of the Ruler is an essential characteristic of the Indian type of monarchy. But the significance of Responsible Government, according to modern political terminology is quite different. The Executive Government, instead of being responsible to the Ruler, is required to become responsible to and removable by the Legislature. This means the extinction of the Ruler's sovereignty and authority which are to be transferred to the legislature and the people. This western idea of Responsible Government, involving the idea of the sovereignty of the people is, thus, diametrically opposed to the basic principles of our own polity.

13. Party government is an indispensable feature of the Parliamentary type of Responsible Government. A party, by its very nature, is incapable of being so impartial as a Ruler can be. Recent experience of the working of Provincial Autonomy in British India has shown that the party in power was inclined to develop autocratic and dictatorial tendencies. Of what avail is Democracy if it secures the domination of a single party whose prejudices and partisanship deny the rest of the people that legitimate freedom which is their birthright? The

following observations of Bryce regarding majority rule are interesting:—

“Sardars are the chief counsellors of the Jeypore Chief.”—“History of Jaipur” by T. Fateh Singh.

“If, on the other hand, the group constitutes majority in the Chamber, it is omnipotent. The ball is at its feet; it can count on passing all its measures, and need not trouble to expound or defend proposals in debate except for the purpose of saving appearances and putting its case before the country. It has only to go on voting steadily what has been previously determined on, in secret, uninstructed and unmoved, by arguments from any other part of the Chamber, because there is no need for listening to words which cannot affect its predetermined action. The Chamber, having ceased to be deliberative, has become a mere voting machine, the passive organ of an unseen despotism. It may have even ceased to express the national will, for the majority of a majority party does not necessarily represent the view of the majority at the whole Chamber. Assume that whole Chamber to consist of 210 members, 110 of whom constitute the ruling group. Suppose the majority of that group who decide upon a particular course to be 60 against 50 dissentients. Add to these fifty the hundred other members of the Chamber who are also opposed to the course proposed. That course will be carried by a compact majority of 110 against 100 although, if the real opinion of the members were expressed by the vote, it would be rejected by 150 against 60. If we were to try to ascertain the probable will of the people on the matter by examining the popular majorities in each constituency by which the 60 members whose vote in caucus prevailed had been elected, as compared with the number of votes cast for the 150 members who disapproved, the contrast between the true popular will and the decision rendered by those who are supposed to represent it in the Assembly might become still more evident. Yet by this method of subjecting the whole Assembly to a bare majority of a majority, the most far-reaching and possibly irrevocable decisions might be taken.

This may seem a sorry result for representative government to have reached, yet it is a logical and legitimate development of the the principle of Majority Party Rule. “(J. BRYCE: *Modern Democracies*,”—Vol. II, pages 338-89).

14. The so-called representatives of the people who are returned by election represent only that party which votes for them. His Highness who is

above parties and factions, is the representative and guardian of all. The security of the majority as well as minorities, of all classes, communities and sections lies in the benevolent protection which the Ruler alone can afford. Responsible Government would deprive the people of this extremely necessary and valuable safeguard.

15. We are convinced that it would not be in the best interests of the State and the people to adopt Responsible Government of the foreign type as our immediate or distant goal. The English constitution is the result of a gradual evolutionary process and has not been imported from outside. In Switzerland and America the ministry is not responsible to or removable by the legislature and yet both these countries are democratic. Constitutional machinery is only a means to an end, the aim of all governments being the happiness and welfare of society. This object can be best attained by our own monarchical system of government which can be so liberalised as to fulfil all the legitimate requirements and aspirations of the people.

THE UNICAMERAL SCHEME.

16. The other members of our Committee, in paragraph 60 of their Report, have recommended "a legislature composed of two Houses, but not of a bicameral Character." What they have actually proposed is a legislature consisting of a single chamber to be called the Legislative Council, and a Representative Assembly "which will not take part in legislation" and will not be connected in any way with the Legislative Council. The main function of the Representative Assembly is to be "the venti-

lation of public grievances". The real work of legislation is to be entrusted to the Legislative Council. In this scheme, in spite of there being two Houses, we have all the disadvantages of unicameral system and none of the advantages of a bicameral legislature. The contemplated single Legislative Chamber would make the constitution definitely unicameral.

17. Democracy is so far unknown in the actual working of the administration of this State. Our esteemed colleagues recognise that at present "there is no constitutional contact between the Government and the people" who have had no opportunities "to acquire political experience and training". They are also aware of the educational and "general backwardness of the people". Still they are proposing a unicameral constitution which is universally recognised as more dangerous than the bicameral system. We cite some eminent men to show what the world thinks of Unicameralism:—

"Nor, perhaps, would the preference for the bicameral form have become so marked but for the exposure, by practical experience of the inconveniences and dangers attendant upon alternative methods. Some of the smaller European States such as Greece, have made trial of the one-chamber system only to abandon it in favour of two."

(Sir J. A. R. Marriott: *The Mechanism of the Modern State*. Vol. I, p. 39).

"Except at moments of revolutionary favour, the principle [of Unicameralism] has never been adopted by any of the great States of the modern world." (*Ibid*, p. 392)

"Mill, Bagehot, Henry Sidgwick, Lecky and Lord Acton, widely as they differed in their general political outlook, all concurred in the conclusion that a single chamber legislature is dangerous to liberty, and does not conduce to efficiency of government." (*Ibid*, p. 401)

With reference to the British Self-governing Colonies, Sir J. A. R. Marriott writes: "Nor will it escape observation that notwithstanding

the robustness of their democratic sentiments, not one of them has adopted the unicameral model." (*Ibid.*, p. 417)

"I tell you that unless you have some such thing as a balance you cannot be safe. By the proceedings of this (single chamber) Parliament, you see they stand in need of a check or balancing power." (OLIVER CROMWELL.)

"Of all forms of government that are possible among mankind, I do not know any which is likely to be worse than the government of a single omnipotent democratic chamber.....The tyranny of majorities is, of all forms of tyranny, that which in the conditions of modern life is most to be feared and against which it should be the chief object of a wise statesman to provide." LECKY: "*Democracy and Liberty*". Vol. I. p. 209 & 222).

18. It is with the object of establishing "full Responsible Government" that the Prajamandal proposes a Unicameral Legislature. This objective is calculated to destroy our own polity. The phrase "under the aegis of His Highness the Maharaja" which is coupled with the demand for Responsible Government is meaningless, and the demand is self-contradictory, because, as we have already pointed out, the authority of the Ruler is necessarily extinguished in a government of this type. The people in general, however, have faith in, and desire the continuance of, our traditional form of monarchy. Since it is, as it ought to be, our intention to seek constitutional progress by adopting such modern methods as would serve to maintain the integrity of the best elements of our indigenous monarchical system, we should not knowingly introduce a political machinery which would tend to destroy that we want to preserve. The disruptive tendencies of unrestrained democracy are likely to manifest themselves vigorously in a Unicameral Legislature which would certainly not be conducive to the end we have in view.

In so far as the check and steadying influence of an Upper House would be absent, the Unicameral constitution recommended for this State would be less balanced and more exposed to the dangers of mobocracy than the constitution of British India where at the Centre as well as in all the important Provinces, Bicameralism reduces the risks associated with the introduction of democratic institutions. Even full-fledged democracies need the balance and safety which Second Chambers provide. Unicameralism would seriously aggravate the difficulties and perils with which our constitutional experiment would be confronted. In the Legislative Council proposed by our colleagues, a definite majority is provided for the representatives of the people. In any unicameral scheme this will be so. Even if, to begin with, the number of seats for the aristocracy is increased, that will not remove the inequality so long as they remain in a minority in the House. Besides, there will be a constant tendency to decrease the number of seats for the aristocracy and to increase those for the people when there is only one chamber. Domination by a single party would be inevitable in this system. The remedy lies in a Bicameral constitution without which any approach to equilibrium will be impossible.

19. We are offered a replica of the Mysore constitution. An important factor which must have influenced the Mysore Government in adopting the unicameral system might be stated in the words of the Seal Committee: "a comparatively compact socio-economic structure without marked differences of economic level and without big landholding or feudal

interests, would naturally point to a single chamber". The conditions in the Jaipur State are just the reverse. In the formulation of the scheme which the other members of the Committee have suggested, due weight does not seem to have been attached to our historical background and the existing state of society in Jaipur. The proposed constitution would involve "too sudden a break with past history and tradition" which our esteemed colleagues intended to avoid (*para 27*). It is not possible that the various interests, classes and groups in the State can be satisfactorily balanced in a single legislative chamber. The scheme, as it is, fails to inspire a sense of security in sardars, landholders, other special interests, minorities, Muslims and the orthodox Hindus who constitute the majority. The Unicameral Legislature which we have been discussing is inconsistent with the principles which should govern constitutional reform in a State like Jaipur, is wanting in the necessary checks and balances, and is wholly unsuited to the genius of the people and the circumstances and environment of our State.

20. The Representative Assembly, according to our colleagues' schemes, would not form part of the legislature, and its main business would be "to bring to the notice of the Government the wants and difficulties of the peoples by means of presentations and hear the answers of the Government to those representations." The same function is, at present, being performed by the Central Advisory Board and District Advisory Boards which have been unfavourably commented upon by our colleagues. The necessity of such a body as the Representative Assembly is intended to be, would disappear when a

bicameral legislature is established; but if it is considered advisable that there should be an additional agency for the ventilation of peoples' grievances, that purpose could be served by holding annual or periodical conferences of the same nature at the capital and in the districts. The so-called Representative Assembly is also intended to meet once a year.

OUR PROPOSALS.

21. We have, at present, a definite social and political organisation based on ideals and traditions which have been highly valued for generations. The measures of reform that we now devise must, therefore, be correlated to these actualities. If, in order to meet modern requirements, we borrow foreign constitutional devices, they should be such as would harmonise with our existing structure and would prove suitable and beneficial for the people in their present backward stage of general and political education. Keeping these principles in view and aiming at the well-being of society as a whole, we would recommend that reform may be sought in the following directions: -

1. The establishment of representative institutions.
2. The increasing association of the people with the administration.
3. Greater responsiveness on the part of the Government.
4. Necessary safeguards.

22. If a legislature is to be established, it should

be, definitely, of the bicameral type. That enlightened opinion in civilised countries prefers Bicameralism would be clear from the following quotations:—

“The modern world has, with a singular measure of unanimity decided in favour of two legislative chambers. Most of the constitutions now in existence are the result, as regards the structure of the legislature, of conscious imitation of the English Parliament. *Sir J. A. R. Marriott: “The Mechanism of the Modern State”*. (Vol. I, p. 390).

“That the British Colonies should have followed the example of the motherland in adherence to bicameralism is perhaps not altogether unnatural. It is more remarkable that the unitary States of Europe should in remodelling their constitutions have shown similar preference.” (*Ibid*, p. 418).

“Lecky and Lord Acton, approaching the study of politics from very different angles, are alike in their solicitude for the maintenance of freedom, and both discern in a second chamber one of the strongest securities for its preservation.” (*Ibid*, pp. 401—2).

“Lord Acton goes so far as to declare that in every genuine democracy a Second Chamber is ‘the essential security for freedom’.” (*Lord Acton: “History of Freedom.”*—p.98, *Ibid* 402).

“Henry Sidgwick, fearful as were many men of his generation lest the Legislature should encroach on the functions of the Executive, held that the danger was sensibly diminished by the existence of two legislative chambers.”

Sir J. A. R. Marriott: “The Mechanism of the Modern State”.—p. 402. *Henry Sidgwick: Elements of Politics*, C.XXXIII).

Parliaments are bicameral mainly for two reasons:

“As a result of the federal system, and as the institutional result of a desire to check the popular principle in the constitution. This does not mean that in Federal States the Second Chamber was designed only to represent the States.....it is likely that there would have been some sort of Second Chamber, even if it were not required by the Federal principle; it does not mean, therefore, that there is absent from these (Federal

Second Chambers) the intention or spirit of a curb" (*Herman Finer: "The Theory and Practice of Modern Government".—* Vol. I p. 666).

Most of the Senates in modern countries have been deliberately contrived as checks in the popular House, in imitation of ancient Rome or of England." (*J. Bryce: "Modern Democracies"* Vol. II, p. 434).

Those modern thinkers and statesmen who have held that every well-framed constitution should contain some check upon the power of the popular assembly have usually found it in the creation of a second assembly." (*Ibid* p. 437)

When the first constitutions of the American States were drafted, a second chamber was deliberately introduced in imitation of the British Parliament with its two houses. The example has been followed in most of the countries that have given themselves framers of more or less popular government in modern times." (*Ibid* p. 438).

"A real and strong second chamber is a *sine qua non* of efficient legislation and government." (*Frederick Harrison.*)

What then is expected from a well-constituted Second Chamber is not a rival infallibility, but an additional security. It is hardly too much to say that, in this view, almost any second chamber is better than none." (*Sir Henry Maine.*)

23. The reasons which make it advisable and necessary for us to have a second Chamber may be further, stated thus:—

- (1) To maintain proper balance between the different interests, classes and sections and to minimise the dangers of the possible despotism and tyranny of the majority party, a second chamber is essential. "The great majority of the democracies of the world, even those which have come recently into being, have been established on a bicameral basis. Experience in the Australian and American Federations seems to show that their existence has been a security

against abuse of power and* impetuosity on the part of the popular chamber." In the words of Herman Finer, "Anarchy must be avoided by a balance of power provided in the constitution."† If it were possible to secure balance of power without Second Chambers the world would not have bothered about them.

- (2) An Upper House would reduce the occasions for the exercise of the special powers of His Highness and the Prime Minister. The Indian Statutory Commission mention, in their Report, that "they do not consider that the Governor's powers of overruling the legislature provide, as is often suggested, an alternative to an Upper House. The sphere of the Governor in his individual capacity is mainly executive. The exercise by him of powers of overruling the legislature cannot be regarded as equivalent in value to the decision of a legislative and deliberative body. "(3)" The United Provinces Committee unanimously, favour a second chamber as likely to prevent antagonism arising between the Governor and legislature as a result of frequent resort to the veto. "(1)" It is better that the responsibility for acting as a brake on the lower house should normally be exercised by second chamber than by the Governor—which is the alternative." (2) *Viscount Bryce says*:— "there is the method of subjecting measures passed by the popular representative assembly to revision or rejection by

* Report of the Indian Franchise Committee,—
Vol. I. p. 150 (1932).

† *Herman Finer: "The Theory and Practice Modern Government"*. Vol. I. p. 144.

‡ Report of the Indian Statutory Commission—
Vol. II. p. 98 (1930).

(1) Report of the Indian Statutory Commission—
Vol. II. p. 98 (1930)

(2) Report of the Indian Franchise Committee.
Vol. I p. 151 (1932)

another legislative body. This is the so-called Second Chamber scheme, preferable to a simple veto because it provides opportunities for a second discussion and possible improvement of a measure."†

(3) A Second Chamber, by exercising a restraining, moderating and stabilising influence on the First Chamber, checks hasty, rash and ill-considered legislation and the ultra-radical zeal of extremist politicians. The new constitution will be an experiment unprecedented in our history. As the people have had no previous experience of legislative or Parliamentary institutions and the standard of education of the people is low, it is important to make provision for further deliberation and revision by a Second Chamber.

(4) The political constitution of a Rajput state has peculiarities and special characteristics which distinguish it from states of other types. Where the landed aristocracy is almost non-existent the problem is different. In our state the existence of sardars and landholders, possessing 72% of the territory, provides not only the material with which a second chamber can be formed but also the circumstances where bicameral constitution becomes particularly necessary. At present there is no proper legislature of the Parliamentary type in any of the states of Rajputana. It

(†) J. Bryce: "Modern Democracies" —Vol. I. p. 434.

is, therefore, necessary that we should proceed with great caution and care and try to produce a model which might be safely and advantageously copied by other sister states.

- (5) Bicameralism would be more consistent with our polity and more conducive to the preservation of our indigenous system of monarchy than Unicameralism.
- (6) Both territorial and functional representation are desirable and a combination of these can be more satisfactorily and equitably secured in a double-chamber legislature.
- (7) As our colleagues have proposed two chambers; the bicameral system would practically involve no additional cost.
- (8) The whole problem was fully thrashed out by the British Government in connection with the question of constitutional reform in British India. The Government accepted the view of those who "read constitutional history as showing that the consideration of legislation by one house is inadequate, and that a second chamber has been proved to be the best revisory instrument." (1) In spite of the Congress demand for Unicameralism, the Government decided upon a bicameral constitution for the centre as well as all the important Indian provinces where aristocracy existed. A few small provinces had to go without second cham-

bers "because the material from which they could be formed does not exist in their provinces." (2) The decision of the British Government in favour of bicameralism is positive proof of its suitability to our conditions.

24. We shall now deal with certain objections against a two-chamber legislature:—

- (1) We do not concur in the view expressed by our learned colleagues that an Upper House with a predominance of the nobility "would be a citadel of reactionary forces hindering all popular progress." We consider this to be a false apprehension. Present-day tendencies are being increasingly understood and appreciated and the need of marching with the times is realised to a reasonable extent by the aristocracy. The sheer necessity of self-preservation and of not losing their natural leadership is bound to result in a progressive liberalisation of their views. As we are recommending a reservation of only about 43% seats for sardars and landholders in the Upper Chamber as against 70% originally proposed by the Sardar Sabha and Rajput Sabha, the landed aristocracy, if it opposes any measure specially affecting its interests, could be easily defeated with the help of the official members. If the Upper House consists of, say, 60 members including the President, and

nine of these are officials, there will be 26 sardars and landholders and the rest will have 24 seats. If these 24 members combine with the 9 officials they will carry every measure which the landed aristocracy might oppose. Further, we are not proposing that measures rejected by the Second Chamber should be dropped. In case of a difference of opinion between the two chambers, the measure could be referred to the Government for acceptance or rejection. With these arrangements there can be no fear of the landed aristocracy dominating the Legislature.

- (2) There is nothing cumbersome about the two chambers we are proposing. The bicameral system is working all over the world as well as in India, without any special difficulty. In the event of disagreement between the two houses one of the three simple devices we are proposing later could be adopted for arriving at a decision.
- (3) It was mentioned in the course of one of our discussions that the bicameral constitution was likely to overshadow the authority of the Government. This unusual idea is not, in the least, justified by general experience. The history of

(1) Report of the Indian Statutory Commission.
Vol. II. page 98 (1930).

(2) Report of the Indian Statutory Commission.
Vol. II. page 97 (1930).

second chambers proves, as we have shown above, that they

(i) help the Government to maintain equilibrium and stability,

(ii) tend to obviate the necessity of governmental interference, thus preventing friction between the Legislature and the Government and

(iii) curb the recklessness of the popular chamber. The value of the Second Chamber is diminished if it consists exclusively or largely of the same class of men as those who form the First Chamber, but when the Upper House is mainly composed of the aristocracy and the propertied classes, it positively strengthens the hands of the Government. Our proposal that measures on which there may be disagreement between the two chambers should be referred to the Government for decision, further enhances the scope for the exercise of the discretion of the Government.

(4) Our learned colleagues really admit the necessity of a second chamber when they say (in para 22):

"A Double Chamber may be necessary only in cases where a fully democratic Lower House with plenary powers is set up. In such a case an Upper House may be needed to act as a brake on hasty or ill-considered action by the Lower House."

The Legislative Council recommended by our colleagues may not for the present possess what may technically be called

plenary powers, but the proposed powers must be regarded as very considerable and wide for our people who have never before been associated with legislative bodies. With the exception of the subjects that are usually excluded from the purview of a legislature, our legislative chamber would enjoy almost the same powers as are exercised by the legislature in British India. We would go the length of saying that, if the peoples' representatives are to be entrusted with legislative functions, however limited they may be, it would be very necessary, in the interests of safety and order, to adopt the bicameral system.

Our esteemed colleagues add: "As the establishment of such a Lower House in the immediate future is not envisaged by us, the necessity for a Second Chamber disappears". We see no reason why the possession of plenary powers by the legislature should be made a necessary condition for the creation of an upper revisory house. Since it is intended that one chamber should be invested with legislative functions, whatever their precise extent may be, we urge, for reasons which we have already dwelt upon, that the unicameral scheme would be unsatisfactory and should be dropped in favour of a bicameral one.

In paragraph 23 of the Report, the other members of our Committee seem

to express the view that the introduction of Bicameralism should be dependent upon the "immediate establishment of full responsible government". In this connection we would invite attention to the fact that although full responsible government does not exist in British India, the bicameral constitution has been adopted by the Government of India as well as by most of the Provincial Governments.

25. The vast majority of the people hold conservative or moderate views. They would prefer a bicameral constitution to a unicameral one when they know the merits and demerits of both. It is a fact that constitutional problems are unknown to the masses. The replies received by our Committee are not an index to the popular feeling, because it is well known that the overwhelming majority of those who appeared as witnesses before the Committee or sent written replies to its Questionnaire belong to one particular school of political thought. The people in general who are loyalists and moderates did not care, for reasons which are probably known to the Government, to send a sufficient number of their representatives as witnesses or written replies. It is, however, significant that as against the Prajamandal and certain similar associations which have asked for a unicameral legislature, the Sardar Sabha—the organisation of the Sardars of the state, the Rajput Sabha, which represents the important Rajput race, the Rajguru Sant Mahant Samiti, the Arya Samaj,* all the four important associations of the Muslim

(*) The Hindu Sabha did not send a reply to the Questionnaire. The Arya Samaj wants three Houses.

community, (2) and the Sanatan Dharma Mandal which speaks on behalf of the bulk of the Hindu population, have all indicated, in their replies to the Questionnaire, their decided preference for a bicameral constitution.

Informal discussions among different groups of members of our Committee showed that it might have been possible for our Committee to evolve an almost unanimous scheme of reforms on the basis of the bicameral system if the impression had not been created, rightly or wrongly, in the minds of some that the Government favoured the unicameral model. It is still our fervent hope that this impression may turn out to be incorrect and that the weighty and immense advantages of a Double Chamber legislature may induce the Government to decide in its favour. We believe Bicameralism will be the most generally acceptable constitution for our State. Even the Indian National Congress has worked the bicameral system in British India.

After careful deliberation we have come to the conclusion that in our socio-political structure, a unicameral legislature will not tend to "secure the

(2) The four Muslim organisations which sent replies are:—

Anjuman-i-Khadimul Islam, Darul-Akhbar, Kaim Khanese Board and Islami Panchayat. The Muslim members of our Committee have expressed the view that the Muslim community favours the bicameral system and the following statement bearing their signatures as well as ours was submitted to our Committee:—

"The expression of our views and our participation in voting on all points should be understood to be subject to the reservation that we are going to propose a separate scheme of a bicameral legislature.

steady and harmonious constitutional progress of the State from the point of view of all interests concerned," which, as laid down by the Government, should be our ultimate aim. Taking a comprehensive view of the whole question we would say, unhesitatingly, that a bicameral constitution would, in every way, be definitely safer and more advisable and suitable for our State.

The Legislature

26. We recommend that the Legislature should consist of a Legislative Council and a Legislative Assembly.

The Legislative Council.

27. If the Legislative Council consists of fifty-nine members in addition to the President, nine seats may be allotted to officials. Out of the remaining fifty seats for non-official members, there should be twenty-six seats for the sardars and landholders and twenty-four for the rest. These twenty-four seats may be distributed among the propertied classes on a geographical basis, and others. Out of these twenty-four seats five may be nominated by the Government.

The idea is that the Second Chamber should consist of a class and type of men different from those who constitute the First Chamber, in order that the various interests may be evenly balanced. The representatives of the people should be in a decided majority in the Lower House and the landed aristocracy should have one or two more seats than the rest of the members in the non-official bloc in the Upper House. What we have proposed would give the sardars and landholders about 43% of the seats in the

Second Chamber. The representation of the landed aristocracy should be proportionate to their importance. Among those classes which could find representation in the Upper Chamber, the sardars and landholders are undoubtedly the most important. In view of the considerations which we have mentioned above in paragraph 8 and of the position of special eminence which the nobility enjoys historically in the State, it would not be unreasonable to give them the representation we are proposing. They are entitled to substantial weightage and that point should also be borne in mind. It would be recalled that they are asking for a reservation of 70% of the total number of seats in the Upper House. If the landed aristocracy is given a representation lesser than what we have proposed above, it would also upset the whole balance. The arrangement that we are proposing seems quite fair and should prevent the domination of any single interest, party or group.

28. The comparison which has been drawn between the talukdars and zamindars of British Indian provinces and the sardars of this State in paragraph 33 of our colleagues' Report cannot be considered to be fair, because the status of the Jaipur sardars is of an entirely different and superior nature, and the political organisation and constitution of the State differs materially from that of a British Indian province.

The Legislative Assembly.

29. In a Legislative Assembly of one hundred and twenty members, excluding the President, there should be twenty-five seats for sardars and landholders, sixty-four for territorial constituencies, six for functional groups, and twenty-five for official and

nominated members. Out of the twenty-five members to be nominated by the Government, not more than half may be officials, the rest being non-officials. Out of the sixty-four territorial seats a certain number should be reserved for Rajputs. Weightage for Rajputs should not be less than what may be decided upon for Muslims. It is noteworthy that seats are reserved for Marathas in the Bombay Provincial Legislative Assembly. It would only be in the fitness of things that reservation of seats for Rajputs must be provided, for they do not only belong to the ruling race but also form the sword-arm of the State. The proposed reservation of 20% seats for sardars and landholders in the Legislative Assembly would suffice, provided that liberty is also given to them to stand for election from the general territorial constituencies and that 43% seats are reserved for these classes in the Legislative Council as proposed above.

30. Sardars and landholders should be elected by separate electorates composed of their own class. This is the recognised and accepted method.

31. We have reconsidered the question of joint and separate electorates for Muslims in the light of the view which prevailed in our Committee and which favoured joint electorates. We do not wish to oppose the general opinion that joint electorates would be better.

32. A most extraordinary and unfair discrimination against sardars is sought to be made by a proposal embodied in the proviso to clause (1) of paragraph 81 of the Report of our esteemed colleagues. It is suggested that sardars should not be

eligible to stand for election in territorial constituencies. If a definite majority in the Legislative Council is provided for the sardars by the constitution, it would be a different matter so far as that Chamber is concerned; but the imposition of this disability would not be justifiable in the case of the Legislative Assembly in which only about 20% seats are proposed to be reserved for these classes. The argument advanced by our learned colleagues is that "if the sardars are allowed to contest territorial seats, there is a danger of their capturing many of them to the detriment of the interests of the general public." We do not think that this is a correct reading of the situation. It is admitted that out of a total population of thirty lakhs, about eighteen lakhs live in thikana areas. The happiness and prosperity of these eighteen lakhs of ryots vitally affects the sardars whose interests are closely interwoven with those of these people. The landed aristocracy has far greater reasons to care for the well-being of the rural masses than those professional politicians who are mainly actuated by a desire to be in the lime-light and who have nothing to gain or lose by the fortune or misfortune of those whom they profess to represent. The sardars who have always distinguished themselves by their patriotism, have a stake in the country which gives them a genuine and abiding interest in the welfare of the people and the State. These natural leaders of the countryside should be encouraged to represent the cause of the rural population. The seeking of the votes of the people by the landed aristocracy would be a process which should promote harmony and a greater realisation of the identity of the interests of these sections of society. In British India, no attempt has ever been made to prevent the

landholders by statutory provision, from being returned by general constituencies, although in two of the provinces this class succeeded in capturing as many as 97% and 74% seats. It should also be remembered that political propaganda is going to make it increasingly difficult for sardars to be successful at elections in general constituencies. We are emphatically of the opinion that sardars should be allowed to contest the general territorial seats.

It would be advisable to make it permissible for sardars to send their representatives to the Legislative Assembly. This practice exists, at present, in the case of the district advisory boards.

33. If the Government desire to reduce the numerical strength of the Chambers, it might be done proportionately.

34. The Presidents of the Legislative Council and the Legislative Assembly should be appointed by His Highness the Maharaja Sahib Bahadur. Each Chamber may choose one of its members to be the Vice-President of the Chamber concerned.

35. We leave it to the Government to decide the precise extent of the powers to be entrusted to the two Chambers, but we consider it essential that both the Chambers should be invested with co-equal powers. The balance of political strength, which ought to be aimed at, cannot be ensured unless this is done. The Upper and Lower Chambers of the British Indian and Provincial Legislatures enjoy equal powers except in the case of Money Bills, which originate in the Lower House.

(1) Vide Report of the Indian Statutory Commission, vol. II p. 77.

Excluded Subjects.

36. While we agree that the subjects mentioned in paragraphs 56 and 57 of the Majority Report should be excluded from the purview of the Legislature, we propose the following amendments:—

(i) in clause (g) of paragraph 57 after the word “rights” the word “powers” be inserted, and after the word “Maharaja” the following be added:— “and the exercise of such privileges, rights and powers by the sardars.”

(ii) in order to protect the dignity of sardars, the following be added to the list of excluded subjects:— “sardars”.

(iii) there is a genuine fear in the minds of orthodox Hindus in general, as well as Muslims, that the heterodox section of the population, though numerically very small, might find itself in a strong position in the Legislature and try to introduce legislation affecting religion and religious usages which would be highly objectionable. This apprehension would, to some extent, be diminished by the establishment of a second chamber, but it cannot be completely removed without a specific provision in the constitution to exclude such matters from the purview of the Legislature. We, therefore, strongly recommend that the following be added to the list of excluded subjects:—

“Ecclesiastical matters and matters affecting religion, religious usages, practices and customs.”

37. We agree that the items of expenditure mentioned in paragraph 59 of the Majority Report should be treated as "excluded heads" and suggest the following amendments:—

- (i) the wording of clause (e) of paragraph 59 is not comprehensive enough. The clause should be so worded as to include all kinds of compensations and other payments to thikanas and bhomias etc.
- (ii) under paragraph 59 the following should be added to the items of expenditure regarded as "excluded heads:—

"Expenditure on Temples and Religious endowments."

Action in case of disagreement.

38. In case of disagreement between the two chambers on any measure, one of the following three methods may be adopted for arriving at a decision:—

- (i) both the chambers may meet in a joint sitting and, after debate, if 75% of the members present vote in favour of the measure it should be deemed to have been passed by the Legislature, otherwise it should be treated as rejected. When the numerical strength of the Lower Chamber is double that of the Upper, it might be taken almost as a foregone conclusion that the opinion of the Lower Chamber would prevail in a joint sitting. In order to remedy this inequality it is necessary that a majority of 75% should be required for the acceptance of a measure; or

- (ii) the matter may be referred to a joint committee composed of an equal number of members of each house. Either an effort may be made to arrive at a compromise, failing which the measure be dropped, or the matter may be decided by a majority of votes of the members of the joint committee; or
- (iii) the matter may be referred to the Government which may take such action as it deems proper.

The second method is similar to the Swiss and American systems. Of these three devices we consider the last two to be better than the first and the last one to be the best of all, at least for the present.

Disqualifications.

39. We agree to the proposals contained in paragraph 79 of the majority Report regarding the disqualifications which should render a person ineligible for membership of the Legislature.

Qualifications of electors and members.

40. We are of opinion that the qualifications for votes and candidates for membership should be the same in the case of the Legislative Council, except that voters should have attained the age of 21 years and candidates the age of 25 years.

41. For the Legislative Council a person should be qualified to be included in the electoral roll for any territorial constituency if he:—

- (i) is a tazimi sardar or the eldest kadwar or eldest bhanwar of a tazimi sardar; or

- (ii) is a khas chouki sardar or the eldest kanwar or eldest bhanwar of a khas chouki sardar ; or
- (iii) is a Rajguru or Sant Mahant holding at least one village ; or
- (iv) is a landholder of any description holding at least one village ; or
- (v) has an annual income, from any source, of not less than twelve thousand rupees; or
- (vi) holds any title, order or decoration conferred by or on behalf, of His Majesty not being lower than Diwan Bahadur, Rao Bahadur, Rai Bahadur, Sardar Bahadur, Khan Bahadur, Mahamahopadhyaya or Shamsul-ulama, or any title, order or decoration conferred by His Highness the Maharaja Sahib Bahadur, not being of a lower rank than that specified by the Government ; or
- (vii) has been awarded by the Government of Jaipur a civil, military or political pension or by the Government of India a military pension of not less than two hundred and fifty rupees per month ; or
- (viii) is or has been either: --
 - a Minister or member of the Executive Council of the State; or
- (ix) a Judge of the Chief Court or High Court of the State; or
- (x) a Chancellor, Pro-Chancellor, Vice-Chancellor, Pro-Vice-Chancellor, Fellow or Honorary Fellow of, or a member, of the senate or Court of any University consti-

tuted by law in British India or an Indian States ; or

- (xi) a chairman of a municipal board constituted under the Jaipur State Municipalities Act.

The idea underlying the proposal to extend the qualification to the eldest kanwars and eldest bhanwars of sardars is to utilise the educated younger generation of the aristocracy for this purpose. For the same reason we propose that the minimum qualifying age for membership for sardars, their eldest kanwars and eldest bhanwars should be twenty-one years.

42. For the Legislative Assembly we propose a system of election of members through panchayats. Every village with a population of not less than 1000 and not more than 2000 should elect five panches and those having a population above 2000 should elect one panch extra for each increase in population of 1000 persons or part thereof. In towns each mohalla should elect a panch. All such panches should be the electors. In Jaipur City and wherever municipalities exist, the electors should be those who are on the electoral rolls of the municipalities.

The panchayat is a well-known indigenous institution. A system of elections through panchayats is likely to prove simpler and more suitable for our conditions than other methods. Under this system the electorate will be of a manageable size and yet the principle of universal adult franchise will be indirectly introduced. We may mention that this system exists, at present, in Jodhpur and Bharatpur states.

43. A person should be qualified to be elected as a member of the Legislative Assembly, from any territorial constituency if he

- (i) is a tazimi sardar or a kanwar or bhanwar of a tazimi sardar; or
- (ii) is a khas chouki sardar or a kanwar or a bhanwar of a khas chouki sardar; or
- (iii) is a chhut bhैया of a thikana; or
- (iv) is a Rajguru or Sant Mahant; or
- (v) is a landholder of any description, holding not less than ten bhighas of chahi or forty bhighas of barani land in the constituency; or
- (vi) owns or resides in the constituency, in a rural area where there is no municipality, in a house or part of a house, the value of which is not less than Rs. 300/-; or
- (vii) is a tenant of land in the constituency in respect of which rent or revenue, in cash or kind, of an annual amount to be prescribed by the Government is payable; or
- (viii) is on the electoral roll of a municipality within the constituency; or
- (ix) is a retired, pensioned or discharged officer, non-commissioned officer, soldier of the State military forces or of the Indian Army; or
- (x) possesses the qualifications mentioned in clauses (vi), (vii), (viii), (ix), (x) and (xi) of paragraph 41 above; or
- (xi) is a graduate of any university constituted by law in British India or Indian State, or

has passed such examination in Oriental or Indian languages as may be declared by the Government to be equivalent.

For want of the necessary data we are unable to suggest the amount of rent under clause (vii) of this paragraph and leave it to the Government to specify it.

Voters should have attained the age of 21 years and candidates the age of 25 years.

44. Regarding the term of the Legislative Council and the Legislative Assembly we propose that the practice prevailing, at present, in British India, in this respect, may be adopted.

The Executive.

45. We agree that a popular element may be introduced into the Executive Council, but we are opposed to the idea of making any statutory restriction requiring one or any number of ministers to be necessarily elected members of the Legislature. The popular element will be automatically represented in the ministry when the following recommendation with which we agree, is accepted:—

“The Committee is agreed that the term of the popular Ministers should be coterminous with that of the Council. The term of other Ministers and of the Prime Minister should, ordinarily, not exceed five years. It also recommends that the Ministers should always be Jaipurians and that the Prime Minister should, ordinarily, be a Jaipurian. (Paragraph 101 of the Majority Report).

We endorse the views of the Chairman expressed in paragraph 99, but we feel that his proposal (in paragraph 100) to “provide by statute that one at

least of the non-official Ministers should not be a Sardar" is inconsistent with the recommendation made in paragraph 102 to the effect that there should be no statutory provision circumscribing the power of His Highness in this respect. If the Chairman's proposal were accepted it would make it possible to have an Executive Council in which there need not be even a single sardar. It is a historical fact that there was a time when the Ministry (Panch Musahabat) consisted exclusively of sardars and that it has always been and is the established practice in this state to have, in the Executive Council, a certain number of sardars whose proportion was often more than 50% of the total number of Ministers. It is necessary and important to maintain this practice either by convention or by statute. In case the Government decide to make any statutory provision with regard to the composition of the Ministry, it should be laid down that half of the number of popular Ministers, if any, whether taken from the legislature or from outside, and half of the total number of Ministers in the Executive Council must be Rajput sardars.

The Judiciary and Public Service Commission.

46. We concur in the proposals of the Committee regarding the Judiciary, the Civil Service and the establishment of a Public Service Commission. Our learned colleagues have recommended the adoption of the principles embodied in Section 220 of the Government of India Act, 1935, but we think that the provisions of clause (3), (c) of the section should be considerably modified to suit local conditions.

It was decided by our committee to recommend the establishment of a Public Service Commission on the lines laid down in sections 264 to 268 of the Government of India Act, 1935; but owing, perhaps, to an oversight the principle indicated by the words underlined in clause (2), (c) of section 265 of the Government of India Act, 1935, which we reproduce below, has not been incorporated, as we think it should have been, in paragraph 107 of the Majority Report:—

“No other member of the Federal or of any Provincial Commission shall be eligible for any other appointment under the Crown in India *without the approval*, in the case of any appointment in connection with the affairs of a Province, of the Governor of the Province in his discretion and, in the case of any other appointment, of the Governor-General in his discretion.”

One of the greatest grievances of the people is that local men cannot find employment in State Service which is filled with an unnecessarily large number of outsiders. We recommend that steps should be taken to ensure the appointment of local men on all posts and to give them necessary training for all branches of the State Services. This would afford greater satisfaction to the public than any other measure of reform.

Fundamental Rights.

47. Convention ensures, in our State, the enjoyment of Fundamental Rights by all. A declaration, in this behalf, would not only involve various

difficulties and complexities, but would prove to be practically ineffectual. We do not think that any useful purpose would be served by such a declaration.

48. The principle embodied in section 300 of the Government of India Act, 1935, might be incorporated in our constitution by a suitably worded provision.

49. We are in general agreement with the proposals embodied in the following paragraphs of the Majority Report:— 32, 41, 43, 46 to 50, 55, 72 to 78, 83, 84, 91, 113 to 115, 117 to 119.

The word “unanimously” in the first line of paragraph 65 should be deleted, because the proposal contained in this paragraph was not unanimously adopted.

Conclusion.

50. In conclusion we wish to invite the attention of the Government to certain fundamental considerations. It is generally acknowledged that English system of Parliamentary Government is extremely difficult to work. It pre-supposes certain conditions and cannot succeed in their absence. One of the greatest advantages of our own monarchical system of government is that it does not allow any group to impose its will upon others. The vesting of authority in a large number of people gives rise to rule by a party. There is a constant tendency on the part of the party in power to assume that whatever it does is right and that the opinions of all others can be safely ignored. This is the road that leads to despotism and dictatorship. All those who do not compose the dominant party fail to receive, from such a govern-

ment, that equitable and just treatment to which they are entitled. Herein lies a serious menace to human liberty and safety. The most difficult problem for those who have to reconstruct our constitution is to devise methods by which the increasing association of the people with the Government can be secured without the development of party rule. In the conditions that exist in this State nothing would be more deplorable than party government. That even a democratic country can, to some extent, avoid this evil is demonstrated by the example of Switzerland. What is wanted is a constitution that will prevent governmental authority from being exercised by a single party, will ensure a balance of political power and promote the greatest good of all sections of society.

KUSHAL SINGH.

LAXMI NARAIN YADAV.

SURENDRA SINGH.

CHIMAN SINGH (Captain).

CHIRANJILAL RAMCHANDRA

5-6-43.

LOYALKA.

Additional Note by Seth Chiranjilal R. Loyalka

Subject to this brief separate note I have signed the separate report along with my esteemed friend Thakur Sahib Kushal Singhji and others.

Our ancient conception of state is different. Bhagwan Manu states as under

स्वाभ्यमात्यौ पुरं राष्ट्रं कोश दण्डौ सहत्तथा ।

सप्तप्रकृतयो त्योतः स्तान्दगं राज्य मुच्यते ॥

(मनुस्मृति अ० श्रो० २६४)

Thus according to *Manu Smriti*, a state comprises the following component parts: (1) King, (2) Ministers, (3) Capital, (4) Territory, (5) Treasury (6) Army, and (7) Allies. In an ideal government all these component parts function in harmony for the good of the state. The constitution of Jaipur as well as all other ancient Hindu states has come into being in pursuance of this ideal. According to ancient Hindu political science, sovereignty of the state is vested with the King. A virtuous and dutiful king is looked upon as father by all the subjects. The king chose his ministers, taking into consideration the qualifications of each and governed the state on the advice of these ministers. All the ministers were responsible to the king for their acts and carried out his directions and will.

The popular form of Government is opposed to ancient Hindu political theory. The strength and weakness of the popular form of Government lies in party system. Where parties are formed on well considered principles such as in Great Britain, such

form of Government has achieved a measure of success, but even in Europe in many countries this has led to multiplicity of parties with the result that there is frequent change of Government. Government too is weak and cannot do much good to the people. In a country like India where this form of Government is still in an experimental stage it would lead to party bickerings and lower the efficiency and moral standard of the state.

Any attempt to curtail the powers and rights of the king through popular form of Government would be harmful to the best interests of the state. The imitation of the present system of Government in vogue in British India, in Indian states will be disastrous. In British India the real power is still in the hands of the Governor-General and Governors who are appointed by Ministers of the British Parliament and are responsible to it. In many times the interests of India and Great Britain are not the same; therefore the cry and agitation for Self-Government in British India is natural. In a state like Jaipur the interests of the Ruler and the ruled are the same, and under these circumstances an enlightened and virtuous Ruler, assisted by able and upright ministers can do a great deal for the state. I, therefore, see no cause for framing any new constitution for Jaipur State on the lines in British India.

However, as the state seems to be in favour of introducing some Reforms, I have signed the-Report.

CHIRANJILAL RAMCHANDRA LOYALKA.
