

CONFIDENTIAL



Enclosure A

**Memorandum containing the opinions of the
Official Members of the Government of
the Punjab on the recommendations
of the Indian Statutory Commission**

CORRIGENDA

On page 7 line 3 paragraph 24 in Enclosure A attached to Punjab Government letter No 4706-S-Reforms dated the 14th August 1930 for S99 substitute Sqg

In Enclosure B attached to the above cited letter make the following alterations —

- (1) On page 4 line 7 of Paragraph 93 for the words It is not a fact that there is not a single Dominion read Is it not a fact that there is not a single Dominion
- (2) On page 7 line 23 for H E and H. M. F read the official members

Enclosure A —Official Opinions

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I—INTRODUCTORY

(Report Part I)

The Indian Statutory Commission has observed that the constitutional system which it has propounded must be judged as a whole and the more closely we have examined the scheme the more forcibly we are struck with the close interrelation between the parts and the whole and with the repercussions in other features of the scheme which criticism of one or more portions in details inevitably involves. We feel that before proceeding to a detailed discussion of the various proposals put forward we should consider the general scope of the Constitution which has been suggested for the governance of the Indian Empire.

2 We are convinced that the Commission is right in holding that if India is to take its place in the Commonwealth of Nations which form the British Empire an All India and not merely a British Indian solution for India's constitutional problem must be sought. We are fully agreed also that whatever constitution is now devised should be elastic in frame and contain within itself the seeds for future adjustments and developments obviating periodical enquiry by any outside agency into new forms of growth. We shall now proceed to examine these two fundamental propositions.

3 As regards the former the position of the States is in itself a powerful argument in favour of recourse to the federal plan as an ideal for an All India Constitution even though the complexities involved may tend to retard early and complete realization. The perspective for the whole structure which the Commission presents is the organization of the Indian Empire on a federal basis of which the constituent parts will be the provinces in the immediate future and the States at some probably more remote future date but delay in accretion of the latter we observe need not retard the immediate completion of the federation of the provinces for the purpose of a Central Government in British India. So leaving aside for the moment the question of the inclusion of the States we may proceed to examine the relation of the provinces to the Centre. This involves an issue of primary importance between the merits of a Federal Constitution on the one hand and of a Unitary Central Government on the other. We feel that in this matter it is easy to fall into the mistake of laying excessive stress either upon historical parallels and precedents elsewhere or upon theoretical principles. An argument against federalism which is commonly put forward is one of a theoretical nature. A federal constitution it is pointed out is normally one in which States that are already sovereign agree to surrender a portion of their sovereign rights to a central body and such a constitution it is argued can have no relation to the provinces of India which are not and have never been sovereign bodies but on the contrary are and have always been creatures of the Central Government. To this in the field of political theory it may be replied in the first place that though the provinces are no doubt the creatures of Parliament they are not and have never been the creatures of the Government of India except in so far as the latter exercised supervision direction and control over them as agent of a Secretary of State responsible to Parliament. Further, because the Government of India Act gives the provinces rights and powers which cannot be taken away by the Central Government they are now *vis a-vis* the Central Government invested to some extent with the attributes of sovereignty and finally it may be urged that in so far as Parliament has divested itself of the intention to interfere with the administration of transferred subjects to that extent (so far as the peculiar constitution of the British Commonwealth permits) Parliament has endowed them with elements of sovereignty. From another aspect it is better to build up from below by the natural development of items already in the practice within a considerable sphere of representative and self governing institutions. But in truth the question is not one for theoretical discussion for whatever the position that has been created by the Government of India Act it may still be altered by Parliament and the question for consideration is whether here and now the process should be continued of investing the provinces with the attributes of sovereignty or whether Parliament should retrace its steps and create in India a unitary Government from which the provinces will hold all their powers by delegation. This is a question which we consider should

be decided on its merits without regard to the subsequent inclusion of the Indian States in an All India federation because the prospect of that federation are so remote that they ought not in our opinion to stand in the way of making as soon as practicable whatever may be considered the best constitution for British India. In this controversy the Punjab Government in its Memorandum prepared for the use of the Statutory Commission has already given its verdict in favour of the federal system by which the powers of provincial Government are derived by direct delegation from the British Parliament and the relative position of the spheres of the Central and provincial Governments respectively shall be clearly defined by a Statute and to this general position in which we are supported by the authority of the Statutory Commission we adhere. This seems to us the natural and logical road of the development of what has already been established in the first stage of the reforms. We are not unconscious of the argument which lays stress on the fact that in past history the danger of India has been the centrifugal tendency but we feel that modern communications are in themselves a sufficient guard against that peril and that what is to be feared to day is the risk that a majority chosen in very large and diffused constituencies from the whole extent of a sub continent may seek to impose its will against local feeling as expressed in provincial legislatures whose members are elected from smaller and more concentrated constituencies and are in closer touch with their electors and in spite of local conditions. We are fortified in this view by the fact that there have been in the past ten years several incidents illustrating this tendency.

4 In our Memorandum we left the subject at the point of expressing our opinion in favour of the general position that the provinces should be federal bodies and expressed no opinion as to the method of their confederation. The proposals of the Statutory Commission now take us a step further and definitely propose that the Central Legislature should derive its political tinge from the provincial legislatures inasmuch as it is elected by them. In spite of certain obvious disadvantages of indirect election we are in favour of this proposal because it emphasizes and establishes beyond dispute the federal nature of the Indian Constitution. A Central Legislature elected independently by direct election might claim not only a separate existence but also an overriding authority from that of provincial legislatures but a body elected by these legislatures to represent them obviously draws its inspiration from them and will ensure that central activity for common purposes will ordinarily be in harmony with the general sense and sentiment of the constituent parts.

5 As regards elasticity for development and adjustment as far as the provinces are concerned we consider that the provision made for possible changes in the composition of the legislature referred to in paragraphs 95 and 109 of Volume II of the report is adequate. There are other matters of some what lesser relative importance in which the discretion to change or to use alternative methods seems to be sufficiently provided in the project. We have received the criticism that the relations between the Central and provincial Governments as regards respective spheres of activity are too static. This must necessarily be so if the danger of one authority trespassing on the other is to be avoided. Nevertheless the provisions of paragraphs 184 to 188 of Volume II where by agreement fields of mutual interest can be enlarged and opportunities for co operation secured and the method explained in paragraph 306 whereby the allocations of particular taxes to the Provincial Fund can be changed by a special procedure necessitating a very large majority of agreement appear to us to be instances where by mutual arrangement really necessary adjustments in interrelations can be secured.

6 Leaving aside for the moment the examination of the scheme for the Central Government we observe that the Commission has not been able in this case to paint in the colours which will form the final picture with so sure a hand. The close connection of the activities of the Central Government with matters of broader interest which impose a certain burden upon a Parliament charged with imperial and international obligations and other special responsibilities the uncertainty of the time and manner of the merging of the Indian States in the federal whole the period needed for the growth of self sufficiency in defence the necessity for safeguards while the constituent provinces of British India are being established in their new and wider field of autonomy in provincial affairs all point to a transitional stage in which the final form of the eventual metamorphosis of the centre cannot be accurately delineated. Meanwhile the Commission has visualised a federal Assembly with a composition of a very different

nature to that of the present Legislative Assembly and with inevitably increasing and weightier reactions on the Executive and the provisions of paragraphs 169 and 173 of volume II of the report vest the Governor General with a discretion so to choose his Executive Council that it may increasingly include in its unitary authority responsive members connected with though not responsible to the Legislature. It is at this point that the uncertainties of transitional conditions referred to above compel the Commission to leave their picture unfinished and whatever comments may arise as regards details we feel that the immediate difficulties of necessity restrict further vision.

7 Before we pass on to examine the scheme for the provincial system of Government in detail we desire to express general agreement with the observations regarding the needs for safeguards at this stage and at the present time which are contained in Chapter 5 of Part I of Volume II of the Report. We are convinced of the reality of the menace which the length of India's frontiers both by sea and land represent and subject to some observations regarding provincial militias which we will record later we fully recognize that the need of an army in India sufficiently strong and well equipped for the task of defence and the maintenance of internal security is a fundamental requirement. We likewise agree that for many years to come it must contain British troops and British officers serving with Indian Units. We shall have something to say later as regards what we conceive to be the general sentiment concerning the Indianization of the Army and the building up of a Dominion Force.

8 We also agree with the Commission that while conditions are in the state of progress towards complete self government the maintenance of law and order must remain a matter of special concern and that in this connection besides a stable Central Government there will be need for some special powers to vest in the Governor General and Governors in the exercise of which they will be responsible to Parliament. Similar provisions will likewise be needed to ensure the power to act effectively in an emergency and to prevent the breakdown of regular administration and its lapse into a state of anarchy.

9 With the development of full self Government we hope the day is not far distant when the problem of minorities will cease to loom so large as it does at the present time but as things are now it is generally acknowledged to create a serious situation for which a satisfactory palliative for the nonce is not forthcoming from within but must be sought from some impartial outside source. For some time to come it appears clear that special power to interfere to protect the weak should be vested in the Governors and Governor General and we believe that only by this method can we secure for these classes effective protection. The other device of a recital of their rights in Statute supplemented by facilities for recourse to a judicial body for their interpretation and enforcement is in our judgment ineffective and impracticable.

II—PROVINCIAL REDISTRIBUTION

(Report paragraphs 37 and 38)

10 We must confess that we are puzzled as to the exact implications of the recommendations of the Commission under this head. It is stated to be a matter of urgent importance that the Government of India should set up a Boundary Commission to investigate the main cases in which provincial readjustment seems called for and endeavour to work out schemes with a view to seeing how far agreement is possible.

11 It is not clear to us whether this Commission is to be set up forthwith and whether decisions on its recommendations will be awaited and reached before the introduction of the new Constitution. If this is so it must inevitably delay the consummation of the first steps of the latter as the decisions would undoubtedly affect in a marked degree the details of arrangements for Central and provincial legislatures, service cadres and provincial finance. The consequent delay in the introduction of the reformed constitution would in our view be politically most undesirable.

12 The other alternative namely that we should proceed to consider and shape reforms dealing with the provinces as now constituted and hold the boundary enquiry subsequent to the introduction of the new constitution, involves some almost equally inconvenient results. The question of the separation of

Sind is a point of insistence in the creed of a large section of Muslim opinion and in some quarters the problem of political balance will not be considered as solved until this question is decided. Boundary enquiries are generally speaking unsettling and past experience has shown that they possess some special property for mass irritation. The new reforms could hardly start in more unfortunate conditions if the first years of their working are to be passed in an atmosphere of the agitations and uncertainties which boundary enquiries invariably engender.

13 We fear that we have raised difficulties without giving helpful suggestions towards their solution but one thing we wish to make clear is that no need is felt for any enquiry or readjustment in this Province and we venture to urge in the general interest that if and when a Boundary Commission is constituted its attention should be strictly confined to really outstanding cases such as Sind the Ooriya country Sylhet and Cachhar. We feel that a roving brief can only result in general unsettlement in bringing dormant volcanoes into activity in British India and in the revival of numerous claims by Indian States to tracts long since included in British India.

14 If an early solution of the Sind and Ooriya country problem could be devised and subsidiary enquiries into other cases could be postponed until after the new constitution had settled down the political exigencies of the situation might possibly be met.

III—THE GOVERNORS PROVINCES

(Report Part II)

A. THE PROVINCIAL EXECUTIVE (Chapter 1)

15 Turning to the question of the form of Government to be established in the provinces we accept the general principle laid down in paragraphs 46 and 47 whereby there will be established in each province a Unitary Government responsible to the legislature over the whole provincial field. In pursuance of this general principle after a most careful consideration of the implications as regards Law and Order Finance and Revenue in particular we agree to the transfer of all subjects in the provincial field. We also agree to the principle of joint responsibility of the Cabinet and to its corollary that the legislature can only censure the policy of the Cabinet as a whole and not that of an individual Minister. We also agree that it should be provided in the Constitution that Ministerial salaries are not liable to be reduced or denied by a vote in supply but should be alterable only by statute and finally we think that the appointment of Under Secretaries is probably desirable and would help to consolidate the position of the Cabinet in the House.

16 As regards the composition of the Ministry the Punjab Government in Part II paragraph 40 of its Memorandum for the use of the Statutory Commission recommended that there should be included in the Cabinet an official member partly to introduce the element of administrative experience and partly to give the Governor the assistance of an official colleague and in paragraph 48 the Statutory Commission has made the inclusion of one or more such members optional with the Governor. The two proposals are essentially different. That of the official members in the Punjab Government's Memorandum envisaged that the official member would hold office in successive Ministries and would be allotted an unimportant portfolio. This does not seem to be inherent in the proposals of the Statutory Commission indeed the implication of paragraph 64 of Volume II of the report is that he might be entrusted with the portfolio of Law and Order. We see the difficulty which may be felt in provinces such as the 1 residencies with a Governor previously unacquainted with the details of Indian provincial administration and conditions if there is no experienced technical Indian administrator to place considerations before the Cabinet and we realize that in these provinces it may be necessary to retain this discretion, but after careful thought we consider that where it can be dispensed with, it should not be employed and we would deprecate its use in this Province under present conditions. There is no doubt that the presence of an official in a Unitary Cabinet introduces an element of unreality into the joint responsibility of the Cabinet and their relations with the legislature. Nor will the position of such a Minister be easy. He may constantly have to subordinate his considered opinion based on his experience of administration to another view. If

he goes out with one Ministry and returns with another he is likely in popular estimation to come to be considered the unlucky genius of the Cabinet. While if on the fall of a Ministry he reverts to official duties he stands the risk of being considered *qua* an official as influenced in favour of views which prevailed in the Cabinet in the time of the late Ministry. The inclusion of the official member is a feature of the proposed Constitution which has been specially singled out for attack and has and will be used as an argument to prove that the responsibility of Cabinet is meant to be but an illusion. With the wish that responsibility in internal and provincial affairs should be as complete as circumstances permit we think it very desirable that no shadow of ground should be left for this allegation and after full consideration are prepared to abandon the official member considering that both requirements can be met by an amplification of the proposal made in paragraph 51 for the appointment of a Secretary to the Cabinet. In the altered conditions the Governor will feel difficulty in retaining sufficient touch with the departments and in being supplied with sufficient information to judge whether he is fulfilling the special responsibility laid on him by his Instructions for which he is endowed with special powers. The new element of joint responsibility in the Cabinet may also place Ministers in a position of difficulty which hardly exists at present. It will be desirable in the interest of the working of their joint responsibility to increase the volume of Cabinet papers and elaborate schedules of decisions and orders in different departments which are circulated for the information of the Cabinet. An individual Minister may not infrequently require recourse to some agency by which he can procure additional information about some line of policy in administration in a department of which he is not in immediate control. He may desire this information for the purposes of discussion with a colleague or prior to moving that in the interests of joint responsibility some matter should be ventilated in Cabinet discussion. For these purposes a Cabinet Secretary with enlarged functions will be useful. We think that this official should be called Principal and Cabinet Secretary. He should attend all Cabinet meetings and should also have the right of calling for papers from any department. He should be permitted to set forth verbally the administrative information and considerations pertaining to any question in the Cabinet (in which he will not of course have any vote or position as a member). He will be responsible for vetting the completeness of the departmental summaries on questions coming up before the Cabinet for discussion and decision. He will keep a record of the proceedings of the Cabinet. He will be at the disposal of the Governor and the Ministers in the Cabinet for procuring informations as regards action which is being taken in departments on any particular matters and he will when the Governor does not preside at a Cabinet meeting place the proceedings of the Cabinet before the Governor and convey his views to the Cabinet. While we have considered and rejected the alternative proposal that it should be open to the Governor to appoint officials as Ministers we are of opinion that powers should be reserved to the Governor to appoint as Minister a non official who was not an elected member of the legislature and it should be a condition of his tenure that he should find a seat within six months of his selection. We consider that this discretion should rarely be exercised and only used when the Ministers chosen urge the inclusion in the Ministry of some prominent person who by accident or in the chances of election has failed to secure a seat but who is otherwise marked out for useful and popular service in a Ministry.

17 As regards the selection of the Cabinet we are in general agreement with the views expressed in the second portion of paragraph 55 and particularly with the proposal that the appointment of a Chief Minister should be left optional. As already proposed in paragraph 41 of Part II of our Memorandum we think it desirable that the representatives of different communities should be included in the Cabinet but we do not think it possible to do more than to provide in the Governor's Instructions that he should make this attempt. The formula in the Instructions can hardly go further than that suggested in the Memorandum of the official members of the Punjab Government submitted to the Simon Commission namely that until the development of parties on another basis than that of community has been more firmly established it will be still desirable for the Governor so far as possible to endeavour to include members from the three leading communities.

18 With regard to the meeting of the Cabinet (paragraph 51) we consider that it should be left to the Governor's discretion whether he should preside or not but we think that if he does preside he should not exercise a vote or casting

vote We agree with the views expressed in the last five lines of paragraph 52 that there should not be in the new Statute any counter part of sub section 1 of Section 50 of the Government of India Act but we think that it should be within the power of any Minister to ask for a note of dissent to be recorded and subsequently to write a minute of dissent

19 With regard to the powers of the Governor we agree as we have made clear in our introductory remarks that in certain matters safeguards are necessary and that there is no other way of securing them except by conferring power on the Governor in these special and restricted cases to require action to be taken otherwise than on the advice of his Ministers

20 First as regards the authority under which he will act we observe that it is proposed in paragraph 50 that he will be subject to the superintendence direction and control of the Governor General and from paragraph 350 it appears that in these matters the Governor General will act under the orders of the Secretary of State on behalf of Parliament but that Parliament will restrict its powers of interference in provincial matters to those subjects in which the Governor is given an overriding power We agree to these proposals but observe that the third item in paragraph 50 is hardly a case for an overriding power but really for a power to secure appropriation for a liability of Government in respect to non voted expenditure This can perhaps be secured without overriding powers merely by making such expenditure a first charge in a provincial budget It has been urged that the drafting of the fourth of the subjects mentioned in paragraph 50 will have to be carefully worded to prevent the reintroduction of the power of Parliament over the whole provincial field We assume that its real meaning is that when the Governor General in Council had addressed the *local* Government as regards the matters within its sphere enumerated in paragraph 182 and has elicited no response or unsatisfactory replies if the matter is sufficiently serious the Governor General in Council will move the Governor General to address the Governor to get to grips with his Ministry or use his special powers This might involve the stage of advice to his Ministry or dismissal of the Ministry if it disregarded advice but it would also include a discretion to override the Ministry by an order addressed to the executive agency concerned to have certain action taken or to desist from certain action relating to matters enumerated in paragraph 182 Subject to these observations we agree to granting the Governor an overriding power for the five purposes enumerated in paragraph 50 To these we could add that recommended in paragraph 50 of the official Memorandum to the Simon Commission of securing the financial stability of the province We observe that this course is recommended in paragraph 99 of the report of the Punjab Provincial Committee and we think that the issues are so important and the damage that might be done by ill considered action so irremediable that no theoretical consideration should stand in the way of these safeguards We do not of course suggest any power such as now exists for holding up of individual new schemes or restoring grants (except in an emergency as contemplated in the Commission's report) for special reasons or for carrying on departments Interference of this kind would react however salutary it might appear in the personal view of the Governor on the reality of responsibility What we have in view is some power to defer too hasty actions in the interests of the larger issues of financial stability in such cases as relinquishment of substantial revenue or the acceptance of large schemes involving progressive recurring revenue expenditure which could clearly only be financed eventually by recourse to extraordinary receipts or loans There is of course a grave danger of severe pressure on the Ministry to abandon revenue particularly land revenue and water rates

21 Finally we agree to the proposed powers given to the Governor in paragraph 65 to meet a breakdown of the Constitution The Governor after due consultation with the Governor General should be final judge of the existence of an emergency

B THE PROVINCIAL LEGISLATURE (Chapter 2)

22 *Paragraph 67* — We agree that the maximum life of provincial Councils should be five years

23 *Paragraph 68* — We consider that the proposed size of provincial Councils of between 200 and 250 is so far as the Punjab is concerned excessive at this stage It will be open to the Council to enlarge it later if need is felt under the provisions for subsequent constitutional revision The Punjab Council at present consists of 23 nominated members 64 elected from ordinary con

stituencies and 7 elected from special constituencies. We consider that the number elected from general constituencies should not exceed 150 and the actual proposal which we make later on provides for 124 only which with the addition of 10 special constituencies gives the House 134 members. We see no useful purpose which would be served by making the Council larger and on the contrary think that such an increase of size might result in deterioration in the quality of members returned. In the Punjab with few large industries and with the bulk of the land held by small peasant proprietors the number of men of a responsible character who have leisure to devote time to work on a legislature is few.

24 On the vexed question of communal representation we would invite a reference to the views that we expressed in our official Memorandum Part IV paragraph 7 S99. In that Memorandum we put forward various alternatives between which we found ourselves unable to make a definite choice owing to the existence of doubtful factors such as the final claims of the various parties in respect of franchise and the need of giving more precise indication as to what the extension of the franchise proposed involves in itself. We cannot find anything in what has passed since we wrote this Memorandum to enable us to come to a further conclusion. We still find the claims of the various communities apparently irreconcilably opposed in respect of numbers as well as on the question of communal electorates and while we have explored certain statistics indicating the possible result of doubling the number of electors we are still not in a position to say with certainty what will be the effect on the electoral roll. We are therefore forced to accept the conclusion of the Commission that in the absence of an agreement between the various communities concerned the principle of communal electorates must stand. We postpone to a later paragraph consideration of the number of seats to be allotted to the three major communities.

25 Paragraph 78—With regard to the depressed classes we are inclined to think that the figures given in paragraph 58 of the first Volume of the Commission's report namely 2.8 millions of the Punjab are exaggerated. Further enquiries made about a year ago by the Punjab Government put them under 2 millions of whom a million and a half are composed of *Chuhmas* and *Chamars*. We also find that these classes are not a pressing problem in the Punjab. Some of them will come into general constituencies through our new proposals for enfranchisement of tenants and some will get representation in a special Labour Constituency. We do not think it possible to have a special constituency for depressed classes and believe that their interests would be best served by one nominated representative who might ordinarily be chosen by the Governor from a panel submitted by associations which represent these classes.

26 Paragraph 81—At present there are two non official European members of the Punjab Legislative Council one nominated and one elected by the Commerce constituency. This constituency is no longer likely to return a European and we think that in future Europeans should have two seats in a separate electorate.

27 Paragraph 83—There is at present one nominated representative of the Anglo Indian community. We now think that there is no need for separate representation for this community the voting strength of which is low but the Anglo Indians should have a choice as to whether they should merge in the category of Europeans or in the general constituencies.

28 Paragraph 84—We think that Indian Christians should have one seat reserved but are not at present prepared to express an opinion as to whether this should be by a reservation or by a special electorate or perhaps by other method.

29 Turning to special electorates there are at present 7—3 for landlords 1 for Baloch Tumandars and 1 each for University Commerce and Industry. We are impressed by the fact that with the extension of the franchise to a portion of the tenantry and a lowering of the rural property qualifications land holders of the class which stood for the special constituencies may have difficulties in securing representation. We consider them an important interest in this Province and as we do not propose to have a Second Chamber we would retain special representation for them in the Council. According to the numbers of those qualified in the landlord constituencies the proportion of seats should be 2 Muslim 1 Sikh and 1 Hindu seat. The Baloch Tumandars are a problem. It is clearly wrong to look at this as a special electorate of 9 persons.

only The Tumandar by Baloch custom is the acknowledged head of his tribe His tribe lies scattered partly within and partly without the British Indian administrative boundary and the Tumandar system plays an important part in the defence of the frontier and the peace of this portion of the Punjab Increasingly Punjab cultural and material amenities are spreading in the Punjab transborder and attaching these wild people to the province through their Tumandars by an influence of far greater value than the fear of armed forces The Balochs within the administrative boundary have some chance of representation in the general electorate of the Dera Ghazi Khan district Those without in the tribal area numbering more than 30 000 have none and it seems to us important to keep them represented through their acknowledged leaders We would therefore retain the special seat for the Baloch Tumandars We would retain the University and Commerce constituencies but we would eliminate the Industry seat which has not given in the past any material essentially different from that representing Commerce we think it necessary to add a seat for labour which has become important of recent years and as we have stated above we propose adding one seat to represent the depressed classes

30 We are now in a position to deal with the question of communal representation in the Legislative Council There are at present 64 Ordinary and 7 Special constituencies Of the ordinary seats 20 are assigned to non Muhammadans (as we would prefer to express it for convenience) to Hindus 32 to Muhammadans and 12 to Sikhs To these we may add some special seats taking account of the community by which the seat has been invariably filled—

Hindus (Landholders general University and Industry)	3
Muhammadans (Landholders and Tumandars)	2
Sikh (Landholders)	1

The elected communal composition of the Council has been therefore—

Hindus	23
Muhammadans	34
Sikhs	13
	<hr/>
Total	70
	<hr/>

The position of the Sikhs creates a special difficulty On historical grounds and by reason of their contribution to the defence of the country it is felt that their small minority (11 per cent of the population) should continue to have some distinct weightage in the Punjab Council They will not get representation in any other province and under the Commission's proposals their representation in the Federal Assembly will depend on the amount of their representation in the Punjab Council In the latter the Muslims look upon them as an ally of the Hindus who though in a minority are a substantial minority (31 per cent of the population) The Muslims feel that in allowing weightage the result should not be to deprive them (55 per cent of the population) of a majority over Hindus and Sikhs combined The Muslims point out that in giving weightage to Muslim minorities in other provinces the process has not endangered a substantial and continuing Hindu majority The Hindus on their part urge the effect upon their interests of a perpetual Muslim majority in the Punjab and the need for the protection of their minority It is therefore a very difficult matter to satisfy the sentiments and aspirations of the parties concerned while at the same time giving effect to the special considerations which apply in this Province to the Sikhs but we feel that we cannot go so far as the Commission in paragraph 85 for it seems to us illogical to deprive a population majority entirely of their position

31 We now put forward a proposal to make the following additions to the general constituencies —

	Previous		Addit o	=	Total
Hindus	20	+	16	=	36
Muhammadans	32	+	31	=	63
Sikhs	12	+	11	=	23
Europeans			2	=	2
	<hr/>		<hr/>		<hr/>
	64		60		124
	<hr/>		<hr/>		<hr/>

thus giving a total of 124 for general constituencies. The addition which we make is to double the existing representation in general constituencies but to deduct from the addition the figure which each community may hope to gain from the special constituencies which we propose. We have added two to the Muslim addition to secure the principle to which we have alluded in the closing sentence of the previous paragraph. We now add the figures for special constituencies which may be allocated to respective communities as follows —

Hindus (University Commerce Depressed classes and landholders)	4
Sikh (Landholders)	1
Muhammadans (Landholders—Tumandar seat)	3
Christian	1
Labour (indeterminate)	1
	10

The total composition of the House will thus be —

Muhammadans	63+3=66
Hindus	36+4=40
Sikhs	23+1=24
Europeans	2 2
Christian	1 1
Labour	1 1
	134

32 We do not pretend that this arrangement will give full satisfaction to all (or perhaps any) concerned but we think it fair because—

- (a) it gives Muslims the majority community a majority of 2 over Hindus and Sikhs combined (66 40 24)
- (b) eliminating the 2 European seats which may be taken to have no communal bias in the remainder of the House the percentage will be Muslims 50 Hindus just over 30 Sikhs just over 18 and others (Christians and Labour) under 2
- (c) In the House as a whole taking in all seats the proportion will be Muslims just over 49 per cent Hindus just under 30 per cent and Sikhs just over 18 per cent and on their present voting strength this gives to Muslims a decided increase while the representation of Hindus and Sikhs will be below that which their present voting strength might warrant
- (d) In sum total Muslims get more than their present voting strength but less than their population strength Sikhs get more than their population strength but less than their present voting strength Hindus get slightly less than either and suffer in this respect by giving weightage to another minority community which often votes with them but on the other hand they are not exposed to the effective Muslim majority which the population figures would give over Hindus and Sikhs combined

33 We are not yet able to say in what proportion the various communities will be represented in voting strength in the new franchise but we observe that in the existing House the average number of urban electors between constituencies of the three communities shows very little variation (Memorandum Part I Chapter 2 paragraph 26) and it is perhaps reasonable to suppose that with the lowering of the franchise the state of affairs will not be materially altered. As regards the rural constituencies we are not in a position to give any accurate figures. We have so far explored an extension of the landowners franchise to landowners and Crown tenants paying Rs 15 land revenue and over which would increase the rural voters from 571 000 to 849 000. In

that event the number of voters per general constituency as compared with existing figures will be as follows —

	<i>Present</i>	<i>Proposed</i>
Hindus	12 055	10 314
Muhammadans	9 500	7 320
Sikhs	14 300	11 143

The effect therefore of lowering the franchise would probably be to some extent to decrease the proportionally larger number of Sikh voters and this tendency will possibly be accentuated by a further proposal to enfranchise tenants as to which we have at the moment no figures

34 *Paragraph 86*—We agree that the official *bloc* should disappear but we think that the legislature should include a Law Officer to assist in matters of drafting and other legal questions. This officer should be nominated and should not exercise a vote but should be entitled to address the House

35 *Paragraphs 87 88 and 89*—We retain the special representation of University and Commerce seats and add Labour on the ground that only by so doing can we assure that interests which are vital to the growth of the province have a representative voice

36 With regard to the great landlords as we have already set forth we are definitely of opinion that their seats should be retained irrespective of the number of the land owning class which may succeed in entering the Council through the general constituencies. We think that the proposal to introduce members of this class by nomination would be invidious opposed to the general elective principle and likely to expose members thus nominated to the imputation of being not representatives of the people. One argument for the retention of these seats which applies also to other special seats and has in our opinion great force is the desirability of providing what may be termed safe seats such as in the United Kingdom are provided by the Universities the City of London and constituencies with an overwhelming party majority

37 *Paragraphs 91 and 92*—We are in general opposed to nomination of members and the foregoing proposals have confined the remote possibility of this procedure to cases in which it may be found impossible to find a constituency namely the depressed classes and possibly Indian Christians and Labour

38 *Paragraph 93*—We have already expressed our view that the Cabinet should be selected from the Legislature and it will therefore be necessary to maintain the rule that the Minister who is not already a member of the Council must secure election within a period of six months

39 *Paragraph 95*—We are generally in favour of the proposal by which provincial legislatures will be enabled to amend their constitutions by resolution as proposed in the report

40 *Paragraph 96*—The question of the spheres of Central and Provincial legislations will be dealt with later

41 *Paragraphs 97 and 98*—We agree in principle that the Governor's power of certification in legislation should extend over the same field as is covered by his overriding powers to control executive action. We have in a previous paragraph suggested that to that field it may be necessary to add the sphere of financial stability. In relation to the legislature a question that arises is whether an additional corresponding power should be exercised for the purpose of securing financial stability in the shape of restoring grants. The necessity might arise as regards provision for a session or audit staffs. In certain special circumstances the Commission propose an emergency power for the Governor to restore rejected demands for grants and to certify legislation if the course was essential for the interest of the province. While this power must for obvious reasons remain as far as the financial field is concerned it (no doubt) is a question whether in circumstances not warranting the special action this would not be better expressed by specifically allowing the Governor to restore grants if in his opinion this course is necessary to preserve financial stability. If this principle is introduced there will it may be argued be probably less occasion to adopt the extreme course of certification in the general interests of the province a course which should only be adopted in the event of a breakdown of the constitution

C THE FRANCHISE (Chapter 3)

42 We are in favour of the following principles to regulate the extension of the franchise—

(1) It is desirable that the disparity between the percentages of enfranchised urban and rural population respectively should be reduced. At present 12 per cent of the urban male population is franchised and only 5 per cent of the rural.

(2) It is considered desirable to enfranchise a portion of the tenants of rural land. At present the rural franchise is based partly on certain special qualifications such as that of being a headman of a village or a retired soldier but chiefly on possession of land paying Rs 25 land revenue. Apart from the small class of occupancy tenants the rural tenants have no vote.

(3) As regards the enfranchisement of women we are of opinion that matters should be left as they are that is to say they should continue to have the same property qualification as men in spite of the fact that the number of women which is thereby enfranchised is very small. It is a matter where the growth of public opinion should be left to have play. It should be left open to the legislature to pass a further measure of enfranchisement of women if they so desire after the expiry of the fixed period.

(4) We have considered the proposal of an additional franchise being given to persons who have passed the Matriculation standard of any University but have not found ourselves able to accept it.

43 Finally we consider that applying the above principles the property qualification should be lowered but not so far as to result in more than doubling the present number of voters. The first principle will be preserved if the number of rural voters were doubled and the number of urban voters increased by half. The present number of rural voters is 5 71 000 of whom 3 50 000 are landowners paying revenue of Rs 25 and upwards. The addition of voters paying between Rs 15 and Rs 25 would add 2 61 000. Total 8 32 000. This falls short of doubling the existing number of voters in rural constituencies by 3 10 000. While this number is assigned to tenants at will might be excessive the further addition of landowners paying between Rs 10 and Rs 15 would add 2 69 000 which would leave only 41 000 for tenants which would be too little assuming that the maximum number of rural votes contemplated will be 11 42 000. It is possible that the lowering of the landowners franchise to Rs 12 might give a fair allotment of the balance of 3 10 000 to tenants but the final determination of the question can only be made when we have figures showing the effect of the enfranchisement of tenants. This will be a particularly difficult question in the Punjab where cash rents are the exception and where it is not the practice to record in the revenue papers the cash equivalent of rents paid in kind.

D THE SECOND CHAMBER (Chapter 4)

44 We consider that the balance of argument is against having a second chamber in the provinces—at any rate so far as the Punjab is concerned. We remain of the opinion that a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for some time to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions and that the constitution of a second chamber would deprive the popular chamber of talent which it needs and tend to make it more unstable. At the same time we are not unaware that a provision of this kind may be needed in other provinces which are larger and more populous and where persons connected with special interests such as Commerce Industry and large landed interests are to be found in greater numbers and if in a province where a need for an Upper House is felt the power is not given and used now it seems unlikely that as time goes on in the course of constitutional development a single legislative chamber would at a later stage impose on itself the incubus and check of an Upper House though we believe there have been instances of this kind in some other countries. It is possible that an Upper House might also obviate in some cases the use by the Governor of his special powers regarding legislation. For these reasons we would not exclude the discretion of having an Upper House in a province though we are of opinion that this would and should not be used in this Province.

45 Leaving the matter open it may be urged will encourage dissimilarity in structure between various provincial Constitutions This however seems bound to occur in any case Probably the numbers in provincial legislatures will differ from the start and assuredly after the first 10 years have passed the discretion for effecting constitutional revision by resolution will result in some legislatures being constituted on a broader or narrower basis than others

46 We think that the provision in paragraph 117 of an expert drafting body is hardly a matter of constitutional importance and can be met by rules of business and procedure We have however in another place suggested that the legislature should include a legal expert

IV—THE BACKWARD TRACTS

Part III, Chapter 2

47 In the Punjab the Pargana of Spiti is included in the wholly excluded and the Lahaul Tract in the partially excluded areas These tracts are not populous they may still be described as backward They are cut off from the Kangra district for six months in the year by high snow bound passes In spite of these features however there seems to us to be little reason any longer to exclude them from the processes of the ordinary administration Of late the communications with the Kulu Valley where the headquarter of the Sub Division in charge of these areas is located, have greatly improved and we have observed that all the Ministers have visited the valley in the summer months in recent years We see no reason now to treat these tracts differently from the rest of the Punjab The policy in the Punjab since the reforms has been increasingly to extend to the more remote and backward parts of the province those opportunities and those amenities as for example facilities for education medical relief public health veterinary service and agricultural improvement of which the more central and developed parts of the province have long since been in enjoyment We see no reason to doubt that if these tracts are included in the charge of the unitary responsible Cabinet they may expect to receive a sufficient degree of attention and help Some difficulties may occur in their representation in voting in a constituency if elections take place during the winter months but this situation though anomalous is not necessarily a bar to our suggestion and we believe that the tracts in question have more to gain than to lose by the course we advocate

48 Before we leave this subject we desire briefly to refer to the tribal area on the borders of the Dera Ghazi Khan district The history of this area is described in paragraph 4 of Chapter I of Volume I of the Memorandum prepared for the use of the Simon Commission and the method of the administration is examined in paragraph 25 of the same Chapter and in paragraph 46 of Chapter VIII of the same Volume The system has been eminently successful and no other or better method of political hegemony can be suggested for the control of the tribes living in and beyond the Suleiman mountains outside the administrative frontier of British India but we feel that sufficient financial responsibility has not been shouldered by the Government of India as regards their obligations for frontier defence in this area The mountain frontier is 240 miles long and towards the expenditure which the political control of the tribes involves the Government of India only pays the Punjab Government a sum of Rs 42 440 annually—a very meagre amount as compared with the scale of payments in which the Government of India are involved in their own administration of the adjoining areas of Balochistan and the North West Frontier Province between which the Dera Ghazi Khan frontier is wedged Besides indirect charges into which we need not enter the Punjab Government pays Rs 1 76 000 a year for the Border Military Police and Rs 72 000 for the Baloch Levy and sacrifices in annual revenue over Rs 1 30 000 paid in jagirs and in arms to Tumandars

V—THE CENTRE

(Report Part IV)

A THE FEDERAL ASSEMBLY

49 As we have explained in the introductory portion of the Memorandum we are in favour of the system of indirect election by the provincial Councils As far as the Punjab is concerned we believe that the method of proportional

representation advocated in paragraph 139 will secure fair representation both for majorities and minorities though not perhaps of some special interests and that the working of this system is more natural and automatic in its adjustments than resort to the alternative of reserved seats. At the same time if the total number of members in the Federal Assembly were reduced to a figure lower than that stated in paragraph 140—a possibility to which we will later refer—we believe that in the interests of minority representation we should have to adopt the latter method.

50 We do not think it will be possible for a person to be member of both legislatures at one and the same time. If a member of a provincial Council is elected to the Federal Assembly he should resign his seat in the provincial Council. We agree that the allowances to be paid to members of the Federal Assembly should be non votable and should fall on provincial expenditure. We approve of a fixed life for 5 years. In our view subject to an alternative to which we shall refer in discussing the Central Executive 250 would be a suitable number of members.

51 Considerable doubt was felt as to whether the communal proportions envisaged in paragraphs 143 and 145 would actually result. As regards the latter paragraph the calculations seem to involve the assumption that all the nominated officials will be Europeans which is very improbable. There is a strong feeling among Muslims that their representation should be brought up to 33 per cent.

52 The method advocated proceeds mainly on Federal lines and tries to secure that the main classes of importance in each Federal unit will receive (whether they are in majority or minority) a due share of representation. As regards communities Hindus Muslims Sikhs (or sub divisions e.g. Brahmins Non Brahmins and depressed classes) this is likely to be the case. Nor is it unlikely that special interests such as Commerce Finance Large Landholders etc. will also be fairly adequately represented but we are very doubtful whether the same expectation will hold good as regards Labour. This is a Central subject and it seems likely that its problems as time goes on will occupy increasing attention in the Federal Assembly and it appears to us important that it should be adequately represented. Its representation can be secured by nomination in the Council of State but its presence in that House mainly concerned in revisory functions will not secure quite the desired results.

53 As regards the suggestion in paragraph 146 the alternative method of filling a vacancy by holding an election and reserving the seat for the community to which the member vacating the seat belonged commended itself to us.

B THE COUNCIL OF STATE

54 We are in favour of retaining a second Chamber in a Central Legislature for a country of the size of India. We agree that its term should be seven years. As regards qualifications of members we are generally in accord with the observations in paragraph 151. In the case of *ex* Government servants the requirement might be that the person concerned was drawing emoluments of not less than Rs 3 000 per mensem at the time of retirement. As regards the number of members we feel that if the numbers of the Federal Assembly are brought up to the figure suggested in paragraph 140 the numbers of the Council of State should be advanced to 120. If this is not done the Council of State can not preserve the same weight as it now possesses in a joint session. If our suggestion is adopted 66 members might be elected and 54 nominated of whom not more than 20 might be officials. We approve of the suggestion for allocation of seats which proceeds on the basis of common and equal interest of units and not of population figures as in the case of the Assembly.

55 We are divided as regards the method of election. With a specially highly qualified electorate such as already exists for the Council of State there is much to be said for direct election. On the other hand desire for uniformity and for emphasis on the Federal nature of the structure points to indirect election as in the case of the Federal Assembly. We assume in this case that communal inequalities will be corrected by nomination.

56 We do not propose to offer any observations on the problem of the relation of Indian States. If however they elect to come into the Federation to the extent of seeking representation in the Central Legislature we feel that such representation could be given to them with more propriety in the Council of State mainly a revisory body than in the Federal Assembly and that in

arranging for their representation the extent of their representation should not go beyond providing for voting strength not greater in proportion to British Indian votes in the House than their relative population strength to British India

57 As regards the powers of legislation of the Central Legislature some of our colleagues felt that the limits of the field of the power of the Central Legislature in the presence of provincial autonomy would need more strict definition in Statute than heretofore and that it should be made clear that the Centre had no concurrent or residuary power except in cases coming within the four walls of the Statute. It was suggested that in paragraph 154 under the head *d* (ii) the power to legislate in the direction of repeal or emendation of a provincial law should be confined to cases affecting other provinces or central subjects only. In particular it was desired that safeguards should be provided against the abrogation of personal or customary law. The principle enunciated at the end of paragraph 155 was generally approved. While in full sympathy with the desire to protect religious personal and customary rights and prevent intrusions into provincial domains we feel that the powers with which the Governor General is armed will operate sufficiently effectively to prevent any of the untoward effects of Central legislation which are feared. We admit that the burden of responsibility placed upon the Governor General in this respect and in the matters referred to in paragraph 156 and 157 will be exceedingly onerous but we have no doubt that the responsibility will be wisely and promptly exercised where required. It would also we think be reasonable to expect that the change in the composition of the membership of the Lower House may make the situation somewhat easier as regards the emergence of Bills from the Federal Assembly which are not in accord with the general sentiment of provincial legislatures.

58 We deal with the financial powers of the legislatures and the division of resources between the Centre and the provinces in another part of this Memorandum.

C THE GOVERNOR GENERAL IN COUNCIL.

59 We now turn to the difficult subject of the Central executive. Our colleagues have discussed the various alternatives ranging from handing over forthwith all subjects except defence foreign affairs and political relations to responsible Ministers chosen from the Central Legislature with a provision to transfer these three excluded subjects to responsible Ministers after a term of years to variants such as giving discretion to the Governor General to include some officials also in his Cabinet the remainder being selected from the Federal Assembly. Generally speaking some measure of responsibility to the Central Legislature in the Cabinet at the outset combined with some element of dualism or exclusion as regards certain subjects is advocated.

60 We have given the matter most careful thought and while we hold that the eventual development at the Centre must be in fulfilment of the letter and spirit of the declaration of August 1917 we are impressed with the insuperable difficulties of adopting a scheme of full responsibility in this transitional stage during which the constituent provinces of British India are being established in their new and wider fields of autonomy in provincial affairs. The other difficulties of the transitional period have been sufficiently clearly stated by us in paragraph 6 of the introductory section of this Memorandum. To us the clear need during this period is of a stable executive Government. Admitting this need—and we consider it a real need—we see no real half way house in between a scheme as suggested by the Commission where there will be a Unitary Cabinet swayed and inspired by the Central Legislature and with responsive elements but responsible to the Secretary of State and Parliament and a Unitary Cabinet fully responsible to an Indian Central Legislature which is the eventual goal but which we consider not to be practicable in this transitional stage and while we hold that any tardiness on the part of the States should not prevent the completion of the best scheme of Federation and responsible institutions for British India at the Centre the reality of the effect of federation and the impact and influence of the provincial units on the Centre has admittedly still to develop and make itself felt before the step to completion can be taken. Indeed the completion can only fittingly take place when it is established that the full responsibility in provincial affairs in the constituent unit has justified its institution.

61 While we admit that there is the force of Indian sentiment in favour of the introduction of some responsibility at the Centre that such a step might ease political tension and that there is advantage in placing the critics of the Central

Government in the position of shouldering some of the odium of the difficulties of administration themselves yet at the moment it seems to us that sufficiently large risks are being taken by the wholesale transfer of responsibility in the provinces and simultaneous risk should not be taken elsewhere. For example to take one instance out of several that occur to us when Finance is being handed over to responsible Ministers in the provinces if simultaneously the finance policy of the country which depends largely on borrowings in and out of India is freed from Parliamentary supervision there may be a shock to public confidence. Later if it were established that the transfer of Finance in the provinces had involved no catastrophic results and if meanwhile satisfactory Reserve Bank arrangements had been made the change as regards Finance in the Central Government could be carried out.

62 We therefore adhere to the plan of the Commission for this transitional stage. The next step after this and prior to complete devolution may well be a very full measure of responsibility reserving only the army, the States and external affairs under the control of the Governor General.

63 In order to make this transitional scheme work smoothly we consider that although the Central executive will clearly remain responsible only to the Secretary of State and Parliament a responsive spirit should animate the position and the Central Legislature should feel that the angle of view of the Federal Assembly is given due weight in the treatment of such subjects as Commerce and Finance. The situation would be assisted by the use of the discretion suggested in paragraph 173 vested in the Governor General of including elected members of the Central Legislature in his Cabinet and by gradually increasing so far as may be possible the system of convention or a practice by Parliament of refraining from intervention in purely Indian affairs which is discussed in paragraphs 351 and 352.

64 Some of our colleagues have suggested that if the executive is to be responsible to Parliament and not to the Central Legislature its members should continue to be appointed as at present that is by His Majesty on the advice of the Secretary of State but we consider it to be of the essence of the Commission's proposals with a view to increasing a responsive tone in the executive at the proper moment that the Governor General who will have his hand on the pulse of the Indian situation should be unfettered in exercising the discretion and initiative in making appointments of the nature suggested in paragraph 173.

65 We are in agreement with the suggestions made that there should be included in the Governor General's Council a member with a light portfolio who would be charged with the primary function of leader of the House. Among other matters which might come under his special purview are the steps taken to secure a better understanding among the public of the policy and administrative programme of the Government on the lines discussed in Chapter 5 of Part IV of the Report. Incidentally we may observe that we find ourselves in complete agreement with the suggestion on page 166 with which the Chapter closes.

66 Very considerable use has been made in this Province of Standing Committees of the legislature. While in the past at the Centre the Public Accounts Committee with its statutory powers and the Standing Finance Committee have played a conspicuous part we believe that generally speaking the Standing Committee system has not been greatly used. We believe that in the new Constitution its use should be extended and that it would help both to keep the executive informed and responsive and also create a better understanding in the Federal Assembly of the exact purport and administrative difficulties inherent in various Government measures.

67 It has been urged that in the position at the Centre as devised by the Commission there are great possibilities of friction and deadlock between the executive and the legislature. The Federal Assembly will be larger and the nominated element proportionally smaller than in the present Legislative Assembly. It is true that in actual composition the element of indirect election by the Federal units seems likely to return a different and possibly more temperate class of member. It is a fact also that the Commission envisage that the impact of the influence and views of the Federal Assembly on the Central executive will be considerable. Nevertheless it appears to us to be a matter for consideration whether a smaller number in the Federal Assembly would not lessen the difficulties which may occur. The argument that in such case

members would represent too large a constituency to maintain touch hardly now holds good because it is proposed that they should be indirectly elected by provincial legislatures which are themselves elected by reasonably small constituencies

D RELATIONS BETWEEN THE CENTRE AND THE PROVINCES

68 We are in agreement that so far as the limited special overriding powers of the Governor are concerned (paragraph 49) and his special powers in a state of emergency (paragraph 65) he should be subject to the superintendence direction and control of the Governor General and through him of the Secretary of State. We have already assumed that while the Governor General in Council will address the local Governments in regard to the subjects defined in paragraph 182 which have been specially made their concern in relation to provinces it will not be proper for the Governor General in Council to move the Governor to act under the fourth item of the special statutory power with which it is proposed he should be vested (See item 4 of paragraph 50). In such cases it will be for the Governor General to decide whether he should move a Governor to exercise his special power.

69 As regards the field defined in paragraph 182 the seventh and eighth categories might well be considered to be included in the first. One of our colleagues considers that the fourth item (raising of loans) is stated in too general terms. We will return to this point in dealing with Finance.

70 We welcome the flexibility which the suggestions in paragraphs 184 to 186 introduce and believe them to be in the general interest and to mutual advantage. One of our colleagues feels some doubt whether a system of grants in aid from the Centre to the provinces may not prove demoralising to the latter and whether in the end this may not involve some dictation by the Central Government as regards the recruitment of Agricultural Educational and Public Health services. So far as we can judge the giving or taking of grants is to be a purely voluntary matter on both sides and will rest entirely on the basis of agreement. In these circumstances we see no reason to apprehend any undesirable encroachment in provincial spheres.

71 With reference to paragraph 190 there has been some doubt in the past as to where residuary powers reside *i.e.* what authority has the discretion to deal with matters not specifically defined as falling within the Central or Provincial fields. Unless these powers are retained by Parliament we consider that doubts should be set at rest by declaring that they vest in the provincial Governments.

VI—THE QUESTION OF DEFENCE AND THE ARMY

(Report Part V)

72 It is with some diffidence that we offer observations on this subject. Our excuse is that we believe that the proximity of this Province to the vulnerable North West Frontier makes the people of the Punjab perhaps more conscious of the need of an efficient army and of the imperial implications of the defence problem than those of some other provinces and that the connection of the military classes of the Punjab with the Indian Army in which they form a large and important element makes the subject one of special interest to various classes in this Province.

73 We have already stated our general view as to the fundamental requirements of defence and internal security in paragraph 7 of Part I of this Memorandum.

74 We have not found the scheme propounded in Part V of Volume II of the Report easy to understand as apart from the arguments in support of the principle it is only sketched in general terms but its main features seem to be —

- (1) that the forces composing the Army in India should no longer be under the control of the Government of India but would be under imperial authority *i.e.* that of the Viceroy acting with the Commander in Chief (paragraph 209 Part V)
- (2) that the Central Legislature (as now) would not vote supplies for the army though a sum would be charged on Indian revenues under the certificate of the Governor General. This would apparently be

a fixed sum subject to revision at intervals and some hint is given of the possibility of some contribution from imperial funds (an equitable adjustment of the burden of finance) (paragraphs 209 and 210)

- (iii) The Commander in Chief would no longer be a member of the Cabinet or in the legislature (paragraph 170)
- (iv) Questions of defence so far as they come before the legislature would be dealt with by a Civilian (the Army Secretary or the Leader of the Federal Assembly) (paragraph 170)
- (v) The touch of the members of the Federal Legislature with defence and army questions would be maintained by a Committee on Army Affairs on which the Central Legislature and the Indian States would be represented (paragraph 210)
- (vi) There would be steady and sympathetic progress subject only to the overriding requirements of military efficiency with the Indianization of the army (paragraph 211)
- (vii) There is a possibility (not fully explored) of the Indian Government in co operation with the Central Legislature embarking on the organization training and equipment of certain military forces independently paid for and controlled though the probability of financial resources for such a parallel project appears remote (paragraph 211) As regards the last item the probability seems so remote that for practical purposes it appears to us that this suggestion may be disregarded

75 An inseparable feature of Indian political aspiration is a conviction that its ideals of a fully self governing India can only be realized in the end if it sees clearly in front of it the eventual emergence of a Dominion Army in its own command and control. At the same time it has been clearly recognized by many schools of Indian political thought that during a transitional period there are some things which it may be found desirable at the outset to remove for the time from the sphere of a responsible Central Government or in regard to which the Governor General may need to be invested with special powers as for instance Foreign affairs Relations with Indian States and Defence. The difficulties which the Commission feel in placing the army under a unitary Cabinet with joint responsibility have been fully explained by them in the arguments which end with paragraph 208 of Part V. This Cabinet as we have already seen may include at an early date responsive members of the Federal Legislature (paragraph 173) and its eventual development must no doubt proceed towards the ultimate goal of representation and responsibility described in the declaration of the 20th of August 1917 though this part of the picture as explained in paragraph 3 of this Memorandum has not yet been painted in. The Commission make it clear that the inclusion at the outset of an official charged with responsibility for the army in the unitary Cabinet would not overcome this difficulty. There is thus on the one hand some common ground of agreement and while there is likewise some conflict in our opinion that divergence between two angles of view is not insuperable.

76 The common ground is the admission that in the transition period exclusion of the army in India from control by Central Government and Legislature must occur in some form or other. The difference is as to what intention is in the meanwhile to animate the treatment of the subject during the transition period. Indian political opinion desires to be convinced that decisive steps will be taken to speed on Indianization and the creation of a Dominion Army. It also desires assurance that the Indian Central Legislature and Ministry in the meantime and during the process will not be divorced from touch with the facts regarding the organization cost and management of the army in India and that its connection with army affairs will be sufficiently intimate to secure that in the ultimate stage responsible Indians will be possessed of the requisite knowledge and familiarity with defence policy to enable their Central Government in the fulness of time to take over the responsibility and control of a Dominion army and defence.

77 There is no lack of appreciation that an effective Indianized Dominion Force will take time to create or in the Punjab at any rate—that an inefficient defence force however seductive and soothing its presentation on paper may seem is money wasted on an ineffective insurance in face of a real frontier

menace. It scarcely requires a slight effort of imagination to understand that with the most senior Indian King's Commission officers in regular Units now at a standing of only 8 or 9 years' service and only now beginning to be eligible to qualify for admission to the Staff College and with Indianization more backward still in the technical branches (though admission to Woolwich and Cranwell is now open) the evolution of a number of largely Indianized units officered and commanded mainly by Indians organized into Brigades and Divisions with a considerable Indian element on the staff is a matter which will take time. It is also understood that no shorter time can conceivably suffice to educate and qualify Indians to attain these capacities than is needed for the attainment of a similar degree of capacity and experience in these ranks by their fellow British officers. Yet there is a feeling that sufficient efforts are not being made to increase the intake and proceed with the project on a larger scale. The eight Unit scheme seems to be a jejune response to India's impatience to get on with equipping herself for the responsibility of her own defence. No doubt the answer is that keeping in mind the supreme need of efficiency satisfactory officer candidates are not forthcoming under the present system in sufficient numbers. It is however believed that generally speaking it has been found possible to accept as good material a satisfactory proportion of the youths trained at the Dehra Dun Military College. Opinion in this Province which has good reason to believe in its stock of military material would welcome the establishment of other Colleges elsewhere on more economical lines with this purpose in view and it is believed that given their establishment on a basis where the expense to parents would be on a more modest scale than is the case at present enough youths of the right type would be forthcoming to fill all available vacancies at Sandhurst and later possibly to feed an Indian Sandhurst. While we cannot pretend to have the knowledge to dictate on so technical a subject we wish to lay emphasis on the need for exploring the line of progress which we have suggested. It is in the families of the small squires which have honourable connection with the Indian Army often extending over three generations that real material can be found. This class has not the means to pay for expensive education for their sons but if institutions can be provided which specialise in preparation for Sandhurst etc. and supply a sound education with ample attention to character formation and discipline on inexpensive lines this class will gladly avail itself of the opportunity to fit its sons for a career in the Army. Public opinion here will not rest content with the vague and general terms of the Commission's recommendations that we consider that this obligation (Indianization) should continue to be honoured in the letter and the spirit if the army in India were to pass as we suggest out of the control of the Government of India.

78 As regards the other point transitional requirements would be met by making the Committee on Army affairs a reality. Indian members of the Governor General's Council should be included in it as well as members of the Central Legislature and the points on which its advice will be sought should range over a field sufficiently wide to keep it in close touch with the realities of problems of defence and army organization. Nor should there be undue restriction as regards the scope of discussion of defence problems within which the Central Legislature within reasonable limits should have discretion to debate on such measures with due provision through powers vested in the Governor General to preserve for Parliament complete control in ordering the conduct of defence measures. On the occasion of such debates it might be desirable to nominate military experts to expound technical considerations.

79 The only comments we have to offer on paragraph 213 of Part V is that the Commission appear to have forgotten the provisions of Chapter IX of the Code of Criminal Procedure. These provisions give a discretion to a magistrate where a disturbance of the public peace has actually broken out to call on His Majesty's army to disperse an unlawful assembly by force and a statutory obligation is laid on members of His Majesty's forces to obey the requisition though the manner in which they elect to do so is left to their discretion. In this case the magistrate is acting not at the dictation of the local Government but in a magisterial capacity under responsibility to a High Court of Justice appointed by the Crown. We consider it important that this discretion should not be altered. In practice unless the emergency is grave and sudden and the disturbance of peace serious the District Magistrate ordinarily refers by message telegram or telephone to the Commissioner or local Government before making his requisition to the military for aid to civil power but there is no statutory

obligation on him to do so and if the insistence of the seriousness of the actual disorder and disturbance of the public peace is great it is most undesirable that his discretion should be hampered. His immediate duty whatever the cause of the disturbance is to restore order and peace at the earliest possible moment and if life is to be saved and spread of disorder prevented this can often only be done by very prompt action. The ordering of a show of military force before actual disturbance takes place or after a disturbance stands on a different footing and can now only be effected by the order of the local Government and in this case we are in agreement with the views as to the proper procedure which are expressed in paragraph 213.

80 Some of our colleagues have suggested among two possible alternatives to the scheme of the Commission the subjection of the Indian portion of Army in India to the Central Government and Assembly's control or the establishment of provincial militias at the call of Ministers in charge of law and order in the provinces. The first of these alternatives appear to us impracticable. Army organization rests on a basis of common staff inspecting agencies supplies of equipment and mobilization stores and any attempt to separate the army into two parts for administrative purposes would be likely to prove both expensive and inefficient. As regards the second alternative whether in the form of an embodied force or of a reserve the proposal amounts to little more than an increase in the Police forces of the province which it will be at the discretion of the Minister in charge of law and order in a province given good grounds of necessity and sufficient financial resources to compass as part of his policy. The constitution of such a force might lessen the number of occasions on which it was found necessary to call on His Majesty's Forces in India to act in aid of civil power in internal security but it would not in any way help to solve the main political and constitutional problem of the treatment of defence and the army in India with which we have been dealing.

VII—FINANCE

(Report Part VIII)

81 We do not propose to attempt to deal with the details of Sir W. F. Layton's scheme or to sit in judgment on them at this stage. That will be a task for the Finance departments of the Government of India and of local Governments to complete in collaboration and for which more time is required than is at present at our disposal. At the moment we lack the necessary data for thorough scrutiny. It may well be that expert examination may subsequently establish that the expectations of revenues from Central sources of taxation and income and of economies in the growth of Central expenditure have been framed on an unduly optimistic basis and that the yields expected from taxes from which the provinces will benefit have been rated too high. Discretion may dictate that greater caution must be exercised touching the time at which the salt tax can be handed over to the Provincial Fund and that Sir W. Layton may be found to have been too sanguine in this regard. Naturally the reserves in the field of taxation which the Central Government can tap in the event of war or frontier expeditions will also need careful exploration and this examination may affect some matters as for instance the percentage of surcharge which provinces can be permitted to levy on income tax. We also clearly realize that under Sir W. Layton's scheme the proportionate increase in revenues in the Punjab will be markedly less than that accruing in other provinces *e.g.* Bihar and Orissa and that on this score the results are not so satisfactory to us as they might be.

82 Nevertheless we heartily approve of the general principles and main features of the scheme. It recognizes the need of the province to expand especially in nation building activities and the obstacles which the restricted power of taxation under the present system and the limited scope of existing internal resources places in the way of its desire. We welcome the opportunity which the scheme provides for tapping other outside sources. One of the difficulties of the present position has been that whenever the province felt the need of additional resources these could only be raised to the extent desired by placing burdens on the rural and landed interests. From this aspect we welcome the suggestion that the province should receive one half of the income tax on personal incomes and have the discretion in addition to levy a surcharge

on personal incomes. We also strongly feel that in a province where even the smallest land holdings pay land revenue we should have the discretion to tax incomes not derived from land below the present exemption limit of Rs 2 000. We are also of opinion that there is great force in the suggestion in paragraph 268 regarding the taxation of incomes from foreign investments.

83 As regards the new provincial taxes which are suggested we feel that in this Province without a complete change of system there is no likelihood of the project for the taxation of agricultural incomes being adopted. In the presence of many small holdings the yield is likely to be poor and hardly worth the friction and trouble which its assessment and collection would involve. If public opinion at some future time fastens on a readjustment of the land revenue system it is more likely to take the form of lightening or removing the burden on very small holdings and compensating revenues by placing the burden thus removed on to the shoulders of the larger landholders. As regards death duties also it seems unlikely that the preponderating land owning interest in this Province will be prepared to subject itself to this form of impost though it is possible that given adequate taxation of urban and professional incomes an enhanced charge by way of mutation fee on transfers of landed property might be accepted. We are sceptical about the practicability of terminal taxes. If they are levied on imported goods in many cases the goods will have already paid to the Central Government customs duties or excises and will also have paid octroi or terminal taxes imposed by local bodies. It seems hardly possible to place an additional charge on them to benefit a local Government. Such a charge would also we observe probably react unfavourably on railway earnings and would be very expensive to collect. We are in favour of removing the limit for local cesses on lands in the case of district boards. We approve in principle of the proposal to tax tobacco. We feel some doubt as to the possibility of any considerable return from a tax on matches for while in the case of tobacco the location of the factory is to some extent fixed by convenience of proximity to a source of supply and will in practice be confined to tobacco growing centres the same consideration does not apply to the establishment of match factories and the latter may be transferred into Indian States if excises are imposed with resulting complications. We also feel some doubt whether caution is not needed to prevent taking measures which may operate to stifle a nascent Indian industry though probably a moderate excise would be paid by the middlemen and not react on consumption.

84 Some doubts have been expressed as to whether it is quite clear that provinces will have full discretion to use all revenues accruing to them including those from Central sources on such objects as they desire. We feel that this freedom of discretion is sufficiently clearly intended and expressed.

85 As regards distribution of taxes which pass into the Provincial fund we are of opinion that the only just and automatic test is that of population. If any surplusage outside this principle is to be allowed it should rest solely on grounds of Central interests and might take the form of a subvention to provinces for the education of the children of the military classes in proportion to numbers from each province serving in the Indian Army.

86 As regards the federal implications of the constitution of the Provincial Fund the machinery by which it will be fed and the safeguards against the initiation of changes in the taxes coming within the scope of the Fund or alteration in allocations to the Fund of particular taxes we find ourselves in general agreement with what is proposed in paragraphs 305—307 of Chapter 7 of Part VIII of Volume II. Until the final composition of the Federal Legislative Assembly is determined we find it difficult to decide whether in effect the provision requiring the expression of a desire by the Finance Members of more than three provinces as a condition precedent to the initiation of a change in the taxes within the scope of the Fund is sufficient. We consider it essential that there should be adequate safeguards against the more populous provinces imposing their will on the majority of the provinces which appears to us to be a necessary condition of a Federal system. It will also be necessary to provide that changes do not operate to inflict too sudden and severe a change in provincial budgets and in this connection it would appear desirable to lay down that changes by way of reduction should only take place at earliest a full year after the date on which they pass the Federal Assembly.

87 We note that paragraph 306 of the Report has to be read with paragraph 163. When a national excise is just imposed a simple majority vote of

the Federal Assembly is sufficient. When a source of revenue already allotted is to be taken away from the provinces this can only be done by a simple majority vote of the Federal Assembly combined with a simple majority vote of the representatives of two thirds of the provinces. Where it is a question of altering the distribution among provinces a majority of two thirds of the members of the Federal Assembly and also a simple majority vote of the representatives of two thirds of the provinces will be necessary.

88 Paragraph 308 leaves us in some doubt as to whether power will be retained by the Secretary of State to require the submission to him by the Central or local Governments of schemes involving large capital expenditure. In that the latter ordinarily entail borrowing in London on India's credit it is probably desirable that he should be kept in touch with such projects so that the India Office can give the City general indications as regards their nature. As long as the Secretary of State raises loans in London for the Indian Government some such general connection with aspects of financial affairs relating to loan programmes appears essential. Otherwise we understand that his control over expenditure will in future be limited to Army and other non-votable expenditure.

89 For the present in this province it will probably be found convenient to use the agency of the Central Government for keeping provincial accounts though there is little doubt that the development of a provincialised Accounts Service will take place in due course. There seems no reason why provinces should pay for maintenance of accounts until the salt duty has been handed over to them.

90 As regards provincial balances pending the formation of a Central or Federal Bank no other course seems practicable than that the Central Government should continue to perform the function of keeping these balances under the condition explained in paragraph 310.

91 We are strongly in favour of audit being the concern of an independent Auditor General.

92 As regards borrowing there is a divergence of opinion, one Member of the Cabinet holding that there should be no restriction on the discretion of a province to raise a loan within the province. We feel that such freedom will be both unsound in theory and unprofitable in practice. So long as the provinces enjoy the advantage of borrowing money on the credit of India as a whole there must be control and co-ordination of their loan operations by the Centre. Sufficient touch with their needs can be maintained by the association with the Finance Member of the Government of India of a Provincial Loan Council as suggested in paragraph 311. Clashes and competition between central and provincial activities in the market must be avoided both as regards the time of launching loans and conditions, and lastly in the interests of the general financial credit of both the Central Government and the provinces there must be some check on unwise and excessive borrowing by a spendthrift province. Indeed this is the only method of ensuring a requisite degree of financial stability in the provinces which will remain. So far as this Province is concerned it has every thing to gain from participation in such co-ordination, for even in the case of a loan within the province experience has shown that Bombay and Calcutta find the bulk of the money, and the province would have to offer extravagant and uneconomic terms if it ever desired to compete with the Central Government or the Presidencies in its appeals to the money market.

VIII—THE SERVICES

(Report Part IX)

93 As regards the recruitment of the security services on an All India basis by the Secretary of State we are strongly of opinion that it should be continued during the transitional period on the existing basis as suggested in paragraph 329. One of our colleagues has advanced the view that even during this period and in the case of these services there should be wholly provincial services recruited by a Public Services Commission and entirely controlled by the local Government. Another suggested adopting the scheme advocated in paragraph 329 for 10 years and then reconsidering the question of proportions, method of recruitment and control. We prefer not to modify the system put forward in

paragraph 329 in this respect. During the transition period we lay great stress on the wisdom of keeping the All India system recruited by the Secretary of State with its wider field of choice and the status tradition and security which attaches to a regular service with fixed prospects and rules under the Secretary of State's control. It may in some degree represent a constitutional anomaly but we consider it essential in the transitional stage. We believe in its utility to securing an Indian element of superior capacity and so far as the European element is concerned we do not think that recruits of the desired type would be attracted if recruitment by or on behalf of an authority in India was carried out by a Public Services Commission in India or the High Commissioner in London. We do not wish to imply that this should be the method followed as a permanency but from the point of view of recruitment it is important that there should not be any short period fluctuations or changes so the period fixed before reconsideration takes place should be sufficiently long. We suggest that the date for reconsideration might be fixed as 1949 the date by which the Lee Commission scheme for the completion of the Indianization in proportions of the Indian Police Service will in theory finally materialise. We agree that as regards proportions of Indianization we should adhere to the rate fixed by the Lee Commission.

94 As regards the Forest Service we agree that future All India recruitment may be discontinued. As regards the Irrigation Branch, however we are strongly of opinion in spite of certain considerations to the contrary placed before us by our colleagues that we should retain a substantial element of Europeans recruited on the basis and safeguards of an All India Service in its gazetted ranks. The net income from irrigation forms more than a third of the total revenue of the province, and the place it occupies indirectly in the general economic prosperity of the province and as an asset in the well being and contentment of the people of the province can be rated on general considerations at a much higher figure than its arithmetical value in the financial resources of the province. We have too many eggs in this basket to risk losing an element which past experience shows conduces to the more efficient preservation and profitable extension of our great irrigation system. In the Punjab the Irrigation officer is more than a technical officer. His efficiency and initiative is a factor for internal stability practically on a plane with that of the officer in the security services.

95 In view of our recommendations in regard to the security services and the Irrigation Service which involve the retention of some European element with definite service rights we find ourselves in agreement with the provisions as regards medical treatment which are explained in paragraph 333.

96 As regards safeguards for existing All India officers we approve of the proposals made in paragraph 332. We are strongly of opinion that the right of retirement should remain open without limit of time to all officers belonging to All India Services who may be serving when the new Constitution is introduced.

97 As regards future recruits it is proposed that they should enjoy the same rights privileges and safeguards in which the existing members of All India Services are secured by the recommendations in paragraph 332 and have the same safeguards for their continuance. The Commission make one exception about the right of premature retirement. We discussed for some time the obvious fact that the new recruits would join with sufficient knowledge of future conditions and that unless some change was introduced after their recruitment it would be illogical to let them have this right. At one time we inclined to the view that new recruits should be allowed to exercise the right up to 5 years from appointment. The question of a reciprocal right of forcing compulsory retirement within this period was also discussed. Further thought convinces us that as far as Europeans are concerned the acid test is the practical one *viz* whether if the new recruits are not offered a more extended right of retiring on proportionate pension recruits will be forthcoming and recruits of the right type. The answer seems to us to be in the negative and for this reason we think the unlimited right should be maintained. We are aware that the benefits of the present rule may in some cases be abused and that the position is some times felt to be unfair *ie* it should involve a power by Government to retire undesirable officers. We feel however that a discretion to impose compulsory retirement will injuriously affect the idea of service security. We have thought of the possible advantages in these circumstances of securing new recruits on provident fund terms. The latter however while suitable for a technical officer such as an Engineer or a Doctor are of little practical value in the case of the

Indian Civil Service or the Indian Police Service whose knowledge and experience have no professional value in the employment market on retirement

98 We must now turn to the attitude which the All India Services themselves are likely to adopt to the proposed changes and safeguards. We are aware that some service associations in N W India placed representations before the Simon Commission to the effect that if all provincial subjects were recommended for transfer the logical development was to wind up the All India Services in the provinces and give them proportionate pensions and compensation for loss of prospects and career as in the case of the Egyptian Services.

99 There has not been time for consultation on this occasion but His Excellency the Governor requested the All India Service Secretaries and Heads of Departments at Simla who included in their ranks officers of the Indian Civil Service Indian Police Service and Indian Service of Engineers (both Irrigation and Buildings and Roads branches) to meet and give him their views on the portion of Part IX of the Report containing recommendations regarding the future position of members of All India Services.

100 The views at which they arrived after discussion are attached to this section as appendix A. It will be seen that they feel apprehension that the conclusions reached by the Commission in the closing portion of paragraph 332 will not really give them the security they require as regards pensions and funds. Though this may seem unduly apprehensive in the transitional stage while pay and pensions are not votable and authority is retained from the Secretary of State downwards through the Governor General the Governor General in Council and the Governor ending with the latter's special powers to secure appropriation (item 5 in para 50 page 36) to ensure their rights to payment of dues their conclusions are we believe representative of the present feelings in our All India Services. In short at the back of their minds there is an idea that while the Secretary of State can hardly visualise that it will be ever out of his power to carry out obligations situations and circumstances may arise when he will not be able to place himself in funds to do so. They argue that to pay the necessary capital sum subject to readjustment for each official's pension when he retires would not be unduly burdensome and would remove the feeling of insecurity. As regards family pensions and funds the case for their transfer to a fund with the Secretary of State in the case of Europeans seems to them even more insistent and logical for in these cases the money is even more clearly than pensions (even if pensions are classed as deferred pay) their own money. The views as regards rates of provident fund appear to be reasonable. We commend generally the opinions expressed to the notice of the Government of India because the feeling of anxiety in the matter is undoubtedly genuine and acute and may have serious repercussions as for instance starting the new regime with grave depletion in the ranks of the experienced section of the All India Services. We observe that the matter referred to in III (2) the claim for compensation for loss of career in addition to premature pension was specifically considered by the Lee Commission and rejected by them as unjustifiable.

101 The recommendations in paragraph 335 were approved though it was felt that the amount of pension in each case should be governed by length of tenure of the appointment.

102 It was agreed that the appointment of a provincial Public Services Commission was desirable. It was advocated that the members should be appointed by the Governor for 5 years and should be removable only by order of the Governor General so as to ensure a feeling of independence from control of local authority.

103 Some doubts have been expressed by some communities regarding future recruitment to the provincial and subordinate services as to how far there is assurance that the principle observed in the past that keeping in view the claim of efficiency no one class should be permitted to monopolise the services to the detriment of the just and reasonable claims of other sections of the community will be followed in future. The answer in our view is that difficulties would attend any interference going beyond enquiry and advice by the Governor in future as regards individual appointments by Ministries but if their cumulative effect is of a nature to come within the purview of the second of special powers [item (2) paragraph 50 page 36] he would be bound to act and should act. Fixed percentages or recital of rights in Statute appear to us to introduce an element of undue regimentation and the general remedy of the Governor's special powers if a little vague in definition and in character ameliorative for the

future rather than revisory as far as the past is concerned, must suffice to correct tendencies

IX—THE HIGH COURTS

(Report Part X)

104 In dealing with the problem of the transfer of law and order in the Memorandum prepared for the Simon Commission by the Punjab Government the official members of the Government made the following observations —

The administration of justice presents problem peculiar to itself. The actual dealing of justice whether the conviction and punishment of offenders or decision of civil suits will remain the task of a body independent of the executive government. It is only in matters subsidiary to the dealings of justice that the executive government is concerned such as the appointment of judicial officers their transfer and in the last resort their removal or punishment and in the provision of funds necessary for carrying out the administration of justice. Here the chief problem is that of keeping justice out of the field of politics and it will be seen from the comments of the High Court in Chapter VIII of Part I that it is chiefly in the sphere of patronage and the communal composition of the judiciary that the impact of politics has mainly been felt. Here again it is the communal question which presents the chief difficulty it will for many years present a problem which it will be impossible to ignore especially in a population with whom the question of the personnel of the Judicial Service is a matter of acute interest. (Paragraph 24 of Part II Volume II P G Memorandum)

105 The question of the High Court naturally divides itself up into three Parts (1) the appointment of the Judges (2) the administrative control over the High Court which include financial provision and (3) the administration of the subordinate judiciary

106 As regards the first part the present practice is that the appointment of permanent Judges is made by the Crown the appointment of additional Judges is made by the Governor General in Council and the appointment to officiate as Judge in a temporary vacancy is made by the Governor in Council. The number of permanent Judges and additional Judges is fixed under the orders of the Secretary of State or Governor General in Council respectively as the case may be. As regards the first two classes of Judges in practice the convention is that the Governor after consulting the Chief Justice forwards the views of the latter with his comments to the Governor General. The latter then enters into communication with the Secretary of State as regards permanent appointments or disposes of the matter with the Home Department of the Government of India in the case of additional appointments. So far as we understand the Commission propose no change in this procedure except that the appointments to officiate in a temporary vacancy should be made by the Governor General after consulting the provincial Governor. We are in agreement with the recommendations of the Commission as we consider it important with a view to securing so far as may be possible independence from local political influence that members of the Bench should owe their appointment to an authority outside the province. We are conscious that our view differs from that set forth by the Punjab Reforms Committee which advocated that appointments should be made by the Crown on the recommendation of the local Government and that a Judge should be removable on the joint recommendation of the Governor and local Legislature concerned.

107 When we turn to the second part the administrative control over the High Court the present practice is that the High Court apart from the actual dealing of justice in which domain they are entirely independent have certain functions vested in them (i.e. in the person of the Chief Justice) by Letters Patent as for instance in connection with their establishments but are in practice actually under the administrative and financial control of the Governor in Council that is they may put forward scales of staff changes and additions in buildings questions connected with records and printing in the High Court for which the Letters Patent give them a degree of discretion but the Governor in Council may find it impossible to provide for these items in the budget. The

actual salaries and pensions of the Judges of the High Court (and of their Registrar when he is a member of the I C S) are non votable but are a charge on provincial revenues the whole of the rest of the High Court expenditure and the expenditure on the civil courts (except non votable salaries) is votable provincial expenditure The local Government is likewise in control of those subsidiary matters to the dealing of justice to which we have referred in the first paragraph of this section

108 The Commission recommend that the administrative and financial control of the High Court and its establishments buildings contingencies etc. should be assumed by the Governor General in Council and that these matters should be a charge on Central Revenues which would be reimbursed to some extent by making High Court fees a source of Central Revenue It is proposed that the functions of the provincial executive in connection with the administration of the subordinate judiciary and their relation with the High Court in this connection should remain unchanged.

109 The Hon ble Judges of the Lahore High Court have expressed their general agreement with the proposals of the Commission and a copy of their letter is attached as appendix B to this Memorandum We have given the matter careful thought but are unable to find ourselves in agreement with the High Court and the Commission on this point Though we would naturally welcome the relief to provincial finances which the suggestion involves we feel that the loss in other respects outweighs the possible advantage We see risk of friction and growing aloofness which would not be in the best interests of the Province In the Court itself we fear that amenities and scales of establishments would tend to be set up which would be out of proportion to those fixed for persons departments and establishments of a somewhat similar character at the headquarters of provincial Government and have unsettling repercussions While the necessary and proper judicial independence seems to us to be secured by the power of appointment and removal of Judges being vested in an authority outside the province we apprehend that the additional (and in our view unnecessary) sense of independence which must result from the Commission's suggestions on the administrative and financial side might destroy the intimate and close relations between the Court and the local Government in connection with the personnel discipline and working of the subordinate judiciary which in our view it is so essential to maintain Friction in regard to these matters would have reactions prejudicial not only to the working of the subordinate judiciary but also to the confidence of the public in the administration of justice The High Court have already complained of the criticisms on the administrative side of their work which are occasionally made in the legislature Even under the system proposed in the report of the Commission opportunities for such criticisms would remain, *e g.*, in connection with demands for grants connected with the subordinate judiciary In our view these criticisms would tend to increase in proportion as any portion of this administration is removed from the purview of the responsible provincial executive and their disappearance can only be secured by even more close co operation in these matters between the highest judicial and executive authorities in the province

X—RELATIONS BETWEEN THE HOME AND THE INDIAN GOVERNMENTS

(Report Part XI)

108 We consider it reasonable that the control of Parliament within the provincial field should be restricted to matters in which special powers are reserved for the Governor and be exercised through the Governor General.

APPENDIX A

(See paragraph 100)

Proceedings of a meeting of Secretaries to Government held in Chief Secretary's room on the 19th July 1930

I—SECURITY OF PENSIONS

Paragraph 332 of Simon Commission's Report

Pensions are really in the nature of deferred pay

Recommended—

- (a) that statutory force be given to this declaration
- (b) that financial security for the pensions of officers appointed by the Secretary of State be maintained in London preferably by making them a charge on the Consolidated Fund. If this recommendation is not accepted then recommended
- (c) that the British Government guarantee the pensions of all officers appointed by the Secretary of State
- (d) that the existing exchange rate (which is fixed by rule having the force of law) be maintained for calculating the sterling value of pensions
- (e) that whatever form of security is conceded it should be sufficient to enable insurance companies of repute to insure service pensions at a reasonable rate, e.g. not exceeding $\frac{1}{2}$ per cent of the pension

II—FUNDS

Recommended—

- (a) that a rate of 1/6 per rupee for payment of Provident Funds be secured by statutory rule
- (b) that subscribers to Provident Funds be entitled to withdraw the whole amount at their credit for purposes of investment in insurance policies at any time and that they be entitled to receive the sterling value of the sum as it stood on the date of application. If any subscriber is not insurable at first class rates that he be entitled to the concession mentioned above for purposes of other investment
- (c) that sterling family pension funds be funded in London for the benefit of subscribers and their dependents

III—PROPORTIONATE PENSIONS

Recommended—

- (1) that the system of proportionate pensions be continued to all officers at present entitled and be extended to all future recruits appointed by the Secretary of State
- (2) that the contemplated changes in conditions of service particularly at the expense of the I C S and Indian Police Service Officer constitute a grave hardship on officers recruited before 1920 who are still in the middle years of their service. The proportionate pension due to an officer of 15 or 16 years service who is without private means and has a wife and family to support might well be inadequate to enable him to live without seeking further employment which it is notoriously difficult for an officer without special qualifications to find. Consequently the remedy which the proportionate pension concession is intended to provide may well in practice be closed to such officers and it is recommended therefore that they should receive in addition to the right to retire on proportionate pension compensation for loss of career or in the alternative for having to continue to serve under conditions altogether different from those which induced them to join the service

IV The meeting endorsed the recommendation of the Simon Commission regarding medical relief for European Officers and their families

V The meeting ventured to point out that the ability of Government to secure the pensions and funds of the services will be gravely imperilled if the Irrigation Department ceases to be recruited by the Secretary of State

APPENDIX B

(See paragraph 109)

No 5352-A|IV A 9

From

E A R EUSTACE Esq ICS

Registrar of the High Court of Judicature at Lahore

To

MILES IRVING Esq CIE OBE

Additional Secretary to Government Punjab Simla

Dated Lahore the 19th July 1930

SUBJECT —*Recommendations of the Indian Statutory Commission regarding the position of High Courts*

SIR

With reference to your letter No 2646-S Reforms dated the 5th of July 1930 I am directed to say that the Hon ble the Chief Justice and the Judges agree generally to the proposals contained in Part X of Volume II Report of the Indian Statutory Commission They suppose however that just as judicial salaries are proposed to be made a charge upon Central Revenues so should the proposals in Part X be adopted judicial pensions would be made a similar charge

I have the honour to be

Sir

Your most obedient servant,

(Sd) NIHAL CHAND D R

for Registrar

CONFIDENTIAL



Enclosure B

**Memorandum containing the opinions of the
Non-Official Members of the Government of
the Punjab on the recommendations of
the Indian Statutory Commission**

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PART I—Joint Minute containing the opinions of the Hon ble Captain Sikandar Hayat Khan MBE Revenue Member and Malik Firoz Khan Noon Minister for Local Self Government

In depriving the Muslims in Bengal and the Punjab of their legitimate share of representation in the Provincial Legislatures the Indian Statutory Commission has failed to do justice to the claims of Muslim India. Its conclusions in paragraph 80 of the Report are based on the ground that it will give them (Muslims) a fixed and unalterable majority of the general constituency seats in both provinces. The argument fails to carry conviction in face of the obvious fact that the Hindus in spite of giving weightage to the minorities will remain perpetually a substantial and unalterable majority in the other six provinces. Apart from its being obviously unfair to the Muslims of Bengal and the Punjab and its prejudicial effects on the rights and interests of Indian Muslims the proposal appears to us to be in conflict with the main scheme for establishing a federal form of government propounded in the Report. We find it difficult to reconcile this particular item in their recommendations with the ostensible desire on the part of the Commissioners of securing to the various components equal opportunities for internal development on lines best suited to the conditions and requirements of each unit. The Commissioners seem to have overlooked or ignored the serious implications of their proposals (in paragraph 85) which can have no other effect except that of relegating the Muslims to a position of political impotency even in those provinces in which they happen to be numerically superior. When we find that the question of Sindh has been left unsettled, Baluchistan has been denied even the rudiments of a reformed administration and the advance proposed for the N W F Province falls considerably short of the expectations of even the most conservative elements amongst the Muslims it is difficult to escape the conclusion that Muslim interests have been allowed to suffer not merely for lack of proper appreciation of the claims and needs of the community but perhaps for other reasons. This conviction is further strengthened by the singularly unconvincing nature of the argument employed by the Commissioners in support of their contention in paragraph 85 of the report.

It has been suggested by some critics that in sacrificing the Muslim rights and interests the Indian Statutory Commission has made a feeble attempt to placate the majority community with a view to reconciling them to the conclusions and recommendations embodied in this Report. Whatever may be the reasons the fact remains that if the recommendations of the Indian Statutory Commission with regard to the representation of Muslims in Bengal and the Punjab are accepted the minorities will be subjected to the rule of a formidable oligarchy not only in the Central Legislature and the provinces where they are in a minority but even in those provinces in which they are legitimately entitled to superior representation. We would be failing in our duty to the Government and the country if we do not enter a strong caveat against the adoption of a course which will result in depriving the most important minority in the country of its due and rightful share in the management of the country's affairs both in the Central and Provincial spheres. If in spite of the repeated assurances from the Viceroy and responsible Ministers of His Majesty's Government the interests of minorities are allowed to be subordinated for reasons of expediency or other considerations there will be serious repercussions which may result in further aggravating the situation in the country by accentuating the differences between the British and Indian people.

It is a matter for satisfaction to us that our official colleagues also consider the proposals contained in paragraph 85 of the report as unfair to the majority community in the Punjab and in the concluding sentence of paragraph 30 of the Memorandum they have expressed their views in the following words —

but we feel that we cannot go so far as the Commission in paragraph 85 for it seems to us illogical to deprive a population majority entirely of their position

Although the language used is guarded it is sufficiently clear to indicate a desire on their part of securing to the community which is numerically superior its rightful position as a majority in the Provincial Legislature though they do not contemplate going to the extent of giving them representation warranted

by their numbers. But we are surprised to find that in the eventual composition of the Legislature, recommended by them, they have overlooked this consideration and have failed to carry the principle enunciated, in paragraph 30, to its logical conclusion.

According to their proposals the Muslims get two more seats than the Hindus and Sikhs combined ; but will still remain in a minority in the House as a whole. We do not consider this arrangement satisfactory or in consonance with the expressed views of our official colleagues, already referred to. Muslim opinion throughout India has repeatedly and emphatically declared in favour of representation on population basis for the Muslims in the Punjab and Bengal ; and we are convinced that it will be difficult to reconcile them to a figure which falls short of this demand. The Muslim Members of the Punjab Government in their Memorandum to the Simon Commission proposed 51 per cent. representation for the Muslims in the Punjab. In reducing the Muslim strength they were actuated by a desire to meet the sentiments and wishes of Hindus and Sikhs in the province. The Punjab Reforms Committee also made similar proposals with a view to restoring harmony and giving to the Sikhs an added sense of security. It is a matter of common knowledge that the Muslim press and public took strong exception to these proposals. The recommendations of the Simon Commission on the subject have created further resentment, and the Muslim opinion throughout India has condemned these proposals in no mild terms. It is asserted that of the Muslim claims, which are essential for their existence as a self-respecting entity in the country under the future constitution, not one has been conceded by the Indian Statutory Commission. It is admitted that a federal form of government has been proposed ; but it is pointed out that this can have no attraction for the Muslims if they have to play the second fiddle, both in the Central Legislature as well as the provinces.

Again, with regard to separate electorates it is said that the recommendations are hedged in to such an extent, and involve the acceptance of conditions which will reduce the Muslims to a position of perpetual minority everywhere, that they virtually amount to forcing the Mussalmans to merge into common electorates. The Muslims in the Punjab and Bengal have been given a choice between a ' dagger and the poison bowl '. According to the Simon Commission they must either accept joint electorates or else agree to give up their due share in the Legislatures. Under these circumstances some of their leaders contemplate advising the Muslims to review the situation and seriously consider whether it would not be advisable for them to give up separate electorates and throw in their lot with their Hindu and Sikh countrymen and take their chances in common electorates. It is pointed out that by accepting joint electorates their position cannot be any worse than that contemplated by the Simon Commission under their scheme. In short, the Mussalmans, not unnaturally, consider that they have once again been left in the lurch by their friends in whom they had reposed their confidence and trust. The extremists have not been slow in discerning the possibilities of turning into account the present resentment of the Muslims and are naturally directing their energies towards weaning the Muslims from their present position and ideals with a view to exploit them for their own purposes. We sincerely hope that better counsels will prevail and the British Government will not allow the impression to gain strength that Government's friends are invariably the losers in the end.

We are convinced that Muslim opinion in the Punjab will not be satisfied with anything less than their legitimate share of representation as warranted by their numbers. The proposals in paragraph 31 of the Memorandum fall short of these demands and therefore cannot be acceptable to them. (As regards the reservation of seats for big landholders Malik Firoz Khan Noon considers that the recommendations in paragraph 29 do not go far enough to sufficiently safeguard the interests of this important class. He feels that in the absence of a second chamber, and the removal of the official bloc, it is essential that at least 15 per cent. of the total number of seats should be reserved for big landholders in order to get a fair element of this class in the House which will exert the necessary steadying influence ; and he feels that an increased representation of this class should be secured immediately instead of deferring it till such time as the inadequacy of their representation is demonstrated by a breakdown of the legislative machinery.)

Paragraph 24.—To the observations in paragraph 24 of the Memorandum we would like to add that " all constituencies whether Muslim, Hindu, Sikh or

others should be thrown open to members of all communities irrespective of their creed. This suggestion was made by one of the Muslim Members of the Punjab Government in a previous Memorandum and was endorsed by the Punjab Reforms Committee. We consider that this will be a step forward towards the goal of joint electorates.

Paragraph 43—While we fully endorse the views expressed in paragraph 42, we regret that we are unable to agree with the observations and conclusions contained in paragraph 43 of the Memorandum. We consider that the proposals for extension of franchise in paragraph 106 of the Report are on the whole sound. In this connection we wish to remark that one of the obstacles in the way of early introduction of common electorates is the existing disparity between the electors of the various communities. We believe that the prospects of setting up joint electorates in the near future will be considerably strengthened if this disparity is reduced.

Paragraph 57—We notice that the observations in paragraph 57 of the Memorandum are to some extent in conflict with the remarks contained in paragraph 71. We consider that residuary powers should remain with the provinces and this principle should apply equally to matters in the legislative field.

Paragraph 62—We consider that the second sentence in paragraph 62 is too vague. We recommend that the next step towards devolution in the Centre should take place not later than 10 years from the date on which the revised constitution comes into force in the provinces. This would give ample time to the provinces to sufficiently consolidate their position against any risk of interference from the Central Government or Legislature.

Paragraph 64—We are of the opinion that the existing practice of appointing Members of the Governor General's Executive Council under the Royal Sign Manual should continue till such time as all the subjects are transferred to popular Ministers. We see no difficulty in reconciling this with the Simon Commission's proposal as the discretion of the Viceroy to recommend suitable names will remain unimpaired. So far as the appointment of Indian Members is concerned we are not aware of any instance in which the Viceroy's recommendation has not been accepted by the Secretary of State and we do not apprehend a departure from this convention in future.

Paragraph 71—We confess that we are at a loss to understand the meaning or implications of the opening remarks in the last sentence of paragraph 71. If it is meant that the residuary powers in respect of the subjects transferred in the provincial field should be retained by Parliament we most emphatically disagree as a provision of this nature may conceivably result in complete negation of responsibility and autonomy proposed to be conferred in the provincial sphere. We however entirely agree with the concluding portion of that sentence.

Paragraph 77—In addition to multiplication of training schools we should like to see an Indian Sandhurst established at the earliest possible date. We consider this to be a necessary corollary to the other proposals contained in this paragraph.

Paragraph 78—In view of the considerations enumerated in paragraph 72 of the Memorandum we consider it desirable that the Punjab should be adequately represented in the Committee on Army Affairs.

While agreeing generally with the observations in Chapter V of the Memorandum, we feel that a definite time limit must be fixed within which the process of Indianization should be completed and the control of the army handed over to a popular Minister of the Cabinet. We consider that 20 years would be a safe and adequate period for the purpose. If at the end of that period Indian officers of sufficient status and experience are not available to fill all the higher staff appointments it should be possible to secure the services of British officers through the War Office till such time as suitable Indians can be found to replace them. We contemplate that even after the process of Indianization has been completed British officers will still be available to help and guide their Indian compeers. It will also be desirable to secure close connection between the British and Indian armies and this can be done by a periodical exchange of officers between the two armies. It will not be out of place to mention here that Japan successfully created and organised a highly efficient army within a short period and we see no reason why India, which has the additional advantage of

possessing a magnificent fighting force should not be able to achieve the same result within the next twenty years

Paragraph 83—While we endorse the views contained in Chapter VI of the Memorandum we do not share the apprehensions of our official colleagues with regard to the imposition of terminal taxes. We consider the proposal of Sir W. T. Layton of great value as it will afford the provinces an opportunity of imposing indirect taxation which is considered by the people to be less burdensome and is therefore comparatively less unpopular than the direct taxation.

Paragraph 92—As regards borrowing we feel that we cannot do better than commending the proposals contained in paragraph 130 of the Punjab Reforms Committee's report which we consider from every point of view suitable. We reproduce below this paragraph for convenience—

Another matter raised during the deliberations of the Joint Free Conference was the question of conceding to the provinces the right of raising loans on their own responsibility and credit without interference from the central government. While we consider it necessary that the central government should be invariably consulted in all cases where the provinces desire to raise loans, the former should not ordinarily stand in the way of the provinces making their own arrangements if it is to their advantage to do so. A convention should however be established which would allow the various provinces to meet together under the ægis of the Government of India to discuss questions of provincial credit and the requirements of the various provinces from time to time in the way of loans which they desire to float in this country or elsewhere. We feel that the varying credit of the different provinces may adversely affect the position of provinces with a better and more stable financial credit if loans were always to be raised through the Government of India. Moreover freedom of action in the matter of borrowing would encourage the provinces to consolidate and strengthen their financial position and resources. We are however of opinion that in case of external transactions and loans raised outside the country the Government of India's sanction should be necessary in order to avoid international complications and any risk to the stability of currency and the financial credit of the country as a whole.

Paragraph 93—We consider that the dates fixed by the Lee Commission for reconsideration of proportions in the Indian Civil Service and the Indian Police Service should for the present be adhered to. [One of us, Mahk Firoz Khan Noon, is of the opinion that provincial autonomy will be a sham if the security services Police and I. C. S. (both Executive and Judicial Branches) continue to be recruited by the Secretary of State and remain under his control for all intents and purposes. It is not a fact that there is not a single Dominion (Australia, Canada, South Africa) where security services are recruited by a Secretary responsible to the British Parliament. He considers that if the security services in Egypt are recruited by Egyptians there is no reason why this right should be denied to Indians. He is further of opinion that even if the British element in these services cannot be immediately brought under the control of Provincial Governments there is no reason why the Indian element should not be forthwith placed under them.]

Paragraph 94—We are not convinced of the necessity of retaining the Indian Service of Engineers as an all India service. While we fully appreciate the importance of our irrigation system and its enormous value as a permanent asset we do not see how the provincialisation of this service can affect the revenues of the province as suggested in this paragraph. The power to reduce or enhance the rates of *abiana* will under the new scheme rest entirely with the local Legislature and it is therefore obvious that the classification of the officers of the Irrigation Department under one or the other category can have no effect so far as the depletion or inflation of revenues from this source is concerned. On the other hand we see grave disadvantages from the provincial point of view in allowing it to continue as an all India service. So far as the interests of the present incumbents are concerned these are already sufficiently safeguarded under the existing rules. As regards the future recruitment of British element we propose to leave it to the Secretary of State to enlist the

requisite number of officers on behalf of the local Government. This we consider will sufficiently ensure the continued efficiency of the Department in future (Malik Firoz Khan Noon is of the view that so far as this particular service is concerned there is no dearth of competent and highly qualified Indians who can be recruited in this country. He considers that if there is any service for which eminently suitable Indians are available in large numbers in the country it is the irrigation service. He feels that there is no need to reserve any post for Europeans in this service but if the provinces wish to recruit a certain percentage of Europeans which is very likely to be the case in the Punjab for some time to come then they should be allowed to recruit these officers themselves through the High Commissioner for India and as far as the recruitment of the Indian element in the irrigation service is concerned it should be immediately placed under the full control of provinces.)

Paragraph 104—We are in full agreement with the observations made in this paragraph but we consider that so far as the appointment of Judges of the High Court is concerned the proposals put forward by the Punjab Reforms Committee in paragraph 135 of their report should be adopted. They suggest that all Judges of the High Court whether permanent additional or acting should be appointed by the Crown on the recommendation of the local government. No Judges of the High Court should be removable except by the Crown on the joint recommendation of the Governor and the local Legislature.

At present the Ministers as distinct from Members of the Executive Council are not entitled to leave of any description during the tenure of their office. We consider this as anomalous and suggest that a provision should be made in the constitution to make it possible for the Governor to grant them leave on somewhat similar conditions and terms as now apply to the Members of the Executive Council. We think that they should be allowed one month for each year of service put in by them.

SIKANDAR HAYAT KHAN

Revenue Member

The 11th August 1930

FIROZ KHAN NOON

Minister for Local Self Government

The 11th August 1930

PART II —Minute by the Hon ble Sardar Sir Jogindar Singh, Kt Minister for Agriculture in the Punjab Government

General —The Government of India has been in a state of evolution from the day Britannia set herself to rule India. She passed under a constitutional Government with the transfer of administration from the Company to the Crown by the passing of the Act of 1850. In 1858 Queen Victoria of revered memory solemnly declared herself bound to her Indian subjects by the same obligations of duty as to all her other subjects. The seed of representative institutions was sown by the grandfather of our present Viceroy with the passing of the Act of 1861 and quickened into life by the Act of 1909. Then came the War and India fought the battles of the Empire in its far flung fields and England promised her an equality of position in the British Commonwealth. Consequently India was admitted as an equal member of the League of Nations and the Government of India Act of 1919 was passed which His Royal Highness the Duke of Connaught declared as the first step towards Swaraj.

The Simon Commission was entrusted to examine the position with a view to redeem this solemn promise. The Commission spent two years in studying the situation and before it had furnished its report H. E. the Viceroy journeyed to England to plead India's cause and on his return in 1929 speaking in the name of His Majesty's Government defined Dominion Constitution as the goal of British policy. The Indian opinion from Gandhi downward rallied round the Viceroy ready to co-operate in preparing a scheme which would invest India with the power of guiding her own destiny in future as an equal partner in the British Empire.

The Viceroy did not receive the support he deserved and the position secured by Lord Irwin was lost.

Then came the Simon Commission Report. It studiously avoided any affirmation as to the objective of British policy and treated the announcement made by the Viceroy as a dead letter.

The scheme prepared by the Commission provides no bridge for the halting feet to walk on the road to realisation of nationality. It places the Executive so far as the Central Government is concerned in a stronger position than now. The report pleads that a work of architecture has to find its foundation on solid earth forgetting that it needs human hands to build it implying willing support and approval of those concerned. Sir John Simon's declaration that you cannot put a slogan into an Act was an unhappy confession from a man of his vision. No one knows better than him how potentialities of progress are stirred by a way cry. India expects Britannia to lead her to the promised land any failure to meet this demand sounds as if England herself was losing faith in her mission reluctant to realise the inevitable results of the forces set in motion by her. People are aware of the difficulties and dangers that beset the path to the pinnacle of power but they are animated by high hopes that these can be overcome under proper guidance and leadership. The Commission missed a great opportunity by adhering to a narrow interpretation of its functions. The all India solution has found no favour and will have to be greatly modified if it is to place India in a position to govern herself.

The Punjab —Let me begin with my own Province. The Punjab stands between the North West Frontier and the rest of India it is inhabited by martial races. It has a large Muslim population which has been swept by Pan Islamic idea more than once along with other Muslim countries on the border land such as N. W. F. P. Afghanistan, Persia and Turkey. The idea of reviving the glories of Islam is natural and never absent. In dealing with the Punjab is it wise to ignore this aspect of the problem and its reaction on the rest of India? More than any other province the Punjab needs a legislature and a cabinet which provides a balance between the communities. The presence of the Sikh Community is a factor of some importance to the Province.

Provincial Autonomy —The Commission has decided wisely to confer on the Provinces provincial autonomy under safeguards. The formation of a Cabinet with joint responsibility to the legislature is an ideal which has been the ambition of the Provinces to reach but joint responsibility can only begin in joint electorates. The Commission has suggested no advance and official Members in their note have accepted a position which I must confess is not tenable. It gives fresh life to communal groups and rather than help the growth of self Government will undermine its foundations. Joint responsibility demands

joint electorates and if the minorities in the Province are not asking for any protection in the way of separate Electorate is it reasonable to give additional protection to the majority community. If the elections are to be on the basis of communities the formation of a Cabinet must depend on communal groups.

British Representation—I do not see why the British should have no representative in the cabinet. The presence of a Britisher in the cabinet may provide a balancing influence and may help the Ministers selected from communal groups to so act as to serve all. I am aware of the criticism that an official Minister in the Cabinet is not consistent with principles of democracy; this is not altogether true as long as British forces and British officials are required and as long as British stake in the country is as great as now it is but fair to recognise the need of British representation in the Cabinet in the same way and on the same grounds as is claimed by other minority communities. If the appointment of an unelected Minister seems illogical there is nothing to prevent an official seeking election from a Special British constituency after resigning his appointment in the Civil Service. I feel that when I claim that the Statute should provide for the presence of a Sikh in the Provincial Cabinet on the strength of my community's importance and stake in the country I cannot consistently refuse British representation in the Cabinet; the British community is no less important than any other minority community in India. To my mind it would secure greater harmony if a Britisher finds a seat in the Cabinet itself and is responsible for the decisions that are arrived at rather than the arrangement in which H. E. and H. M. F. propose the appointment of a Principal Cabinet Secretary who can criticise without sharing the responsibility of decisions. He will be like a British Resident in an Indian State, an interested critic—without responsibility—reporting to the Governor. If there is to be no British Minister in the Cabinet the Punjab cabinet should consist of half Muslims and the other half non-Muslims. The Sikh position is that as long as communal representation remains there should be statutory provision for the inclusion of Sikhs in the Ministry and the Sikh or Sikhs who are selected for appointment should enjoy the confidence of the majority of the Sikh Members of the Council.

Appointment of a Chief Minister—The question whether there should be a Chief Minister is full of difficulties. If Cabinet is to function it must have a Chief Minister but it would make good Government in the Punjab altogether unworkable if the Chief Minister comes from the majority group and selects his Hindu and Sikh colleagues who promise to be subservient to his community. Indeed the prize of Chief Ministership should be reserved as the reward of forming a non-communal party dependent on the confidence of all communities. In the earlier stages it would be wise if the Governor selects Ministers from the communal groups and appoints them, till the Council itself reaches a stage when it can disregard communal considerations. The Governor could ascertain before he makes final appointments if the persons he wishes to select are ready to work together and accept joint responsibility and allow the Minister selected to choose a Chief Minister from among themselves to retain his position as long as he enjoys the confidence of his colleagues.

Reserve powers—I have no objection to the Governor having powers as defined in paragraph 49 of Simon Commission Report. Indeed it is my hope that Cabinets and Legislative Councils will work in such a way that the Governor will be rarely called upon to use his reserve powers which will fall out of use as the powers of the Crown have fallen into disuse in other parts of the Empire.

Mechanism of advance—The Commission is right in recommending that the new constitution must carry the mechanism of advance and that Legislatures should have the power of modifying the constitution thus conferring elasticity and enabling adjustments to be made according to the demand of new times.

R distribution of Boundaries—There is a good deal to be said in arranging provinces in such a way as to assure harmonious working and if communal problems present difficulties which cannot be overcome by mutual goodwill then the only possible course is the redistribution of the provinces in such a way as to minimise communal difficulties. The scheme of representation outlined by official members for the Punjab will place the Muslim community in permanent majority. I am aware of no historical parallel or theoretical principle for placing a community in permanent majority in the name of democracy and if no other solution can be reached redistribution of boundaries may provide the only fair and just solution.

Dera Ghazi Khan in any case is really outside the range of the Punjab also Isa Khail Tehsil of Mianwali District. The boundaries of the Punjab may well

remain this side of Indus Dera Ghazi Khan as the official members point out must be a charge on Central revenues and find its proper place in the N W F Province or Baluchistan

Size of Provincial Councils—I think it would be a mistake to make the size of the Council too large or to lower the franchise too much. Having provided the mechanism of advance the movement in the direction of increasing or decreasing the number of members lowering or raising the franchise should be left to the Council itself. Now if we take the present Council it has —

34 Mohamadons

23 Hindus

13 Sikhs

The Council is safe from acting in a communal manner by the presence of an official *bloc* numbering 16 and 6 nominated members the official *bloc* therefore represents about 17 per cent of the Council. In the new constitution the official members disagreeing with the Commission's recommendations propose —

The total composition of a house is as follows —

Muslims	66
Hindus	40
Sikhs	24
Europeans	2
Indian	1
Christian	1
Total	<hr/> 134 <hr/>

The labour seat may as well be accounted for as a Muslim seat thus securing 67 solid seats to the Muslim community and the balance scattered amongst the other. Does any one imagine that a fixed majority of 67 could ever be moved or allow the growth of a party system or National Government? The argument that in other provinces there will be Hindu majority does not strengthen the case. In other provinces Muslim minority have been given weightage almost to doubling their representation—a substantial concession—but in the Punjab we are expected to accept a false creed that a majority community should get preference on the basis of population while representation is based on property franchise. So far as I am aware this doctrine has formed no part of democracy anywhere but some phrases acquire a fatal fascination and refuse to be dislodged.

It is difficult to follow the reasoning which has led to this decision. Ordinarily protection is extended to minorities but in the Punjab it is the majority that is to be safely established in permanent power in the name of popular Government. It must be remembered that British Government has succeeded by its non-communal character. A communal majority should be in a position of dependence so that it may seek reconciliation and understanding with other communities and endeavour to give satisfaction. Our aim is to promote the growth of nationality and self Government and we must not knowingly introduce elements which are likely to exert a disruptive force. I am therefore strongly opposed to the recognition of the principle that a majority community should be in permanent majority as long as representation is by separate communal electorates and based on property and other special qualifications. It must be admitted that provincial autonomy is only possible under safeguards which can secure a Government not by one community but by all the communities for all the people of the Punjab. The idea that reserve powers vested in the Governor and the Government of India will prevent any break down will be found in practice an exploded myth. No Governor could be in permanent opposition to his legislature. The safeguards must therefore be in the Council itself and provide for the merging of the communities. This can be done by the allotment of seats not on the population basis but on the voting strength and so long as adult franchise is not introduced it is illogical to bring into play the principle of population. The importance of a majority community can only be judged by its services by its usefulness and by its stake in the country. So far as population of peasants (*Jats*) is concerned the Muslim population is no larger

than the combined Hindu and Sikh population. Indeed in this world of ours it is minorities that have dominated nations and though the ideals of pure democracy demand a new orientation the biological factor still confers power on those whom God has dowered with the gift of ruling.

In the days of Cromwell the question was raised. Ireton defined the principle that voting should be based on property and confined to those who have a permanent stake in the country. Colonel Ramboro in his passionate vision swept aside the requirements of expediency and experience and said "I think the poorest and that is in England hath a life to live as the richest he." It has taken England all these years to introduce adult franchise while we are ready immediately to sacrifice vested interests. Take the Punjab the eight colony districts pay 221 lakhs in land revenue and 281 lakhs in water rates as compared with 234 lakhs in revenue and 281 lakhs in water rate by the remaining 21 districts of the districts. If we were to separate the Central districts the contribution of the Muslim districts will sink into insignificance and yet it is the population of these districts which gives Muslims their majority. Is it reasonable to expect the Central districts to accept this arrangement which would place them in such an invidious position? The position is clearly illustrated by the present constituencies. The number of voters for one member of each community are as follows —

9 500 votes to one Muslim member

12 055 votes to one Hindu member

14 300 votes to one Sikh member

Under the new proposals this will alter as follows —

7 320 votes to a Muslim member

10 314 votes to a Hindu member

11 143 votes to a Sikh member

Is this right, equitable or expedient that an important minority like the Sikhs should get a member for 11 143 votes to the 7 320 votes required for a Muslim? Is it reasonable to expect the Sikh community to accept such an arrangement? Everywhere it is minorities that are given protection here minorities are to be penalised and refused their share which their voting strength gives. Can population be the governing factor as long as property franchise remains? I must clearly say that my community will never accept this arrangement.

To summarise we should not forget the end in view which is the growth of common citizenship, the establishment of self governing institutions, development of a sense of mutual helpfulness and responsibility and maintenance of the conditions of peace and security which are essential for the social, moral and material development of the province. The conclusions reached by the Simon Commission in paragraph 85 are based on full understanding of the Muslim claims and must prevail. I can assert without any hesitation that the proposed arrangement is not acceptable to two powerful communities and that they are not prepared to surrender on this point.

Fleets.—In the matter of electorates the Sikh community has much to lose by advocating joint electorates but we recognise that to promote national ends we must sacrifice communal ends. The village people have never asked for separate electorates. Mr Darling bears witness to the happy relations existing in the villages in his last book. It would be tragic if when the constituencies are enlarged we introduce a new line of cleavage in the villages and disturb the co-operative spirit which makes for union. There is no reason why all the rural constituencies should not have joint electorates as well as special constituencies. Separate electorates should be confined to urban areas and at the most extend to the present constituencies. The Commission has suggested the forming of primaries so that the candidates acceptable to any community may be elected. This to my mind meets all the objections. We must recognise the danger of communities consolidating on a communal basis and if minority communities do not want them is it reasonable to keep them in the interest of a majority community?

Landholders constituency.—The Commission recommends the abolition of constituencies for landholders under a misapprehension. The idea that landholders can secure their seats through ordinary channels and that there should be no special provision for them is based on wrong premises. The number

of large landholders in the Punjab is very small, and consequently power is likely to pass on to the tenants and the small peasants. The landholders and commercial classes as captains of industry have always served as rock to break the onslaught of disruptive and disorderly forces. I agree with all that the Official Members say regarding the retention of these constituencies. The special representation of the landholder is of paramount importance to protect vested interests and to serve as bulwarks of good Government. Of course it is not possible to agree to the proposed allotment by communities. There does not seem any reason why nine Tumandars should be given a member. Landlords are men of education and influence and relations between Muslim, Sikh and Hindu landholders are cordial. I propose that they should form common constituencies and elect their representatives without any regard for religion. It is only in this way that we can promote common citizenship.

The Sikhs—The position of the Sikhs has failed to win recognition from the Official Members. What is the good of Government expressing its sympathy and recognising the important services of the Sikh community in the past and yet neglecting the claims of the community? A Muslim is to get a seat on 7000 voters while a Sikh is to get one seat for 11000 voters. How can such a proposal satisfy the Sikhs? It is not only on communal grounds that I urge the claims of the Sikh community but also on the ground of public utility. When the official bloc disappears with it will disappear the stable and balancing influence which has made for the smooth working of the Reforms. The Punjab is however fortunate in having Sikh community which can serve in holding the scales even and prevent one community from dominating the other. Indeed the Sikh community provides an element of strength which it would be unwise to dissipate. Let the Sikhs have their just dues that is representation on their voting strength as long as property franchise remains in force. The Simon Commission very pertinently pointed out that the Muhammadan community was getting weightage both in the Assembly and in other Provinces where it is in a minority on the ground of its importance. Is it fair to penalise the Sikhs? I must confess in the Punjab the problem of minorities ends with protecting the majority unalterable by any appeals to electorate.

Votes for Women—Regarding votes for women so far as my community is concerned we are ready to welcome the franchise but I am not sure if the time has arrived for such a large extension of the vote. I think a proposal of this kind should come from the Council itself.

All-India Solution—The All India solution on which the Commission lay great deal of stress can only be proved by the touchstone of time. The need of the moment is that the Central Government should have the power to maintain unity in India and to exert the influence in helping backward areas to come up to the level of advanced provinces. The Central Government must be truly national in character and provide the model for the provinces to follow. It must be strong enough to preserve present standards of administration securing even handed justice for all helping in broadening the basis of civic life. The Federal Assembly must therefore be so elected as to secure this high purpose and I feel that in early stages it would be unwise to make it dependent on provinces or allow provincial views to dominate. The idea that provinces are sovereign States is a myth with no foundations in fact. The Government of India Act itself bears ample evidence and the report of the Simon Commission is no exception. Therefore in truth it is Government of India which will delegate power to provinces rather than province surrender power to Government of India. Indeed as long as Government of India is even partially responsible to Parliament there can be no question of its dependence on provinces. When provinces are fully established in self Government it will be time for the Assembly to be truly federal in character. The Official Members have argued at great length on the position of the provinces in the Federal Assembly. They apprehend that Central Legislature may impose its will against local feelings and may claim independence and over riding authority but the argument advanced by them in connection with transfer of responsibility in the Centre is counter to these arguments for they plead that to permit provinces to grow in the transitional period the Central Government must possess both stability and strength. I ask for nothing else and as the provincial Governments will be in various stages of growth all residuary powers must remain with the Central Government.

The Centre—I am not concerned whether the Central Assembly is called the Federal Assembly or an Indian Parliament as long as Central Government is in a position to control and guide the provinces. It is essential that the unity of India should be preserved a unity that has been achieved after long years and a unity that is the source of its present strength. The federation in whatever form it takes shape must not allow this sub continent to fall into small States without cohesion and without strength powerless to define its frontiers as happened in the days of yore. For many years to come it seems to me provinces will need a vitalising Centre to help them.

Elections—In the present state of India I am attracted by a system of direct elections but on closer examination I find that nowhere in the world federal assemblies are drawn from popular houses. It may be desirable to create primaries electing to an electoral college of which the Legislative Council may form a part but I cannot agree that federated assembly should be primarily drawn from the provincial councils. The objection to elections from provincial councils appears to me to be —

- (i) It will rob the provincial councils of the best men and leave the province poorer
- (ii) This will prove a source of weakness both to the provinces and the Central Government. Indirect elections will narrow the field of election.

What we need in the Assembly are men of broad views the best that the country can give so that the Central Government may receive requisite strength and support.

In the Federal Assembly and the Council of State the number of Sikh seats should be specially provided.

Council of State—I am in favour of retaining the Council of State. I would reserve 1/3rd seats for retired Ministers hereditary magnates and merchant princes whom the Government should have the power of nominating for life.

The Viceroy's Cabinet—The Commission recommends that the Viceroy should retain his Executive Council without any transfer of responsibility to legislature. The experience of last ten years bears ample evidence that unless there are direct relations between the Executive and the Legislature deadlocks are inevitable. The Commission seems to be aware that this arrangement is not likely to be satisfactory and aims at securing members of the Assembly as members of Viceregal Cabinet by giving the Viceroy the discretion to appoint them. I cannot see if Indian members are to be drawn from Central Legislatures what serious results are apprehended if they became responsible to central legislature. If the change is not likely to weaken the stability of Central Government on which the Official Members lay such an emphasis there is no reason why responsibility should not be transferred to legislature.

The proposals to retain Viceroy's Cabinet in its present form are not based on any clear appraisal of advantages and disadvantages otherwise it is abundantly clear that it is impossible to work an Executive divorced from Legislature in responsibility. There are no grounds to fear that transfer of responsibility at the Centre will be more disastrous than it has proved in the provinces. The Official Members hold that during the transition period the scheme proposed by the Simon Commission should be followed. I am afraid that the delay in introducing responsibility at the centre will only delay settlement. I have nowhere seen it stated that the risks to which the Central Government will be exposed by transfer of Departments holding portfolios which are administered in the provinces by Ministers responsible to Provincial Councils. The leader of the House as proposed by the Simon Commission should be appointed from amongst the members of the legislature and there should be some instructions regarding the claims of Sikhs in Viceregal Cabinet. The Viceroy should have the authority of selecting a fixed number of British Ministers to Foreign and Political and any other portfolios which he considers desirable who should hold seats in the Legislature.

Indian States—The position of Indian States in a self governing India seems difficult only if the Indian Princes still cherish the idea that they can

partake in all the advantages which the constitutional Government secures for British India and yet they remain irresponsible rulers in their own States. They will have to come to a decision but till this decision is reached the Indian States can remain as now in relation to the Crown through the Viceroy. If however they wish to take any share in the federation and financial advantages that are likely to flow from it they will have to maintain the required standards of administration. The claim for financial adjustment must depend on the States joining the federation. I agree with the Official Members that the day is distant for such a federation but when it comes there does not seem any reason why the Ministers representing the States should not find admittance to the Council of State. There are States and States. The smaller States should form part of the provinces to which they belong and the larger States can come into the Indian federation. The States might make a start at least in one direction. Most of the States have introduced laws modelled on Indian Civil and Criminal legislation. They might now go a step forward and entrust the administration of the laws to a supreme court at Delhi.

Finance—The financial proposals outlined by Sir William Layton are on sound lines and the creation of a provincial fund and collection of revenue by the central authority for provinces will provide an additional source of strength. I am in agreement with what the Official Members say on the financial proposals of the Commission. Regarding definite recommendations there is no reason to take fright as they will have to be accepted by properly constituted representative Councils.

All India Services—The advantages of all India Services are to secure men of character and ability who are free from communal bias. The recruitment of all India Services therefore should be entirely through competition and the standard which has been set by British traditions should be strictly maintained. I am in agreement with what H. E. the Governor says regarding following the Lee Commission recommendations till 1949 when the matter can come for reconsideration again.

The present system of nominating members from minorities to all India Services who are not qualified and cannot get through the competition should be dropped. To provide room for minorities the only possible way seems to me is to make a selection from officers who have been tried and who have proved themselves worthy to be admitted to the Imperial Service by their character ability and freedom from communal leanings.

High Court—I entirely agree with the recommendation of the Commission that the High Courts should be under the Central Government so that the Judiciary may be entirely independent of any political parties that may be formed in the Province on lines other than national. In spite of what the Official Members say I think all High Courts should be transferred to the Government of India as the Simon Commission recommends.

The Army—Complete severance of control of the Army from the legislature turns constitutional advance into a mockery. I agree that His Excellency the Commander in Chief should remain outside the legislature. I recognise that British troops lent to India might remain outside the control of legislature and may form a charge on the Imperial and Indian Revenue. There can however be no question that Indian Army should be under the control of the Legislature and as in the early days a limited number of British officers can be lent to maintain its efficiency. It would not be difficult to provide for the continuation of a common general staff supplies and services which can form a charge on a non-votable consolidated Army fund which can be created. The Committee on Army affairs can bring the representative of the Legislature and the Army together to serve as a council of Indian defence.

I am confident that the arrangement I propose will secure the position of the British army on the one hand and satisfy Indian opinion on the other. I can see no other solution which could fulfil these conditions.

In conclusion I need only recall the objective of British policy which is to raise India into a self-governing Dominion and there seems no other alternative if peace and progress are to be secured but to confer Dominion constitution under proper safeguards. There is wonderful work awaiting for us all, if we co-operate in making India self-governing failure to reach an under

standing is not without its dangers the former promises peace and prosperity the latter an endless struggle The refusal to accede to this demand can only result in poisoning the sources of good will and creation of difficulties which must ultimately drive the two countries apart

A great victory awaits Britannia if it would co operate in securing a larger life for India with the main object of protecting not this or that institution this or that class or creed, but the whole people their laws and their liberties regardless of petty expedients however attractive at the moment which must eventually fail for in this God s universe truth and justice must eventually prevail

JOGINDRA SINGH

Minster for Agriculture

11th August 1930

**PART III—Minute containing the opinion of the Hon ble Mr Manohar Lal,
Minister for Education**

INTRODUCTORY

(Simon Commission Report Part I)

CHAPTER I OF THE OFFICIAL MEMORANDUM

It is undoubted that any constitutional system propounded for India must be judged as a whole but it is also necessary to remember that the test which is applied to any proposals is whether they satisfy the insistent demand of political India for rapid steps towards the introduction of full responsible Government or to use the more common short expression envisage the early realization of Dominion Status for this country This is recognized by all political India as an undoubted and necessary implication in the Preamble of the Government of India Act 1919 In attempting an All India solution of India's constitutional problem the Commission proposes two basic ideas (i) that the future constitution of India is to be on federal lines and (ii) whatever constitution is now introduced it will so incorporate in it the principle of flexibility that future changes and progress will be secured by the healthy method of growth rather than artificial statutory jumps

2 The principle of Federation for the Indian constitution has been widely questioned In my Minute dated the 22nd of August 1928 (Memorandum prepared for the use of the Indian Statutory Commission Volume II) in speaking of Provincial Autonomy I said But in attaining the idea of responsible government within the provinces use is constantly made of expressions such as autonomy constituent governments in a federated union that have implications other than legal which deserve consideration The ideal of provincial autonomy has attractions it is undoubtedly true that in any properly limited provincial field the knowledge and interest available within the province must work for efficiency of administration and if sectional forces were not at work lead to increased general welfare but it will be a sad situation if as a consequence the already numerous schismatic tendencies in Indian life were to acquire an accession of strength by reducing the provinces into separate sealed units and the growing national sentiment of comparatively recent origin should thereby suffer any check In devising the provincial spheres of government this fundamental consideration that bonds of nationhood should not weaken must be constantly borne in view as the most essential test The provinces are creatures of executive fiat for administrative reasons and in trying to attain self government through these somewhat artificial units our supreme loyalty to India as a whole must not in any form or degree be strained or violated India does not represent a composite state based on a union of distinct political entities there is no federation here formed of a union of component sovereign states as in the United States of America Nor does the pursuit of such a federal ideal by deliberately clothing provincial governments with any marks of sovereignty lead to the realization of what the politically conscious India desire I still adhere to this view It is admitted everywhere that considerable decentralization by the Central Government is necessary for efficiency of administration but this is not inconsistent with the idea of having a Unitary Government It has however to be borne in mind that where a number of provinces with considerable powers exist there must be some method by which their separate administrations are brought into relation but this is I take it not all that is meant by Federation The Report throws no particular light on it but it is clear that in the past a strong Central Government with large immediate contacts with the provinces has been a factor of the utmost importance in this country where disruptive forces are always asserting themselves and where separatist tendencies in the shape of race religion and language need careful checking One concrete contribution of the Commission towards the realization of the idea of federation is that the lower House in the Central Legislature called the Federal Assembly should be indirectly elected by the Provincial Legislatures In the Official Memorandum this is described as a further step in the direction of confederation To a student of constitutional history this comes as a shock Nowhere in any of the constitutions of Federal Governments is there a single instance of a House corresponding to the Federal Assembly that is the popular chamber of the Union being elected indirectly by the legislatures of the Units of the Federal group The wisdom of constitution

makers hitherto has never thought fit to make the federal popular chamber based otherwise than on the suffrage of the whole country. Federation has depended upon other factors. It has been based on the distribution of powers and functions of sovereignty between the Union Government and the members of Confederation so as not to be subject to alteration except with the agreement of both parties the constituent states possessed of autonomous powers or sovereignty merging their existence into a Union part with certain powers and a definite legal position arises and future changes depend upon the terms of the constitution. Nowhere is the idea of indirect election even remotely considered as having anything to do with the idea of a Federation. It is not as the Official Memorandum would have it the political tinge from Provincial legislatures derived from indirect election that furnishes any step much less a basic idea in the constitution of Federal Governments. This is new wisdom devised for India and would require strong justification in face of the paramount considerations such as those to which I have referred above namely—

- (i) the imperious need of checking separatist tendencies
- (ii) the historic necessity established in the course of ages of a firm Central Government with large powers not merely in the interest of peace and safety of control and superintendence over the provinces and
- (iii) thirdly and thus political India values particularly of the need nay of the sacred duty of watching that the growing national sentiment of comparative recent origin in this country suffers no shock or change

3 I cannot help feeling that the result of the unprecedented step suggested by the Commission in the supposed interests of Federation can only be to affect injuriously Indian national sentiment and tend to impair the unity of the country in the long run. It will also seriously impair the efficiency of the Central Legislature in so far as it will be inspired by the narrow parochial views prevailing in the provinces and no longer view broad questions touching the whole of the country such as defence and the trade and industry of the land from that all India point of view so essential for their proper solution.

4 The other basic idea the principle of flexibility on which so much stress has been laid by the Commission is of wide validity but the Commission has confined it within the narrowest possible limits. In paragraph 95 of their Report the Commission says that it would be open to a legislature to effect certain constitutional amendments of matters of (a) changes in the number distribution or boundaries of constituencies or in the number of members returned by them (b) changes in the franchise or in the method of election or (c) changes in the method of representation of particular communities under certain very limited conditions. Now the well recognized meaning of provincial autonomy an ideal the realization of which political India almost unanimously desires at the earliest possible stage among other things is complete responsibility of the executive to the Provincial Legislature. This involves as a necessary consequence that the Governor should occupy the position of what is known as a constitutional Governor. The proper principle of flexibility even in the Provincial field to which in this connection the report particularly refers should provide within the constitution the possibility of this position arising. Of this I see no indication in the report and now that the machinery of occasional or periodic parliamentary enquiry is to be abandoned it is difficult to see how in this essential regard the position can be changed. A doubt is therefore expressed and not unnaturally by some that the so called principle of flexibility can only have the effect of deferring effective provincial autonomy. Subject to these reflections I entirely endorse the virtue and desirability of having an elastic constitution.

II PROVINCIAL REDISTRIBUTION

(Simon Commission Report paragraphs 27 and 38)

5 I generally support the views expressed in the Official Memorandum in paragraphs 10 to 14. It is a mistake to raise the question of provincial redistribution at the time of the revision of the constitution. I am not in a position to speak even with regard to the areas for which the Official Memorandum

suggests the possible need of early solution but it appears to me that if enquiries into the question of the separation of Sind are to be instituted the introduction of the new constitution into the Bombay Presidency may have to be deferred and large and involved questions of finance with possible reactions on the whole of India will have to be faced apart from the extreme undesirability of creating a province by executive fiat where the result is certainly to be the enthronement into power of a communal party. Government's action in this regard is certain to be misunderstood and bound to lead to local and probably wider agitation. On the whole therefore it would seem to be wise to defer this question for the time.

III THE GOVERNORS PROVINCES

The Provincial Executive

(SIMON REPORT PART II CHAPTER I PARAGRAPH 46 PARAGRAPHS 15 *et seq* OF THE OFFICIAL MEMORANDUM)

6 I agree with the Report and the Official Memorandum as regards the general character and position of the Ministry that is

- (i) unitary government responsible to the legislature for the whole provincial field should be established
- (ii) the principle of joint responsibility of the Cabinet should be enforced
- (iii) as a necessary corollary of (ii) it should be constitutionally established that the only vote of censure which could be proposed would be one against the Ministry as a whole carried after due notice and
- (iv) the provision as regards Ministerial salaries should be made by a Provincial Statute and not be liable to be reduced or denied by a vote in supply

7 I think the appointment of Under Secretaries as suggested in the Official Memorandum would be a step in the right direction

8 As regards the inclusion of an official member in the Ministry I agree with the Official Memorandum that in this Province at any rate no such member should be included in the Ministry. The inclusion of such a member would introduce a grave anomaly in an otherwise responsible Cabinet. It would not make for reality so far as joint responsibility of the Cabinet is concerned and it will generally be a source of weakness.

The introduction of an official member in the Ministry is so radically inconsistent with the idea of a Cabinet truly responsible to the legislature that I do not favour such an arrangement in any province and I do not feel pressed by the consideration that in Presidencies where Governors are directly appointed from England and possess no previous experience of the details of Indian administration and conditions the need for an experienced technical Indian administrator in the Cabinet can override the fundamental principle of true Cabinet responsibility.

In paragraph 16 of the Official Memorandum it is proposed that in view of the fact that—

- (i) no official member with technical administrative experience will exist in the Cabinet and
- (ii) the Governor himself will not always be present at the meetings of the Cabinet a Secretary with certain powers should be appointed. He is described as a Cabinet Secretary with enlarged functions to be called the Principal and Cabinet Secretary. It is difficult to speak with certainty but it appears that a Secretary clothed with the status here intended and possessed of powers with reference to other departments here contemplated and entitled to address the Cabinet even though without a vote may tend to impair the real authority of the Ministry particularly if we remember that he is certain to be a very senior member of the Indian Civil Service with possibly near prospects of preferment to a Governorship. If this result should follow it would be an unfortunate consequence. I am not aware that a Secretary of such status and power is associated with responsible Cabinets anywhere else in the world.

and the particular need for one in the circumstances of India is not clearly made out to my mind

9 A circumstance that I should like to mention as of some importance is this that in provinces where it is customary to appoint to Governors office senior members of the Indian Civil Service who now usually occupy the office of official member of the Executive Council the disappearance of the official member will undoubtedly cause a difficulty. If a senior member of the Service were raised to Governorship without having been a colleague in the Government of the Ministers and who has been technically subordinate to the Ministers until the eve of his appointment it would obviously constitute an awkward position.

10 I agree that the power be reserved to the Governor to appoint a non official as a Minister who is not an elected member of the legislature in the circumstances set forth in paragraph 16 of the Official Memorandum.

11 I am in general agreement with paragraph 17 of the Official Memorandum as regards the selection of the Cabinet. The appointment of a Chief Minister should be a matter discretionary with the Governor depending upon the circumstances of each Province. It is easy to see what the Simon Commission Report says at the end of paragraph 55 that in some circumstances the formation of a Ministry from different communities might present less difficulties if there was no Chief Minister and no recognized leadership of the Ministry. It is clear that in the Punjab no Ministry would be just or proper or desirable which did not include members from the three leading communities of the Province even though if official recommendations regarding communal propositions in the Council are adopted a solely Muslim ministry can carry on particularly if a few non Mohammadans and Sikhs can be detached from their normal grouping as is not unlikely in view of past experience.

12 A reference is made in paragraph 17 of the Official Memorandum to the need of including members from the three leading communities into the Cabinet because the present parties are constituted on a communal basis. It follows as a necessary corollary in view of the fact that in the past a few Hindus have found themselves ranged in the Muslim group that no representation in the Cabinet of Hindus a most important minority in the Punjab will be acceptable to that community unless the selection were made from the Hindu group proper.

13 I am in general agreement with the Official Memorandum in paragraph 18 as regards the Governor's presence at Cabinet meetings and the right of a Minister to record a minute of dissent.

Paragraphs 19, 20 and 21 of the Official Memorandum and paragraph 50 read with paragraph 182 of the Simon Commission Report

14 It is obvious that where safeguards are necessary they can be enforced only through the Governor and also in case of a breakdown power must vest in the Governor to carry on administration and I find myself in general agreement with the view expressed in paragraph 20 of the Official Memorandum. There is great force in clothing the Governor with special powers where the financial stability of the Province may be in danger.

But it must not be forgotten that the real demand of the people is that the transference of the present reserved subjects to the Ministers should not form any occasion for increase however indirectly in the power of the executive as represented by the Governor and that not merely with regard to subjects now transferred but also as regards those which are to be hereafter transferred such as Law and Order in other words general powers should be on the same footing with regard to all subjects. Political India's demand is for a constitutional Governor. In the Simon Commission Report as I have already remarked though so much stress is laid on the principle of growth within the constitution no provision is made for any approach towards this position.

B THE PROVINCIAL LEGISLATURE

Paragraph 23 of the Official Memorandum

15 *Size of Provincial Councils*—The recommendation of the Simon Commission that the Provincial Councils should be as large as between 200 and 250 is not suitable to the conditions of this Province. I do not propose to define the exact numbers but I should like to point out that though the elected strength of the present Council is only 71 members we have a fair proportion of members

who would not normally find a place in a legislature representing over 20 millions of people. The official proposal is to raise the total to 134 and this without the official *bloc* and nearly all elected. In paragraph 44 of the Official Memorandum in dealing with the question of a second chamber it is said that a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for sometime to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions. I regard this as an unduly optimistic interpretation of existing facts not borne out by the recent or past history of our Chamber. The more correct position is that stated in paragraph 23 of the Official Memorandum where it is said: "We see no useful purpose which would be served by making the Council larger and on the contrary think that such an increase of size might result in deterioration in the quality of members returned." In the Punjab with few large industries and with the bulk of the land held by small peasant proprietors the number of men of a responsible character who have leisure to devote time to work on a legislature is few. In view of this I have no hesitation in saying that we ought in no case to go beyond 134 members and should really try to keep a more compact House particularly as it would be possible for the house itself to expand by its own resolution later on if found desirable.

16 The opinion of the Simon Commission to maintain separate communal representation is the saddest part of the report from the point of view of a nationalist. It brings despair to those who had looked forward to an outside body to resolve the unhappy obstacle that must bar India making any progress on the path of democracy and real parliamentary Government. I expressed my views on this subject at some length in paragraphs 7, 14, 15, 16 and 19 of the Minutes of the Unofficial Members submitted to the Indian Statutory Commission. It is clear from the Official Memorandum submitted to the Simon Commission paragraphs 7 and 17 that the predominant lines of cleavage are still communal though an effort has been made to give it a political tinge. The electorate at the moment thinks and acts communally until the communal factor ceases to be paramount the most stable parties will be fundamentally communal. The result is that the parliamentary system under which one party gives place to another on account of a change of allegiance on the part of a portion of the electors or their representatives will have in the near future no counterpart in the Punjab and further the authors of the Official Memorandum to the Statutory Commission recognized that this position is to some extent stereotyped by the fixation of the proportion of seats on a communal basis. As I then said the present system enshrine a non political principle in the bosom of the constitution itself. It was therefore not to be wondered at that the makings of parliamentary Government did not exist in India and genuine party system based on policy rather than class divisions, factions and interests could not grow. If the recommendations of the Commission on the question of separate representation of communities is to be given effect to anti political class and communal divisions will be *permanently stereotyped* for it is not to be expected that later amendments by constitutional resolutions contemplated in paragraph 95 of the Report will lead to any escape from this vicious and undemocratic principle particularly as there is no reason to imagine that communities favoured under the arrangements now to be made would wish to renounce their positions of advantage. Some have thought and with much justice that one of the main tasks that lay upon a Commission that came to study problems and devise schemes of real responsibility and democratic Government was boldly to find a way out of the present communal morass and their failure to prescribe for India's ills in this regard is failure in the fundamental task of conceiving a proper polity for India.

17 On the details of the official views on communal representation I regret that I have large differences to record. On the general question of communal representation particularly the number of Muhammadan seats the Commission has taken the short course of adopting the Lucknow Pact which was entered into some 13 or 14 years ago with reference to the conditions then prevailing and have recommended in paragraph 80 that while in 6 out of the 8 provinces the present scale of weightage in favour of Muhammadans might properly be retained in the Punjab in regard to *general* constituencies the present position should continue that is Muhammadan seats should be equal to the seats given to Hindus and Sikhs. The Commission is not prepared to go so far as to give Muhammadans a fixed and unalterable majority in the general constituency seats in the Punjab. Our Official Memorandum however considers this illogical and would give the Muhammadans a clear majority over the other

two major communities both in the general constituencies and in the total composition of the Legislative Council

18 In paragraph 31 which deals with general constituencies the authors of the Official Memorandum propose to increase the Muslim seats from 32 to 63

Hindus from 20 to 36

and Sikhs from 12 to 23

resulting in a total of 63 for Muslims as against 29 for the other two communities. In the total composition of the House they would give 66 to Muslims and 64 to the other two communities even if we accept the official view as regards the communities to which certain special seats will fall. This official allocation of seats I cannot endorse. It is difficult to see why in practically doubling the seats in the general constituencies the Hindu position should be worse than it is to day and similarly why an important community like the Hindus should have less than its proportion in the population. In the total composition of the House the Hindus out of 134 seats according to their population ratio of more than 31½ per cent (and not 31 per cent as the Official Memorandum speaks of them in paragraph 30 *vide* paragraph 85 of the Simon Commission Report Volume I where exact numbers are given) would be entitled to a little over 42 seats and yet the official recommendation is for 40 seats even if we regard the special seats to be correctly appraised in the Official Memorandum. No reason whatsoever is given why the Hindus should have a smaller representation than would be justified either by their proportion in the population or by their proportion in the voting strength. As a matter of fact the same considerations that were allowed to weigh in giving heavy weightage to Muslims in 6 Provinces and to Sikhs in the Punjab have full validity in justifying an adequate improvement in the position of the Hindu minority here beyond their population basis (I am not speaking on the merits of the Sikh claims to have further and larger weightage given to them for special reasons urged by them)

19 In this connection we have to remember further how the Hindu position would deteriorate because—

- (i) of the removal of the official *bloc* which had tempered any extravagant communal claim on the part of a community that had majority representation and
- (ii) also that the Muslim members represent a solid compact *bloc* to which at least some Hindus have throughout the history of the Council been attracted for reasons which it is not necessary to canvass here and thus reducing the Hindu figures below their proper strength. Nor can we forget the general attractive force which is bound to make the Europeans and Christians apart from other considerations gravitate towards the large group in the House

20 We must further remember that a clear communal majority and political domination on the part of a single community particularly in the circumstances of the Punjab over the other two leading communities should not be permitted because it is not giving effect to any proper political principle and the object of a responsible political system even in India cannot be to enthrone a community as such in political domination. The Hindus and I think the Sikhs have made no secret of this that if communal representation were not to exist they are prepared to take their places in the fortunes of any general election (even though that might be to reduce their position below their present strength) but they are equally emphatic that by no statute or rule should political domination be given merely to a religious community. In any event it is clear that the position of an important minority if not actually improved should not be made worse than it is at the present moment. As I have said above I have failed to discover in the Official Memorandum any justification or reason for proposing to worsen the Hindu position. The Hindus of the Punjab constitute a minority that judged by every standard justifying special consideration should receive additional representation as a minority. They have high voting qualifications, they have undertaken heavy sacrifices in the cause of general social reform and have pursued successfully expensive programmes of educational work (at Lahore they have 3 Colleges as against one Muslim and in the Mutassil they have established a large number of high schools, Intermediate Colleges and one degree institution) and they take a notable position in all progressive movements. Political training, educational advance, economic strength alike point to special consideration for the Hindus here once the

standard of population is departed from in any part of India and communal representation is enforced

In the Punjab the insistence on separate electorates is made by the community that is in the majority

21 Paragraph 33 of the Official Memorandum throws a considerable light on the voting strength of the various communities

22 Coming to the special seats I think they ought to be kept completely outside the purview of communal calculations. This principle is well recognized in the Montagu Chelmsford report and other constitutional documents of importance. With regard to the details of special seats referred to in paragraph 31 of the Official Memorandum I would point out that it is erroneous to consider the University, Industry and Commerce seats as Hindu. These seats are not reserved for Hindus and non Hindus do stand and compete and influence elections and the constituencies are non communal and presumably affect representation. In the University constituency the position is such that in case of a contest if the number of Hindu candidates was more than two as has not been unknown a Muslim has a fair chance of return.

Commerce—This seat has during the last three elections gone to a European Christian and I cannot see that it should be now considered as one which will necessarily fall to the lot of the Hindu.

Depressed Classes—I do not favour that a further schism should be created in the already unfortunately small number of Hindu seats by giving one to the depressed classes as such. The Official Memorandum does recognize in paragraph 20 that their numbers are apt to be exaggerated they do not represent a pressing problem in the Punjab some of them at any rate will come through general constituencies because of the enfranchisement of tenants and some might get representation in the special labour constituency. The Hindu depressed classes do not as such represent any special economic position. In the circumstances particularly as a special constituency cannot be created for them I do not agree that a nominated representative from out of the Hindu members can be properly carved out for them.

The additional labour seat is regarded indeterminate by the authors of the Official Memorandum. It appears to me that this seat is almost certain to be a Muslim seat. They represent the larger mass of labour in urban areas where alone a constituency such as is contemplated can be created.

At present a special constituency exists for Industry and I can see no reason why this should be dropped. Industries represent a big and growing interest and if special representation is to exist at all Industry certainly is clearly marked for distinct recognition especially as the number of industrial concerns is now on the increase. All the circumstances that led to the creation of the seat have gained in strength since 1920.

On the question of landholders constituencies I am in entire agreement with the report of the Simon Commission. Large landholders occupy a very prominent place in our legislature even at the present moment and there is no reason why their presence should be secured by the device of special representation or their numbers increased. In the Official Memorandum it is proposed to increase the number of Muslim landholders from 1 to 2.

The retention of a seat for the small and special class of the Tumandars of Dera Ghazi Khan—a district only a part of which can be regarded as properly Punjab—seems to have no justification whatsoever. No Tumandar interests have occupied the attention of the Legislature during the past ten years and to give one seat to a constituency of only ten votes appears to be the negation of all sound principles of special representation.

To sum up in my view therefore the Industry seat should be retained there is no occasion to have special seat for the depressed classes to be filled up by nomination from out of the Hindu seats the special representation of landholders should cease and the Tumandar seat should be abolished. I agree to a seat for Christians one also for labour and the seats proposed for Europeans though it must be remembered that in so far as these seats constitute representation beyond what would be justified by their strength in the population they tend to affect adversely the Hindus and the Sikhs more than the Muslims.

23 I apprehend that the deterioration proposed in the Hindu position in the Official Memorandum will have most unfortunate consequences throughout the country *heavy weightage at the cost of Hindus to Muslims in other Provinces depression of Hindus below both their population strength and voting strength in the Punjab where they are in a minority*

Paragraph 33 of the Official Memorandum—Even this rough calculation of voting strength indicates that the Hindus should receive a larger measure of representation

24 I agree with paragraph 34 of the Official Memorandum

25 *Paragraphs 35 and 36*—I have already said that the seat for industry should not be abolished I see no reason to differ from the conclusions of the Commission with regard to landlords

26 *Paragraph 37*—I agree that the nomination should be limited very narrowly but as I have said already it would not be proper to carve a seat for the depressed classes from the already very inadequate Hindu representation

27 *Paragraph 39 of the Official Memorandum Paragraph 95 of the Commission's Report*—I agree that a constitutional resolution such as mentioned should be competent for a legislature but I see no great likelihood of any good emerging from it if communal and separate electorates are fixed now

C THE FRANCHISE (CHAPTER 3)

I agree with sub paragraphs (1) and (2) of paragraph 42 of the Official Memorandum It is desirable that the disparity between the percentages of enfranchised urban and rural populations respectively should be reduced and also that a portion of the tenants of land should receive vote But I regret that the authors of the Official Memorandum differ from the Simon Commission Report as regards the enfranchisement of women Further in paragraph 106 of the Commission's Report it is suggested that it might be desirable to introduce an additional qualification based on education independently of property such for example as the attainment of the 5th class before leaving school In sub paragraph (4) of paragraph 42 of the Official Memorandum it is not prepared to give the right of vote even to those who have passed the Matriculation Examination of any University which is much higher than what was contemplated by the Simon Commission Report I am very clearly of opinion that this additional franchise based on the Matriculation Examination should be created It will not add to any large extent to the electoral roll and it might have some encouraging effect on the progress of education and I am sure would be popular

29 *Paragraph 43 of the Official Memorandum*—I am in general agreement with the view expressed in this paragraph that it will not be desirable at the present stage to reduce property qualifications below what might result in more than doubling the present number of voters In fact it is doubtful whether such a big step should be taken at once

The factors involved in lowering the qualifications are so complex that they can only be investigated by a special committee on franchise such as is suggested in the Simon Commission Report

D THE SECOND CHAMBER (CHAPTER 4)

30 I am also of the opinion that so far as this Province is concerned the balance of argument is against having a second Chamber I am not sufficiently familiar with conditions in other provinces but my opinion is that the general circumstance which led the authors of the Montagu Chelmsford Report to regard the second Chamber as impracticable and unnecessary in provinces still hold good and the argument of Abbe Sieves about the superfluous character of a second Chamber apply at any rate so far as the constituent legislatures of any federation are concerned

IV—THE BACKWARD TRACTS

Part III Chapter 2

31 *Paragraphs 47 and 48 of the Official Memorandum*—I fully agree with the view expressed in the paragraphs

V—THE CENTRE

(Report Part IV)

A THE FEDERAL ASSEMBLY

32 *Paragraph 49 of the Official Memorandum*—I have already said that I deprecate the idea of indirect election for the Federal Assembly. There is no precedent for it in the history of Federations. It will tend to impair the efficiency of the Chamber as an organ for the expression of opinion on subjects of vital Indian interests or on legislating on these subjects.

I find it difficult partly in view of the fact that I have not accepted the official recommendations as regards the numbers of our Council or their allocation among the various communities to work out the probable effects of the method of proportional representation in case indirect election is adopted.

33 *Paragraph 50 of the Official Memorandum*—I fully agree that it will not be possible nor would it be appropriate that a person should be a member of both legislatures at one and the same time.

34 *Paragraph 51 of the Official Memorandum*—There is not enough material to indicate whether the communal proportions calculated in paragraphs 143 and 145 of the Simon Commission Report would actually result. I wish to make no observations about the feelings of any one community that their representation in the Assembly should substantially exceed their proportion in the population of the country but it is clear that if any such weightage is to be given to any community in the Assembly the case for the Hindus in the Punjab for substantial weightage beyond that indicated by their numbers would further gain in strength.

In paragraph 52 of the Official Memorandum the method advocated in paragraph 139 of the Simon Commission Report to secure representation for various classes and interests is described as one proceeding mainly on federal lines. I do not see how this method proceeds on any lines that can be properly described as federal but it is possible that the method may secure some approach to a due share of representation to the various communities (*i.e.* of due is used in the technical sense of reflection of members belonging to a particular community in a province) irrespective of whether this representation is in itself fair or just. But I am not clear that the method will secure adequate representation for such interests as industry, commerce and finance.

B THE COUNCIL OF STATE

35 *Paragraph 54 of the Official Memorandum*—I support a Second Chamber in the Central Legislature and that its term should be seven years. A bicameral system exists in most countries and the need for it is recognized.

As regards the number in my view it should not be less than half the size of the Assembly otherwise its voice will not have its proper weight in a joint session. I have no strong feelings about what proportion of such a House should be elected and what nominated nor as regards the composition of the nominated members.

36 *Paragraphs 54 and 55 of the Official Memorandum*—On the whole I am in favour of direct election. The electorate is at once highly qualified and small and there is no occasion for resort to indirect election. The one essential for the composition of an upper House is that it should not be a mere replica of the lower House and at the same time should not interfere with proper democratic form of Government.

37 *Paragraph 57 of the Official Memorandum The Power of Legislation of the Central Government*—I am in agreement with the recommendations contained in the Simon Commission Report and would deprecate all attempts to restrict the range of the legislative powers at the Centre. There is no occasion for unnecessary suspicion against the Central Legislature. Abundant safeguards as pointed out in this paragraph are already available and the concurrent jurisdiction of the Central Legislature where it exists should not be curtailed. I also agree with the opinion expressed at the close of paragraph 155 of the Commission's Report.

C THE GOVERNOR GENERAL IN COUNCIL

38 I share the general Indian opinion that a certain measure of responsibility should be introduced in the Central Executive and the Indian demand on this head is well known and I find myself in general agreement with it. I am not impressed by the arguments urged in paragraph 60 of the Official Memorandum for deferring this responsibility at the Centre. The force of Indian sentiment is a powerful political fact which cannot be ignored. The responsive spirit to which the Official Memorandum refers in paragraph 63 affords no substitute for the clear demand made by political India and it is doubtful whether the Commission's report really makes any provision for the growth of such a spirit. The device that the Members of his Executive Council should be appointed by the Governor General in place of the present system of appointments being made on the advice of the Secretary of State for India by His Majesty and the possible occasional selection of an elected member would not secure the object. On the other hand if the present system is to continue that is there is to be no responsibility at the Centre my opinion is that the existing system of appointments should not be disturbed because that will be the only method of securing some measure of independence for members of the Executive Council.

D RELATIONS BETWEEN THE CENTRE AND THE PROVINCES

39 *Paragraphs 68 to 71 of the Official Memorandum*—I am in general agreement with these paragraphs of the Official Memorandum.

VI—THE QUESTION OF DEFENCE AND THE ARMY

40 The Simon Commission Report emphasizes that for a very long time to come it will be impossible for the Army entrusted with the task of defending India to dispense with a very considerable British element. It conveys a strong warning against what it describes as a precipitate embarkation on a wholesale process of substituting Indian for British personnel. It speaks of the difficulty almost insurmountable of relinquishing control over an Army so composed to any Ministers responsible to an elected legislature. Such a transfer according to the Report could only take place when no part of the Army in India consists of British Officers or troops recruited by the Imperial Government and it sees no prospect of this happening for many years. A complete Indianized Army is not within sight at all. The Report then proceeds to emphasize the Imperial aspect of Frontier defence. It then comes to the conclusion that in view of this and other circumstances the Army in India should be removed from the control of the Government of India and placed under an Imperial Agency. India and Britain are so related that Indian defence cannot now or in any future which is within sight be regarded as a matter of purely Indian concern. It propounds the strange doctrine that the protection of the frontiers of India at any rate for a long time to come should not be regarded as a function of an Indian Government in relation with an Indian Legislature but as a matter of supreme concern to the whole Empire which can only be effectively organized and controlled by an Imperial Agency. It therefore inevitably follows that the forces composing the existing Army in India would no longer be under the control of the Government of India but an Imperial authority which would naturally be the Viceroy acting in concert with the Commander in Chief should have charge of this army.

Now it is obvious that no responsible Government in India can be established unless the country is able to look after its own defence. The Commission removes India's defence from India's control and yet for some reason which it is not easy to see in paragraph 208 of their Report the Commission regards their scheme as removing a block on the line of India's constitutional advance. In paragraph 214 the possibility of their scheme being regarded as a derogation from the full range of Indian aspirations is considered but an answer is offered at the end of the paragraph in words from which I at any rate have not been able to spell out any meaning.

41 In paragraph 211 of their Report the Commission speaks of the possibility of an alternative Dominion Army containing no British element which the Government of India might organize. The Commission does recognize that there is no finance available for the development of such a force because of the heavy contribution which India already makes towards the maintenance

of the present Army. It is not even pointed out that as this Dominion Army grows *pro tanto* there might be a corresponding reduction in the existing Army to be hereafter regarded the Imperial Army. It is difficult therefore to understand what the Commission means at the end of the paragraph by saying

We appreciate the fact however that in the end a self governing India can only hope to function with reasonable prospect of success if it can command military forces of its own and our proposal helps to remove an obstacle to the ultimate possession of such forces. An adequate military force of its own will certainly cost India something approaching what the present Army costs. Is it then to be expected that India can by some magic out of her limited resources find itself one day in possession of such a Dominion Army side by side with the existing (Imperial) Army? It appears therefore that if Indian political advance can be secured only by looking after her own defences the proposals of the Commission postpone this date to the Greek Kalends.

42 In paragraph 74 of the Official Memorandum the main features of the Commission's scheme are set forth and later a reference is made to the eventual emergence of a Dominion Army and the position during the transitional period. As I have already remarked so far as the Commission is concerned the limit of transition period is not discernible as far as the eye of man can penetrate and the Indianized Dominion force can really never materialize.

43 In paragraph 77 of the Official Memorandum opinions are expressed about the Indian feeling on the more rapid growth of Indianization. With these I am in full sympathy.

The proposals of the Commission while they fail in the supreme test which is to be applied to all constitutional proposals for this country *ie* how far they envisage a rapid movement towards responsible Government do not make clear why even the present contact with the Army that the Government of India has should disappear. While the demand of political India is that the control of defence may be kept from a responsible executive only for the short period of transition the Commission roundly suggests that the Government of India should have nothing to do with defence.

44 I agree with the Official Memorandum paragraph 78 that if a Committee is to be all the contact which the Government of India is to have with the Army we may ask for the enlargement of the functions of this Committee such as are suggested in paragraph 78 of the Official Memorandum. I do not however see the exact force of the suggestion that Indian members of the Governor General's Executive Council should be included in this Committee unless it is intended to be a counterpart of the claim made by many thoughtful Indians that while the subject of defence continues reserved the Member in charge should be an Indian Member of the Governor General's Executive Council.

45 I am in general agreement with paragraph 79 of the Official Memorandum.

46 I agree with paragraph 170 of the Commission's Report that the Commander in Chief should no longer be a Member of the Cabinet or in the Legislature but I am distinctly of opinion that questions of defence should fall within the portfolio of a Member of the Executive Council and should not be dealt with merely by an Army Secretary.

VII—FINANCE

(Report Part VIII)

47 The Official Memorandum does not attempt to deal with the details of Sir William Layton's scheme because of the lack of necessary data for adequate expression. I have also felt that in this scheme expectations of revenue and estimates of income and economies in the growth of Central expenditure are framed on an unduly optimistic basis. Some of the features of the scheme however can be fully endorsed such for example as the recognition of the need of the provinces to expand especially in nation building activities.

48 On the question of surcharge on personal income I had occasion to express my views in the Minute which I submitted to the Simon Commission (This is partly reproduced below for convenience of reference). I do not

agree with the suggestion made in paragraph 82 of the present Official Memorandum that the Provincial Government should have the discretion to tax incomes below the present exemption limit of Rs 2000. This would probably occasion a disparity in the system of income tax between the various provinces and it is obvious that this must be open to grave objections as such taxes are not only likely to be evaded but calculated to injure trade and industry in a province. Nor are the political consequences of placing such power in the hands of a legislature predominantly rural and non income tax paying to be ignored. The system of income tax including as an essential factor an exemption minimum must be uniform throughout the country—a departure from this well accepted principle will be economically without warrant and politically undesirable.

49 I wish to offer at this stage no observations on the new Provincial taxes referred to in paragraph 83 of the Official Memorandum.

50 *Paragraph 86 of the Official Memorandum*—I agree on the general question for adequate safeguards against the most populous provinces imposing their will on other provinces.

51 I am also in agreement with paragraphs 88 to 92 of the Official Memorandum.

VIII—THE SERVICES

(Report Part IX)

52 In regard to services two considerations offer themselves

- (i) it is undoubtedly necessary that for some period of time All India Services even in a newly reserved Provincial field must continue and probably the best method of recruitment for these is by the Secretary of State for reasons detailed in paragraph 93 of the Official Memorandum. The Memorandum however does not define the transition period during which this obvious constitutional anomaly must continue. Complete authority as regards recruitment and control of public services is necessarily implicit in any full system of responsible Government.
- (ii) the second important consideration is that the continuance of these services should not so operate as to defer even by a single day the achievement of full responsibility and this is the test which must control our views as regards the services.

In my view the date 1949 suggested by the Official Memorandum for a reconsideration is far too remote and the political conditions which India desires are to obtain I am distinctly of opinion that Indianization will have to proceed much faster than at the rate contemplated by the Lee Commission.

It is not necessary for me to enter into the details of privileges which have to be conceded either to existing officers in All India Services or to future recruits but it may be said that while all proper safeguards for existing officers must continue it would be impolitic and unfair to extend their privileges as regards retirement or otherwise beyond what are secured to them at the present time and as regards future recruits special privileges should be confined within the strictest limits so as not to conflict unduly with the rights of a responsible executive to control services.

53 *Paragraph 102 of the Official Memorandum*—I agree that a Provincial Public Services Commission should be established.

I fear that in our services the paramount interests of efficiency are not infrequently ignored as concessions to communal claims. The evil is so persistent that the necessity of adoption of suitable safeguards even by regulation by Statute is often strongly urged. The expression just and reasonable claims of any community is difficult to define. In the Punjab this has taken a double shape. Firstly admission in the Professional Colleges is itself regulated along communal lines and even then the successful candidates have not the chance of admission into Government service on the basis of efficiency. The claims of communities have to be considered for a second time. The position is further complicated by the fact that definite policies have been laid with regard to the recruitment of agriculturists as such to public services. The double requirements of communities and of belonging to a particular

profession have to be satisfied and it is not difficult to see how the interests of efficiency must suffer in arrangements of this character. I entirely agree with the official view that fixed percentages or recital of rights in Statute appear to introduce an element of undue regimentation, and the matter must be left, so far as possible, to the general discretion and powers of the Governor.

IX.—THE HIGH COURTS.

(Simon Commission Report, Part X.)

54. I am in entire agreement with the recommendations of the Simon Commission in Part X of their report. The administrative and financial control of the High Court and its establishments, buildings, contingencies, etc., should be assumed by the Governor General in Council and these matters should be a charge on Central revenues as recommended by the Commission. There need, however, be no change in the functions of the provincial executive in connection with the administration of the subordinate judiciary and their relations with the High Court in this connection. I am unable to accept the arguments in paragraph 109 of the Official Memorandum where a doubt is cast on the validity of the recommendations of the Commission. The High Courts have considerable power under the Letters Patent in connection with their establishments and these powers should not in any manner be curtailed and should receive their full scope as would be possible under the recommendations of the Commission.

Relations between the Home and Indian Governments.

(Simon Commission Report, part XI.)

55. *Paragraph 110 of the Official Memorandum.*—I agree.

MANOHAR LAL,
Minister for Education, Punjab.

The 11th August 1930.

ENCLOSURES

(1)

LETTER FROM NAWAB MALIK MOHAMMAD HAYAT KHAN NOON COMMISSIONER
LAHORE DIVISION No 637/C DATED LAHORE THE 31ST JULY 1930

I have the honour to forward a copy of the letters received from the Deputy Commissioners of the Lahore Division. I have hardly anything to add to what has been said by the Deputy Commissioners as to the reception given to the recommendations of the Commission in this Division. The urban Hindus can hardly be differentiated from the Hindus who belong to the Congress and all of them equally condemn the report. This also applies to the educated shopkeepers and traders of the rural areas. The Sikhs are also dissatisfied with the report and the extremist Sikh is just as earnest in condemning the recommendations of the Commission as the Congress. The Mohammedans are also not pleased with the report and they think that in the Punjab and Bengal they have not been recommended for the majority of seats in the Legislatures to which they are entitled by population and that refusal to separation of Sind is also another legitimate grievance. Probably they are inwardly satisfied over the proposed separate electorates and with the proposed Provincial Autonomy system suggested by the Commission. The ordinary Zamindars of the rural area have not taken the trouble to acquaint themselves with the recommendations of the Commission and they do not worry themselves over it. The cheapness of agricultural produce is their chief grievance. All the educated Indians whether Hindus, Mohammedans or Sikhs are dissatisfied with the following proposals of the Commission namely—

- (1) that the Governors should have the power to appoint ministers from the officials or non elected members and
- (2) the slow Indianization of the civil and military services

2 I believe very few people have read the report and their opinion and conversation are based on what has been said in the press about it

(2)

LETTER FROM E M JENKINS ESQ ICS DEPUTY COMMISSIONER HOSHIARPUR
No 181/S DATED THE 24TH JULY 1930

I have the honour to say that little active interest in the report of the Statutory Commission has been shown in this district. Indeed so far as I am aware the Rev F B McCuskey of the A P Mission is the only resident of the district who is in possession of both volumes of the report. Even I am in possession only of the second volume. In the circumstances it is idle to expect any very useful contribution to the discussion of the reforms from my visitors. Their knowledge of the proposals of the Commission is based solely on the summary which appeared in the press, and their criticisms are usually taken ready made from whatever newspaper they happen to read.

2 So far as the congress party is concerned their attitude can be judged by the speeches made at public meetings. These speeches make no attempt at a detailed analysis of the proposals or at constructive criticism. When the Commission or the report are mentioned they are referred to in terms of obloquy. There is no congressman of any brains or education at large in this district at present and any public opinion discernable in congress circles finds expression merely in unintelligent condemnation.

Most urban Hindus are in sympathy with the congress, but from conversations with educated men of this class who are not professed congressmen I should judge that they are disappointed with the proposals mainly (a) because the residuary powers to be left to the Governor are considered to be incompatible with a democratic constitution and (b) because indirect election to the Central Legislature and the independent powers of the Governor General and the Central Executive are regarded as reactionary. This latter objection is perhaps attributable not so much to abstract principles as to a feeling that the

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Hindus could dominate the whole country through a central organisation possessing great powers and controlled by a directly elected legislature. In other words I suspect that the urban Hindu would prefer a federation based from the first on the centre. For his taste the present proposals smack too much of an ultimate federation of sovereign states in which the federal Government will merely co-ordinate and administer certain central subjects by common consent.

The Muhammadan community generally is more easily satisfied. The idea underlying the proposals is approved and I have heard no hint of a criticism that may be regarded as fundamental. But it is felt (a) that the treatment of the Muhammadan majorities in Bengal and the Punjab is inconsistent with the treatment of the Hindu majorities in the United Provinces and elsewhere and (b) that the arrangements at the centre might be more satisfactory. On the first of these objections the argument is that the non-Muhammadan minorities in the Punjab and presumably in Bengal are allowed weightage just as the Muhammadan minority in the United Provinces is allowed weightage but while the Commission has not scrupled to allow the Hindus the full advantage of their numbers in the United Provinces a similar advantage has been denied to the Muhammadans in the Punjab and Bengal. This point was not adequately dealt with in the summary and the reasons for the Commission's recommendations are only clear from the report itself. On the second objection I cannot be very definite but I think that direct election to the Central Legislature is favoured though the Muhammadan idea of what the Central Government should be is by no means the same as that of the urban Hindus.

Of the Zamindar class the vast majority do not know what the Commission was why it was appointed or what its recommendations are. The educated zamindar of the *zaildar* class troubles himself very little over the whole matter and I have heard few definite opinions or criticisms.

3 To sum up the Congress professes to be irreconcilable. The report is opposed to educated Hindu opinion because it is believed that a federation of a different type would be more advantageous to the Hindu community and because the proposed provincial autonomy is regarded as neutralized by reactionary safeguards. It is criticised by intelligent Muhammadans as unfair on the minority question and as reactionary as regards the Central Government. It has hardly been examined at all by the *zamindars* other than those who by upbringing or education take a definitely communal view of politics and share the views of the educated members of their community *e.g.* relatives or friends of the Pleader class. I think that the Muhammadans and the *zamindars* generally will regard the provincial recommendations as a real advance and will be satisfied with some modifications at the centre. But the Hindu criticism I should judge to be fundamental and I doubt if there will be any willing acceptance either of the provincial or of the central arrangements whatever minor modifications may be made.

(3)

LETTER FROM KHAN BAHADUR MIAN ABDUL AZIZ M.A. C.B.E. DEPUTY COMMISSIONER JULLUNDUR No 59J DATED THE 21ST JULY 1930

I have the honour to submit a brief report regarding the receptions given to the recommendations of the Commission in Jullundur.

2 No body in the district appears to have studied the report. Whatever opinions have been arrived at have been arrived at on the basis of notices in the Press and as these notices have been neither fair nor exhaustive there is good reason to conclude that an unfavourable reception was inevitable. The report would have had quite a different reception if the Commission had arranged for skilful publicity through a series of lectures (arranged beforehand) that could have been delivered at important centres soon after the publication of the 2nd Volume of the report.

3 The Jullundur District has a number of Congress Workers but no Congress politicians of any note. The workers take their cue from what is said in Bombay or Simla and never give themselves the trouble of thinking about constitutional questions in the light of actual facts. The same remarks apply to Sikh and Muslim organisations in the District. There is only one word to describe political thought as it exists in Jullundur—*imitation*. And Jullundur is typical of the Punjab.

(4)

LETTER FROM P MARSDEN ESQUIRE I C S DEPUTY COMMISSIONER GURDASPUR
No 519 DATED THE 24TH JULY 1930

I have the honour to inform you that the following is my estimate of the reception given to the recommendations of the Indian Statutory Commission in this district

2 The zamindars of the villages know and think very little about it

3 Hindu congressmen so far as I can find have had a nasty shock Their game is chiefly of bluff and until now they were under the impression that despite the intensive campaign of rudeness against the gentlemen who were members of the Commission nevertheless the report would turn out to give them very much more than it has Their references to it continue to be mere blind abuse as the congress is a well drilled body and all its members repeat the slogans of their leaders without either understanding or thinking much about them

4 Neutral or anti congress Hindus appear to be disappointed partly because they expected changes of an even more radical nature and partly because the report has to some extent awakened them to a sense of the realities of the situation References in the Report to the Indian States and to the defence of India have made them begin to think that the difficulties are hardly to be solved by the facile methods of Gandhi and Nehru Also they are disappointed by a feeling that not only have the Muhammadans scored but that the completeness of the reasoning of the report makes it most unlikely that their decisions in this respect will be reversed

5 The Muhammadans are a great deal more definite in their appreciations of the Report than the other communities Inwardly they feel considerable satisfaction at some of the most vital of their claims having been conceded As Punjabi Muhammadans they welcome the proposals for provincial autonomy the abolition of dyarchy and the method of election of Legislative Assembly members When questioned they invariably claim a good deal more than the Commission proposes to give them both as residents of India and as members of the Muhammadan community But I am convinced that the average thinking Muhammadan feels that the claims of his community have been thoroughly and sympathetically weighed and also that he has a feeling of relief that in matters of defence and ultimate safeguards the determination and common sense of John Bull appear to be standing firm against the sentimentality and plausibility of Mohan Gandhi

(5)

LETTER FROM RAI SAHIB LALA LABHU RAM M A L I B DEPUTY COMMISSIONER
GUJRANWALA No 568 DATED THE 28TH JULY 1930

I have the honour to say as follows —

2 The report has not been received with satisfaction or approval by any community All the three communities (Mohammedans Hindus and Sikhs) regard it more or less as being retrograde and reactionary

3 Muhammadans generally and Muhammadan Zamindars approve the retention of separate electorates with satisfaction They also view with favour the new provincial constitution and the abolition of dyarchy but they take exception to the empowering of Governors to appoint non elected ministers They want modifications in the following important matters —

- (a) Election to the Federal Assembly direct votes
- (b) Appointment of elected members as ministers in Provincial Governments
- (c) The raising of a national Army in India and the speedy Indianization of the Military and Naval Services and the establishment of an Indian Sandhurst
- (d) They want 1/3 share in the Federal Legislature and Federal Cabinet and also an increasing share in the Services
- (e) Separation of Sindh from Bombay Presidency
- (f) The grant of full reforms to the N W F Province

4 The views of Hindus generally are —

- (a) They oppose the separation of Sindh and urge that the interests of Hindus in the N W F P be safe guarded in the contemplated scheme of reforms
- (b) That the interests of Hindus who are a minority community in the Punjab have not been safe guarded by the Commission
- (c) The claim of the Muhammedan community to absolute majority in the Punjab is tantamount to substituting Muslim Raj for British Government and this should not be allowed
- (d) Recruitment to services should be by merit
- (e) A further division in the Hindu Community be not created by the reservation of seats for the depressed classes

5 The Sikh view is as follows —

- (a) The absence of any reference to Dominion status in the report is most disappointing
- (b) Proposals about the Army are unsatisfactory
- (c) Provincial autonomy is nominal on account of the over riding powers of the Governor and Ministry nominated by the Governor consisting also of officials
- (d) Adherence to Lucknow pact to which the Sikhs were never a party is not liked
- (e) 2 per cent of the elected seats to the Sikhs in the Assembly would not do while 10 per cent are allowed to Europeans with a far smaller population

The Sikhs want that—

- (a) the provinces should be autonomous but residuary powers should be vested in a strong Central Government
- (b) Sikhs should be allowed the same treatment as it is meted out to Muslim minorities in other provinces *e g* the United Provinces
- (c) Sikhs will refuse to be governed by Muhammadans in this province
- (d) Adequate share in the services

General—It appears that besides the removal of main defects in the report each community wants to safe guard its own interests and each is suspicious of the other. If one community is made master of the situation there will be endless trouble as Hindus and Sikhs will combine and will not submit to the dominance of the majority community

(6)

LETTER FROM R H CRUMP ESQ. ICS DEPUTY COMMISSIONER AMRITSAR
No C 224 DATED THE 29TH JULY 1930

I have the honour to say that so far I have been unable to find any resident of the Amritsar district who has perused the Report. It is true that a debate upon the subject was held in the Municipal Committee Amritsar and the resolution passed that the Report was reactionary retrograde unacceptable and impracticable. None of the members who spoke either for or against the resolution had read the Report themselves nor had the President who presided at their deliberations. The result is that any opinion expressed is entirely coloured by the views of the particular newspaper which the gentleman in question regularly reads. I am asked to give my estimate of the reception given to the recommendations of the Commission by the Congress party the Urban Hindus (so far as disassociated from the Congress) Mohammedans generally and Zamindars generally. The Congress party has not taken the trouble even to read or attempt to understand what is actually proposed. From the very beginning they were prepared to damn the Report root and branch. There are no Urban Hindus disassociated from the Congress whose opinion is of any value. In regard to the Mohammedans while supporting the Federal System and Separate Electorates there is a feeling of considerable disappointment that they have not obtained their desired proportional majority in the Punjab and Bengal and

that there is no definite proportion of posts reserved for them in the various services. Full reforms in the N. W. F. P. and the separation of Sindh are subjects in which they profess to be keenly interested and somewhat disappointed that definite proposals have not been made for both. In regard to Sindh they have most of them quite omitted to notice that the possibility of its separation is bound up with the question of the appointment of the Boundary Question which the Simon Commission has recommended.

Zamindars generally are completely ignorant as to what the recommendations are and take not the slightest interest in the matter. The drop in the price of wheat is a matter of much greater importance to them and the difficulty of paying in the land revenue has caused them to forget that the Simon Commission ever visited India.

(7)

LETTER FROM E. H. LINCOLN ESQUIRE V.D. DEPUTY COMMISSIONER MUZAFFAR
GARH No 7 DATED THE 15TH JULY 1930

I have the honour to report as follows

2 As far as I am aware no copy of Report has yet reached the district— even I haven't got one and nobody is fully aware of what it contains! Whatever is known therefore has been obtained from the newspapers.

3 The district has about 30 members of the Bar and a handful of fairly well educated zamindars who alone are able to understand the subject. These hold views borrowed from the principal newspapers in the Punjab which they read i.e. the Hindus think in terms of the Tribune and the Muhammadans in terms of the Muslim Outlook. A few others who are not quite so well educated are content to second these views also.

A few Hindu Pleaders who are moderates held a meeting at my request to consider the matter and the attached memo shows their objections to the recommendations which are otherwise approved generally.

4 The bulk of the population however is ill educated and has little idea about the present constitution let alone the changes now recommended or being clamoured for by politicians. The vision of these people does not extend beyond the district. They vote at Council and District Board elections according to the *izzat* of the candidate or out of obligation to him or to some supporter and quite regardless of what he intends to do for them and they never know what he is doing or has done for they do not realise he has any power. Their only wish is to have good officers to give them peace and justice and help them to improve their lot. They have no desire to change British Officers but want them for preference at the head of the various departments and would resent any change if they were to realise the full meaning of the reforms. They have shown opposition to the Congress because they were told that it seeks to take the Raj from the British. They have no desire to have a *Riyasat raj*.

Comments on Simon Commission's Report

1 Selection of Ministers should be made by the Governor out of the elected members of the Council.

2 The Governor should not preside over the meetings of the Cabinet.

3 The appointment of Cabinet Secretary should rest with the Ministers subject to the sanction of the Governor and the Secretary should not have direct access to the Governor.

4 As regards election of members seats should be reserved for every community on the basis of the men of population and voting strength as is the case now in Municipalities. The minorities might prepare a list of their representatives and these should be considered as candidates for joint election as suggested by Major Atlee.

5 There should be no distinction between votable and non votable items of finance the whole budget should be subject to the vote of the council.

6 The appointment of the Ministers of the Government of India may rest with the Governor General but the Ministers should be selected out of the *elected* members of both houses and they should be responsible to the Assembly.

7 The Commander in Chief should be a member of the Government of India and the Government of India should be held responsible for the defence of India

8 The Government of India with certain reservations necessary for the transitional period should be responsible to the Indian Legislature The Governor General should have extraordinary powers in case the constitutional breaks down Foreign relations should be under the Viceroy

9 The recommendations of the Simon Commission with reference to the Army are retrograde in character The Skeen Committee's report should be acted upon

10 The separation of Burma from India should be left to the choice of Burmese themselves

11 The recommendations of the Simon Commission with reference to the public services are sound

12 The election to the Legislative Assembly should be direct on the basis of joint electorates with seats reserved on population basis

13 All other recommendations of the Simon Commission are sound and acceptable

(8)

LETTER FROM A V ASKWITCH ESQUIRE ICS DEPUTY COMMISSIONER MULTAN
No 106 C DATED THE 22ND JULY 1930

I have the honour to submit my report regarding the reception given in this district to the recommendations of the Indian Statutory Commission

2 The issue of the report has excited little interest here I doubt if two hundred non officials could be found in the district who could state even of the broad lines of the Commission's proposals Outside the towns even the fact that a report has been issued is scarcely known

3 The attitude of the Congress party to the report is well known As regards urban Hindus I would say that at present they are generally in sympathy with the Congress Educated Muslims are interested only in those parts of the report which deal with the question of communal representation

4 Zamindars generally take little or no interest in the movement for constitutional changes I would say that their interest in politics is confined to dissatisfaction at the spread of corruption in the public services and the results of over rapid Indianisation particularly in the Irrigation Department The demand among them for European canal engineers is strong and widespread

5 I have ventured to mention this last point though not strictly relevant to the present reference because it seems to me that the headquarters authorities are sometimes inclined to shut their eyes to the extent to which the agricultural masses are being alienated from our Government by the increasing corruption and inefficiency To me this appears the most serious feature of all in the present political situation

CONFIDENTIAL

No 4706 S REFORMS

From

MILES IRVING Esquire CIE OBE ICS

Additional Secretary to the Government of the Punjab

To

THE JOINT SECRETARY

TO THE GOVERNMENT OF INDIA

REFORMS OFFICE

SIMLA

Dated Simla the 14th of August 1930

SIR

I am directed to reply to your letter No F 67/30 R of 24th June 1930 asking for the views of the Government of the Punjab on the recommendations of the Indian Statutory Commission

2 The memoranda which I am directed to enclose are divided into two portions. The first Enclosure A contains the views of His Excellency the Governor Sir Geoffrey de Montmorency KCSI KCIE KCVO, CBI ICS and of the Hon ble Member for Finance Sir Henry Craik Bart CSI arrived at after an informal but detailed discussion of the second volume of the Report with the non official members of Government. The second Enclosure B contains the views of the non official members of Government recorded after the official views had been in their hands. The Hon ble Member for Revenue the Hon ble Khan Bahadur Captain Sikandar Hayat Khan MBE formally expresses his concurrence with the views of the official Members subject to his minute in enclosure B.

3 With regard to the request contained in paragraph 5 of your letter for an estimate of the reception which the recommendations of the Commission have received in the Province the Punjab Government observes that the first impression given by a review of the opinions expressed in the Press or otherwise (which as will be explained later are the opinions of a very limited number of people) is that the report of the Statutory Commission has been received with universal and unqualified condemnation. To disentangle from this view the various threads of opinion, it is necessary to bear in mind that the majority of those who have any appreciation of the situation are pre occupied with the object of securing for their respective communities the best possible place in the new constitution. From this point of view the element of bargaining is vital any expression of satisfaction would it is felt be regarded as tantamount to an abandonment of further demands and when this sentiment is coupled to that general tendency to violence in expression which is a feature of the popular press it is possible to regard the most trenchant condemnation of the report as really meaning no more than that it is desired to press strongly for further concessions and if this is true of the conflict between various communities it is not less so of the criticisms levied by liberal opinion as a whole against the provisions intended to maintain the control of the British Parliament. Further in appreciating the general current of opinion the Punjab Government bears in mind those very true words which end the first volume of the Statutory Commission's Report where emphasis is laid on the strength and intensity of the demand among all educated Indians for equality with Europeans and on the resentment aroused by any suspicion of differential treatment. The result of this on the one hand is the demand among all educated classes alike for the position of equality for India among other nations which may be described by the convenient if vague expression Dominion Status

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This on the other hand is qualified to a degree which varies enormously by a mental reservation that too much must not be sacrificed for it. This double tendency leads inevitably to inconsistency as we will find the same persons while they are thinking of national equality brush aside as bogies the considerations which point to safeguards while at another time when they are thinking of the actual future which faces themselves and the members of their particular class or community they insist that safeguards should be provided although the form they take is too often that of the dominance of their own community.

4. Passing to criticisms on the specific proposals of the Commission we find that they fall into two classes corresponding with these two distinct points of view. On the one hand they are what may be called liberal or nationalist criticisms directed against anything that appears to maintain the control of British Parliament through the bureaucracy or to prevent the freest exercise of what are regarded as democratic principles. The second class of criticism may be described as the communal in which each community protests against the position of inferiority to which it considers itself to be subjected or the lack of recognition of the need for prominence which its particular minority requires.

5. In the provincial sphere if the transfer of all subjects to Ministers has been received with satisfaction care has been taken not to stress it. This may be due partly to what has been described above as the bargaining idea but is also partly due to a deep rooted suspicion of any officially sponsored concession falling short of what it might have been in individual opinion. Perhaps the Punjab Government itself must plead guilty to having accentuated this suspicion by having been the first of the Provinces to recommend the transfer of all subjects to Ministers for we detect the feeling that a proposal which has been made by officials must have a catch in it somewhere. Apart from this general distrust the proposal of the Commission which has been most strongly attacked is that of the official member in the ministry. It is felt that behind this lies the intention that the transfer of power should be made illusory by giving this member the portfolio of law and order. Mild objection is also taken to the proposal to appoint a council Secretary probably as a part of that general suspicion of the permanent official which is by no means confined to India though this is mitigated by practical acquaintance with the fact that he is indispensable. Another objection is to the proposal that only the Ministry as a whole should be liable to censure. As the Statutory Commission has pointed out popular institutions in England only work because the Cabinet dominates the House and not the House the Cabinet. This is a situation which even in England the back benches find it hard to bear and is one which will never be popular.

6. More marked is the objection that is taken to the powers given to the Governor. It is believed though without any justification that these are more extensive than those which he at present exercises and it is noteworthy that although no satisfactory protection for minorities can be found except through the powers of the Governor and although in practice the appeal to such powers is almost instinctive to the Indian people the critics do not welcome these powers as a means of protection. The reason of this no doubt lies in the theoretical liberal objection to the existence of autocratic powers coupled with a somewhat naive belief in the efficacy of protection by constitutional enactment. A great deal of the interest in the protection of minorities turns round the Land Alienation Act which all agriculturists desire to be placed out of the power of a Central Government to amend and which urban interests desire to be declared unconstitutional.

7. As regards the Centre there is general nationalist criticism in which all communities join of both the separation of the Army and the irresponsible nature of the Central Government. As regards the latter it is unnecessary to expatiate. The objections from the nationalist point of view are obvious that the constitution does not provide (*e.g.*) for commerce and finance being administered in accordance with Indian interests and that it contains in itself no promise for a future day when responsible Government in the Centre will be given. At the same time there are indications that the Muslims feel some relief that the proposals have not taken the form of a Cabinet responsible to a Central Legislature with a Hindu majority. With regard to the Army there is a very general sentiment against its removal from the purview of the Central Legislature and of the Government of India though some sober thought recognizes that this was inevitable in transition and it is felt that this condemns India indefinitely.

to a situation in which it will be dominated by a foreign army. Moreover the deepest suspicions are felt on the sincerity of the intentions about Indianization. The argument that so long as British officers and troops are necessary in India they cannot be under the orders of a Dominion Government is hardly understood and is regarded purely as the outcome of racial pride. And it may be true that there are those who shrewdly believe that if it is embarrassing for India to be deprived of the British Army it will be equally embarrassing for England to have the Army returned on her hands and that it is not beyond the scope of bargaining to retain its services on better terms.

8 The federal constitution of the Central Legislature is attacked more on communal than nationalist lines. No doubt the Hindus who are unanimously opposed to federalism base their arguments on the undemocratic nature of the proposal on its tendency to hinder the national unity of India and on the design which they profess to see beneath it of preventing the voice of India being heard and no doubt there is some genuine expression of nationalist feeling behind this but it is impossible to resist the conclusion that the bitterness of their opposition is largely prompted by the fact that the federal system makes impossible the domination of India by the Hindu intelligentsia. The Muhammadans on the other hand seem to be divided on the question of indirect election some favour it but urban Muhammadans seem to entertain a suspicion that it will deprive the urban classes of a fair representation in the Centre but all favour federalism from the feeling that local interests (that is to say Muhammadan and agricultural interests) would not be safe under a popular Assembly directly elected and composed chiefly of Hindus.

9 On the purely communal question opinion follows stereotyped lines on which it is unnecessary to deal at length as the main positions of the various parties have been fully expressed. There are no signs (and it is hardly reasonable to expect them) of any mitigation of the full Muhammadan claim for separate electorates continuance of minority weightage and majority representation for themselves where they are in a majority of population. Muhammadans also express themselves dissatisfied because Sind is not to be separated from Bombay the North West Frontier Province is not given full provincial status and nothing is done for Baluchistan. At the same time many who are in a position to gauge the feeling of the community are of opinion that they are not so dissatisfied with the proposals as for bargaining purposes they make it appear. The Hindus on the other hand are genuinely concerned at what appears to them to be the perpetuation of Muhammadan rule in the Punjab without a counterbalancing power of control from the Centre. The Sikhs retain their view that if there are separate electorates they should get as much weightage as any minority community elsewhere and in particular adhere to the claim for a third of the Provincial seats. They share with the Hindus their fear of Muhammadan rule in the Punjab.

10 So far we have only dealt with the opinions expressed in the press and by the more vocal and politically active section of the intelligentsia. Turning to other classes which are more numerous and of solid importance in the Province the landlord classes have protested against the suggested abolition of special landholders representation and the suggestion to tax agricultural incomes but apart from this there is no indication that the great bulk of the rural (or indeed the urban) classes have any real information or views regarding the recommendations and the majority of the district officers stress the point that their local rural notables know little or nothing about the report and that even among the urban intelligentsia there are few who have attempted to make themselves acquainted with it. Copies of opinions received from the Commissioner Lahore and the Deputy Commissioners of Hoshiarpur Jullundur Gurdaspur Gujranwala Amritsar Muzaffargarh and Multan are enclosed. These are generally typical of the reports received and provide an interesting picture of the attitude of the bulk of the people of the Province.

I have the honour to be

SIR

Your most obedient servant

MILES IRVING

Additional Secretary