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GOVERNMENT OF INDIA ACT, 1935

INDIAN FINANCIAL ENQUIRY REPORT

BY SIR OTTO NIEMEYER, G.B.E., K.C.B.

*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
April, 1936*

LONDON

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To The Most Honourable the Marquess of ZETLAND,
P.C., G.C.S.I., G.C.I.E.,

His Majesty's Secretary of State for India.

MY LORD MARQUESS,

1. The Terms of Reference to the Financial Enquiry with which I was entrusted by His Majesty's Government were :—

“ To make recommendations to His Majesty's Government, after reviewing the present and prospective budgetary positions of the Government of India, and of the Governments of the Provinces, on the matters which under Sections 138 (1) and (2), 140 (2) and 142 of the Government of India Act, 1935, have to be prescribed or determined by His Majesty in Council (subject to the approval of both Houses of Parliament) and on any ancillary matters arising out of the financial adjustments between the Government of India and the Provincial Governments regarding which His Majesty's Government may desire a report.”

By a letter dated the 18th December, 1935, Your Lordship further informed me with regard to the last phrase in the above Terms of Reference as follows :—

“ His Majesty's Government do not desire, at present, to particularise any matters that may fall within this category. It appears to them, however, that the survey which you will make of the existing financial relationships of the various Governments in India may itself give rise to questions requiring to be answered. It may appear that the objects which the relevant sections of the Act are designed to promote may be better achieved if initial financial adjustments are made in respect of other matters, so far as the provisions of the Act permit, upon the introduction of the new Provincial Constitutions. For example, it might well seem desirable that the question of adjustments in connection with the existing liabilities of the Provincial Governments to the Central Government should be taken into account.

“ They accordingly desire you to have regard, in the course of your investigations, to any such possibilities and to make such recommendations thereon in your report as you think fit.”

Section 138 (1) and (2) of the Government of India Act, 1935, deals with the allocation of Taxes on Income (other than taxes on agricultural income) ; Section 140 (2) with the assignment of the net proceeds of the Jute Export Duty ; and Section 142 with grants in aid of the revenues of the Provinces. See Appendix I

2. Before my departure to India I was supplied with a large number of documents bearing on the questions arising under these Terms of Reference, and both then and later I have received from the Provincial Governments detailed and lucid memoranda on the

financial position of their respective Provinces. While in India I had the advantage of discussing these statements with the financial authorities of each Province; and I am much indebted to these gentlemen both for their original memoranda and for enabling me, often at some inconvenience to themselves, to hear their further oral comments and explanations. I had in addition the advantage of personal discussion in Calcutta with the Governors of Bengal, Bihar and Orissa, and Assam, in Bombay with the Governor of Bombay, in Lucknow with the Governor of the United Provinces, and in Lahore with the Governor of the Punjab. While I did not think it necessary to hear formal evidence from non-official bodies, I have duly considered a number of written non-official representations which were addressed to me.

- In Delhi I had lengthy and continuous discussions with the Finance Department of the Government of India and owe much to their ready aid, both in preparing material for the Enquiry before my arrival, and in supplying me with information and assistance at a time when they were in addition engaged in the annual preparation and discussion of the Indian Budget.

My Secretaries (Mr. V. S. Sundaram, Mr. K. Anderson and Mr. H. S. Stephenson) greatly assisted my work by their knowledge, zeal and assiduity.

3. Throughout the discussions leading up to the Government of India Act, it has been recognised that at the inauguration of Provincial Autonomy each of the Provinces should be so equipped as to enjoy a reasonable prospect of maintaining financial equilibrium, and in particular that the chronic state of deficit into which some of them had fallen should be brought to an end. My first object has accordingly been to examine the present and prospective financial position of the Provinces and to determine the extent to which special assistance would be needed in order to achieve the above aim. Next it is necessary to consider how far the Central Government is in a position to render such assistance without jeopardising its own solvency. Finally, I have had to look further into the future and to suggest to what extent and when it may be possible for the Centre to place additional resources at the disposal of the Provinces out of the proceeds of Taxes on Income. From the Provincial point of view, the desirability of attaining this final result is undeniable, and the only question (though in itself a difficult question) is to determine an equitable basis of distribution. From the Central point of view, on the other hand, it is clear that the financial stability and credit of India as a whole must remain the paramount consideration. Moreover, this is as essential to the Provinces and to the success of Provincial Autonomy as it is to the Centre itself. Throughout my recommendations I have kept the stability of the Central finances continuously in mind.

4. Previous discussion of these problems has taken place in the deep shadow of economic depression, and inevitably in that discussion the difficulties and uncertainties of the position have predominated. Thanks to the prompt measures taken in the early stages, the initial collapse in the Central Budget under the impact of the depression in 1930 was rapidly corrected. But the question of immediately pressing concern was to devise measures to increase or maintain the revenue and to reduce expenditure. The probable pace of recovery could not be gauged, and the practicability of transferring resources from the Centre to the Provinces thus remained problematic. On the other hand, the efforts of the Provinces (some of which, it must be admitted, were more drastic than others) to achieve a similar degree of budgetary improvement were less rapidly successful, and the extent to which the Provinces appeared to be dependent on Central assistance, if an "even keel" was to be attained, was thus at times exaggerated. To-day it is possible to view the situation in the light of five years' experience since the commencement of the slump, to appreciate how far recovery has occurred and to envisage an actual position nearer the decisive date. Compared with deficits of over 11 crores in each of the years 1930-31 and 1931-32, the Central Budget has produced surpluses of considerable magnitude in the year 1932-33 and every subsequent year,* and this in spite of the abolition of pay-cuts and the remission of most of the increase in rates of Income Tax, and in spite also of the annual surrender since 1934-35 to Bengal, Bihar and Orissa, and Assam of nearly two crores of Jute Export Duty. In the Provinces, likewise, a comparison of the anticipated budget outturn in 1935-36 reveals very substantial improvement over the deficit position of, say, 1930-31, though this is partly due, of course, to the above assistance from the Centre.

5. While it is true that the revenues of India have not returned to the exceptionally high figure prevalent before 1930-31 and it may be a long time before they again reach that level, there has been an appreciable recovery from the bottom—perhaps more than is generally realised in India. The improvement is parallel to, if not precisely identical with, what has occurred in many other parts of the world and reflects the same underlying conditions. There is no sign that it has ended, or that the natural tendency to automatic growth has ceased to function. It would, I think, at least be legitimate to anticipate a continuation of the recent rise at a moderate pace.

Both the Centre and the Provinces may expect to profit by this circumstance. While it is often said that Provincial revenues are less expansive than Central revenues, I think, despite Permanent

* The position in the later years is not clearly visible from the usually quoted figures owing to the inclusion of these surpluses as special non-recurring grants in revised estimates and final accounts.

Settlement in two Provinces, too much stress may be put on this difference. Consumption taxes in the Provinces might reasonably be expected to rise with consumption taxes (Customs and Excise) at the Centre. On the other hand, Central Customs duties, particularly if highly protective, are subject to definite limitations as revenue producers: nor does it seem to be a fact that Income Tax (at the same rates of tax) increases in yield much more rapidly than other taxes. An important item of previous Central Budgets and forecasts, the net revenue from the Railways,* from which the Percy Committee in 1932 anticipated a future receipt of five crores per annum, has not yet resumed its place in the resources of the Centre.

6. Expenditure at the Centre cannot be expected, consistently with safety, to decrease much below the point to which it has now been reduced. There may be future savings on debt conversions, but so far as they remain with the General Budget, they hardly seem likely to do more than assist in reinstating a more adequate contribution to debt redemption than the present reduced figure of three crores. It is, however, at least unnecessary to contemplate any serious increase in total expenditure, unless the Railway Budget, contrary to expectation, fails to improve.

7. Expenditure in the Provinces could obviously be increased, with advantage, on many heads. This is a question of degree and opportunity. Some expansion in fact took place even with existing Provincial resources, especially in the years before the slump when many Provinces were able, for instance, to increase substantially their expenditure on education, agriculture, medical and public health. And some expansion may now be anticipated from the recovery of Provincial revenues, not all of which are or need be static. Nevertheless, the allocation at an early date of a share in Taxes on Income under Section 138 of the Government of India Act constitutes for many Provinces the main hope for future expansion.

8. On a general review of existing tendencies, I should conclude that the budgetary prospects of India, given prudent management of her finances, justify the view that adequate arrangements can be made, step by step, to meet the financial implications of the new constitution. A change of constitutional and administrative arrangements cannot, of course, in a moment alter the general financial position or enable all conceivable financial desires to be met. But I see no reason why a cautious but steady advance should not be achieved.

9. I turn now more particularly to the prior question: the present position of the Provinces and their contrasted positions *inter se*, both of which fall under the objective of starting the Provinces on

* The Railways bear no amortisation charge on the debt incurred on their behalf by the Government of India.

the occasion of Autonomy on "an even keel." Various matters arise in this connection: how far in actual fact is each Province now solvent and likely to remain solvent—a matter which cannot be judged on one year only? How far, whatever may be its present position, has a Province administered its affairs, whether in taxation or in expenditure, with adequate firmness? How far has this or that Province, for whatever reason, been financially neglected in the past and thereby condemned to a lot from which others have escaped? It is obviously impossible to reconcile all the conflicting views and arguments on these issues. The recommendations I shall make represent in my belief an equitable settlement as between the various contestants and will, I hope, be accepted on that basis. I would only add here that in any country of the size of India there must inevitably be substantial differences in standards of administrative needs and possibilities, just as there are in other areas of the same size in the rest of the world, or for that matter even in much smaller units.

10. The present position and relative size of the Provincial Budgets are shown in Appendix II. As regards the figures for 1936-37, it must be borne in mind that they are estimates; and experience suggests that the deficits thus prognosticated will in the actual result be smaller. Apart from that, there are a number of adjustments* to be made—in either direction—before these figures can be regarded as any necessary indication of the future. Nor can any settlement undertake to secure that no Province shall, at any time and whatever the course of its administration, be freed from the ordinary risk of a casual budgetary deficit. Provincial Autonomy necessarily implies autonomous responsibility in this direction also.

It is obvious, as the Percy Committee said, that special assistance to *certain* Provinces, which, whatever precise form it takes, can only be given at the cost of Central revenues, must operate to delay *pro tanto* the general transfer to *all* Provinces of their share of Taxes on Income. This consideration cannot be absent from the mind of anyone endeavouring to deal fairly with the whole problem, and sets one limit to the amount of prior readjustment which can reasonably be admitted.

At the same time it is equally clear that some Provinces are intrinsically better off than others and at the moment less urgently in need of additional resources; and it is both fair and inevitable that a certain measure of correction should be applied, even if it means that Provinces which have been able to attain higher standards of administration should now to some slight extent have to progress more slowly.

* For instance, cost of new constitution: cessation of certain small revenue receipts from the Centre: in addition to general trend of existing revenue and expenditure.

11. Certain further general comments may be made. Bombay has just received annual relief to the extent of approximately 90 lakhs from the separation of Sind; Madras and Bihar approximately 20 lakhs and 8 lakhs respectively from the separation of Orissa. Madras, Bombay and the Punjab have certainly not the lowest administrative standards in India. Bengal is clearly on a low standard, while Bihar and Orissa has been generally recognised as the poorest Province in India. To a less extent similar considerations apply to the Central Provinces. The position of the United Provinces is in so far peculiar that while its ultimate future gives less reason for anxiety, its immediate difficulties are considerable. Sind and Orissa, as newly instituted Provinces, have special problems of their own.

12. At this stage a rather lengthier comment is required on certain individual Provinces.

13. *Sind*.—For the year 1936-37, the Government of India have provided a subvention to Sind of 102 lakhs plus non-recurrent grants of 4 lakhs for initial equipment and election costs and 2 lakhs unallocated. In addition, the Government of India have undertaken to provide 17½ lakhs for buildings in Karachi from their anticipated surplus for 1935-36.

The deficit for the future (excluding the Lloyd Barrage, but allowing for certain reasonable additions both to revenue and expenditure) may be estimated at 105 lakhs—a considerably higher figure than the estimate of the Sind Conference in 1932 (approximately 80 lakhs). There are possible increases in revenue, for instance in Land Revenue from the Barrage Lands, and the above figures exclude any ultimate receipt from the allocation of Taxes on Income.

I think the initial subvention under the Act may properly be fixed at 105 lakhs a year, to which should be added a single non-recurrent grant of 5 lakhs which can be used, for instance, towards the cost of a jail at Shikarpur.

The more difficult question is what modification should be made in this subvention in later years.

The future of Sind and of the subvention as part of Sind finances is inseparably bound up with the financial future of the Lloyd Barrage. In considering to what extent it is justifiable to continue this charge on the Centre, I must assume that the Barrage scheme will be administered on lines comparable with similar schemes elsewhere and that adequate rates will be charged for the facilities it will provide.

From a survey of the prospects of the Barrage scheme just made by the Government of India, it would appear that the charging of part of the interest to capital (which is necessary during construction and the earlier years of partial working) can cease at the end of 1937-38, after which year net revenue and capital receipts should

cover interest; and that by the end of 1939-40 new capital expenditure will cease. After that date it will be possible to fix the definite service (interest and amortisation) of the Barrage debt, which will of course be a future charge on the revenues of Sind. As there will be special capital receipts in the earlier and not in the later years it would be appropriate to fund this debt, not on the basis of an equated annuity over a period of years, but on the basis of suitable instalments of principal together with interest on the balance outstanding. Until the date of funding all receipts in excess of interest should be applied to reduction of debt. If the service is spread over 40 years from 1st April, 1942, at $4\frac{1}{2}$ per cent. interest, with capital repayments of 75 lakhs a year in the first 15 years, 60 lakhs a year in the next 10 years and 50 lakhs a year thereafter, the latest estimate of net receipts from the Barrage (capital and revenue)—net in the sense of excluding one-tenth of the revenue as Land Revenue and also deducting the equivalent of pre-barrage net Irrigation receipts—make it probable that in the early 1940's there would be a growing margin over the required debt charges.

While naturally all such estimates must be treated with caution, on this basis Sind (apart from a growing receipt in the one-tenth Land Revenue) would be making a profit on the irrigation scheme after providing for debt charges thus adjusted, and it would not be reasonable that the subvention should continue unaffected by this fact.

In all the circumstances and bearing in mind the necessarily conjectural nature of estimates for a period stretching so far into the future, I recommend that the Sind subvention should remain at 105 lakhs for a period of 10 years (i.e., till 1946-47 inclusive); and should then be diminished by 25 lakhs a year for 20 years, by 40 lakhs a year for the next five years, by 45 lakhs a year for the next succeeding five years, and thereafter until the whole Barrage debt is repaid by 50 lakhs a year. When the debt has been repaid (i.e., in about 40 years from funding in 1942) any remaining portion of the subvention will, of course, in any event cease.

Under this arrangement it should be possible for proper administration to secure in every year a balance from the Barrage in favour of the general revenues of Sind over and above the debt charge and after allowing for the periodic reductions of the subvention; and it will therefore be in the direct interest of Sind to achieve results at least as favourable as those on which the estimates are made.

14. *Orissa*.—The Government of India propose to assist Orissa in 1936-37 by a grant of 50 lakhs, of which $40\frac{1}{2}$ lakhs are in respect of the deficit in the revenue budget, $7\frac{1}{2}$ lakhs are required for non-recurrent purposes (establishment of Famine and Road Funds and initial equipment), and 2 lakhs are unallocated to specific expenditure.

Some increase in expenditure is inevitable : it is impossible to ignore the fact that the existing standard of expenditure in Orissa is extremely low ; and the scope for expansion in the Province's own resources in the early future is unusually limited.

As against the provision of 40½ lakhs in 1936-37 for recurrent Orissa expenditure, it is therefore necessary to contemplate a somewhat higher normal scale of assistance, and my conclusion is that the figure should be increased to approximately 50 lakhs.

I recommend also, in order to ease the position in the earlier years, that the Government of India should make a further grant to the Orissa Famine Fund so as to raise the total in the latter to the figure of 10 lakhs prescribed in the Orissa Order in Council. Five lakhs have already been provided for this purpose and a contribution of 1½ lakhs is included in the 1936-37 Orissa Budget, so that a further non-recurrent sum of about 4 lakhs would be needed.

Finally, it is clear that the cost of providing the new Province with such essential buildings as are required will be rather more than the sum of 27½ lakhs for headquarters alone, which the Government of India are setting aside out of their anticipated surplus of 1935-36. In my view, a further sum of 15 lakhs should suffice if a reasonable standard is set ; and I recommend that assistance for this purpose, additional to what has been proposed in the two preceding sub-paragraphs, should be provided at the rate of 3 lakhs per annum in each of the first five years. The total assistance which I propose should be given to Orissa is thus about 57 lakhs in the first year, 53 lakhs a year in the next four years and thereafter 50 lakhs a year.

15. *Assam* has been universally recognised as a deficit Province and must undoubtedly receive assistance. The measure of the assistance depends partly on the prospective revenue of Assam allowing for a very moderate amount of continued recovery, and partly on the degree to which the existing Provincial deficit (47 lakhs in 1935-36) can be regarded as having been unavoidable (either as regards expenditure or taxation). Allowance has further to be made for the cost of Provincial Autonomy, and for certain adjustments of expenditure with the Centre, including the cost of the Assam Rifles, hitherto mainly borne by the Central Government.

Taking all these considerations into account, I recommend that Assam should be given assistance to the extent of approximately 45 lakhs a year, irrespective of the special arrangement for the Assam Rifles mentioned in the next sub-paragraph.

At present the Central Government pays 12 lakhs per annum towards the total cost of the Assam Rifles (15 lakhs). In future

the Central Government will in any case pay the cost of the Manipur Battalion (approximately 3 lakhs). The Central Government now proposes to bear 7 lakhs of the cost of the remaining Assam Force and to treat this payment separately from any assistance for Provincial needs proper. I think this is an equitable arrangement.

The Assam Government put forward a special claim in connection with the proceeds of the Excise Duty on Assam oil, though the incidence of the tax obviously does not fall on the producing Province. I do not think there is any economic justification for this particular claim or that it presents any real analogy with superficially similar claims which it may be alleged have been recognised elsewhere. In any case, having regard to the amount of the proposed assistance, which such a receipt could only operate to reduce, it is unnecessary to pursue this matter further.

16. The *North West Frontier Province*, which has since 1932 received an annual subvention of 1 crore from the Central Government, is so far in a special position that Section 142 of the Government of India Act permits an increase in its subvention at any time without an address from the Federal Legislature. It is, however, desirable, both from the point of view of the Province and from that of the Central Government, that the subvention should be fixed for a certain period of years. After examining the past and prospective budgetary position of the Province (and also incidentally the various references made in the past to equivalence in certain respects with neighbouring districts of the Punjab), my recommendation is that the existing subsidy of 1 crore should be supplemented by approximately 10 lakhs per annum. In so far as this assistance may take the form of a subvention under Section 142, it should be fixed for a period of five years, after which it should be subject to revision in the light of the then existing circumstances. By revision I am far from implying a further increase. I contemplate merely that the position should then be reviewed in the light of five years' further financial administration.

17. To revert now from these specific cases to the wider considerations of paragraphs 10 and 11, and summarising the whole provision which I believe to be requisite, I think that assistance of the following *approximate* annual amounts should be given to the Provinces mentioned below, as from the date on which Provincial Autonomy commences. This assistance should be given irrespective of the ultimate allocation of Taxes on Income and should not be affected by that allocation.

Bengal	75 lakhs.
Bihar	25 lakhs.
Central Provinces	15 lakhs.
Assam	45 lakhs (apart from 7 lakhs in respect of the Assam Rifles as indicated in paragraph 15).
North West Frontier Province	110 lakhs.
Orissa	50 lakhs plus 19 lakhs non-recurrent as indicated in paragraph 14.
Sind	105 lakhs plus 5 lakhs non-recurrent, and to diminish as indicated in paragraph 13.
United Provinces	25 lakhs for five years.
	450 lakhs.

Against this sum, 258 lakhs (North West Frontier Province 100 lakhs, Orissa 50 lakhs, Sind 108 lakhs) are already provided in the Budget of the Government of India for 1936-37. The recurrent additional cost to the Centre would therefore be 192 lakhs a year. In addition, certain further non-recurrent grants are contemplated, amounting in aggregate to 24 lakhs.

18. Can the Centre support such an additional demand? Apart from this sum of nearly 2 crores per annum, concurrently with the inauguration of Provincial Autonomy, Burma will be separated from India at a net loss to Central Revenues now estimated by the Government of India at about 2½ crores. These two items together clearly would present a budgetary problem of some magnitude if they had to be faced in 1937-38, at one blow and so soon, from the normal resources of a single financial year. Thereafter, owing to the expansion in Central resources which may with confidence be anticipated, they need occasion no special difficulty. Thanks, however, to the Reserve Fund of about 2 crores, which is being constituted out of the anticipated surplus of the year 1935-36, I see no reason why the grant of these additional resources to the Provinces should not commence in 1937-38. In so concluding, I should be lacking in frankness if I did not make it clear that the scope in the next few years for relaxation of revenue burdens is likely to be extremely small unless economic improvement takes place at a rate well in excess of what can now safely be assumed. I have, however, felt it right to assume that the establishment of Provincial Autonomy must be regarded as an objective to which the Government of India will give special consideration in assessing the relative order of its financial aims. From the financial point of view, I conclude that His Majesty's Government may safely propose to Parliament that Part III of the Government of India Act, 1935, should be brought into operation a year hence.

19. It remains to consider what form this measure of assistance should take.

Where financial assistance is to be given by a creditor to an existing debtor, elementary common sense suggests that the shortest and simplest method of adjustment is by reducing the claim of the creditor on the debtor, and I have naturally been led to consider whether the assistance I recommend that the Centre should give to the above Provinces cannot conveniently be provided in whole or part by such an adjustment of debt relations.

In so doing, however, I must first of all take into account the effect on the existing debts of the Provinces of certain arrangements which the Government of India propose to make (see Appendix III). On many grounds, financial and administrative, I think the proposed method of decentralisation of balances extremely desirable. In so far as the Provinces will thus be using surplus balances as a set-off to debts due by them to the Centre, I must count any saving from such reduction of their debts as part of the assistance I propose, as the charge for these debts has swollen their existing and prospective budgets. But the proposal in Appendix III will leave the Provinces to bear certain interest charges which have hitherto fallen on the Centre, and for that I must make allowance before counting as assistance the results of debt cancellation.

In certain cases it is convenient to combine the results of decentralisation and of debt cancellation and I therefore propose, on the definite assumption that the Government of India's decentralisation proposals are accepted, as I think they should be, to cancel in the case of Bengal, Bihar, Assam, the North West Frontier Province and Orissa the entire existing debts of these Provinces to the Government of India, counting against the assistance I propose only the net annual budget saving. In the case of the Central Provinces I propose to cancel part of the debt to the Centre. In the case of the United Provinces and Sind, it is not in my opinion convenient to cancel debt, and assistance must be given in a different form.

20. Parenthetically and to complete the picture, it should be added that the Government of India's proposals further contemplate the consolidation of such Provincial debts as remain, on terms which appreciably benefit the Provinces. I see many advantages in this proposal which I should support. I welcome the fact that Madras, Bombay and the Punjab, to whom I do not suggest any immediate assistance as part of my proposals, will derive certain advantages from this scheme. And I do not think it necessary to modify my own proposals because of the additional benefits which would accrue to the United Provinces, the Central Provinces and Sind.

21. On the basis indicated in paragraph 19 I thus recommend that the following cancellations of debt should take place—

		<i>Approximate net annual saving of which I take account.</i>
Bengal	} All Debt contracted with the Centre prior to 1st April, 1936.	33 lakhs.
Bihar		22 lakhs.
Assam		15½ lakhs.
North West Frontier Province		12 lakhs.
Orissa		9½ lakhs.
Central Provinces ...		15 lakhs.
	Deficit Debt as on 31st March, 1936, and approximately 2 crores of pre-Reform Debt.	

22. The claim of the jute-producing Provinces to the whole or part of the Jute Export Duty has already been recognised to the extent of 50 per cent. by the Government of India Act. In my opinion, it is doubtful whether the argument that the incidence of this particular Duty falls wholly on the producer can be maintained. No concrete statistical proof of this contention has been produced, and even if such proof could be produced for a specific date, it may be doubted whether it would be valid in all circumstances of a changing market. Further, even if the argument were completely sustainable, it would not be conclusive on the question whether or not the community as a whole in India was entitled to tap this source of revenue as it must in fact tap other sources of revenue of unequal provenance among the different parts of India. No source of revenue, whether Customs, Excise or Income Tax, can in fact in any country be derived equally from all parts of the country alike, rich and poor, industrial and agricultural. In so far as a claim may be put forward on the ground that the taxable capacity of Bengal is limited by the incidence of this Duty, that is a claim not so much to this particular Duty as to financial assistance generally; it is part in fact of the case for a share in Taxes on Income or for such prior special treatment as it is the object of my present recommendations to secure.

It may be thought that whatever validity there may be in the economic argument has already been met by the surrender to the Provinces concerned of 50 per cent. of the net produce of the Duty. It will, however, be convenient that part of the assistance I contemplate should take the form of an increase in this figure, and therefore I recommend that the percentage should be increased under Section 140 (2) of the Act to 62½. On the estimated gross yield of the Duty in 1936-37 at 3,80 lakhs, this increase of 12½ per cent. would mean in round figures the following additions to the resources

of the Provinces concerned, at a corresponding cost to the Central Government :

	<i>Lakhs.</i>
Bengal	42
Bihar	2½
Assam	2½
Orissa rather over	¼

23. The result will be, after allowing for the advantages derived from debt cancellation (paragraph 21), to complete the required assistance (paragraph 17) except in the case of Assam, the North-West Frontier Province and Orissa, which will still require 30, 100 and 40 lakhs, respectively. In addition there remain the special cases of the United Provinces and Sind, in which, for differing reasons, the method of adjustment by debt cancellation was not thought appropriate.

24. I recommend therefore that annual grants-in-aid under Section 142 of the Act should be charged on Central Revenues as follows :—

United Provinces ...	25 lakhs for a fixed period of five years.
Assam	30 lakhs (subject to the proposal as to the Rifles in paragraph 15).
North West Frontier Province	100 lakhs, subject to reconsideration at the end of five years.
Orissa	40 lakhs, with 7 lakhs additional in the first year, and 3 lakhs additional in each of the next four years.
Sind	105 lakhs for 10 years with 5 lakhs additional in the first year, then falling as provided in paragraph 13 until the grant ceases entirely on the extinction of the Barrage Debt in about 45 years' time.

25. The next matter on which I am asked to make recommendations is the distribution of residual Taxes on Income

(1) as between the Federation on the one hand and the Provinces and States on the other, and

(2) as between the Provinces (and States) *inter se*.

Under the first head I have to recommend what percentage of net Taxes on Income, after deducting proceeds attributable to Chief Commissioners' Provinces and to taxes payable in respect of Federal emoluments, is to be assigned to the Federal units. Thereafter I have to suggest over what period and subject to what conditions the units shall gradually come into possession of the resources represented by the ultimate percentage. The second aspect is the basis of distribution among the units concerned of the share at any time accruing to them

26. The 1936-37 budget estimate of receipts from all forms of Income Tax (including corporation tax) is 15.7 crores, which for the present purpose must be reduced to about 13.6 crores on account of cost of collection and the prospective separation of Burma. Of this latter sum it may be estimated that about $1\frac{3}{4}$ crores pertain to the wholly Federal heads of corporation tax, Chief Commissioners' Provinces and Federal emoluments, leaving a residuum of about 12 crores divisible between the Centre and the units. The precise sum will, of course, fluctuate from year to year according to the yield of this head of tax, but it is at present of this order of magnitude.

27. There are two considerations to be balanced in arriving at the percentage of some such total to be assigned to the Centre and the units respectively. On the one hand, there is the vital necessity, to which I have already referred, of safeguarding the financial stability of the Centre. On the other hand, having regard to the obvious future needs of the Provinces and in order to maintain a reasonable adjustment of relative burdens between the various units, it is clearly very desirable that the maximum practicable distribution should be achieved.

28. On a balance of the various considerations and risks involved, I recommend that the prescribed percentage of these taxes that shall not form part of the revenues of the Federation (Section 138 (1)) should be 50 per cent.

29. The next question is what amount out of this 50 per cent. and for what periods should temporarily be retained by the Federation (Section 138 (2)).

It is clear that in the years immediately following the introduction of Provincial Autonomy there can be no question of the Centre's relinquishing a further six crores or so of its resources.

Apart from the separation of Burma and the provision of two crores assistance for the Provinces which I have already recommended, the additional cost of new Federal institutions (probably something over half a crore) may be imminent, and provision may have to be made for financial adjustments in respect of the States under Section 147 of the Act, at a net ultimate annual cost now estimated at rather more than half a crore, though the full annual charge on this latter account will presumably not fall to be met in the early years. If, however, there is bound to be delay, the Provinces will no doubt recollect that they will be receiving from the Centre the amounts proposed in paragraph 17 above, in addition to what certain of them have already been receiving from the Jute Export Duty and about $1\frac{1}{2}$ crores per annum for Roads, as well as certain grants ($3\frac{1}{2}$ crores) for rural purposes. Some of them have also received substantial assistance through being relieved of deficit areas.

30. In my opinion a term of about five years would safely cover the period during which the Centre will be consolidating its position after undertaking the initial adjustments ; and this is the length of the period that I recommend to be prescribed under Section 138 (2) (a). It is less easy to prescribe within this first period how much in fact can be surrendered. Obviously conjectures fixing now specific dates in this period might, in the present state of economic flux in the world, in fact prove substantially wide of the mark : and if such a conjecture had to be made so soon in terms of such and such a year, it might perhaps more easily err on the side of caution than on the side of temerity, to the disadvantage of the Provinces. To avoid these inconveniences, it will be preferable to base the amounts to be withheld not so much on specific but entirely conjectural dates, but on the realisation of certain concrete facts.

The power of the Central Government to surrender a share of its revenues will in fact depend largely on the extent to which its main expansive revenue head, viz., Income Tax, progresses, and on the extent to which the Railways move towards attaining a surplus, as contemplated by the Railway Administration at the time of the Percy Committee. It is in my view very desirable to give both the Central Government and the Provinces an interest in securing these results and a share in their advantages if and as soon as they are achieved.

I recommend therefore that, the initial prescribed period under Section 138 (2) (a) being five years, the prescribed sum which during that period the Centre may in any year retain out of the assigned 50 per cent. shall be the whole, or such sum as is necessary to bring the proceeds of the 50 per cent. share accruing to the Centre together with any General Budget receipts from the Railways* up to 13 crores, whichever is less.

31. I wish to add two comments on these recommendations.

(1) After the abolition of tax on the smaller incomes and the two successive reductions in the rates imposed in 1931, the rates of Income Tax and Supertax in India, especially on the higher incomes, are by no means excessive. The general scheme of Indian taxation (Central and Provincial) operates to relieve the wealthier commercial classes to an extent which is unusual in taxation schemes, and there would be no justifiable ground of complaint if a slight correction of this anomaly were maintained. The assignment of Taxes on Income is the main method of assisting Provincial finances contemplated by the Government of India Act : and if the remaining surcharge were maintained, it would materially contribute to the early receipt by the Provinces of additional resources.

* On the basis at present provided by the Railway Convention.

(2) The position of the Railways is frankly disquieting. It is not enough to contemplate that in five years' time the Railways may merely cease to be in deficit. Such a result would also tend to prejudice or delay the relief which the Provinces are entitled to expect. I believe that both the early establishment of effective co-ordination between the various modes of transport and the thorough-going overhaul of Railway expenditure in itself are vital elements in the whole Provincial problem.

32. The Act requires that, during a second prescribed period, the Centre shall relinquish to the Provinces by equal steps so much of the Provincial share as it is retaining in the last year of the first period. Under the scheme proposed in the preceding paragraphs, the amount so to be relinquished will depend on the two factors of Income Tax yields and Railway revenue; and if, by the favourable operation of these factors, the amount held back proves in fact to be substantially less than the whole Provincial share, it is obvious that the task of the Centre in relinquishing it will *pro tanto* be lightened. Here again a long and somewhat conjectural view of the future has to be taken. In my opinion, however, it should prove safe to fix the second prescribed period at five years, so that within about ten years from the commencement of Provincial Autonomy the Provinces may hope to be enjoying their full share in this revenue head. It is necessary, however, to add a word of warning, lest the Provinces be tempted to mortgage in advance these prospective additional resources. No one can say in present circumstances that this programme will with certainty prove feasible, and it must be regarded as subject to the important reservation that if necessary the Governor-General will have to exercise his delaying power under the second proviso to sub-section (2).

33. There remains finally the difficult question of the manner in which any proceeds of Taxes on Income available under the foregoing arrangements should be distributed.

During the past decade this question has arisen in one form or another on many occasions. Much of the previous discussion is now largely irrelevant, since it related to a constitutional scheme differing from that which the Act embodies and to financial dispositions differing from those which have now to be envisaged. Moreover, it has, in my view, suffered from an undue preoccupation with the quest for some automatically applicable statistical factor, and a tendency to raise technical problems which would be soluble, if at all, only with disproportionate labour and expense.

Naturally each Province advocates the basis of division (population, residence, etc.) which gives it the largest dividend. It cannot be said that any of the proposed bases have any particular scientific validity or satisfy in any appreciable degree the ideal

but practically unascertainable test of capacity to pay. The mere accident of place of collection, as has frequently been pointed out in previous discussions of this subject, is clearly an unsuitable guide. The residence of the individual, though it may be a convenient practical dividing line for purposes of avoiding double taxation between separate political units, is not in itself a very scientific criterion, particularly in a Federation, and in fact in India gives results (of necessity partly estimated) too suspiciously near those of collection to inspire much confidence. Finally, even supposing it were practicable to ascertain to what part of India particular fractions of income (and therefore the incidence of the taxation burden) properly adhere, it is still arguable that in a Federation other considerations also are involved, particularly if the benefits and incidence of other forms of common taxation are unequally divided as between the various partners.

34. After full consideration of the various elements of this problem, including the uncertainty of some of the statistical data on which practical calculations must necessarily depend, I conclude that substantial justice will be done by fixing the scale of distribution partly on residence and partly on population, paying to neither factor a rigidly pedantic deference, for which the actual data provide insufficient justification.

I am further strongly of opinion that from a practical administrative standpoint it is essential to base the distribution, not on figures to be ascertained each year (so far as they may be ascertainable), but on fixed percentages.

35. I thus recommend that the division between the Provinces of the amounts available in respect of the 50 per cent. share of residual Taxes on Income should be as follows:—

	<i>Per cent.</i>
Madras	15
Bombay	20
Bengal	20
United Provinces	15
Punjab	8
Bihar	10
Central Provinces	5
Assam	2
North West Frontier Province	1
Orissa	2
Sind	2
	100

36. The above allocation does not allow for the participation of the States. If at any time any State comes into Federal Income Tax and thus qualifies for a share in the residual tax, a minor adjustment would have to be made. But it would be desirable that such adjustment, which could no doubt be arranged in connection with the act of accession, should not involve an alteration in the above percentages but should rather operate to affect the total to which the percentages apply just as it would operate to increase the initial amount of that total.

37. My final recommendations, in so far as they involve the issue of Orders in Council under the Government of India Act, 1935, may now be summarised as follows:—

(1) (a) that the percentage prescribed under Section 138 (1) should be 50 per cent.;

(b) that the distribution of this share to be prescribed under the same sub-section should be:—

	<i>Per cent.</i>
Madras	15
Bombay	20
Bengal	20
United Provinces	15
Punjab	8
Bihar	10
Central Provinces	5
Assam	2
North West Frontier Province	1
Orissa	2
Sind	2

(2) that the amount to be retained under Section 138 (2) from this share should be:—

for a first period of five years, in each year, the whole or such amount as, together with any General Budget receipts from the Railways, will bring the Central Government's share in the divisible total up to 13 crores, whichever is less; and

for a second period of five years, in the first year five-sixths of the sum, if any, retained in the last year of the first period, decreasing by a further sixth of that sum in each of the succeeding five years;

(3) that the percentage of net proceeds of the Jute Export Duty to be assigned to certain Provinces under Section 140 (2) should be $62\frac{1}{2}$ per cent.;

(4) that the Central Revenues should be charged with the following grants in aid under Section 142 :—

United Provinces	...	25 lakhs for five years.
Assam	... ..	30 lakhs.
North West Frontier Province	... ..	100 lakhs, to be reconsidered after five years.
Orissa	... ..	40 lakhs, increased to 47 lakhs in the first year and to 43 lakhs in the 2nd, 3rd, 4th and 5th years.
Sind	... ..	105 lakhs, increased to 110 lakhs in the first year; subject to reductions set out in paragraph 13.

I have the honour to be,

My Lord Marquess,

Your Lordship's most obedient Servant,

O. E. NIEMEYER.

6th April, 1936.

APPENDIX I.

TEXT OF RELEVANT SECTIONS OF GOVERNMENT OF INDIA ACT, 1935.

138.—(1) Taxes on income other than agricultural income shall be levied and collected by the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments, shall not form part of the revenues of the Federation, but shall be assigned to the Provinces and to the Federated States, if any, within which that tax is leviable in that year, and shall be distributed among the Provinces and those States in such manner as may be prescribed:

Provided that—

(a) the percentage originally prescribed under this subsection shall not be increased by any subsequent Order in Council;

(b) the Federal Legislature may at any time increase the said taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation.

(2) Notwithstanding anything in the preceding subsection, the Federation may retain out of the moneys assigned by that subsection to Provinces and States—

(a) in each year of a prescribed period such sum as may be prescribed; and

(b) in each year of a further prescribed period a sum less than that retained in the preceding year by an amount, being the same amount in each year, so calculated that the sum to be retained in the last year of the period will be equal to the amount of each such annual reduction:

Provided that—

(i) neither of the periods originally prescribed shall be reduced by any subsequent Order in Council;

(ii) the Governor-General in his discretion may in any year of the second prescribed period direct that the sum to be retained by the Federation in that year shall be the sum retained in the preceding year, and that the second prescribed period shall be correspondingly extended, but he shall not give any such direction except after consultation with such representatives of Federal, Provincial and State interests as he may think desirable, nor shall he give any such direction unless he is satisfied that the maintenance of the financial stability of the Federal Government requires him so to do.

140.—(1)

* * *

(2) Notwithstanding anything in the preceding subsection, one half, or such greater proportion as His Majesty in Council may determine, of

the net proceeds in each year of any export duty on jute or jute products shall not form part of the revenues of the Federation, but shall be assigned to the Provinces or Federated States in which jute is grown in proportion to the respective amounts of jute grown therein.

142. Such sums as may be prescribed by His Majesty in Council shall be charged on the revenues of the Federation in each year as grants in aid of the revenues of such Provinces as His Majesty may determine to be in need of assistance, and different sums may be prescribed for different Provinces:

Provided that, except in the case of the North West Frontier Province, no grant fixed under this section shall be increased by a subsequent Order, unless an address has been presented to the Governor-General by both Chambers of the Federal Legislature for submission to His Majesty praying that the increase may be made.

APPENDIX II.

A.—BUDGET OF THE GOVERNMENT OF INDIA.

(In lakhs of rupees.)

—	1930-31.	1931-32.	1934-35.	1935-36. (Revised).	1936-37 (Estimates as presented).
Revenue	1,24,60	1,21,64	1,25,10	1,24,37	1,22,77
Expenditure	1,36,18	1,33,39	1,20,15	1,21,95	1,22,70
	- 11,58	- 11,75	+ 4,95	+ 2,42	+ 7

Notes.

All the above figures include Burma.

The 1934-35 result is given before providing 2,81 lakhs for rural economic development and other special grants totalling 1,78 lakhs out of the surplus of that year: and the 1935-36 result before providing 45 lakhs for buildings in Sind and Orissa and 1,97 lakhs for Revenue Reserve out of the anticipated surplus of that year.

Expenditure both in 1935-36 and in 1936-37 includes a grant of about 1,90 lakhs to the jute-producing Provinces and a subvention of 1,00 lakhs to the North West Frontier Province. Expenditure in 1936-37 includes in addition a grant of 1,08 lakhs for Sind and 50 lakhs for Orissa.

B.—PROVINCIAL BUDGETS.

(in lakhs of rupees.)

	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Bihar & Orissa.	Central Provinces.	Assam.	North West Frontier Province.
Population (in millions) ...	46·7	21·9	50·1	48·4	23·6	37·7	15·5	8·6	2·4
1930-31 :—									
Revenue ...	16,84	13,81	9,66	11,97	10,56	5,27	4,70	2,44	...
Expenditure ...	17,90	15,62	11,41	12,88	10,99	6,06	5,14	2,79	...
	— 1,06	— 1,81	— 1,75	— 91	— 43	— 79	— 44	— 35	...
1935-36 (Revised) :—									
Revenue ...	15,72	14,80	11,43	11,79	10,46	5,54	4,56	2,36	1,70*
Expenditure ...	16,04	15,08	11,58	11,84	10,57	5,61	4,81	2,83	1,76
	— 32	— 28	— 15	— 5	— 11	— 7	— 25	— 47	— 6

	Madras.	Bombay.	Bengal.	United Provinces	Punjab.	Bihar.	Central Provinces.	Assam.	North West Frontier Province.	Orissa.	Sind.
Population [new boundaries] (in millions)	44·0	18·0	50·1	48·4	23·6	32·4	15·3	8·6	2·4	8·3	3·9
1936-37 (Estimates as presented) :—											
Revenue ...	15,90	12,04	11,49	11,71	10,80	4,70	4,81	2,37	1,70*	1,63*	3,13*
Expenditure ...	15,90	12,03	11,91	12,45	10,78	4,82	4,90	3,00	1,80	1,63	3,13
	...	+ 1	— 42	— 74	+ 2	— 12	— 9	— 63	— 10	...	...

* Including subvention from Government of India.

APPENDIX III

(see Paragraph 19).

NOTE ON THE PROPOSED ARRANGEMENTS WITH REGARD TO BALANCES HELD BY THE GOVERNMENT OF INDIA ON ACCOUNT OF THE PROVINCES AND ON PRE-AUTONOMY DEBT.

On the institution of provincial autonomy, the Government of India contemplate the following steps with regard to—

- (a) decentralisation of balances,
- (b) consolidation of pre-autonomy debt.

(a) Balances.

1. The accounts of provinces with the Reserve Bank will be credited with their unearmarked provincial balances, Famine Funds, Depreciation Funds, etc., and the unspent amounts of Road and Development resources assigned to provinces in the past in advance of requirements.

2. There are various other deposits banked with the Government of India (such as, interest carrying provident fund deposits and interest free balances of municipal and other local authorities) which are of an intrinsically local nature or definitely associated with provincial functions. These, together with any liabilities attached to them, will also pass to the provinces concerned. So far as the provinces will require cash in their treasuries and minimum balances with the Reserve Bank, they will take these from this source (as, in effect, they have hitherto done). Cash in treasuries to the extent required will become the property of provinces while the accounts of the provinces with the Reserve Bank will start with the necessary minimum credits. But in so far as there is a remanet beyond the amounts so required in cash, it is proposed to write off that remanet against debt owed by the provinces to the Government of India. The Government of India might in the last resort contemplate making over the remanet also to provinces in the form of cash, but, inasmuch as the debts of the provinces to the Government of India carry interest above present market rates, it is clearly advantageous to them to cancel a corresponding amount of such debt. These balances are likely to grow rather than to diminish. In effect therefore they are a permanent asset. Accordingly, if they are used to cancel debt, permanent debt is the most appropriate to choose for the purpose. For this reason and also because it carries a rate of interest (about 3½ per cent.) which, though well above, most nearly approximates to present market rates, it is proposed to adjust these balances by the cancellation at par of pre-1921 debt. Even taking into account the liability for the payment of interest on provident fund deposits (assumed at 4½ per cent. for 1937-38—a rate which is likely thereafter to fall), each province will reap a budgetary benefit by this process.

(b) Consolidation.

3. Owing partly to changes in the constitution of the Government of India's own debt, from which the capital of the Provincial Loans Fund is

derived, the existing arrangements for borrowing from the Provincial Loans Fund have resulted in an unsatisfactory relationship between the periods for which that Fund has lent to the provinces and those in which the Fund's capital is repayable to the market. In order to correct this anomaly it is proposed to revise the means by which provincial borrowing requirements should be met for the future; and in this connection it is very desirable to simplify the present relations of the provinces to the Fund by consolidating the pre-autonomy debt of each province into a single debt carrying a single rate of interest. This step is also advisable in the interests of future provincial credit, to which end also it should include provision for the redemption of the remaining pre-1921 debts, which at present are not amortised.

4. If the period of repayment of such a single consolidated debt were fixed at 45 years, the above objects could be accomplished without imposing any additional burden on the budgets of the provinces and indeed with some relief to each. The Government of India would have preferred to consolidate on the basis of a shorter period, but 45 years is at any rate more in accord with the Government of India's own obligations to the market than the existing periods of repayment of many of the provinces' present obligations to the Fund, and they would be prepared to accept that period. Certain exceptions would be necessary to comply in all cases with the desire to avoid increased burdens on the provinces. Owing to the disproportionately large amount of pre-1921 debt of the Punjab, the general plan would not be entirely satisfactory in that case, and it is proposed to exclude from consolidation Rs.10 crores of the Punjab pre-1921 debt, the Punjab Government retaining that debt at 3½ per cent. on its present basis with the option to redeem it if at any time they desire to take advantage of market conditions to do so. In the case of Bombay, it is proposed to exclude a block of comparatively short term debt of the Presidency Corporations and to continue this block entirely on the present terms.

5. The average rate of interest payable on the debt to be consolidated has been calculated, to the nearest quarter per cent., to give credit in advance for the near conversion operations of the Government of India. According to the existing terms of the Provincial Loans Fund, provinces could thereafter expect no substantial benefit from conversion operations until the Government of India 1945-55 and 1960-70 loans are redeemed. In order that the provinces may share any advantage arising on those occasions, it is proposed to give them the right (subject to any restrictions which may be imposed under section 163 (3) of the Government of India Act), within a year on each side of the first optional dates of repayment of these loans, to redeem in cash at par a part or possibly the whole of the amounts outstanding on those dates of their pre-autonomy debts due to the Government of India (any balance to be repaid over the remainder of the 45 year period),

6. In addition, the Government of India will be prepared to provide free of charge any ways and means advances required by any province during the year 1937-38 on the understanding that these are completely liquidated by 31st March, 1938.

7. The detailed effect of the above proposals is set out in the accompanying table,

TABLE.

	Madras.	Bombay.	Sind.	U. P.	Punjab.	C. P.
I.—(1) Pre-1921 debt	827.8	615.6	274.9	1219.4	1086.7(e)	151.9
Deduct (2) Balance available on decentralisation	577.2	361.1	49.4	322.6	294.2	151.9
Add (3) Post-1921 debt	727.5	2070.8	229.7	1760.3	998.9	378.6
(4) Debt to be consolidated	978.1	2325.3	455.2	2647.1	1791.4	378.6
II.—(5) Proposed rate of interest on consolidation	4.5	4.5	4.00	4.25	4.00	4.25
III.—(6) Debt charges as in 1936-37 revenue budget (d)... ..	90.5(b)	139.0	24.0	146.6(a)	96.9	27.1
(7) Annual total debt charges on existing debt (d)	90.5	149.3	24.0	157.4	96.9	45.6
(8) Annual debt charges under consolidation	51.2	121.5	22.1	133.5	86.5	19.0
(9) Gross benefits against budget 1936-37	39.3	17.5	1.9	13.1	10.4	8.1
(10) Gross benefit against total debt charges	39.3	27.8(e)	1.9	23.9	10.4	26.6
(11) Liability of province in respect of that portion of (2) which carries interest assumed at 4½ per cent.	13.1	13.3	1.2	11.2	8.7	5.7
(12) Net benefit as against 1936-37 budget (d)	26.2	4.2	.7	1.9	1.7	2.4
(13) Net benefit as against total debt charges (d)	26.2	14.5(e)	.7	12.7	1.7	20.9

(a) U. P. debt charges on 1936-37 borrowing excluded and also 6.82 special repayment of 1935-36 borrowings.

(b) Madras debt charges on 1936-37 borrowing excluded.

(c) After cancelling one crore against debt due by Government of India and isolating further 10 crores at 3½ per cent. excluded from consolidation.

(d) The difference between items (6) and (7) or items (12) and (13) in some provinces is due to amortisation charges being met from resources which have not entered the revenue accounts e.g., capital receipts into the Provincial Loans Account or other balances.

(e) These figures may possibly be regarded as 4.9 too high.

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Act, 1935. (Cmd. 5011) 22,5 G5 pp. 147-163
15. The Burma Criminal Law Amend-
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THE
GOVERNMENT OF INDIA ACT, 1935.

Correspondence between the Local Governments,
the Government of India and the Secretary
of State on the Recommendations of the
Niemeyer Report, copies of which have
been presented to Parliament by the
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*These are repeated at pp. 95-114
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 Nandkishore & Bros., Chowk, Benares City.
 Nateson & Co., Publishers, George Town, Madras, Messrs. G. A.
 New Book Co., "Kitab Mahal", 192, Hornby Road, Bombay.
 Newman & Co., Ltd., Calcutta, Messrs. W.
 North India Christian Tract and Book Society, 18, Clive Road, Allahabad.
 Oriental Book Supplying Agency, 15, Shukrawar, Poona City.
 Oxford Book and Stationery Company, Delhi, Lahore.
 Simla, Meerut and Calcutta.
 Parikh & Co., Baroda, Messrs. B.
 Pioneer Book Supply Co., 20, Shib Narayan Das Lane, Calcutta and 219, Cloth Market, Delhi.
 Popular Book Depot, Grant Road, Bombay.
 Punjab Religious Book Society, Lahore.
 Punjab Sanskrit Book Depot, Saidmitha Street, Lahore.
 Raghunath Prasad & Sons, Patna City.
 Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
 Ram Krishna Bros., Opposite Bishrambag, Poona City.
 Ram Narain Lal, Katra, Allahabad.
 Ramesh Book Depot, Stationery Mart, Kashmir Gate, Delhi.
 Ray & Sons, 43, K. & L. Edwardes Road, Rawalpindi, Murree and Peshawar, Messrs. J.
 Ray Chowdhury & Co., 119, Ashutosh Mukherjee Road, Bhawanipur, Calcutta.
 Rochouse & Sons, Madras.
 Roy Chowdhury & Co., 11, College Square, Calcutta, Messrs. N. M.
 Sampson William & Co., 127-B, The Mall, Cawnpore.
 Sarkar & Sons, 15, College Square, Calcutta, Messrs. M. O.
 Sarkar & Co., Ltd., 18, Shama Charan De Street, and 8/2, Hastings Street, Calcutta, Messrs. P. C.
 Scientific Publishing Co., 9, Taitola Lane, Calcutta.
 Seebachalam & Co., Masulipatam, Messrs. M.
 Shivji & Co., P. O. Chaullaganj, Cuttack.
 Shri Shankar Karnataka Pustaka Bhandara, Malasuddi, Dharwar.
 S. P. Bookstall, 21, Budhwar, Poona.
 Standard Bookstall, Karachi.
 Standard Book Depot, Lahore, Dalhousie and Delhi.
 Standard Law Book Society, 5, Hastings Street, Calcutta.
 Standard Literature Company, Ltd., Calcutta.
 Students' Popular Depot, Kaeheri Rd., Lahore.
 Surat and District Trading Society, Surat.
 Taraporevala Sons & Co., Bombay, Messrs. D. B.
 Thacker and Co., Ltd., Bombay.
 Thacker, Spink and Co., Ltd., Calcutta.
 Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay, Messrs. N. M.
 Union Stores, Indore City.
 University Book Agency, Kaeheri Road, Lahore.
 Upper India Publishing House, Ltd. Literature Pub. Co., Ammudaula Park, Lucknow.
 Varadachary & Co., Madras, Messrs. P.
 Wheeler & Co., Allahabad, Calcutta and Bombay Messrs. A. H.
 Young Man & Co., Ajmer and Egerton Road, Delhi

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TELEGRAM FROM THE GOVERNMENT OF MADRAS, No. 185, DATED THE 5TH
MAY 1936.

Madras Government regret that form of Report which set out conclusions respecting special assistance to certain Provinces with little or no indication of reasons for arriving at these conclusions creates difficulty at outset in formulating arguments by way of criticism.

Sources of revenue of all Provinces at present substantially same except that Bengal, Assam, Bihar and Orissa enjoy advantage of subsidy to fifty per cent. export duty on Jute. In absence of evidence to contrary it may be assumed that natural resources of Provinces are approximately equal, though there are admittedly special circumstances affecting case of some of smaller Provinces.

It follows that burden of proof that their present or future resources are inadequate lies heavily on Provinces whose budgets show recurring deficits. *Prima facie*, it is to be presumed that their administrative systems are unduly expensive or that they have failed to retrench adequately when retrenchment was necessary (and report admits that some Provinces have retrenched more drastically than others) or that they have failed to tax themselves adequately.

It may be agreed that it is difficult to assess exactly relative extravagance or economy of administrative systems or adequacy of retrenchments in different Provinces owing to differences of conditions, but annual reports of Accountants-General and of Auditor General give some indication of general soundness or unsoundness of financial policy pursued by different Provincial Governments.

In matter of taxation, comparison is possible with reference either to ratio of taxation or *per capita* incidence.

Madras Government regret that report attempts no statistical comparison when such comparison practicable. In opinion of Madras Government report attaches undue importance to budgetary positions of Provinces as they now stand and ignores budgetary positions as they might or should have been had deficit Provinces consistently followed sounder financial principles.

Madras Government contend that their comparatively sound financial position is due not to intrinsic superiority of natural resources of Presidency but to prudent financial administration and adequate taxation. If for example Bengal are considered to be hampered by the Permanent Settlement (and it must not be overlooked that one quarter of Madras Presidency is subject to Permanent Settlement) it is open to Bengal to impose tax on agricultural incomes.

Proposals of Report penalise Provinces who have followed path of financial orthodoxy in balancing their budgets in spite of economic depression which has hit them no less severely than Provinces who have failed to cover deficits.

Madras Government can therefore see little justification for remission of debts to extent contemplated or to increase of proportion of export

duty on jute allotted to four Provinces. Taking Bengal by way of comparison judged on basis of *per capita* expenditure standard of administration in some respects appears lower than that of Madras though not in all; Bengal for example spends twice as much as Madras on University Education and considerably more on Public Health and Sanitation.

But *per capita* and acreage incidence of land revenue in Bengal is much lower than in Madras actually less than half on the *per capita* basis. Madras Government contend that had incidence of land tax and other taxes been as high in Bengal as Madras, Bengal standard of administration could have approximated to that of Madras. Revised Budget estimates for 1935-36 show deficit of 15 lakhs for Bengal against deficit of 32 lakhs for Madras.

Following consistent policy of financial orthodoxy Madras has restricted expenditure for 1936-37 so as to balance budget while Bengal have budgeted for deficit of 42 lakhs including considerable new expenditure which financial position does not appear to justify.

On these figures proposed further assistance of 75 lakhs to Bengal is out of all proportion. Assistance on scale proposed to eight Provinces will seriously jeopardise possibility of distribution of share of income-tax receipts. Madras Government trust that their case will not be prejudiced by circumstances that under scheme of decentralisation of balances and consolidation of debt it is forecasted that they will benefit more than other Provinces.

Budgetary benefit of decentralisation of balances to Madras is estimated to be less than 1 lakh *per annum*. Benefit of debt consolidation proposals estimated at 26.2 lakhs against 1936-37 budget falls to negligible figure by 1940-41 and becomes minus from 1944-45 onwards.

In reference to method of distribution of proceeds of taxes on income Madras Government suggest that Bombay with population of 18 millions is disproportionately benefited by allocation of the percentage of 20 as against Madras with population of 44 millions and allocation of percentage of 15 only, more especially as Bombay gain 90 lakhs by separation of Sind while Madras gain 20 lakhs only by transfer of small area to Orissa.

Grounds for proposal are presumably that Bombay is at present more highly industrialised than Madras and so contributes greater share of income-tax. Report fails to take into account probabilities of industrial development in Madras consequent on supply of cheap electricity from new Hydro-Electric and Thermo-Electric schemes now contemplated or in course of completion or under investigation.

Progress of industrialisation in areas already supplied with electricity justifies expectation of considerable change in relative incidence of income-tax in Bombay and Madras in future.

On this ground and general ground that population factor is more constant and more exactly determinable than residence factor Madras Government contend that if both factors are to be taken into consideration greater aid should be given to population factor and would press for some revision of proposed percentages of distribution accordingly.

TELEGRAM FROM THE GOVERNMENT OF BOMBAY, No. 79, DATED THE 5TH
MAY 1936.

Government of Bombay wish to record an emphatic protest in regard to recommendations contained in Niemeyer Report. While fully accepting paramount need for financial stability at Centre and necessity for so equipping all provinces as to give them a reasonable prospect of reaching and maintaining financial equilibrium, Government of Bombay feel strongly that case of this Presidency does not appear to have received consideration it merited, inasmuch as no steps have been proposed to correct the position in which province of Bombay has been involved by reason of inequity and inherent unsoundness of Meston Settlement including falsification of forecast of revenue made by Meston Committee, the complete failure of the anticipations of Percy Committee, the cost of development schemes in Bombay City undertaken at behest of Secretary of State and long drain on Presidency proper caused by its association with Sind. The financial difficulties caused by these circumstances and more recent economic disturbances common to all provinces have been met by Bombay Government enforcing most rigid retrenchment supplemented by emergency taxation. The retrenchment measures have produced an approximate immediate annual saving of some 150 lakhs but it has been clearly recognised from the beginning that a very large proportion of this retrenchment is unobtainable. The additional emergency taxation at present yields 72½ lakhs annually in Presidency excluding Sind.

2. Public opinion is unanimous that if Government of Bombay assisted by their Legislative Council had not made these great sacrifices for maintenance of their financial stability and standard of their ordinary administration they would have shared in benefits now proposed for other provinces which faced their financial difficulties with less resolution.

3. In particular Government of Bombay consider that estimate, in paragraph No. 11 of Report, of annual benefit from separation of Sind as approximately 90 lakhs is exaggerated. The amount of this relief was placed at 98 lakhs in Irving-Harris Report and at 79 lakhs by Sind Conference of 1932 which certainly had no reason to underestimate it. Bombay Government have not thought it safe to place figure for 1936-37 budget higher than 76 lakhs.

4. As for share in income-tax receipts Government of Bombay must deplore recommendations made that its distribution to provinces should be made entirely dependent upon successful running of railways, position of which as is pointed out in paragraph 31 of Report is frankly disquieting. In addition to delaying power given to Governor-General by Section 138 of Government of India Act there is now this recommendation. Any dislocation of finances of Centre or failure of railways to show a profit will mean that passing on of any substantial amount of this source of revenue to provinces will become impossible. In fact it is more or less certain that provinces will receive no share of tax during first five-year period and that they will be indeed fortunate to receive any substantial share during second. The Government of India should not be inhibited from supplementing their revenues from sources other than railways in order to accelerate distribution of income-tax to provinces.

5. Net results of recommendations as far as Bombay Presidency is concerned are that province is left with no expanding source of revenue

until such time as share in income-tax proceeds is received ; is faced with additional expenditure which must follow introduction of provincial autonomy and prospect of being compelled to restore a considerable amount of retrenchment which will swallow up bulk of relief accruing from separation of Sind and will be forced to abandon any hopes of expansion in such directions as education, public health, agriculture, animal husbandry and the like.

6. In conclusion Bombay Government again press strongly for cancel-
lation of fictitious debt created in respect of unproductive irrigation works.
These works were financed from revenue and not from loan money. They are protective in character and were not intended to yield a profit. They have been and always will be a source of loss. They should have been left with Bombay Government without creation of this fictitious debt which was no more justified than a fictitious debt for previous expenditure on roads or buildings. Bombay suffered almost as much as all other provinces combined by this false debt. Since it was based on forecasts which were entirely falsified, continued existence of burden is unjust.

TELEGRAM FROM THE GOVERNMENT OF BENGAL, No. 3-T.-F.B., DATED THE 6TH MAY 1936.

1. The Government of Bengal accept the proposals contained in paragraph 17 of the report in regard to the assistance to be given to certain provinces on the introduction of provincial autonomy. They regard the proposals as in the nature of an award given after a determination of the amount immediately available for distribution among the provinces and after an examination of the budgetary position of the several claimants to that amount. Looked at in this light they cannot but accept them as fair and reasonable though they are deeply disappointed that the immediate assistance to be given to Bengal, a province in which by reason of what is now admitted to have been an unfair distribution of resources the standard of administration in admittedly low, falls far short of their original expectation.

2. As regards the proposals relating to the distribution of taxes on income the Government of Bengal, while accepting the general scheme, desire to raise two points.

3. First, in paragraph 30 of the report it is recommended that during the initial period the prescribed sum which the Centre may in any year retain out of the provincial share of the proceeds of taxes on income shall be the whole or such amount as, together with any General Budget receipts from the Railways, will bring the Central Government's share in the divisible total up to 13 crores. At present the divisible total is approximately 12 crores and the Government of Bengal suggest that this is the more appropriate figure. The adoption of this figure will fortify the argument advanced in the Report in favour of creating an interest in the provinces in securing an improvement in the Revenue from Income Tax and Railways. Further, the Government of Bengal attach great importance to the early distribution of some share in the proceeds of the taxes on income among the provinces. It was recognised on the introduction of the present constitution—*vide* Devolution Rule 15—that the provinces, particularly the industrial provinces, were entitled to a share in the taxes on income and during the last 15 years the industrial provinces have had a legitimate grievance since that rule failed to give the relief for which it was specially designed. In justice to the industrial provinces, therefore, it is essential that every endeavour should be made to expedite the allocation to the provinces of some share in the proceeds of taxes on income.

4. Second, in paragraph 34 of the Report the conclusion reached is that substantial justice will be done by fixing the scale of distribution partly on residence and partly on population, and in paragraph 35 it is recommended that the division among the provinces should be according to the percentages given therein. The same percentage, 20 per cent, is proposed both for Bengal and Bombay. If residence alone had been taken as the determining factor there would be little difficulty in accepting parity between Bengal and Bombay and each would then gain at the expense of other provinces, but the Government of Bengal find it difficult to understand how parity can be justified with population as one of the bases, for the population of Bengal is nearly three times that of

Bombay. Calculations made with reference to the figures given in Table III of paragraph 74 of the Report of the Federal Finance Committee (the Percy Committee) produce percentages approximating closely to those recommended by Sir Otto Niemeyer in respect of all provinces except Bengal, Bombay and Assam. As regards Bengal and Bombay the percentages given by these calculations are somewhat below 25 for Bengal and somewhat above 15 for Bombay. The report does not indicate if weightage has been given to Bombay, but if weightage were to be given anywhere the Government of Bengal would have expected to find it given to Bengal and not to Bombay in view of the fact that (i) Bombay has obtained fortuitous relief to the extent of 90 lakhs from the separation of Sind and (ii) for many years Bengal has, through no fault of her own, been compelled to submit to an administrative standard markedly inferior to that of Bombay. It is possible that the incidence calculated by reference to residence alone has moved in favour of Bombay since the Federal Finance Committee reported, but in the absence of more detailed information the Government of Bengal find themselves unable to accept the proposal that Bengal and Bombay should be given the same percentage.

5. As regards the jute export duty the Government of Bengal must reiterate their claim that this should, on principle, be treated as a provincial source of revenue.

6. The jute export duty was imposed originally as an emergency measure during the war. After the war and up to the onset of the trade depression jute commanded high prices and the *ad valorem* incidence of the duty was low. In 1924-25 the incidence was between 4 and 5 per cent. The position has, however, now changed. The price of jute has fallen enormously whereas the dead-weight of the duty has remained constant and at to-day's prices the *ad valorem* incidence is over 13 per cent. Again, competition by substitutes has increased, for instance paper bags are now largely used for the transport of cement and the adoption of bulk handling of grain is extending. In these changed conditions the Government of Bengal consider it unlikely that the export duty is now passed on to the consumer and in their view it is more probable that it is borne for the greater part by the producer.

7. The Bengal case was not, however, by any means founded entirely on the present incidence of the duty. There are other cogent arguments, though of a political rather than an economic and financial nature. In the first place, Bengal can never rest content under a fiscal system which aims at protecting, largely at her expense as a consumer, the products of other provinces while taxing her distinctive staple product for the benefit of the Centre, in other words for the benefit of those provinces. In the second place, the prosperity of Bengal is bound up with the prosperity of the jute trade. The Royal Commission on Agriculture of 1926-28 drew attention to the risk of substitutes. They were impressed with the danger to the prosperity of Bengal if jute failed to retain its present position and stressed the fact that if jute is to retain that position every effort must be made to maintain the relative cheapness of jute as compared with other fibres. The Provincial Government share to the full the views and are of opinion that it is inherently unsound that the Centre, which for this purpose means the non-jute producing

provinces that will command a majority in the Central Legislature, should be financially interested in the taxation of a product with which the prosperity of a comparatively small area is so vitally linked.

8. The question of export duties was examined at considerable length by the Indian Fiscal Commission and one of the principles they recommended for adoption was that in every case an export duty should be moderate in amount. Wherever the actual incidence may be, it seems clear that the jute export duty to the extent that it falls on the consumer must raise the world price of jute and thus put jute at a disadvantage with its competitors. Similarly, to the extent that it falls on the producer, it must reduce the price which the producer would otherwise obtain. As long as the amount of the duty is moderate it does not have an appreciable effect in either of these directions: Hence the insistence of the Fiscal Commission on the principle mentioned. Now, the jute export duty up to the commencement of the trade depression was moderate in its incidence but at present day prices it certainly transgresses that sound principle—an export duty which works out at approximately 13 per cent. *ad valorem* cannot be described as moderate. It appears unlikely that jute prices will return to the pre-depression level, and the Government of Bengal are therefore of opinion that a reduction of the duty must be contemplated in the not distant future. At present financial considerations do not permit of any reduction of the duty and the terms and implications of the Report definitely negative the possibility of a reduction in the future at the expense of the Provincial Governments concerned. But unless the assumptions made in the Report are entirely falsified, there will be a progressive improvement at the Centre and, accordingly, the proposal which the Bengal Government put forward for acceptance as part of the present scheme of financial adjustment between the Centre and the Provinces, is that at a date not later than the end of the first 5-year period, the rate of the duty should be reduced to the figure necessary to produce the amounts now allocated to the provinces, *plus* any sum required for research and that, simultaneously, the percentage of the proceeds of the duty to be assigned to the jute-producing provinces should be increased so as to give the provinces the whole amount of the net proceeds except what is retained by the Centre for research.

9. The Government of Bengal press most strongly for the adoption of the proposal put forward in the preceding paragraph. This does not involve any modification of the Order in Council now to be made, nor any addition to the resources which the Report recommends should be given to Bengal. At the same time it recognises the position as regards the rate of the duty and possesses the great political advantage of removing once for all the sense of injustice under which this province has laboured for so many years and which, if not now removed, will continue to the prejudice of sound administration and to the exceeding detriment of relations between the Province of Bengal and other parts of India.

TELEGRAM FROM THE GOVERNMENT OF THE UNITED PROVINCES, No. 138-C.X.,
DATED THE 6TH MAY 1936.

The United Provinces Government recognise that Niemeyer Report presents a carefully balanced scheme which in its main outlines stands or falls as a whole. Though there are certain important factors to which they would have wished a different value given they realise that it is not practicable at this stage to suggest fundamental changes in scheme put forward for solution of an extremely difficult and complicated problem.

2. There is however one important point relating to United Provinces which appears to the United Provinces Government not to have been fully appreciated and which is likely to have such a serious effect on new Constitution in Province that they feel bound to press it strongly on attention of the Government of India and Secretary of State.

3. The United Provinces Government accepts general conclusions of Sir Otto Niemeyer that apart from ultimate share in income-tax receipts temporary relief only is necessary in this Province. The reason for peculiar position of United Provinces noted by Sir Otto Niemeyer is that its revenues are at present depleted by no less than 112 lakhs—the annual land revenue remission that has been given for last five years necessitated by slump in agricultural prices. This land revenue remission carries with it a remission of annual rent to tenants amounting to 4 crores and thus affecting vitally whole agrarian position. The loss in land revenue can only gradually be reduced. Temporary relief is thus essential in earlier stages of process of recovery.

4. The position for first few years of autonomy is however appreciably worse than appears to have been realised. The policy for re-adjusting land revenue demands which Government with unanimous approval of Legislature have just embarked upon involves somewhat slow and costly procedure of re-settlement and revision of land revenue on basis of existing prices and expenditure thereon in first two years will exceed resulting increase in land revenue receipts by substantial sums. Drastic retrenchments in Provincial expenditure have been effected since slump and during past year this Government have again scrutinised every item of expenditure with the utmost care and have made and taken into account in their estimates further reductions which in their judgment carry retrenchment to its extreme limits. They have indeed reduced standard of administration in some cases to an unreasonably low level which cannot be maintained much longer. In addition the Legislature in its last session passed two taxation measures increasing Court fees and stamp duty but effect of this will be largely discounted during next few years by depressing effect of debt legislation on receipts under this head the depression being at present greater and likely to be more sustained than was formerly anticipated.

5. A careful re-examination of position reveals that there will inevitably be a revenue deficit of Rs. 53 lakhs in first year of autonomy which proposed subvention of 25 lakhs would reduce to 28 lakhs. In the second year it is estimated that with subvention of 25 lakhs there must still be a deficit of 7 lakhs. This means as a result of two years working of new Constitution the Government, even if it provided no fresh expenditure for developments which are urgently required, would have incurred

a deficit of 35 lakhs. This Government feels confident that neither Government of India nor the Secretary of State would consider it reasonable that new Government should be faced at the outset with inevitable deficit on this scale. The effect on working of new Constitution and on public attitude towards finance would be most harmful. So far as Government of the United Provinces can judge it is not the intention of Niemeyer Report that any other Province should be launched into new Constitution with an actual and inevitable deficit. This Government therefore strongly urges that sufficient assistance should be given at the outset to enable Province to start not in a submerged condition. They suggest that subvention should be raised by 15 lakhs to 40 lakhs for each of first 3 years and be fixed at 25 lakhs as proposed in the Report for remaining two years. This would still leave new Government with a deficit of 13 lakhs in its first year but recovery would at least be in sight.

6. In connection with distribution of income-tax receipts this Government wish to emphasise very great importance they attach to Sir Otto Niemeyer's proposal for an early and thorough-going overhaul of Railway expenditure.

7. Lastly if it is necessary for Governor-General at the end of 5 years to exercise his delaying power under Section 138 of Government of India Act so that this Province does not at that time receive any appreciable amount of income-tax the loss by cessation of subvention would result in serious budgetary difficulties. This Government therefore suggests that after first period of 5 years until receipts from income-tax amount to 15 lakhs a subvention should be given sufficient to bring total income-tax receipts plus the subvention to 15 lakhs.

EXPRESS LETTER FROM THE GOVERNMENT OF THE PUNJAB, No. 15360, DATED
THE 30TH APRIL 1936.

The following are the comments of the Punjab Government on the Report of the Financial Enquiry by Sir Otto Niemeyer :—

1. The only comparative figures as between Provinces are contained in Appendix II-B of the Report. As already intimated, figures for Punjab incorrectly represent Revenue position. They should be :—

(In lakhs of rupees.)

1930-31—

Revenue	..	..	..	..	10,10
Expenditure	..	..	..	..	10,99
					- 89

1935-36 (Revised)—

Revenue	..	..	..	..	10,24
Expenditure	..	..	..	..	10,45
					- 21

1936-37 (Budget)—

Revenue	..	..	..	..	10,44
Expenditure	..	..	..	..	10,60
					- 16

Error is due to fact that figures as given in Report include Extraordinary Receipts on revenue side and specific capital charges against them on expenditure side. In fact, since 1922, Punjab have consistently treated these receipts as of capital nature, and have used none of them for revenue purposes. Balance not charged against specific capital heads has been used to reduce capital loans. This was explained in Memorandum* and to Niemeyer personally; and until we saw figures we had no reason to suppose there was any misunderstanding. Practice fully understood by Legislative Council and consistently approved by them. Finance Member this year, according to accepted practice, introduced Revised 1935-36 and Budget 1936-37 as deficit budgets, and as such they were debated. Only comparative figures in Report, therefore, contain serious mistake as regards Punjab, and overstate Revenue position.

2. In case it is contended that Punjab practice tends to conceal revenue strength, we refer to paragraphs 1 and 2 of Memorandum. By

ear-marking extraordinary receipts for capital purpose, we have saved 9 crores in loans since 1921-22. Had we used them for revenue purposes, we should have had to borrow additional 9 crores at rates of interest, average, roughly $4\frac{1}{2}$ per cent. We have thus saved interest which would now amount to 40 lakhs per annum. Our actual extraordinary receipts for 1934-35 were 16 lakhs, estimates for 1935-36 are 22 lakhs, and for 1936-37 are 36 lakhs. Owing to fall in land prices, there is no prospect of receipts showing any appreciable increase. Savings in interest, therefore, exceed total receipts from this source, and policy consistently pursued, far from concealing revenue strength, has made ordinary revenue position stronger than it would otherwise be.

3. So far as immediate assistance is concerned, two very relevant considerations are the following :—

First, the amount of assistance given to any province during the last few years from Central Revenues, and

Second, relief other than from Central Revenues which provinces will gain as a direct result of the new Constitution.

The various relevant forms of assistance from Central Revenues proposed or already given are :—

- (i) Cash subventions—paragraph 24 of Report,
- (ii) Fifty per cent. jute duty,
- (iii) Additional $12\frac{1}{2}$ per cent. jute duty,
- (iv) Benefits from debt adjustments,
- (v) Prospective shares from Income-tax.

(vi) As a result of new Constitution, Madras, Bombay and Bihar will secure relief through separation of provinces.

We omit proceeds from road fund, because petrol surcharge was imposed for distribution to provinces, and we omit also special grants for rural reconstruction which we gratefully acknowledge, but which are non-recurring (paragraph 29 of Report).

Omitting non-recurring grants, the figures of relief which various provinces will secure are given in the attached statement. It is assumed throughout that it will not be possible to give any share of Income-tax to provinces before the sixth year.

4. This statement speaks for itself. Out of recent and immediate relief amounting to 822 lakhs, it is proposed that the Punjab should get 1.7 lakhs, or one-fifth of one per cent. Out of total relief which is estimated at 14,22 lakhs at the end of ten years, Punjab will get 49.7 lakhs or 3.5 per cent. of the total.

So far as immediate relief is concerned, the position is actually worse than that shown, since the Government of India are withdrawing an assignment of 7 lakhs which the Punjab receives at present on account of compensation for loss of Excise duty on Punjab liquors consumed in Delhi and the North-West Frontier Province. Allowing for this, the proposals mean that not only will the Punjab start under the new Constitution with no outside relief whatever, but to the extent of five lakhs will be helping Central Revenues. In contrast with this, every province in India will get

immediate relief, varying from the enormous sum of 243 lakhs in the case of Bengal to 21 lakhs in the case of the Central Provinces. Of the major provinces, the United Provinces is second to the Punjab, but will get 38 lakhs.

5. The only provinces to which it is not proposed to give direct subventions, are Madras, Bombay and the Punjab. As regards the first two, however, they get direct relief from the separation of provinces and additional assistance from debt transactions. Madras gets relief to the extent of 46 lakhs from these sources and Bombay to the extent of 104.5 lakhs. The system of direct or indirect relief is, therefore, universal, there being one exception only and that the Punjab. We have sought for reasons in the Report itself for this exception, but have found only the following :—

In paragraph 11 of the Report, reference is made to the relief given to Madras and Bombay through separation of provinces, and this is presumably one reason why they have been given no direct subvention. In the same paragraph, it is mentioned that these two provinces and the Punjab have certainly not the lowest administrative standards in India. We can find in the Report no other specific reason why no subvention has been proposed for the Punjab. In paragraph 20 of the Report, Niemeyer supports the fact that Madras, Bombay and the Punjab to whom he does not suggest any immediate assistance as part of his proposals, will derive certain advantages from the scheme. Madras gets 26 lakhs immediate advantage, and Bombay 14½ lakhs. The Punjab will get the nominal immediate benefit of 1.7 lakhs, and, as already mentioned, this is more than wiped out by the loss of an existing assignment from Central Revenues. It is a misapprehension to suppose that, under the proposals, the Punjab will get any immediate relief. For the first five years it will get less assistance than at present, and there are no compensating factors, as in the case of Madras and Bombay, to weigh, even partially, against the non-grant of a subvention.

6. If the proposals are accepted, the Punjab, so far as external assistance is concerned, will have to start the new Constitution worse off than it is at present, and with no prospect of any relief until the sixth year. It will, therefore, have to depend on its own resources for the first five years ; and the Punjab Government see no prospect whatever of the province remaining solvent in present conditions, unless the existing standards of administration are seriously reduced. The comparative stability of provincial revenues during the past three years is attributable to four main causes :—

First : high standard of taxation ;

Second : drastic retrenchment ;

Third : the strictest control over new expenditure ; and

Fourth : favourable harvests.

In spite of adhering to most rigorous economy, the Finance Member had this year to present a deficit budget. On the receipt side, the prospects for the future are definitely bad, and, as explained to Niemeyer, have deteriorated since the Memorandum to the Government of India was written. Mention was made in that Memorandum of prospective losses in receipts on account of the re-assessment of the Lyallpur district, and the sudden and rapid decline in civil litigation. The former loss may be

put at 20 lakhs per annum, and the latter at 15 lakhs per annum. In addition, there is the loss of the assignment of 7 lakhs already mentioned from the Government of India, and also a prospect of a loss, within two years, of revenue from the consumption of *Charas* of between 10 and 13 lakhs per annum. The Chinese authorities in Turkestan have placed a ban on the export of *Charas*, and the Punjab Government are powerless in the matter. They received information of it after the Memorandum was written. Against the above falls in revenue, the only visible offsets are 1.7 lakhs from the Government of India scheme of debt conversion, and a gradual increase in receipts from the hydro-electric scheme. On the present level of agricultural prices, the average net receipts during the next few years will be down by 40 to 50 lakhs per annum:

On the other hand, assuming that there will be no expansion of beneficent activities, or any improvement in the administrative standards, it is inevitable that there should be an increase in expenditure. Automatic increases will result from the following causes:—

- First, unavoidable expenditure in connection with the new Constitution ;
- Second, incremental scales of pay ;
- Third, pension charges ;
- Fourth, educational grants ; and
- Fifth, the maintenance and repair of public works, following the period of rigorous economy.

The drastic character of the retrenchment made after the slump, and the standard of economy followed since, make it the more difficult to keep expenditure down to existing figures. In his last budget speech when the Finance Member introduced a deficit budget for the current year, he promised that he would again examine expenditure in every department ; but he warned the Legislative Council that so much retrenchment had been done in recent years that little scope was now left.

7. The position, therefore, is that, unless agricultural prices rise, of which there is little, if any, hope, the Punjab Government must have increasing deficits, unless they again carry out drastic retrenchment. This can only be done by stopping expansion in all directions, and by cutting down existing standards in many branches of the Administration. There is no question of starting on an "even keel", or of the Punjab having, to some extent, to progress more slowly (paragraphs 4 and 10 of Report). It must go back unless it gets assistance.

8. Its position may be contrasted with that of all other provinces under the present proposals. Owing to direct subventions or indirect relief, every province, except the Punjab, will be able to start the new Constitution with greater resources than at present. Taking the 1936-37 figures as a basis and allowing for the immediate relief that will accrue on the commencement of the new Constitution every Province except the United Provinces and Assam, will have a surplus. In all of them the first Ministry will be able to start on a progressive programme—a matter of the greatest importance from the political point of view. In the Punjab alone, which claims to be one of the most progressive provinces in India, will the new Government have to face shrinking revenues, and carry out at once a programme of retrenchment.

9. The Punjab Government know of no reason for this discrimination against a single province. Its case is clearly distinguishable from the other two provinces which will receive no direct subvention. Both these provinces will receive large benefits, while the Punjab gets nothing at all. If the Punjab has attained standards of administration, and especially in the beneficent departments, higher than in some provinces, it is mainly because the people have accepted high standards of taxation. The Legislative Council has consistently supported the proposals of Government for new taxation. If the financial position of the province has been comparatively good, it is because its Government and Legislative Council have for years insisted on sound principles of finance, and, immediately after the economic slump, carried out the most drastic retrenchment. It appears to be manifestly unfair to impose a perpetual penalty on the province for these reasons, or to leave the unfortunate impression that it might have fared better, if it had been less provident in the past. Even if the principle be admitted that the present occasion should be used to apply, as between the older provinces, a certain amount of correction to existing standards, the Punjab Government contend that it is unreasonable and unfair to apply it in such a way as to exclude one province only from all benefits, and to give to another province benefits out of all proportion to those given to the rest. The direct recurring subvention out of Central revenues proposed in the Report amount, roughly, to 450 lakhs (paragraph 17 of Report). To this sum should be added the share of the jute tax already given to certain provinces (paragraph 22 of Report). The total is 640 lakhs. Of this sum, Bengal receives Rs. 243 lakhs, or 38 per cent. Out of the total sum of Rs. 640 lakhs, Rs. 375 lakhs goes to older provinces, of which Bengal receives 65 per cent. This seems to go far beyond the "certain measure of correction", to which reference is made in paragraph 10 of the Report. If it is possible to give the Punjab immediate assistance without encroaching on the relief proposed to other provinces, so much the better; but if it is not possible, then the Punjab Government consider that the proposed division of available funds is so inequitable, as between different provinces, as to require modification.

10. In short, the Punjab Government ask that the Punjab be included in the scheme of immediate relief on the following grounds :—

- (i) The figures given in Appendix II-B do not correctly represent the revenue position of the Punjab relative to other provinces, which is less favourable than there shown.
- (ii) Taking the scheme of relief as a whole, the Punjab will receive from Central Revenues, on the inception of the new Constitution, less than it is at present receiving.
- (iii) Every other province in India will get substantial relief in one form or another. In this respect, the case of the Punjab is clearly distinguishable from that of Madras and Bombay, the only other provinces for which no direct subvention is proposed but which get large relief in other forms.
- (iv) Owing to unavoidable circumstances, there will be a serious decline in recurring revenue receipts of the Punjab coinciding with the introduction of the new Constitution.

- (v) At the same time there will be an unavoidable and considerable increase in recurring expenditure.
- (vi) As a result, the Punjab must be for some years a deficit province, unless drastic retrenchment is again carried out, which, owing to the rigour of retrenchment in the past, can now be done only by seriously reducing existing standards of administration.
- (vii) In the Punjab alone, the first autonomous Government will have no resources with which to carry out even the most modest progressive programme, but will have, instead, to adopt a policy of retrenchment; or, in the alternative, go back on the sound principles of finance which the province has consistently followed since the Reforms of 1921.
- (viii) From the political point of view, the effects will be deplorable
- (ix) The present scheme, if accepted, will leave a permanent sense of injustice in the Punjab, which will be accentuated by the fact that the Punjab alone gets no benefit whatever, while in contrast, another province gets advantages out of all proportion to those given to any of the older provinces.

11. With regard to the proposed distribution of the proceeds of income-tax, the Punjab Government make the following submissions. If the scheme stood alone, the Punjab would urge distribution on a population basis, which would give them about 9 per cent., instead of 8 per cent. of the proceeds. The scheme, however, does not stand alone, since, in practice, it cannot be divorced from the other forms of permanent relief which provinces will get. When these are taken into consideration, it is clear that the Punjab comes out the worst of all provinces. The amount which they will get does not set off the amount which even the smallest province will get by way of total relief, while as between them and Bengal, the difference of treatment becomes still more marked. As between the Punjab and the other two provinces, namely, Madras and Bombay, which get no direct subventions, the proceeds from income-tax further distinguish the cases to the great disadvantage of the Punjab. The scheme of distribution accentuates the illiberal treatment proposed for the Punjab. The general result is that not only will the Punjab be crippled for the first five years of the new Constitution, but the assistance it will receive later will be on so modest a scale as to impose very narrow limits on progress dependent on external assistance. The Punjab Government would, therefore, ask that their share be increased in any case to at least the population percentage, and that, if it is not given any other means of direct relief, the share be raised well above the population basis, so as to compensate for the complete absence of relief in other directions.

*The memorandum referred to was the official representation of the Government of the Punjab on the financial enquiry. It was submitted to the Government of India in November 1935 and passed on by them to Sir Otto Niemeyer.

Enclosure to Punjab Government Express Letter No. 153360, dated the 30th April 1936.

Province.	Financial assistance already given, proposed to be given or which will be effective immediately on introduction of new constitution.						Share from income-tax which will accrue in full after 10 years (on the assumption that the amount surrendered by Govt. will be Rs. 6 Crores.).		Total of columns 7 & 9 (in lakhs).	Percentage of total amount already surrendered by the Govt. of India.
	Relief from separation of Sind & Orissa (para. 11).	Subvention proposed by Sir Otto Niemeyer (para. 24).	50 % share of duty on jute (based on figures in para. 22).	Extra 12½ % of duty on jute proposed by Sir Otto Niemeyer (para. 22).	Benefit from consolidation or cancellation of debt (para. 21 & App. III).	Total.	Per-	Amount.		
							centage.			
1	2	3	4	5	6	7	8	9	10	11
Madras	20	..	..	..	26.2	46.2	15	90	136.2	9.6
Bombay	90	..	..	..	14.5	104.5	20	120	224.5	15.7
Bengal .. .. .	..	..	168	42	33	243	20	120	363	25.6
U. P. .. .. .	..	25(a)	..	..	12.7	37.7	15	90	127.7	9
Punjab .. .. .	..	..	..	..	1.7	1.7	8	48	49.7	3.5
Bihar	8	..	10	2.5	22	42.5	10	60	102.5	7.2
C. P. .. .. .	..	..	..	..	20.9	20.9	5	30	50.9	3.6
Assam .. .. .	..	30	9	2.25	15.5	56.75	2	12	68.75	4.8
N.-W. F. P. ..	..	100(b)	..	..	12	112	1	6	118	8.3
Orissa .. .. .	..	40(c)	1	25	9.5	50.75	2	12	62.75	4.4
Sind .. .. .	..	105(d)	..	..	7	105.7	2	12	117.7	8.3

(a) For a period of 5 years.

(b) Subject to reconsideration at the end of 5 years.

(c) An additional Rs. 7 lakhs will be given in the first year, and Rs. 3 lakhs in each of the next four years.

(d) For a period of 10 years to be reduced gradually thereafter (paragraph 13). In the first year an additional Rs. 5 lakhs to be given for the jail at Shakarpur.

TELEGRAM FROM THE GOVERNMENT OF BIHAR, No. 9-R.C., DATED THE 6TH
MAY 1936.

Following are views of Bihar Government on Niemeyer Report.

Paragraph 17.—In paragraph 11, Niemeyer admits as past Committees have admitted that Bihar and Orissa is the poorest Province in India. Bihar itself has an extremely dense population. It contributes largely to the wealth of India from its minerals and agriculture but derives no financial advantage as it is not permitted to tax the minerals and is under the disability attaching to no other Province except Bengal owing to Permanent Settlement making any increase in land revenue impossible. The existence of mining and industrial areas is consequently an extra financial burden. Local Government urge strongly that the figure of 45 lakhs asked for by them is the minimum immediate requirements as a grant-in-aid. This figure is fully justified by financial history of the Province which has been starved since it came into existence in 1912 and has had perforce to maintain a lower standard of administration than any other Province of India, which standard has been recently lowered by the policy of retrenchment which has been followed. While 25 lakhs will allow some increase over expenditure in 1936-37 budget provided excise receipts remain stable this figure takes insufficient account of the factor mentioned above. Assistance proposed is therefore inadequate to start the Province on an even keel as proposed in paragraph 9.

Paragraphs 19 to 21.—Bihar debt contracted before 1st April 1936 outstanding on 1st April 1937 will amount to 471 lakhs, of this sum 341 lakhs is pre-reform undated debt carrying interest at the rate of 3 1/3 per cent. balance 130 lakhs is dated repayable in years between 1941 and 1966 of which 30 lakhs is bearing interest varying between 4 1/2 and 5 1/2 and balance at 3 1/4 or less. If debt were consolidated as in Appendix III repayable in 45 years interest should not exceed 3 1/2 per cent. giving annual instalment of about 21 1/2 lakhs. If debt were not consolidated annual budget saving resulting from cancellation of debt would for a few years slightly exceed this figure but would rapidly decrease as loans are repaid and would drop to 12 lakhs in 1956. Not more than 22 lakhs should therefore be taken as maximum annual recurring budget benefit resulting from debt cancellation.

In these circumstances local Government assumed that figure of 22 lakhs in paragraph 21 implied that in case of Bihar no part of decentralised balances would be set off against debt cancellation and the whole of decentralised balances about 3 crores would be available to local Government for ways and means and for utilisation to secure funds for payment of the new liability for the Provinces after decentralisation of balances, *viz.*, interest of 6 1/2 lakhs on Provident Funds which sum is approximately all that can be realised by investment of the balance after providing for ways and means.

Government of India have however advised in response to a reference that this assumption is incorrect and that Bihar will receive only a single sum of 21 lakhs out of its provincial balances under scheme of decentralisation implying that rest of provincial balances will be retained by Government of India as a set off to debt cancellation.

If Government of India view is correct, Bihar will not only have to find 6 1/2 lakhs a year to meet interest on Provident Fund but will be

deprived of capital by investment of which this sum might have been produced. Local Government claim that on this theory the benefits which it is intended they should receive will be reduced not only by 6½ lakhs but by the annual value of the balance of 280 lakhs which will be appropriated by the Government of India. This figure they put at 10½ lakhs that being the sum by payment of which a debt of 280 lakhs can be repaid in 45 years at 2½ per cent. The approximate net annual budget saving resulting from debt cancellation is therefore, if the Government of India view is correct, reduced to 11½ lakhs in place of 22 lakhs referred to in paragraph 21.

Local Government cannot believe that the Government of India interpretation is correct in case of Bihar as on that interpretation the special assistance for Bihar becomes largely fictitious and local Government are convinced that Niemeyer recommendation for nett improvement of Bihar finances was intended to be the equivalent of a genuine grant-in-aid of 25 lakhs and this at least the local Government claim should be given without any reduction of decentralised balances. To sum up on Government of India interpretation the Niemeyer recommendation would only benefit Bihar to the extent of 11½ lakhs plus 2½ from jute tax in place of 25 lakhs which Sir Otto found necessary in the first instance and to reach Niemeyer figure of requisite assistance from debt cancellation and extra share in jute tax would have to be supplemented by a grant-in-aid of 10½ lakhs.

Local Government are the more convinced of their interpretation of the intention because under the present proposals they are being deprived of an advantage which will accrue on decentralisation of balances to other provinces which are not held to be in need of immediate assistance. By the method proposed in Appendix III for consolidation of debts, Madras is shown as benefiting to extent of twenty-six lakhs and Bombay to the extent of fourteen and a half which benefit is lost by provinces whose debts are cancelled by paragraph 21. In fact if the assignment of 45 lakhs claimed by Bihar cannot be given local Government urge that in addition to 25 lakhs grant-in-aid they should be allowed in some way to share the advantage given to provinces on liquidation of their debts against outstanding balances.

Paragraph 35.—Local Government claim was that the basis of distribution should be wholly that of population and they still consider that as the distribution of income-tax is a balancing factor to equalise the opportunities of various provinces a distribution entirely on this basis would be fair. They would therefore press for an increase to 12 in the percentage allotted to Bihar to compensate in future for past financial starvation of Bihar.

TELEGRAM FROM THE GOVERNMENT OF THE CENTRAL PROVINCES, DATED THE
6TH MAY 1936.

While regretting that it has not been found possible as a result of financial enquiry to recommend provision immediately or in full measure of relief contemplated in Local Government's representation made during enquiry, Governor in Council welcomes cancelling part of debt and relief afforded by proposed scheme of decentralised balances and consolidation of budget estimates so far as they go, he trusts that with this assistance and with continued policy of rigid economy already pursued by this Government it will be possible to inaugurate reforms with at least a balanced budget and with a reasonable prospect of a return to adequate standard in developing department when full share of income tax is distributed to province.

TELEGRAM FROM THE GOVERNMENT OF ASSAM, No. 389-C.B., DATED THE 6TH
MAY 1936.

The Government of Assam have examined Sir Otto Niemeyer's proposals regarding Assam. On the basis of the acceptance of Government of India's proposals for decentralisation of balances it is proposed that all debts contracted prior to the 1st April 1936 will be cancelled and the Province granted an increase in the jute export duty, a share at a future date in income-tax receipts and a subvention of 30 lakhs. The Government of Assam assume that the cancellation of previous debts results in the sum provided in the current year's budget for payment of interest and capital of such debts, amounting to nearly 19 lakhs, being saved, and the current year's deficit of 63 lakhs reduced thereby. In the interests of the new Constitution this Government would request that the remainder of the current year's deficit, so far as it refers to strictly provincial expenditure, may also be cancelled.

Beyond this point opinions of the Local Government differ to some extent. The Indian Member and Ministers have read the Report with profound disappointment. They were looking forward to the Province being made as self-sufficient as possible so that provincial autonomy may have substance. It was with that intention that the Government of Assam presented before Sir Otto, in addition to estimates of normal receipts and expenditure, estimates for such institutions as a High Court, a University and Medical and Technical (including Agricultural) schools. They now find that there is not only no room for further progress in making up the essential deficiencies but on the contrary even on the present scale of expenditure there will still be a deficit of about 25 lakhs to be covered either by taxation or retrenchment. They consider that the economic condition of the people, the bulk of whom are agriculturists, does not permit of additional taxation. Retrenchment on the other hand would entail curtailment of services rendered at present to the public, a prospect which they are confident no Ministry under the new Constitution will face with equanimity. Considering all these factors and the slender hope of an early expansion of revenues they think that an additional subvention of 25 lakhs is essentially necessary to put the province on an even keel.

The Minority of the Local Government though agreeing with a great part of this are not able to accept the position that a deficit of 25 lakhs is involved in the proposals, and think that they are such as with some retrenchment will just enable the province to balance its income and expenditure in the opening years of the new Constitution provided that no natural calamity occurs to necessitate heavy additional expenditure. There will of course be no margin for some years to come for any expansion or improvement in the standards of administration the necessity of which has been particularly stressed in the discussions. Especially it is regretted that it will be impossible to establish a University without which Government cannot control the educational system, and an Agricultural Institute to explore the agricultural needs of the province. The recurring cost of these institutions was estimated at 5½ lakhs in papers put before Sir Otto Niemeyer.

TELEGRAM FROM THE GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE,
No. 80, DATED THE 5TH MAY 1936.

We appreciate extent of relief proposed but wish to make clear exact result of proposals over next five years. Niemeyer has not specified which of our proposals he has negatived, but fact remains that many of them have been cut out though they contained nothing that we did not consider essential.

(a) Subvention of one crore fixed in depression year 1932 was admittedly less than Haig Committee considered necessary. Our standing deficit is 8 lakhs in current budget, in spite of economies so rigorous as to cripple any attempt at normal progress.

(b) Further expenditure statutorily necessary is Rs. 1,67,000 on account of inauguration of provincial autonomy and an average of about Rs. 2 lakhs a year on account of normal growth of pensionary charges during next 5 years.

(c) Further expenditure on reserved side which we consider imperative necessary in interests of law and order, namely, formation of Mardan district Rs. 90,000 and reorganisation of Criminal Investigation Department, increase in Police investigating staff and Police Training School Rs. 1 lakh.

(d) Total of (a), (b) and (c) is Rs. 13½ lakhs.

(e) Benefits proposed by Niemeyer amounts to about Rs. 13 lakhs. We also hope to increase revenue by Rs. 2 lakhs from new Paharpur Canal Scheme and also by 1 lakh if Motor Taxation Bill is passed. This will leave Rs. 2½ lakhs and even if whole of this sum is allotted to beneficent departments many schemes of these and other departments which have long been accepted by Government as desirable will have to remain undone. This leaves nothing for buildings which are urgently required and for which we estimated at Rs. 68 lakhs in our proposals to Niemeyer Committee.

2. If beneficent departments are to receive assistance which people of this province hope (based particularly on assurance given by Government of India in 1931 of approximate equality with Northern Punjab) view of this Government is that further sum of at least Rs. 2 lakhs annually may be added to subvention for next few years until we receive share of income-tax to that extent.

3. As regards buildings it is considered that following items are unavoidable. Council Hall Rs. 1,15,000 total cost of which is estimated at Rs. 2,65,000 inclusive of Rs. 1,50,000 provided in current year's budget, Government Printing and Stationery Office Rs. 2,00,000, buildings for new Mardan District Rs. 1,00,000, Police Stations Rs. 1,00,000, Quarters for clerical establishments Rs. 2,00,000 and buildings for beneficent departments and water supply schemes Rs. 8,00,000. First two items are necessitated by provincial autonomy and remaining ones are imperative. A non-recurring sum of at least Rs. 15,00,000 will be required for above buildings and it is earnestly requested that this amount may be allotted to this Province in three annual instalments of Rs. 5,00,000 each. Even this sum makes no provision for such items as married quarters for police and many buildings which are required by beneficent departments.

4. We agree to method of benefit by cancellation of debt and to revision of subvention after 5 years. We have no comments to make regarding distribution of residual taxes on income.

5. Public opinion has hardly had time to express itself but harps on fact that original subvention was an economy subvention and that Haig Committee's proposals were arbitrarily reduced by Government of India and on Government of India's assurance referred to in paragraph 2 of this telegram. During last 4 years Government have continually been attacked in Legislature and outside on these grounds and there can be no doubt as to genuineness of this feeling. Adverse comment has been attracted by second last sentence, paragraph 16 Niemeyer Report, which is taken as unnecessarily prejudging position 5 years hence.

TELEGRAM FROM THE GOVERNMENT OF ORISSA, DATED THE 5TH MAY 1936.

Orissa Government consider proposals of Niemeyer Report regarding Orissa require modification for following reasons. Draft Budget for 1936-37 on which Orissa Government is now working was originally framed after normal budget procedure and scrutiny by parent provinces and further scrutinised by Government of India. Savings of 4½ lakhs have still to be found to make that budget balance on basis of subvention of 40½ lakhs granted this year without encroaching on 2 lakhs opening balance. After careful examination Orissa Government cannot foresee savings of much more than 1 lakh in place of 4½ lakhs although all proposals for improvement of present retrenched standards have already been cut out. Even that saving can only be found by avoiding expenditure which is either obligatory, *e.g.*, Ministers, or highly desirable, *e.g.*, bacteriological laboratory, in future years. Therefore revenue deficit this year excluding subvention even on low existing post-retrenchment basis is 40½ plus 3½ = 44 lakhs. In future years expenditure will rise by cost of Legislative Assembly and other charges incidental to new Constitution. Moreover this year's estimate is based on lowest pay of time-scales of all new establishment which includes whole headquarters establishment and will inevitably increase as new incumbents draw increments. This year's estimates also include only 11 months salary instead of 12 for whole of new Secretariat and other headquarters staff, whereas future budgets must provide for 12 months. There will also be inevitable increases in other directions especially in maintenance charges for buildings constructed from capital grant and roads from central reserve of Road Fund, while expenditure postponed this year must be eventually incurred. Province is a composite one with different methods of administration in different parts and it is difficult and undesirable to level all parts down to lowest standard. Therefore revenue deficit in future years even on existing retrenchment basis will be little less than 50 lakhs and if subvention is limited as proposed to 50 lakhs there will be hardly any scope for improvement in existing standard. In particular there will be no prospect for many years of improving education, agriculture and health services or of establishing University. Orissa depends on two Universities with little voice in either. Scope for expansion of revenue is as Niemeyer says unusually limited. Land revenue of half total area is permanently settled at less than 4 lakhs and greater part of remainder is settled for next 20 years. Two-thirds of province is partially excluded and half the province is more backward than any part of India except excluded areas. Orissa has special problems of floods and retrenchment in recent years has prevented even proper maintenance of vital protective works not to speak of adoption of many measures recommended by 1928 expert Committee. Even with additional 15 lakhs now proposed provision for buildings necessitated by separation is still inadequate since provincial headquarters, one district headquarters and two sub-divisional headquarters have to be built besides central jail and other necessary buildings. Opening balance of 2 lakhs given this year will, as shown above, have disappeared by end of year. No margin will be left for unforeseen expenditure capital or otherwise or for working balance. Once it is admitted that certain provinces and centrally administered areas must receive help from Indian revenues, it is fair to aim at some common standard for those areas. But proposals involve great disparity in treatment among the assisted units giving to Orissa a

subvention far less per head of population than to other units who have already a far higher standard of expenditure per head. Orissa Government ask for 10 lakhs as opening balance to cover unforeseen non-recurring expenditure and 10 lakhs more as recurring subvention to enable popular Government to make some slight improvement in low existing standard during the opening years of the new Constitution and to enable Governor to discharge responsibility for partially excluded areas. Orissa Government regard these additional sums as essential in order to prevent the purpose of Parliament in bringing the province into existence being stultified by inadequate initial resources.

TELEGRAM FROM THE GOVERNMENT OF SIND, DATED THE 6TH MAY 1936.

It is a matter of some disappointment to Sind Government that it has not been found possible in Niemeyer Report to give assistance to Sind in the form of a substantial reduction of barrage debt. In absence of any reasons in the Report why this course is considered inconvenient the Sind Government are unable to appreciate why such an arrangement should not be given effect to ; but if this be found impossible the proposals in Report are accepted subject to the following remarks.

The proposals both as regards annual subvention and repayment of barrage debt depends on forecast of increased revenue due to barrage proving correct. This can only happen if normal agriculture and economic conditions obtain every year during next 45 years ; but it is impossible to say this condition will be fulfilled.

In particular the forecast assumes an increase of 19 lakhs in revenue in 1947-48 and of increasing amounts for next fifteen years owing to levy of increased rates of land revenue assessment. The imposition of these rates will also depend then on prevailing agricultural and economic conditions.

The Sind Government therefore presume door will be left open for adjustment of subvention and debt repayment in case revenue expectations are not realised. In any such readjustment Sind must be assured of minimum revenues required for its needs as a progressive province.

TELEGRAM FROM THE GOVERNMENT OF INDIA, TO THE SECRETARY OF STATE
FOR INDIA, No. 1147, DATED THE 14TH MAY 1936.

We wish at the outset to express our great appreciation of the service which Sir Otto Niemeyer has rendered to India in making the survey of Indian finances contained in his report and in undertaking the task of trying to satisfy all the Provinces as well as the Centre from resources which are not indefinitely expandible.

2. Sir Otto estimates the cost of his recommendations at about 2 crores a year diminishing by a few lakhs as the special non-recurring grants to Orissa and Sind run off. To this figure must be added the cost of decentralising balances and the cost of the debt consolidation scheme referred to in Appendix III.

Altogether the Government of India calculate that the initial cost of all these adjustments is about 2½ crores a year of which 2 crores will fall directly on the Budget and ½ crore will be a diminution of capital repayments. The consolidation proposals also involve a spreading of repayment instalments which will have the effect of increasing somewhat the interest charges in the Central Budget in the early years though the increase will be counter-balanced by corresponding decreases later on.

3. The figures of initial cost are in excess of anything the Government of India have hitherto contemplated, but nevertheless having regard to the supreme importance which is attached to giving Provincial Autonomy a fair start, they are prepared to accept the conclusion reached by Sir Otto in paragraph 18 of his report (*viz.*, that His Majesty's Government may safely propose to Parliament that Part III of the Government of India Act, 1935, should be brought into operation as from 1st April next) provided that there is no question of increasing in any appreciable degree the total of the initial assistance recommended, and provided that it is clearly understood that it may be necessary to retain the remainder of the surcharges on Income tax and Super tax at any rate for some time after the 1st April 1937 in order to maintain a balanced Central Budget. Incidentally we desire to indicate that we attach very great importance to the general adoption of the arrangements which we have proposed for the decentralisation of balances and the consolidation of pre-autonomy debt and to express our earnest hope that these arrangements will have your full support. Indeed we go so far as to say that we regard them as an integral part of the initial financial adjustments. In this connection we wish to correct a misapprehension which appears to exist that some Provinces will get large uncovenanted benefits from these arrangements. The greater part of the gains shown in Appendix III represents merely the immediate budgetary effect of spreading debt repayments over a longer period. In later years of course the result of this spreading will be to prevent budgetary reductions which would otherwise have taken place.

4. The next question which arises out of the report is whether the Central Budget can continue to sustain the burden involved by these initial adjustments plus the cost of the separation of Burma (estimated at 2½ crores per annum) and in addition can forego in stages over the following 10 years a further sum of at least 6 crores. Naturally we have had to frame for the information of Sir Otto Niemeyer such forecasts as

we could reasonably make of our position in the years to come. Inevitably these estimates are invested with great uncertainty. The factors which make for uncertainty are with two exceptions set out by Sir Otto. Those exceptions are the possibility of India's being involved in war and the possibility of internal political disturbances of such a magnitude as materially to affect the prosperity of the country. The former possibility no calculation can take into account, the latter the Government of India think that they may safely reject. For the rest there fall to be considered the position of the Railways and the possibility of the law of diminishing returns setting in in connection with Customs Revenue.

5. As regards the Railways the Government of India have no hesitation in saying that, unless their solvency on the basis of a full commercial accounting system can be restored, and that before very long, the latter stages of the programme envisaged by Sir Otto Niemeyer will be quite impossible of execution. At present it is hoped that the deficits can be met without depleting the existing reserve of 9 or 10 crores, but in the not distant future the annual demand for renewals and replacements is bound to increase considerably and unless in the meantime a position of complete solvency has been reached the reserve will rapidly become exhausted with the consequence of a call upon the Central Budget. The Government of India have under consideration the practical steps to be taken in this connection and they hope to approach the Secretary of State shortly in the matter.

6. As regards Customs the general level of the tariff is now so high that the maintenance of the aggregate yield, which is by far the most important single factor in the whole revenue position, has become a somewhat precarious task. There is plainly no further reserve which could now be drawn upon to meet an emergency, as was done twice in 1931, and any serious relapse in the value of India's import trade would inflict damage which would be beyond the remedy of a mere increase of the tariff. Even if we exclude a further deterioration in the conditions of international trade, the present pitch even of the revenue duties is itself liable to provoke regressive tendencies. The Government of India therefore consider that any material increase in the tariff will endanger the practicability of the plan; they conceive in fact that in order to conserve the revenue yield it will be necessary from time to time to propose reductions of particular duties.

7. The question now is whether, subject to the considerations set out above, the programme recommended is regarded by the Government of India as feasible and acceptable. On this the Government of India are bound to observe that they had hoped that, in view of the initial assistance to Provinces recommended by Sir Otto being far greater than was originally contemplated the proportion of the divisible/income-tax receipts to be permanently retained by the Centre would be fixed at 2/3rds and not 1/2. However, recognising that the Report is in the nature of a quasi-arbitrary award, the Government of India content themselves with saying that they hope and have fair reason to believe that Sir Otto's programme is feasible. In making this statement they rely, of course, on the powers of the Governor General under the proviso to Section 138 (2) of the Act to which Sir Otto pointedly draws attention in the concluding words of paragraph 32 of his Report but they would obviously have felt considerably more confident that the delaying powers would not need to

be invoked if the percentage allocated to the Provinces had been fixed at 23 1/3.

8. In this connection the Government of India cannot refrain from referring to some of the implications of the Report. Those which relate to the solvency of the Railways and the general level of the Customs Tariff have already been dealt with. That relating to the permanent retention of the remaining surcharges on Income Tax and Super Tax raises very difficult questions which cannot be fully discussed here. But we do say that so far as we can estimate the adoption of the suggestion contained in para. 31 (1) of the Report would not enable the Centre appreciably to increase the scale of initial subventions though it would obviously advance the date when the distribution of Income-tax to the provinces commences and it would render more certain the completion of the full programme within ten years. In any case, whether the surcharges are retained permanently or only temporarily, it seems to us indubitable that, in recommending a settlement so generous to the Provinces, Sir Otto has rendered it difficult in the next ten years for the Government of India either to increase its exiguous provision for Sinking Fund to a reasonable figure or to reduce those indirect taxes which are an undue burden either upon enterprise or upon the consumer except in cases where such action would be clearly advantageous to the revenue.) Indeed unless prosperity returns at a quicker pace than now seems likely, both the present Government of India and its Federal successor will find their freedom of action in the financial sphere uncomfortably limited.

9. Finally the Government of India would wish to mention one point of detail in regard to the first period of 5 years after Provincial Autonomy. Sir Otto recommends that the Provinces should during this period get any sums by which the divisible pool of Income Tax exceeds 13 crores less any contribution to General Revenues from the Railways. He explains that this Railway contribution is to be assessed in accordance with the present separation Convention. But this is not in itself a precise basis of assessment and indeed it would be quite possible within the present Convention to render Sir Otto's recommendation nugatory. For example, if surpluses are applied first to replacing the sums borrowed from the depreciation fund no contribution can possibly arise. The Government of India assume that the Secretary of State will provide in the Order in Council against a possibility such as this. On the other hand they wish to point out that they have for some time been considering whether and have now actually decided to remedy the present accounting rules under which an excessive amount of expenditure upon renewals and replacements is charged to capital. The plan decided upon involves reducing the charge to capital and increasing the net charge both against revenue and against the depreciation fund. In a normal year it will mean an additional charge of something like 25 lakhs against railway revenue and they assume that there is no question of regarding it as inconsistent with the Report. which clearly could not intend that the Centre should make payments on revenue account to the Provinces at the expense of an illicit expansion of the Railway Capital account.

10. So far we have thought fit to set out our own views without specific reference to the views expressed by Provincial Governments. For the most

part these take the form of asking for more for themselves and of complaining that other Provinces have been treated too well. The cost to the Central budget of the various additional demands now put forward is nearly a crore a year as from 1st April next while there is a further proposal that the Centre should forego an additional crore or more a year by way of reduction of the jute duty not later than the 1st April 1942. We wish to make it clear beyond a peradventure that we see no prospect whatever of being able to undertake additional burdens of this magnitude or indeed as we have previously tried to show of any appreciable size at all. This means that if concessions are to be made to individual provinces it can only be done at the expense of other Provinces and not of the Centre. And for our part we see great difficulties in any redistribution of relief which may easily create more discontent than it alleviates.

11. Apart from these general observations there are a few specific points which require mention :

Assam.—We are clear that Sir Otto deliberately limited the cancellation of debt to that incurred prior to 1st April 1936. There are obvious reasons for such a course, but, apart from that, the residual relief which he recommends is definitely assessed on that basis.

Sind.—The Government of India would point out that the subventions proposed are equivalent to a capital gift of something like 20 crores, so that in effect a very large part of the Barrage debt is being cancelled. But in our view it is important that Sind should retain an incentive to make the Barrage remunerative as a business proposition. On the basis of the present estimates the Barrage will ultimately yield a considerable net annual surplus after allowing for the complete cessation of the subvention.

Bihar.—This arithmetical argument is clearly invalid. There can be no doubt that if the debt had first been made less onerous by being spread over a longer period Sir Otto Niemeyer would have assessed the relief immediately required not at 25 lakhs but at some smaller figure.

Bengal.—(a) The proposal that the datum line of divisible Income Tax receipts for the first 5-year period should be fixed at 12 and not 13 crores is unacceptable. The latter figure was doubtless fixed, after a review of the forecasts of the Central budgetary position year by year, at the minimum which would reasonably promise equilibrium. At all events that is definitely our view of the situation.

(b) As regards the distribution of Income Tax between Bengal and Bombay we clearly can have nothing to say except perhaps to point out that Sir Otto explains that his proposals are not based upon any uniform combination of population and residence.

(c) We have already made it clear that we see no chance of being able to relinquish any further part of the jute duty by 1942 or indeed by any specific date. In the circumstances we deem it unnecessary to argue on the merits of this proposition.

TELEGRAM FROM THE SECRETARY OF STATE, TO THE GOVERNMENT OF INDIA,
No. 1589, DATED THE 20TH MAY 1936.

1. I have now received views of each of the Provincial Governments and of Your Excellency's Government upon Sir Otto Niemeyer's report, and having carefully examined these communications, I have reached conclusions which are set forth below. In order that full information of considerations that I have had to weigh may be available, I propose to present to Parliament both views of Governments in India and this reply.

2. I cordially join in acknowledgments which are due to Sir Otto Niemeyer for undertaking responsible and difficult task that was allotted to him and for manner in which he has discharged it. No problem connected with process of constitutional reform in India has given rise to a greater conflict of views and interests than matter of finance and it is indeed fortunate that one who combined such exceptional experience and authority with complete detachment from Indian controversies was able to assist in final stages of its solution. There can be no more striking evidence of formidable complexities of issue upon which he has delivered so clear a judgment than documents now under review.

3. Sir Otto's task had two aspects. On the one hand he was appointed to conduct an independent investigation of present and prospective budgetary positions of Government of India and of the Governments of Provinces before final decisions were taken by His Majesty's Government and Parliament as to date for introduction of new Provincial constitutions. On the other hand he was required to make recommendations for completion by Order in Council of scheme of financial relations between Centre and Provinces embodied in Government of India Act, 1935, and for other adjustments ancillary to that scheme. The matters remaining to be determined by Order in Council were allocation between Centre and Provinces of proceeds of income-tax and jute export duty and prescription of grants-in-aid of revenues of such Provinces as were found to require assistance in this form. The two aspects of enquiry are connected by objective, inherent in constitutional plan, of equipping Provinces with at least a sufficient minimum of resources at the outset, and of providing them with further resources in future, for questions at once arise both of ability of Central Government to surrender a part of its present resources and of manner in which sums available should be distributed among Provinces.

4. Sir Otto's conclusions upon general question of adequacy of financial resources is "that the budgetary prospects of India, given prudent management of her finances, justify the view that adequate arrangements can be made, step by step, to meet the financial implications of the new constitution" (paragraph No. 8) and after making recommendations to meet the immediate needs of Provinces, he adds specifically "From the financial point of view, I conclude that His Majesty's Government may safely propose to Parliament that Part III of the Government of India Act, 1935, should be brought into operation a year hence" (paragraph No. 18). These conclusions have been reached after an expert and exhaustive examination of position in consultation with financial authorities of each of the Provinces and of the Government of India and must accordingly command respect.

It was perhaps inevitable that so long as a final decision had not been pronounced upon extent of benefit that each Province might expect to receive, the comments of Provincial Governments should generally speaking have been designed mainly to emphasise their individual difficulties and natural desires for greater resources. In any case, it was scarcely to be expected that, where aspirations considerably out-run financial possibilities and expectations have risen high, and where effects of set-back that accompanied depression are still keenly felt, the necessarily limited proposals now under consideration would receive from this quarter an unqualified welcome. I fully realise indeed that financial administration of all Provinces will continue to demand great caution and that budgetary problems of some Provinces will present difficulties.

I see no reason however to believe that those problems need prove insoluble and I find confirmation for this view not only in Sir Otto Niemeyer's judgment, but also in fact that no Provincial Government makes any suggestion that introduction of Provincial Autonomy should be delayed on financial grounds.

On the other hand the problem of Government of India in finding some five crores partly to assist Provinces and partly in consequence of separation of Burma demands consideration. Sir Otto Niemeyer was far from ignoring implications of this problem which are further emphasised by Government of India. It is clear that Central Government no less than Provincial Governments will have to direct its financial policy with special care, but I do not understand that Government of India anticipate insuperable difficulties and I share this view.

5. In considering this question it is well I think to appreciate extent to which such practical difficulties as remain to be overcome are inherent in existing situation independently of prospect of constitutional reform. The anxiety of Provinces for a more liberal allotment of resources has been continuously manifested over a long period. Moreover, the problem of chronic deficit Provinces could not much longer have been left unsolved. These are major factors in situation and would have to be faced even if no change in existing form of government was contemplated. Beside them cost of such changes as enlarged electorates and legislatures which are connected with new Constitution is relatively insignificant.

It is of course clear that solution of all these problems might have been simpler had they been under consideration in more propitious economic circumstances. Unless however a completely unforeseeable set-back occurs the position will evidently be markedly better than could have been anticipated at the time when framework of new Constitution was under discussion. It will be recalled that Joint Committee gave special attention to financial background of reforms and concluded that Parliament would at appropriate time require an assurance from His Majesty's Government that new Constitution could be inaugurated without thereby aggravating financial difficulties to a dangerous extent. In my view assurance that may now be given can be framed in appreciably more positive and hopeful terms.

After full consideration I entirely accept Sir Otto Niemeyer's conclusions and I had no hesitation in proposing with concurrence of Your Excellency's Government that April 1st, 1937 should be appointed as date for commencement of Provincial Autonomy. A draft Order in Council

for this purpose (upon technical details which Government of India and Provincial Governments have been separately consulted) will shortly be submitted to Parliament.

6. In regard to second aspect of Sir Otto Niemeyer's Enquiry it is evident that past history of discussion of financial relations between Centre and Provinces afforded no good reason to hope that his recommendations would be immediately acceptable to all parties concerned. As Joint Committee pointed out the problem of allocation of resources in a Federal system has everywhere proved singularly impracticable, for conflict of interest that arises is practically incapable of complete resolution. The assessment of relative financial need of Centre and of Provinces collectively is a sufficiently difficult task but other facet of problem, the adjudication of rival claims of Provinces, gives rise to issues of even greater delicacy. I share Government of India's view that in both respects Sir Otto's Report must be regarded as in nature of a quasi-arbitral award and it is accordingly clear that such a nicely balanced scheme could not properly be disturbed except for strongest reasons. I have examined recommendations closely on this basis. So far as concerns the aggregate assistance to be afforded to Provinces I am not prepared to dissent from Government of India's view that it is out of the question at present moment for Central Government to undertake greater commitments immediate or prospective than Sir Otto has recommended. In these circumstances it is of course clear that any material alteration in treatment accorded to particular Provinces can be made only at expense of other Provinces. How extensive is field of controversy to which this would lead is readily apparent from conflicting views of Provincial Governments that are before me. Each Province is inevitably convinced of strength of its own claims and is bound to experience difficulty in appreciating significance of its case relatively to circumstances of other Provinces. It cannot be overlooked that Sir Otto Niemeyer has brought an independent judgment to bear on this subject and that he has had an exceptional opportunity of appreciating problem as a whole. It is my considered view that he has achieved as equitable a settlement between various contestants as case allows. I propose accordingly to accept his recommendations as a whole.

7. Before accepting recommendations as not only equitable but practicable I have paid attention to special problems that are mentioned by Government of India.

As regards financial position of railways I note with satisfaction that Government of India have matter actively under consideration and your Excellency's Government may count on my support in any measure that may be necessary for improvement of position.

I note the Government of India's view regarding customs revenue which is a matter that will undoubtedly call for most careful consideration in near future.

The question of remaining Surcharge on income-tax is as Government of India point out one of some difficulty and although it is only one aspect of general budgetary problem which will arise from time to time I feel bound to say at once with reference to their observations on the subject that if scheme of finance upon which successful operation of Provincial Autonomy depends is found to necessitate continuance for some

time longer of this burden (either in its present or in any equivalent form) I shall accord my full support to Government of India.

I agree that in any case there is bound to be some uncertainty whether programme for transfer of income-tax to Provinces can be fully realised and in this connection I think it well to associate myself with warning given by Sir Otto Niemeyer in paragraph 32 of his Report.

While every effort will be made so far as I am concerned, and also I have no doubt by Government of India, to fulfil hopes now extended to Provinces, the scheme cannot be assumed by them to represent a final commitment. At the same time with reference to Government of India's observations as regards provincial percentage I am bound to emphasise importance that I attach to securing maximum possible ultimate distribution to Provinces for which reason I welcome both Sir Otto's proposal and Government of India's view, which I share, that there is fair reason to believe in its feasibility. It is relevant to remember that a mistake in fixing percentage unduly low cannot be rectified since percentage originally prescribed is incapable of increase by a subsequent Order in Council. Against any mistake in contrary direction however there are safeguards both of Governor-General's delaying power, to which attention has been drawn by Sir Otto and Government of India, and in last resort a possible reduction in percentage by an amending Order.

8. In view of my general conclusions already indicated it would serve no good purpose to attempt a detailed commentary on views submitted by each individual province. There are however certain specific points upon which brief comment is unavoidable; and in the first place I wish to express concurrence in Government of India's observations in connection with representations of Assam, Sind, Bihar and Bengal. As regards Bengal I would add that it cannot in my opinion properly be assumed that power in respect of jute export duty placed by Government of India Act in Central Legislature will not be exercised with due regard to economic interests of that province. On such an assumption applied throughout field of Central Legislation which of necessity includes subjects that affect certain units more than others Federal idea would be practically unworkable. In so far however as there may be a case for reducing sooner or later the rate of jute export duty I think it necessary to say now that if on account of such a reduction the value to growing provinces of their percentages were materially reduced it would be necessary to consider whether in the circumstances those provinces required additional assistance either in form of a change in jute duty percentage or otherwise.

I appreciate practical problems that confront Government of the United Provinces. I have however not understood that Sir Otto Niemeyer's recommendation was related to precise requirements of each particular year and I am unable to accept suggestion that in aggregate it need prove inadequate. Having regard to circumstances of United Provinces and to the special problems that Central Budget will present in the first year or two it appears to me not unreasonable that beneficiary should accept assistance in even amounts and make budgetary dispositions accordingly.

While I sympathise with much that Punjab Government says I cannot refrain from observing that case of that Province relatively to others particularly Madras and Bombay appear to have been somewhat

exaggerated. Sir Otto Niemeyer has clearly had to consider cases of those Provinces after allowing for separation of Orissa and Sind and I am not prepared to dispute equity of his conclusions. Moreover, from practical point of view benefits of creation of Sind and Orissa have been largely absorbed into budgets of parent provinces this year and though they will of course permanently strengthen position of those provinces, they will not represent additional free resources at disposal of new Ministries. Again such benefits as Madras and Bombay derive from decentralization and consolidation scheme is as Government of India point out temporary while on the other hand it may be noted that as part of debt scheme the Punjab is left with a large block of debt on exceptionally favourable terms.

I sympathise with natural disappointment of Punjab Government that that Province alone of provinces of India should receive no immediate assistance, except to a trifling degree through debt scheme. But I am not satisfied that there are sufficient grounds for giving any special relief to that province which Sir Otto Niemeyer has not recommended. The Central resources, especially at outset, are not such that assistance can be given except when need is imperative. I have no doubt that a province so well endowed with natural resources, and with so high a tradition of efficient administration as Punjab, will in fact without assistance be much more favourably situated than many of the other provinces, even after allowing for help which latter will receive. The fact that one or two other provinces, whose economic strength is perhaps comparable with that of Punjab, happen to receive relief owing to their territorial reorganizations and debt scheme, cannot afford justification for grant of some equivalent benefit to Punjab. It has also to be remembered that additional resources will become available to the new Punjab Government when income-tax begins to be distributed. I note that Punjab Government consider that they will be at some small financial disadvantage on introduction of Provincial Autonomy owing to an expected loss in connection with supply of liquor by province to other administrations. Arrangements covering supply of excise liquor by one province to another will have to be reviewed in the light of new constitutional position, and I consider that points raised by Punjab Government in this connection will require further examination.

9. I am submitting to Parliament a draft Distribution of Revenues Order which deals with income-tax, the jute export duty and grants-in-aid to certain provinces in strict accordance with Sir Otto Niemeyer's recommendations. The technical points in draft Order have been separately discussed with Government of India but there are certain fundamental assumptions that I must set forth on present occasion. (a) The calculation to which section 138 (1) of Government of India Act gives rise involves certain assumptions as to interpretation of that section and Sir Otto Niemeyer has recorded assumptions that he has made in annexed letter. The Order has been drafted upon the basis of these assumptions and as allocation of appreciable sums is involved it is necessary that I should make this clear. (b) It has always been assumed that "corporation tax" (which is allocated by Act as a Federal source of revenue) would mean a tax of nature of existing super-tax on companies and definition in section 311 (2) of Act was intended to have this result. I understand however that doubt has arisen whether definition is entirely satisfactory. If such doubt is substantiated hereafter it may be necessary to

ask Parliament to rectify position. (c) Sir Otto has recommended that for the purpose of formula which governs allocation of income-tax in first five years period the computation of railway contributions to general revenues should be made on basis provided by present railway convention which was formulated in a resolution passed by Legislative Assembly on September 24th, 1924. In accepting this recommendation I agree that Government of India method of application of that resolution to present purpose should in respect of treatment of loans from depreciation fund, the treatment of arrears of contribution to general revenues (which are not specifically mentioned but are in *pari materia*) and improvement of accounting procedure, be on lines suggested in paragraph 9 of their views. The relevant provisions of draft Order in Council are intended to give effect to above. (d) The provisions of draft Order in respect of North-West Frontier Province grant-in-aid do not bear on the face of them qualifications that case of this province is to be reconsidered in five years' time which was what Sir Otto recommended. It would in fact be inconvenient to make such provision in Order but I wish to make it clear that intention is to reconsider matter at the end of five years. In this connection I have noted the concluding comments in views of this province and I think it desirable to state that so far as I am concerned there is no question of prejudging at present time any decision that may have to be taken in the light of circumstances of five years hence. (e) The provisions of Sind assume that barrage debt funding scheme will be on lines recommended by Sir Otto Niemeyer and measures to this end are in contemplation.

10. The scope of draft Order in Council does not extend to decentralization of balances and cancellation and consolidation of debt referred to in paragraphs 19 to 21 and Appendix III of Report. These are matters which will fall to be dealt with immediately before commencement of Provincial Autonomy under existing statutory powers (subject to certain amendments of Devolution Rules). It is clear in any event that grant of the specified assistance to certain Provinces by cancellation of debt is an essential part of Sir Otto Niemeyer's scheme and I shall assure Parliament that necessary action in this regard will be taken.

In addition however I entirely agree with Government of India that scheme for decentralization of balances and consolidation of debt must be regarded as an integral part of whole plan and on this basis I have decided to accept scheme. The detailed arrangements for its execution will be separately discussed.

ANNEXURE TO THE SECRETARY OF STATE'S TELEGRAM
No. 1589, DATED THE 20TH MAY 1936.

LETTER FROM SIR OTTO NIEMEYER, G.B.E., K.C.B., TO THE UNDER SECRETARY OF STATE FOR INDIA, LONDON, DATED THE 6TH APRIL, 1936.

In the course of my consideration of the problems arising under Section 138 of the Government of India Act, 1935, it has been necessary to make estimates of the amounts which, in various circumstances, would be assignable to the Centre and the Provinces respectively. This process involves certain assumptions as to the precise interpretation of these provisions; and since my recommendations might have been different had I not made the particular assumptions which I did in fact make, it is desirable that I should place them on record.

(1) Although the Act treats "corporation tax" and "taxes on income" as distinct taxes, the present super-tax on companies ("corporation tax" under the Act) is in practice levied under the same law and by the same administration as any other form of income-tax. It is obviously convenient that it should be: but as a result there are certain difficulties in determining what amount of the produce of the various forms of income-tax is in fact "corporation tax" and what amount is "taxes on income" within the meaning of Section 138.

(a) In the first place, when refunds on account of double income-tax are given to companies, relief is calculated upon the basis of the total tax suffered, both income-tax and super-tax. The amount of such relief in a recent year was nearly Rs. 90 lakhs. Obviously the question whether so large a sum is to be regarded as falling entirely upon the wholly Federal head of "corporation tax", or entirely upon the heads which are divisible with the Provinces, or partly on the one and partly on the others, is of considerable importance. A fair workable basis of calculation is to divide the double tax refunds granted to companies in any year between "corporation tax" and "taxes on income" in the proportion that gross collections of "corporation tax" less other refunds granted in that year bear to collections of company income-tax less other refunds (including Section 48) granted in that year. I have myself adopted this formula and I think it should be followed in future practice.

(b) Since a common administration is occupied with all forms of income-tax, costs of collection are not readily divisible between "corporation tax" and the other heads. The amount at stake is comparatively small; and I think it would be waste to attempt an elaborate enquiry (which would have to be periodically renewed) as to the precise time and money spent in collecting "corporation tax". I have in fact divided the cost of collection of all forms of income-tax between "corporation tax" and the other heads in the ratio that "corporation tax" as reduced by refunds in accordance with sub-paragraph (a) above bears to the other heads of tax as similarly reduced; and this practice should similarly be followed in future.

(2) (a) To arrive at the divisible pool it is necessary to deduct from "taxes on income" the proceeds of taxes on Federal emoluments. Collections under this head, less refunds, can apparently be readily ascertained from the income-tax returns; but again, in determining the amount to be retained by the Centre under this head, regard must be paid to cost of collection. I have again assumed that the cost should be proportionate to the yield, after deducting refunds.

(b) A further deduction has to be made on account of "proceeds attributable to Chief Commissioners' Provinces". The Act does not define the meaning of "attributable"; but it appears to me reasonable (and the first paragraph of Section 57 of the Introduction to the White Paper suggests that it was intended) that the attribution should be determined by factors similar to those which determine the distribution of the Provincial share among the various Governors' Provinces. Having considered the matter on this basis, I recommend that the Centre should retain, in respect of Chief Commissioners' Provinces, one per cent. of the net tax remaining after the elimination of "corporation tax" and tax on Federal emoluments. The divisible pool of which the Provinces will receive 50 per cent. according to their respective percentages, will be what remains thereafter.

(3) I should not regard these questions of principle as fitting subjects for a decision by the Auditor General under Section 144 (1) of the Act. I think they are proper matters for administrative decision in the ordinary course of administering the Act, and I should personally be disposed to leave them at that, unless there is any serious likelihood that such administrative decision might be challenged.

But I understand that the Government of India are dissatisfied with the existing definition of "corporation tax" in Section 311 (2) of the Act, and contemplate the submission to the Secretary of State of proposals for its amendment: and it may be that, in view of a conceivable danger under Section 204, he may prefer to cover all or some of the above matters also by legislation or by taking power to deal with them by Order in Council.



EAST INDIA (CONSTITUTIONAL REFORMS)

Arrangements with respect to the Relations
between the Monetary Systems of India
and Burma in the event of the
Separation of Burma

from India X61.202438.N35

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*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
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INTRODUCTORY NOTE BY THE SECRETARY OF STATE FOR INDIA.

The Government of India Bill contemplates that special steps will be taken, in the event of the separation of Burma from India, to regulate the relations between the monetary systems of the two countries, and in particular to give effect to certain arrangements for that purpose to be made between the two Governments concerned.

The main features of these arrangements, which are of course contingent on the separation of Burma, have now been agreed and are embodied in the appended provisions. The intention is to secure that, for a period of at least three years after the separation of Burma, the currency and exchange of both countries shall continue to be managed by the Reserve Bank of India, and that the least possible disturbance of the existing position shall occur. Under the arrangements, the currency systems of the two countries will, in effect, remain unified.

Subject to this fundamental principle, however, provision is made for the issue of distinctive bank notes for Burma immediately on political separation, in order to facilitate certain financial adjustments consequent on the joint use of the Reserve Bank. It is also provided that a local coinage, of different design from that in India, may, if desired, be introduced in Burma.

The arrangements further provide for the performance in Burma by the Reserve Bank of India of the normal functions of a central bank in relation to government business.

Finally, provision is made for the transactions which will have to take place if and when a complete separation of the two currency systems is desired.

Effect will be given in Burma to these arrangements by Order in Council. It will also be necessary to amend the Reserve Bank of India Act, 1934, in certain respects and a Bill for this purpose will be introduced in the Indian Legislature in due course.

ARRANGEMENTS WITH RESPECT TO THE RELATIONS BETWEEN
THE MONETARY SYSTEMS OF INDIA AND BURMA IN THE
EVENT OF THE SEPARATION OF BURMA FROM INDIA, AS
AGREED BETWEEN THE GOVERNOR-GENERAL OF INDIA IN
COUNCIL AND THE GOVERNOR OF BURMA IN COUNCIL,
AND APPROVED BY THE SECRETARY OF STATE.

1. Notwithstanding the separation of Burma from India, the Reserve Bank of India (hereinafter referred to as "the Reserve Bank") shall, subject to the provisions of this Agreement, manage the currency and carry on the business of banking in Burma in accordance with the Reserve Bank of India Act, 1934, as amended for that purpose.

2. The Reserve Bank shall have the sole right to issue currency notes and bank notes in British Burma, and the Governor of Burma shall not issue any currency notes, nor shall he put into circulation any coins except through the Bank and as provided by this Agreement.

3.—(1) The Reserve Bank shall, as soon as may be after the commencement of this Agreement, issue bank notes of distinctive design in Burma, which shall be legal tender in Burma but not in India, and in exchange for which the Bank shall have no obligation to supply other notes or coins at any place in India.

(2) Such bank notes shall be of such denominational values and expressed in terms of such standard monetary unit as the Governor of Burma, after consultation with the Central Board of the Bank, may determine :

Provided that, until the Governor of Burma otherwise determines, the standard monetary unit of Burma shall be the Indian rupee.

(3) Until the Governor of Burma otherwise determines, the Bank shall be obliged to issue Indian rupee coin on demand in Burma in exchange for such bank notes, and Indian rupee coin shall not cease to be legal tender in Burma while it continues so to be issuable.

(4) The design, form and material of such bank notes shall be such as may be approved by the Governor of Burma after consideration of any recommendations made by the Central Board of the Bank.

(5) Such bank notes shall be subject to the same provisions in respect of cessation to be legal tender, conditions of re-issue, procedure in the case of notes lost, stolen, mutilated or imperfect, and exemption from stamp duty, as bank notes issued by the Bank in India, with the substitution therein of references to the Governor of Burma and the Gazette of Burma for references to the Governor-General in Council and the Gazette of India respectively.

(6) Notwithstanding the issue of such bank notes in Burma, any other bank notes issued by the Bank, whether in Burma or in India, and currency notes of the Government of India, shall continue to be legal tender in Burma for such period or periods, not being less than two years from the commencement of this Agreement, as the Governor of Burma may determine, or for such shorter period or periods as may be agreed between the Governor of Burma and the Bank; and thereafter such currency and bank notes shall continue to be accepted at par at such places and for such further period or periods as may be specified by the Governor of Burma on the recommendation of the Bank.

(7) Bank notes issued in Burma by virtue of sub-clause (1) of this clause shall form part of the liabilities of the Issue Department of the Bank in like manner, and subject to the same conditions, as bank notes issued by the Bank in India.

4.—(1) If so authorised by any Burman law, the Governor of Burma may at any time, after giving due notice to the Governor-General of India, cause to be issued distinctive Burman coins:

Provided that he shall not cause to be issued any coin of the same value as, or greater value than, the Indian rupee, so long as Indian rupee coin is issuable on demand in Burma in exchange for bank notes under the provisions of sub-clause (3) of clause 3 of this Agreement.

(2) Coins issued by virtue of the preceding sub-clause shall be supplied by the Governor of Burma to the Reserve Bank on demand in such quantities as may in the opinion of the Bank be required for circulation in Burma, against payment of their nominal value; and the Bank may deliver to the Governor of Burma any such coins as may not, in its opinion, be required for such circulation, against payment of their nominal value, and no Burman coin shall be disposed of by the Bank otherwise than for the purposes of circulation or by delivery to the Governor of Burma under this sub-clause.

(3) Notwithstanding the introduction of any such Burman coin, Indian rupee coin and subsidiary coin of the Government of India shall continue to be legal tender in Burma, on like conditions as theretofore, for such period or periods, not being less than two years from the date of introduction of the corresponding Burman coin, as the Governor of Burma may determine, or for such shorter period or periods as may be agreed between the Governor of Burma and the Bank; and thereafter such coin shall continue to be accepted at par at such places and for such further period or periods as may be specified by the Governor of Burma on the recommendation of the Bank.

(4) Any Indian coins retired from Burma (whether from circulation, from the Reserve Bank's balances, from treasury balances or from small coin depôts) by reason of the introduction

of corresponding Burman coins, shall be disposed of as follows, namely:—

- (a) If, and in so far as, the Governor of Burma so desires, and if the Mints in India are able to undertake the work, they shall be re-coined with Burman designs at the Mints in India free of charge:

Provided that any additional expense arising from a material alteration in the number or composition of the coins so re-coined shall be payable by the Governor of Burma.

- (b) Any subsidiary coin of the Government of India which is not re-coined under the provisions of the last preceding paragraph shall be delivered to the Governor-General of India against payment to the Governor of Burma of its bullion value, increased by an amount representing the cost to India of coining the same amount of coin in the same form.

- (c) Any Indian rupee coin which is not re-coined under the provisions of the last but one preceding paragraph shall not be disposed of as coin, but the silver content thereof shall be disposed of in such manner as the Governor of Burma may think fit:

Provided that he shall not dispose by sale of any such silver before the 1st January 1938, except in accordance with an agreement, to be concluded with the Governor-General of India, which shall determine, *inter alia*, the quotas to be sold in any year by each of the parties on the basis of their respective stocks, and which may, in the case of any silver sold in India by the Governor-General on behalf of the Governor of Burma, provide that, subject to the deduction of brokerage and any other charges or rebates actually incurred by the Governor-General in effecting such sale, the Governor of Burma shall be paid either the rupee proceeds thereof, in which case he shall pay to the Governor-General, whether by collection at the frontier or by deduction from the proceeds of sale, the equivalent of any silver import duty for the time being in force in India, or, at the option of the Governor of Burma, the rupee equivalent, at the rate of exchange of the day, of the sterling price of silver on the date of the corresponding sale contract.

(5) In this clause "subsidiary coin of the Government of India" means any coin, other than Indian rupee coin, which is legal tender in British India; and "Indian rupee coin" means silver rupees which are legal tender in British India.

5.—(1) The obligation of the Bank to buy and sell sterling at its Rangoon office in accordance with the provisions of the Reserve Bank Act, 1934, shall continue, subject only to such

modifications as may be necessary in case the standard monetary unit of Burma ceases to be the Indian rupee.

(2) The Bank shall provide any person who makes a demand in that behalf with remittance between its office in Rangoon and such office or offices in India as may be prescribed by the Central Board of the Bank, in such amounts, at such fixed rate of exchange, and subject only to such rate or rates of commission, as may be approved by the Governor-General of India and the Governor of Burma.

6.—(1) The Bank shall undertake to accept moneys for account of the Governor of Burma, to make payments up to the amount standing to the credit of his account, to carry out his exchange, remittance and other banking operations, including the management of the public debt, and, generally, to afford similar facilities to the Governor of Burma in Burma as to the Governor-General of India in India :

Provided that nothing in this clause shall be construed as authorising the Bank to include in the assets of its Issue Department any securities or coin issued by the Governor of Burma.

(2) The Governor of Burma shall entrust the Bank, on such conditions as may be agreed upon, with all his money, remittance, exchange and banking transactions in Burma, and, in particular, shall deposit free of interest all his cash balances with the Bank :

Provided that nothing in this sub-clause shall prevent the Governor of Burma from carrying on money transactions at places where the Bank has no branches or agencies, and he may hold at such places such balances as he may require.

(3) The Governor of Burma shall entrust the Bank, on such conditions as may be agreed upon, with the management of the public debt and with the issue of any new loans.

(4) The Bank shall undertake the custody of such moneys and the performance of such functions as, by any Act of Parliament, the Burma Railway Board is obliged to entrust to it, on the same terms and conditions as those upon which it undertakes similar business for the Governor of Burma.

(5) The conditions referred to in this clause shall be the same as those contained in any agreement between the Governor-General of India in Council and the Reserve Bank relating to similar matters, with such modifications and such adaptations as may be agreed between the Governor of Burma and the Reserve Bank, or, in default of such agreement, may be prescribed by the Governor of Burma.

7. The Bank shall not be liable to pay Burman income-tax or super-tax on any of its income, profits or gains :

Provided that nothing in this clause shall affect the liability of any shareholder in respect of income-tax or super-tax.

8.—(1) Save as may be otherwise provided in any agreement hereafter concluded between the Governor of Burma and the

Governor-General of India or the Reserve Bank of India, the provisions of this clause shall take effect on the date of the termination of this Agreement.

(2) There shall be transferred from the Reserve Bank to the Governor of Burma all liability for bank notes issued in Burma by virtue of sub-clause (1) of clause 3 of this Agreement and for any other bank notes of the Reserve Bank and currency notes of the Government of India which on the said date are in Burma, being notes which are legal tender in Burma or in respect of which legal rights of encashment in Burma exist; and such other bank notes and currency notes shall be accepted by the Governor of Burma at par at such places and for such period or periods as may be specified by him after consultation with the Bank.

(3) There shall forthwith be transferred from the Issue Department of the Bank to the Governor of Burma assets which, at their statutory valuation, are of such aggregate amount as is equal to the total liability for bank and currency notes mentioned in the last preceding sub-clause, and which include gold coin and bullion, sterling securities, rupee coin and rupee securities (including securities, if any, expressed in the standard monetary unit of Burma) in the same proportions as such assets respectively bear to the total assets of the Issue Department on the said date:

Provided that, unless the Governor of Burma shall otherwise agree, the securities so transferred shall not include either—

- (a) any trade bills originating in India, whether expressed in sterling or rupees; or
- (b) such amount of trade bills originating in Burma, expressed in either sterling or local currency, as bears a greater proportion to the total amount of securities so transferred than is borne by the total amount of trade bills expressed respectively in sterling or in rupees (including trade bills, if any, expressed in the standard monetary unit of Burma), and held in the Issue Department of the Bank on the said date, to the total amount of securities held therein.

(4) Any rupee coin transferred to the Governor of Burma under the last preceding sub-clause shall be disposed of in like manner as retired rupee coin under the provisions of sub-clause (4) of clause 4 of this Agreement.

(5) If, and in so far as, distinctive Burman coins have not been previously introduced, they shall forthwith be introduced and, subject always to the provisions of sub-clause (3) of clause 4 of this Agreement, all Indian coins shall be retired from Burma and disposed of in accordance with the provisions of sub-clause (4) of that clause.

(6) The Governor of Burma shall, if the Reserve Bank so desires, take over from the Bank all or any property held by the Bank in Burma for the purpose of carrying on its business, against payment of the value of such property as shown in the

books of the Bank if this Agreement is terminated in three years or less from the date of its commencement, or on such terms as may be agreed with the Bank if the Agreement is terminated at a later date.

(7) The Governor of Burma, the Reserve Bank and the Imperial Bank of India shall enter into an agreement under which the Governor of Burma shall take over, on such terms as may be specified therein, the rights and liabilities of the Reserve Bank under any agreement made between it and the Imperial Bank in pursuance of section 45 of the Reserve Bank Act, so far as these relate to the conduct of Government business and currency operations in Burma :

Provided that the Governor of Burma shall have a like power to issue instructions to the Imperial Bank and to terminate in certain circumstances an agreement made by virtue of this sub-clause, as is vested by section 45 of the Reserve Bank Act in the Governor-General in Council.

9. In the case of any dispute arising under or out of this Agreement, or as to the interpretation or application thereof, or if, in the opinion of the Governor-General of India or of the Governor of Burma, it is expedient that this Agreement be amended or varied, on the ground that any of the more important assumptions underlying it is not being realised or that some unforeseen development likely to affect materially the arrangements set out therein has occurred, the matter may, in the absence of agreement, be referred, at the instance of either the Governor-General of India or the Governor of Burma, for arbitration by such person or persons as may be agreed between them, or in default of agreement may be appointed by the Secretary of State, and this Agreement shall thereafter have effect in accordance with and as varied by any decision of such person or persons.

10. This Agreement shall come into force on the date of the separation of Burma from India and shall remain in force for three years, or until the expiration of two years from the date on which a notice to terminate the Agreement is given to the Governor-General of India by the Governor of Burma or to the Governor of Burma by the Governor-General of India, whichever is the later :

Provided that if, in the opinion of the Governor of Burma, the Reserve Bank fails to fulfil any of the obligations imposed upon it by or under this Agreement, or if the Reserve Bank of India Act, 1934, is amended in any respect which, in the opinion of the Governor of Burma, is seriously prejudicial to the interests of Burma, notice to terminate the Agreement may at any time be given to the Governor-General of India by the Governor of Burma, and such notice shall take effect on any date which may be specified therein.



EAST INDIA (CONSTITUTIONAL REFORMS)

Report of the Advisory Tribunal
on a Financial Settlement
between India and Burma

*Presented to Parliament by the Secretary of
State for India by Command of His Majesty
May, 1935*

LONDON

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MEMBERS OF THE TRIBUNAL

- The Right Hon. L. S. AMERY, M.P., *Chairman.*
- The Right Hon. Sir SIDNEY ROWLATT, K.C.S.I.
- Sir WALTER NICHOLSON, K.C.B.

INTRODUCTORY NOTE BY THE SECRETARY OF STATE FOR INDIA

The Joint Committee of Parliament, having recommended that the government of Burma should be separated from that of India, recommended further, in concluding their Report, that early steps should be taken for the determination, by an impartial tribunal, of the principles of "an equitable apportionment between the two countries of assets and liabilities".

In December, 1934, in pursuance of the Joint Committee's recommendation, a Tribunal, consisting of the Rt. Hon. L. S. Amery, M.P., the Rt. Hon. Sir S. Rowlatt, K.C.S.I., and Sir W. F. Nicholson, K.C.B., began, in response to the Secretary of State's invitation, to investigate the whole matter with a view to advising as to the basis on which a just financial settlement should be made and also as to the lines on and the method by which a complete financial settlement may be achieved between the two Governments; for it is evident that however precisely the principles may be indicated, a very great deal of detailed adjustment will be entailed by the application of those principles. The Report of this Tribunal is appended.

A particular aspect of the same question is dealt with in clause 425* of the Government of India Bill as presented to Parliament. This clause has for its principal purpose the correction of an apparent maldistribution as between India and Burma of property and liabilities effected by other provisions in the Bill. If these provisions were given their *prima facie* effect without qualification, the result would be a financial settlement between India and Burma obviously inequitable to India. Pensions, for instance, earned by "Central Service" whether in Burma or elsewhere are wholly charged in the Bill against the Federation. Burma however must in equity take with her, on separation, some share of the liability for those pensions. Similarly she must accept responsibility for a share of the Central Debt of the India of which she has hitherto been part. Material assets, again, have been allocated by the Bill, for practical reasons, to the country in which they are geographically situated; but, as the property of a hitherto undivided Government which included that of Burma, their value is in fairness divisible in some general proportion by reference to more general principles than those of geographical situation. The Report of the Tribunal assesses factors such as these and makes recommendations as to the principles upon which, and the method by which, they may be adjusted.

* Renumbered Clause 442 after amendment of the Bill in Committee of the House of Commons.

REPORT

To the Right Honourable Sir SAMUEL HOARE, Bt.,
G.C.S.I., G.B.E., C.M.G., M.P.,

His Majesty's Secretary of State for India.

We have the honour to submit our Report on the questions referred to us in the following terms :—

“ The Joint Select Committee of Parliament on Indian Constitutional Reform having recommended that Burma should be separated from India and that early steps should be taken for the determination by an impartial Tribunal of the principles of an equitable apportionment between the two countries of assets and liabilities,

The Tribunal are requested—

(1) to advise as to the basis on which a just financial settlement between the Government of India and the Government of Burma when separated should be made;

(2) to indicate—

(i) how their findings under the first Term of Reference should be applied to the position resulting from the provisions in the Government of India Bill (1935) for allocating to the Government of one country or the other the possession and control of certain property and for imposing certain legal liabilities on the revenues of one country or the other; and

(ii) so far as practicable the financial consequences of such application; and

(3) to advise, in the light of the findings under the First and Second Terms, as to the lines on, and the method by which a complete financial settlement may be achieved between the Governments of India and Burma in respect of assets and liabilities existing at the date of separation.”

2. A preliminary investigation of the problem was made in 1930 by Sir Henry Howard, K.C.I.E., C.S.I., and Mr. J. C. Nixon, C.I.E., whose Memorandum on the subject contains much valuable information and has been of the greatest assistance to us throughout our investigation. The figures in this Memorandum relate to the 31st March, 1930. We have, however, been supplied with revised figures relating to the 31st March, 1933, the latest date for which complete accounts are available, and it is the latter figures which we have in the main employed to illustrate the application of the principles which we recommend. In certain cases, where it has appeared that material changes in the nature or relative importance of the items calling for consideration were possible or probable, we have found it necessary to examine in addition the estimates of later years.

3. The views of the Government of India have been placed before us by Mr. J. C. Nixon, C.I.E., and those of the Government of Burma by Sir Henry Howard, K.C.I.E., C.S.I., Sir Samuel Smyth, K.C.I.E., C.S.I., and Mr. T. Lister, C.I.E. In addition to furnishing us with reasoned statements on behalf of their respective Governments, these gentlemen have supplied, at our request, much detailed statistical matter bearing on the question at issue, and we wish to express our appreciation of the ability with which they have presented and defended their cases and of the invaluable assistance which they have rendered us in the discharge of our task.

4. In addition to the facts and arguments laid before us by the representatives, we have carefully considered, *inter alia*, the under-mentioned documents:—

The Report of the Standing Finance Committee of the Indian Legislature, laid before the Legislative Assembly on 18th March, 1932, and the debates thereon.

The Report of the Finance Committee of the Burma Legislative Council and the Government of Burma's Memorandum thereon.

5. We proceed to deal with the questions submitted to us under the several heads of our terms of reference.

THE BASIS OF SETTLEMENT.

6. Under the first head of our terms of reference we are asked to advise as to the basis on which a just financial settlement should be made between the Government of India and the Government of Burma when separated.

7. The principle advanced by the representatives of Burma is based on the theory that the present relation between India and Burma is that of an administrative partnership between two distinct governments. They envisage separation as the reverse of the process which would occur should two such governments mutually agree to unite and replace their separate administrations by a single government common to both. In such a case, they urge, the expenses of that government, including such accrued liabilities as pensions, would be met out of the common revenue. Conversely, in the case of a united government divided into two portions, the separated portions should after division meet the outgoings appropriate to the functions performed in their respective territories, including pensions earned by service in or in respect of those territories. They contemplate, in fact, the separation of two existing entities, hitherto joined in an administrative relationship, and their continuance as going concerns.

8. The Government of India have not, either in the case laid before us by their representatives or elsewhere, committed themselves to any particular theoretical basis. The method they advocate

is, however, in practice this: they would assign to each Government a share of liabilities corresponding to the Central assets of which, for geographical or other reasons, it assumes possession, and would divide the balance of liabilities remaining in a proportion based on the combined revenues, Central and Provincial, collected in the respective territories during some selected period prior to separation.

9. Suggestions have been put forward from time to time by both sides for the modification of the settlement in their favour on historical grounds. On the side of India it has been suggested that Burma should be responsible for the debt caused by the cost of the Burma Wars; that she was in the early years a deficit province; and that her railways for many years were operated at a loss. On the side of Burma it has been urged that taxation per head is much higher in Burma than in India; that Burma has for years been contributing a sum to the Central Exchequer greatly in excess of Central expenditure in Burma; and that in spite of heavy taxation she is still the most undeveloped part in India.

10. After careful consideration of these views we have arrived at the following conclusions. The existing Government of United India is not a partnership between two existing entities. It is a single government which at the date of separation will go out of existence, leaving behind it certain assets and liabilities. It is our task to advise as to the method by which these assets and liabilities should be valued at the date of separation and in what proportions the two new States which will be created by the act of separation should bear the burden of the excess of liabilities over assets. In assessing these proportions we do not think it right to enquire whether the terms of the past association have been mutually satisfactory, or whether either party will gain or lose by separation. It must, in our opinion, be assumed that all taxation up to the actual date of separation was imposed and all expenditure allocated by the common government in the common interest.

11. The method we recommend, therefore, is that the whole of the assets and liabilities of the present Central Government of India should be valued on lines which we indicate hereafter; that the ascertained value of the assets should be deducted from that of the liabilities; and that responsibility for the balance of liabilities should be assigned to the two new countries in a proportion or ratio to be determined by a general consideration of their relative financial and economic situation. The balance to be so divided should include the liability for pensions, whether in course of payment at the date of separation or coming into payment thereafter as a result of Central service before separation. We hold pensionary payments to represent, not an item of the cost of current governmental activities, but the discharge of a liability incurred in the course of

past activities, and therefore correctly allocable in the same manner and in the same proportions as a debt outstanding at the date of separation.

12. To this general principle of division we propose that one exception should be made. We are advised that the Government of India and the present Government of Burma have agreed that Burma shall, at all events at the outset, remain within the currency system of the Government of India and continue to make use of the Reserve Bank of India. It has been further proposed that certain assets and liabilities arising out of, or connected with, the working of the currency system and the relations between Government and the Reserve Bank shall not be distributed at once, but shall be held in common by the two parties under a special arrangement as to the sharing of the resultant profits and losses. We are prepared, with certain reservations, which we state in a later portion of this Report, to accept this proposal.

13. In the second head of our terms of reference mention is made of the fact that in accordance with the terms of the Bill now before Parliament existing physical assets, such as railways and public buildings, will be vested in the Government of the geographical area within which they are situated, while the responsibility for the discharge of the liabilities of the Central Government will likewise be allocated between the two countries, the great bulk of this responsibility falling on continental India. The debt for which the Government of Burma is liable to the Government of India will therefore be arrived at as the difference between the liability which Burma should assume in accordance with the principles stated above and that for which she will actually assume direct responsibility.

THE VALUATION OF ASSETS AND LIABILITIES.

14. We proceed to consider the various categories of assets and liabilities to be brought into the account.

Our examination of these could not, of necessity, be exhaustive. The latest published figures available to us were those for the 31st March, 1933; and even in regard to these our knowledge on points of detail has inevitably been imperfect. Between the 31st March, 1933, and the date of separation the actual list of assets and liabilities will change both in composition and in the amounts of the several items, and it is possible that new types will have come into being. In some cases we have had warning of the changes and have been able to indicate how they should be dealt with; in others we can only advise that they should be dealt with in accordance with the general principles which we advocate, and which by way of illustration we have applied to the figures of March, 1933. We indicate at a later stage the machinery by means of which we consider that the actual apportionment of the liability after the date of separation could appropriately be worked out.

LIABILITIES.

15. The bulk of the liabilities consists of interest-bearing obligations. We proceed to consider in detail the various items in this category.

(a) Permanent Debt.

16. Under this head we include all debt so described in the Finance and Revenue Accounts of the Government of India with the exception of the liability assumed in respect of British War Loan: that is to say, all loans, whether rupee or sterling, held by the public, with or without fixed dates of redemption, and all Railway Annuities, but not Treasury Bills.

17. It was proposed in the Howard-Nixon Memorandum that Permanent Debt should be assessed as a liability at the total nominal amount of its various items. This figure would, in any event, need amendment to allow for the interest accrued up to the date of separation; but even if corrected in this respect, the nominal amount of the debt is, in our opinion, an inaccurate measure of its true burden. The public debt now includes, and must almost inevitably include on the date of separation, loans differing widely in regard to rates of interest and dates of redemption. These range from irredeemable stock with a rate of interest as low as $2\frac{1}{2}$ per cent. to redeemable loans bearing interest at $4\frac{1}{2}$, 5 or $5\frac{1}{2}$ per cent. It is clear that the actual burdens represented by such loans may differ widely from their nominal amounts. The burden of a loan is measured not only by the sum payable on redemption, but also by the periodic interest payable during the intervening period; and in the extreme case of an irredeemable loan it is the latter factor alone which has significance.

18. In our view, therefore, the liability attaching to all loans should be assessed with direct reference to the only relevant facts, namely, the sums payable, whether by way of principal, interest, or instalments of annuity, up to the date of repayment or termination. We recommend that these sums should severally be reduced, by the operation of discount at a uniform rate, to equivalent values at the date of separation, and that the total of these values should be taken to be the liability at that date.

19. The application of this method involves the assumption, in certain cases, of the date of redemption of the loan; and in all cases of the rate of interest at which future payments are to be discounted. The determination of the date of redemption should present little difficulty. It is a sufficiently correct assumption, where optional dates are available, to assume that redemption will take place at the earliest if the loan stands above par and at the latest if it stands below. With regard to the rate of interest, we consider that it should represent the average yield, over a period of two years preceding the date of separation, of the rupee and

sterling securities of the Government of India with an unexpired currency, reckoned up to the probable date of redemption, of 15 years or more. This yield could conveniently be deduced in the first instance from the recorded prices on a fixed date in each month, and the result rounded to the nearest quarter of 1 per cent. The rate so determined can appropriately be employed in another connection, namely, for the calculation of the interest to be paid by Burma on her obligation to the Government of India.

20. Inasmuch as it may appear that the use of an estimated rate introduces an arbitrary element into the assessment of Burma's liability, it may be pointed out that a variation of the rate operates on the annual charge against Burma in two directions which are to some extent compensatory. An increase of the rate, for instance, diminishes the present value of the total liability and in consequence the proportion of the net liability for which Burma is responsible; the net effect, therefore, is that she becomes liable for a higher rate of interest on a smaller debt. Conversely, a reduction of the rate of interest used in the calculation increases the present value of the total liability and Burma consequently becomes responsible for a lower rate of interest on a larger debt. In an appendix to this Report we give estimates of her liability compiled to the best of our ability on the information available as to the figures of the 31st March, 1933, using for the valuation of the debt rates of $3\frac{1}{4}$, $3\frac{1}{2}$ and $3\frac{3}{4}$ per cent. It will be seen that the interest charges differ in these three cases by comparatively insignificant amounts.

(b) *British War Loan.*

21. The liability assumed by the Indian Government for the service of a definite portion of the British War Loan differs from that attaching to Indian loans inasmuch as instalments of interest have, for the present, been discontinued in accordance with general arrangements for the suspension of war payments and the sums payable in future are, therefore, uncertain. We recommend that Burma should be directly responsible to the British Government for her appropriate share, in accordance with the ratio which we recommend hereafter, of any future payments of principal or interest. This recommendation need not, of course, preclude India from making the payment on behalf of Burma by mutual arrangement.

(c) *Treasury Bills.*

22. Treasury Bills should in our opinion be valued at issue price plus accrued discount to the date of separation.

(d) *Cash Certificates.*

23. Cash Certificates should be valued at issue price plus bonus accrued at the date of separation.

- (e) *Post Office Savings Bank Deposits.*
- (f) *Balances of Family Pension Funds.*
- (g) *Balances of Provident Funds.*
- (h) *Special Loans and Treasury Notes.*
- (i) *Provincial Balances on which Interest is payable.*
- (j) *Sinking Funds for Loans granted to local Bodies.*

24. We assume that the date of separation will coincide with the date to which, in the case of all the above items (e) to (j), interest is paid or added to the principal. If this assumption proves to be correct, the nominal amounts of the liabilities may be accepted as their value; otherwise interest accrued to date of separation should be added.

(k) *Miscellaneous Liabilities.*

25. A list of miscellaneous liabilities was given in Annexure C to the Howard-Nixon Memorandum, and similar figures for the 31st March, 1933, have been furnished by the Government of India. We have not been in a position to examine these lists in detail, and in any case a final pronouncement as to the correctness of the various items could only be made after the actual date of separation. We content ourselves, therefore, with stating that, with certain exceptions specified below, the items appear to be properly included among the divisible liabilities.

(l) *Depreciation Reserves.*

26. The Railway depreciation and general reserves, the depreciation reserves for other commercial Departments, and for Central Presses, and the Army depreciation reserve, have been included as liabilities in the Howard-Nixon Report. These entries in the accounts do not, in our opinion, represent true liabilities, but are rather to be regarded as indicating the abatements from the book value of the corresponding assets to be made in assessing their value. We deal with them in connection with the assets.

(m) *The Military Reserve.*

27. The Military Reserve represents the amount by which actual military expenditure since 1928-29 inclusive has fallen short of the amounts provided in the Budget, and has been entered as a liability under the arrangements for a stabilised military budget, whereby savings in one year may be added to expenditure in subsequent years. It has been suggested that this sum represents a liability of the Central Government to the Military department, which Burma should share; receiving in return such portion as may correspond to her actual military establishment. We are unable to accept this view. The announced intentions of a Government with regard to one of its departments cannot, in our opinion, be held to create a divisible liability, and we recommend that the balance under this head be ignored.

(n) Road Development Fund.

28. We agree with the recommendation of the representatives that any balance under this head should be omitted from the account.

(o) Pensions.

29. We have indicated above that we regard the payment of pensions as the discharge of a liability accrued at the date of separation, differing in no essential respect from the repayment of debt or of any other obligation, and that Burma should share this liability in the general ratio which we advise hereafter for the apportionment of the net liability. Burma's obligation in this respect would no doubt be most accurately discharged by the periodic refund to India of the appropriate share of the actual pensionary payments. This method of settlement, however, would in practice be intolerably cumbrous. Burma's liability extends not only to pensions actually in course of payment at the date of separation, but to pensions commencing after that date and earned in part by central service prior to separation. A running account between India and Burma would therefore involve the division of the total pension bill in both countries into two portions, apportionable and non-apportionable. The former portion would include a varying fraction of the pensions granted after separation to central officers serving at the date of separation, and the adjustments would continue until the disappearance of the charges in respect of the youngest officers then serving, a very long period. We recommend, therefore, that the liability of Burma should be ascertained as a present value at the date of separation and added to the debt due to the Government of India. We recognise that the valuation of this liability may not be free from difficulty, and may involve at the outset a certain amount of labour and expense. We feel, however, that the objections to a running account of long duration are so strong that every effort should be made to overcome these difficulties, and we indicate, in dealing with the third term of our reference, the means by which we think that this end may be achieved.

30. It has been pointed out to us that, under a settlement made in 1921 between the Centre and the Provinces, there are charged against Central Revenues certain pensions properly debitable to the various Provinces, and that these should more correctly be shared, not in the general ratio applicable to Central liabilities, but in a ratio dependent on the extent to which the service they represent was rendered in Burma and in continental India respectively. We are of opinion that the results, at this stage, of an attempt to adjust the incidence of these pensions would be negligible and would fail to justify the labour involved. We recommend, therefore, that all pensions recorded in the accounts as central at the date of separation should be included among the divisible liabilities.

31. It has been proposed by the representatives on both sides that the payments recorded under the head "Territorial and Political Pensions" should be divided on the basis of the territory in respect of which they arise. Although this proposal may seem at first sight inconsistent with the general principle which we have advocated, we are nevertheless prepared to accept it. These payments are not for the most part pensions in the true sense, and are correctly treated as current expenditure rather than as the discharge of accrued liabilities.

(p) Accrued Portions of Future Payments and Receipts.

32. We have recommended above that in the case of interest on debt, Burma should be liable for a share of sums accrued but not payable until after the date of separation. It has been suggested to us that in other cases a similar adjustment should be made. Pay, for instance, is ordinarily disbursed on the first of the month, and it has been claimed that Burma should bear a share of the amount accrued. Similarly, it has been suggested that receipts or refunds of revenue relating to the period before separation, but not actually paid or received until after that date, should be brought into the account of divisible assets and liabilities.

33. It is evident that any general scrutiny and apportionment of receipts and payments occurring after the date of separation would be impracticable. The normal practice of the Government of India is to record all revenue transactions as appertaining to the year in which the cash passes. We are of opinion that this practice should generally govern the incidence of transactions occurring after the date of separation. We have excepted the case of interest on debt both on account of its relative magnitude and because its true incidence is readily and accurately determinable. In other cases we are satisfied that the results attained would not justify the labour involved or the occasions for friction which the attempt to allocate the transactions would offer. We would not, however, exclude the possibility of adjusting, in the final settlement, the incidence of any large payments or receipts which, for exceptional reasons and not as a consequence of the normal carry-over from year to year, are overdue at the date of separation.

34. A claim somewhat akin to those discussed above has been advanced on behalf of the Government of India. It is contended that Burma should accept liability for a share of the cost of leave due to officers at the date of separation. We are not satisfied as to the validity of this claim. The absence on leave of a proportion of the total strength is a normal incident of service, anticipated and duly taken into account when the numbers necessary to discharge the functions of government are determined. Its cost, therefore, may not unreasonably be regarded for practical purposes as an item of current cost rather than as the discharge of an accrued liability. Other instances could be cited where a theoretical connection can be traced between expenditure incurred after separation and service

rendered before that date, or *vice versa*. We have no reason to suppose that an exploration of all possible claims of this nature would tell in favour of one party rather than of the other. In any case the results would not justify the labour involved. We recommend that all expenditure should, except where we have specially indicated the contrary, be held to relate to the period in which payment is made.

ASSETS.

35. We turn to the consideration of the various assets.

36. The principal material asset of the Central Government of India is its railway system. With this may be grouped certain other so-called "commercial" assets, that is to say, assets with a direct earning capacity, the capital cost of which, though in some cases met wholly or partly from revenue, has been shown in the accounts of the Government of India as an off-set to an equivalent portion of the public debt.

37. The records in the accounts for the most part show the total sums expended on these assets. In the case of the Posts and Telegraphs Department the account shows, exceptionally, the depreciated value of assets existing on 1st April, 1925, and the full value of all assets acquired thereafter. There are also shown in the accounts, in respect of all the principal commercial undertakings, depreciation or replacement reserves accumulated from sums set aside out of the income of past years.

38. We have considered various methods by which the value to be attached to these commercial assets might be ascertained. The method of valuation on a commercial basis with reference to earning capacity we dismiss as not only impracticable but irrelevant. It is clear that many assets must have a value to the Government owning them wholly unrelated to their earning power. There remain the alternatives of valuation on a replacement basis and valuation on a basis of cost. The former method, even if it could otherwise be justified, seems to us to involve practical difficulties which exclude it from consideration. We recommend, therefore, appraisement on a basis of cost subject to suitable allowance for depreciation or replacement.

39. It has been represented to us that in many cases, notably in that of the railways, the depreciation reserves have been established only for a small portion of the period elapsed since the assets were first acquired, and that had they been accumulated on commercial accounting principles from the commencement they would amount to far greater sums. It is suggested therefore that, in order to arrive at the correct values of the assets, larger sums should be deducted from their cost than are shown in the depreciation accounts. We are unable, however, to accept this view. The assets are being handed over to the new Governments for continuous use, and, in our view, no more is necessary, in order to raise

their value for practical purposes to the full original cost, than to hand over with them such sums as will be sufficient, together with the normal appropriation from the revenue of each year, to meet any demands for replacement which can reasonably be foreseen. In practice the handing over would be effected by a corresponding reduction of the value assigned to the asset for the purpose of the settlement. We are satisfied that in the case of all the principal assets of the type under consideration, the sums which, assuming the present scale to be maintained, will have been set aside by the date of separation will be sufficient for the purpose indicated. We recommend, therefore, that, subject to certain adjustments mentioned below, the assets should be assigned the values recorded in the accounts at the date of separation less the sums then standing to the credit of the appropriate depreciation or replacement reserves.

(a) *Railways.*

40. The recorded cost of the railways on 31st March, 1933, was 7,97.11 crores, of which 40.36 crores had been met from capital raised by companies still working as such or by Indian States, leaving the cost met from the funds of the Central Government at 7,56.75 crores. The balance then at the credit of the depreciation account was 26.54 crores. There was also a balance of .47 crores at the credit of a general reserve account accumulated from past earnings, represented by investments in the shares of company-owned lines. Of the balance at the credit of the depreciation reserve 14.48 crores had been appropriated to meet the loss on the working of the railways in 1931-32 and 1932-33. It is estimated that by 31st March, 1936, the total accumulations in the depreciation reserve will have reached $41\frac{1}{2}$ crores and the amount appropriated out of this to meet losses $28\frac{1}{2}$ crores.

41. We regard as irrelevant the fact that past losses have been set against the balance of the depreciation reserve. Our task is to assign a value to the railways, and for this purpose we consider that the proper deduction from the cost is the amount set aside for depreciation. The fact that losses have occurred in recent years obviously neither lessens the need for future replacements nor increases the value of the railways.

42. In two respects the recorded cost of railways differs from the actual cost. The purchase of certain railways was effected by means of the issue of annuities or stock, and the nominal capital has been written down, by the gradual reduction of the capital represented by the annuities or by sinking fund payments, by the sum of $29\frac{1}{2}$ millions, equivalent at the rates of exchange appropriate to the dates of purchase to 39.89 crores. The representatives of Burma claim that this sum, which does not represent any reduction in the real value of the railways in question, should be restored to the cost for the purposes of the division. We accept their view.

43. On the other hand, in certain cases cash sums payable on the purchase of lines have been discharged by the issue of India stock, and the nominal amount of such stock has been recorded as part of the cost, which has by this means been increased by the sum of £1,400,906. We consider that the cash figures should be adopted throughout.

44. The investment held on account of the Railway Reserve should be treated as an asset and added to the value of the railways. No real liability attaches to this reserve.

45. The value which we would assign to railways on the figures of 31st March, 1933, is, therefore, as follows :—

	<i>Rs. crores.</i>
Cost met from Government funds as recorded	7,56-75
Add: Amounts written off	39-89
	<hr/> 7,96-64
Deduct: Excess of stock nominal values over cash (say)	1-95
	<hr/> 7,94-69
Adjusted cost of Railways	7,94-69
Add: Investment in the General Reserve ...	.47
	<hr/> 7,95-16
Deduct: Accumulations of Depreciation Reserve	26-54
	<hr/> 7,68-62
Net value	<hr/> 7,68-62

(b) *Other Commercial Assets.*

46. The remaining commercial assets may be valued on the method indicated above on the basis of the amounts recorded under the appropriate heads in the accounts.

(c) *New Delhi.*

(d) *Land purchased for the use of the Military Department under the Bombay Land Scheme.*

47. These items are properly treated as divisible assets, and the value may be taken at the cost as recorded in the appropriate statements in the Finance and Revenue Accounts (Nos. 67 and 74 E of the accounts for 1932-33).

(e) *"Dead" Assets.*

48. The term "dead" assets has been applied to a large number of miscellaneous assets the cost of which has been met from revenue, and no account of which is to be found in the published accounts of the Government of India. These assets include military buildings and stores, civil buildings and the High Commissioner's premises in London. A list, admittedly imperfect, has been supplied

to us by the representative of the Government of India, according to which the total value is about 91 crores, the value of the portion located in Burma being about 3½ crores. We see no reason for excluding these assets from the division in so far as their cost can reasonably be ascertained; and we recommend that an attempt be made, under the instructions of the body responsible for drawing up the final account after the date of separation, to make such estimate of their value, on the basis of cost, as is possible from the departmental records of all substantial civil and military properties in India and Burma, subject, however, to the proviso that where the information is not readily available no investigation should be made of the records of a period earlier than the last 50 years.

(f) *The India Office.*

49. Inasmuch as, under the Government of India Bill, it is proposed that the India Office shall vest in His Majesty for the purposes of His Government in the United Kingdom, to be used in connection with the discharge of the functions of the Crown in relation to both India and Burma, no apportionment of the value is necessary.

(g) *Advances to Provinces.*

(h) *Other Interest-bearing Advances.*

(i) *Investments of Cash Balances.*

(j) *Investments of Sinking Funds.*

(k) *Silver Redemption Reserve.*

50. As in the case of interest-bearing liabilities, accrued interest should be added to the nominal value of these assets in assessing their value. The item Silver Redemption Reserve does not appear in the accounts for 1933, the figures of which we have used for illustrative purposes.

(l) *Cash and Miscellaneous Assets.*

51. A list of these is given in Annexure C to the Howard-Nixon Memorandum. As in the parallel case of the miscellaneous liabilities, we are unable to do more than state that the items appear to be properly included among the divisible assets.

THE RATIO.

52. Having indicated the methods which we think it right to adopt for the purpose of arriving at the total of assets and liabilities, we have now to determine the ratio in which the balance of liabilities should be divided between India and Burma.

53. We do not believe that it is possible to formulate any theoretical principle, or to select any single criterion or set of criteria, by means of which the relative contributions to be levied

from the two communities for the discharge of a common obligation can be precisely determined. The only course open to us has been to examine all the circumstances which seem relevant to the enquiry, and in the light of that examination to make an approximate estimate of the contributions which can justly be required.

54. For the purposes of this enquiry the natural starting point is furnished by the actual existing contributions for common purposes, in other words by the respective contributions of India and Burma to the Central revenues of the present undivided Government.

55. It has been suggested to us on behalf of the Government of India that the ratio we are seeking should be based on the revenues raised for all purposes, Provincial as well as Central. The grounds advanced are, firstly, that the existing division between Central and Provincial functions is a domestic one subject to amendment or revocation; secondly, that the existing obligations are, in the last resort, secured on all revenues, Central and Provincial; and thirdly, that the combined revenues afford a broader and more equitable basis for the determination of relative capacity to pay than is afforded by Central revenues alone. We feel, however, that in practice our main guide must be the actual administrative and financial organisation of the Indian Empire, which is one under which Central obligations are met from Central revenues alone and Provincial revenues are assigned to meet Provincial needs. We do not, moreover, consider that we could take cognisance of Provincial revenues for this purpose without bringing into the account Provincial assets and liabilities.

56. We are entitled to assume that in framing its revenue system in the past the Government of India has been concerned, so far as administrative considerations allowed, to make it generally equitable, both as between individuals and as between wider areas, in respect alike of burdens imposed and of benefits conferred. That does not, however, preclude us from taking into consideration other factors which in our opinion are relevant to a fair apportionment of existing liabilities as between the two areas concerned. Nor should it be taken as any reflection upon the administrative or economic policy of the Government of India if, for our purposes, we subject the *prima facie* ratio of direct revenue contributions to certain adjustments which those factors appear to us to require.

57. In this connection it will not be out of place to quote the Government of India's own description of the character of its Central revenues already quoted by the Indian Statutory Commission, Vol. I, page 345 :—

“ To meet its own expenditure the Government of India retains in the first place the entire profits of the commercial departments, and secondly all the revenues whose *locale* is no guide to its true incidence, such as the net receipts of Customs, Salt and Opium.”

58. It was in consequence of a similar uncertainty as to true origin that the authors of the Howard-Nixon Memorandum agreed to exclude from their survey of revenues all figures relating to Income Tax, and to consider only the receipts arising from Customs, Salt, Opium, Tributes and Railways. We recognise the grave difficulties attaching to any attempt to assign a local origin to Income Tax receipts. At the same time we feel that if this item is excluded from the calculation, a factor is omitted which might seriously prejudice the result. We have, therefore, for the purposes of our investigation, adjusted the recorded figures of Income Tax to the best of our ability in regard to certain large undistributed items and have made use of the amended totals. With regard to the other heads we accept the view of the Government of India that Opium receipts are no longer a relevant factor, and we have excluded receipts from Railways both on account of their uncertainty and because they do not represent contributions by the inhabitants of the respective areas in their capacity as taxpayers. Our computations of the direct revenue contributions are, therefore, based on receipts from Customs, Salt, Tributes and Income Tax as readjusted.

59. In the case of Customs duties it is obvious that the true economic incidence of a duty falls, not upon the area in which the duty is collected, but upon that in which the article is ultimately sold. Where the tariff is protective that incidence further includes, not only that element in the price of imported goods which represents the duty at the port of entry, but also that element in the price of competing home products which is maintained by the duty, and which, under a strictly revenue tariff system, would have been subject either to import duty or to excise. Owing to her geographical isolation and remoteness from the main centres of Indian industry, the protective effect of the Indian tariff has been very much less marked in Burma than in continental India, and it has, in fact, operated mainly as a high revenue tariff. In other words, the visible revenue element in Burma's contribution to the maintenance of Indian fiscal policy has been disproportionately high. This does not mean that Burma, as a part of the existing Indian Empire, has been unfairly mulcted in order to support a protective system. But it does mean that it would not be fair to Burma to take the customs revenue actually collected in Burma into our calculation without some adjustment to correct the peculiar effects of her geographical situation.

60. We have not considered it necessary, or indeed possible, to attempt anything in the nature of an exhaustive calculation in order to arrive at an accurate estimate of the ratio of Burma's contribution as so readjusted. An indication, however, of the character and extent of the readjustment involved is furnished by taking the figures relating to four of the most important items in the customs list, viz. cotton piece-goods, white sugar, steel, and kerosene, and weighting them on the hypothesis that the domestic

product had been subject to an equivalent excise, but making allowance for duties paid on imported materials such as dyestuffs and machinery. On this basis it would appear that Burma's real contribution for the years 1928-29 to 1931-32 has been about 8 per cent. of the total central revenues of the Indian Empire, as compared with a figure of $9\frac{1}{2}$ per cent. suggested by the figures of actual revenue locally collected.

61. An entirely different angle of approach to the problem would be to base the ratio of contribution upon relative national wealth or income. It has been urged on behalf of India that the standard of living and income is definitely higher in Burma than in India. The representatives of Burma, while admitting this, have adduced figures to show that the difference is not nearly so great as the revenue returns would appear to indicate, and that a ratio for Burma based on national income would be substantially lower than that deduced either from the existing or from the adjusted revenue contribution.

62. We have investigated in some detail those figures of income and consumption which appeared to us relevant to this aspect of the problem. We have examined in the light of figures placed before us by the representatives the average income of the agricultural worker and the average income assessed to tax, and have estimated the consumption of such staple commodities as cotton piece-goods, sugar and kerosene. We have also considered certain Provincial heads of revenue which might be regarded as affording an index of general prosperity or spending power. We recognise that none of these lines of approach can afford a precise index of taxable capacity. For what they are worth they would seem to indicate that the average money income in Burma is about 20 per cent. higher than in continental India, which, statistically, and allowing for population, would suggest a ratio in the neighbourhood of $6\frac{1}{2}$ per cent. But the yield of taxation normally and appropriately rises more rapidly than the income. Moreover the greater mineral and forest wealth of Burma, and the existence there of a higher proportion of non-indigenous interests liable to taxation, suggest a somewhat higher revenue-producing capacity. We feel justified, however, in concluding as a result of our investigations in this field that Burma's true capacity to pay is somewhat lower than would appear from the revenue returns even after the adjustments indicated above.

63. Another general and even less accurately ponderable consideration advanced on behalf of Burma in favour of a lower ratio than that indicated by revenue contribution refers to the geographical distribution of the benefits conferred by Government expenditure and Government policy. It has been argued that the fact that the overwhelming bulk of the military expenditure, amounting to nearly 50 per cent. of the net Central revenue from taxation, is disbursed, by way of pay, pensions, rations, equipment or transport,

in India, constitutes a substantial benefit in which Burma has very little share. Similarly it has been suggested that, up to the present at any rate, the direct benefits of the Indian protective system have inured almost wholly to manufacturers and workmen in India.

64. We do not propose to assign any precise weight to these different alternative arguments for a ratio of contribution below that of the actual revenue contribution of recent years. But our study of all the various aspects of the question and of the arguments and figures presented to us has led us to the conclusion that, for our particular purpose of arriving at a just financial settlement, the proper ratio in which Burma should contribute in respect of the liabilities outstanding at the date of separation (subject to certain qualifications in connection with currency) should be 7·5 per cent.

CURRENCY.

65. We have referred in an earlier paragraph of this Report to an agreement arrived at between the Government of India and the present Government of Burma for the continuance of Burma within the Indian currency system, and to the special arrangements proposed, in consequence, for the apportionment of certain assets and liabilities connected with or arising out of the working of the currency system. We proceed to deal with this question in greater detail. It will be desirable at the outset to recapitulate briefly the nature of the agreement between the two Governments.

66. The main provisions of this agreement are as follows:—

The Reserve Bank of India will manage the currency and carry on the business of banking in Burma.

The bank will issue distinctive notes which will be legal tender in Burma but not in India, and Indian notes will cease to be legal tender in Burma after a reasonable interval.

The Government of Burma will have the right after due notice of issuing distinctive Burman coins. Should they exercise this right Indian coins in Burma will be retired through the Government of Burma, which will not be entitled to receive in return the equivalent of the nominal value, but must dispose of them by one or other of the following methods:—

(a) It may deliver them to the Government of India against payment of the bullion value plus the cost of minting an equivalent amount of new coinage;

(b) It may arrange with the Government of India to recoin them with Burman designs and such recoinage will be free of charge unless the number and composition of the coins alter materially;

(c) It may itself, subject to certain restrictions, dispose of the silver content of rupees which it does not desire to have recoined.

The agreement is to be terminable on two years' notice by either side, with a minimum period of three years from the date of separation. On termination of the agreement the Government of Burma will be free to sever its connection with the Reserve Bank and to make such arrangements as it thinks fit for the management of currency and the control of credit. It will become liable for the note issue outstanding in Burma and will receive a corresponding share of the assets of the Issue Department of the Reserve Bank.

67. Our terms of reference do not authorise us, nor do we wish, to offer any criticism of this agreement. Certain consequential suggestions have, however, been made which in our opinion fall within the scope of our enquiry. These suggestions relate to the division of assets and liabilities accrued at the date of separation as the result of past operations in the sphere of currency and exchange and to future profits arising in the same connection. In order to state clearly the points, settlement of which is called for, it will be necessary to set out in some detail the nature of the various items calling for consideration.

68. The Government of India has in the past drawn large profits from coinage, note issue, and remittance operations. Many of these profits are not now readily identifiable, notably the large sums credited from time to time to Revenue; others are represented by concrete assets like the Gold Standard Reserve, while yet a third category is represented by reductions of the public debt of ascertainable amount. Certain losses incurred in the same connection can similarly be identified with definite increases in the debt.

69. On the establishment of the Reserve Bank, which it is anticipated will take place on the 1st April, 1935, the Government of India will, under the provisions of the Reserve Bank Act, transfer to the Bank the responsibility for the outstanding issue of currency notes, and will hand over an equivalent amount of gold, sterling securities, rupee securities, and silver coin. On the latest information we have been able to obtain, we may perhaps assume that the note issue on the 1st April next will be in the neighbourhood of 187 crores, and that the cover to be handed over to the Bank will be made up as follows :—

	<i>Crores.</i>
Gold and sterling securities '	93½
Silver	50
Rupee securities	43½
	<hr/>
	187
	<hr/>

70. It may also be assumed that the reserves held by the Government of India against currency and exchange liabilities will

exceed the total of the note issue by $53\frac{1}{2}$ crores, and that they will be made up as follows on the 1st April :—

	<i>Crores.</i>
Gold and sterling securities	113
Silver	93 $\frac{1}{2}$
Rupee securities	34
	<hr/>
	240 $\frac{1}{2}$

71. In order, therefore, to provide the cover required by the Bank in the form indicated above, it will be necessary for the Government of India to issue rupee securities to the value of $9\frac{1}{2}$ crores. There will remain an excess in the total reserves, beyond the amount required to cover the note issue, of $62\frac{1}{2}$ crores, made up to as follows :—

	<i>Crores.</i>
Sterling securities	19 $\frac{1}{2}$
Silver	43 $\frac{1}{2}$

Of the sterling securities it is proposed that 10 crores should be set aside as a special fund to meet the obligations of the Government of India in respect of rupees returning from circulation, to be known as the Silver Redemption Reserve. The remainder will be available for the general purposes of the Government of India.

72. Under section 46 of the Reserve Bank Act the Government of India is required to hand over to the Bank rupee securities to the value of 5 crores, in order to provide a reserve. These securities form an identifiable portion of the public debt arising out of the establishment of the Bank.

73. To complete the analysis of the situation arising on the establishment of the Reserve Bank, it is necessary to add a figure representing additions to or reductions of the net liability of the Government of India arising out of past currency or coinage operations, other than those included in the items enumerated above. As has been said above, this figure is very difficult to assess. Certain items entering into it can be fairly readily identified, as for instance the losses on sales of silver and securities from the Paper Currency Reserve, and the gains or losses arising from the revaluation of sterling securities consequent on the changes in the parity of the rupee made in 1920 and 1927. There are, however, many other items less readily distinguishable and perhaps less obviously appropriate for inclusion, and an exhaustive enquiry might result in a list of great length, but of doubtful validity. In view of our recommendations below it is unnecessary for us to attempt the task of discriminating between these various items.

74. After the establishment of the Reserve Bank the Government of India will be liable, under section 36 of the Reserve Bank Act, to purchase from the Bank any silver in its issue department

in excess of 50 crores, and must, on the other hand, issue to the Bank coined silver at full nominal price to the amount by which the silver in the issue department falls short of 50 crores; subject normally in each case to a limit of 5 crores in any one year. There will thus be periodical profits or losses both before and after separation. The Government of India has in addition a right to a share, calculated in accordance with rules laid down in the Act, of the profits of the Bank.

75. The Government of India is precluded by section 38 of the Act from issuing rupee coin otherwise than to the Bank in the manner described in the last section. The silver lapsing to Government as stated in paragraph 71, and there assessed at its nominal value in coined rupees, can thus in fact only be realised either by issue to the Bank or by sale as bullion in the market.

76. It is proposed by the two Governments in agreement that not only future receipts and payments of the nature indicated in the immediately preceding paragraphs, but also assets and liabilities existing at the date of separation of the types indicated in paragraphs 71 to 73, shall be excluded from the general scheme of adjustment, and apportioned between the two countries in a special ratio to be determined from the note issue. After the initial period it is proposed that the ratio applicable to any year shall be that borne by the average circulation of Burman notes to the total average circulation in Burma and India combined. For the division of the initial assets and liabilities, and for the division of annual profits and losses during the first three years, it is proposed to employ the ratio deduced from the figures of the third year; a provisional allocation subject to adjustment being made in the interim period. Burma will have the right, if it appears that Indian notes are, by the end of three years, circulating in Burma to any appreciable extent, to require the extension of this period. The special note ratio would apply not only to the ordinary profits of the Bank, but to any special profits realised as the result of the revaluation of its gold holdings. In the event of Burma deciding to sever completely her connection with the Indian currency system she would be entitled to a share, calculated on the note ratio applicable at the time, of the surplus assets which would accrue to the Government of India in the event of the Reserve Bank being liquidated under section 57 of the Reserve Bank Act.

77. It will be observed that under the above proposals the stock of silver taken over by the Government of India on the establishment of the Reserve Bank would not be valued and brought into the account of liabilities and assets, but would be held as a common asset and distributed only as and when realised. In the event, however, of Burma deciding to supersede the rupee with a coin of her own, it is proposed that she should at once receive her due proportion, based on the note issue, of such of this silver as remains; and

she would have no further interest in transactions between the Bank and the Government of India under section 36 of the Reserve Bank Act.

78. So far as the above proposals relate to profits and losses accruing after the date of separation, we have no criticism to offer. The two Governments are, under their agreement, continuing as a partnership the common interest in currency and coinage which they formerly had as a unitary Government, and the proposals for the definition of their respective shares seem reasonable. With regard, however, to the assets other than silver, and to liabilities arising out of past currency working and existing on the date of separation, we see objections, both theoretical and practical, to the proposals. Of the latter nature is the fact that they will involve a delay in the final settlement of at least three years, and that the determination of the items to be included in this special settlement is difficult and must be, to a great extent, arbitrary. As a matter of principle, on the other hand, we see no distinction between assets or liabilities which have arisen from currency operations and those which have arisen from any other cause. Even in what is perhaps the most striking case, the debt raised to provide the Bank with a reserve, it is nevertheless true that this debt is charged on the revenues of united Indo-Burma in the same manner as any other debt, and there would seem to be no good reason for its exclusion from the general body of liabilities. On grounds, therefore, both of principle and of expediency, we recommend that all debt outstanding on the date of separation, and all securities or cash held as a result of currency working, but not the store of metallic silver, should be included in the common account and divided on the principles we have recommended in the earlier portions of this Report.

79. It is necessary to add a recommendation on one point of detail. The joint proposal of the two Governments provides that in the event of the Government of Burma leaving the Indian currency system she shall have the option of returning currency to the amount of the Treasury balances held in Burma at the date of separation and cancelling an equivalent amount of her debt to India. We see no justification in theory for this proposal, and possible objections in practice. We recommend, therefore, that no exception be made in this respect to the general arrangement for the redemption of Indian currency.

FORM OF INDEBTEDNESS.

80. We have above explained the broad principles on which we advise that the liability of Burma to India should be ascertained, and have indicated, in such detail as is at this stage possible, the methods by which we consider that these principles should be applied. It will be observed that the process envisaged necessarily involves the expression of all the items entering into the account in

terms of a common currency. It has been represented to us that, although Burma's liability must for this reason be calculated in the first instance in rupees, some portion of that liability should, nevertheless, be repayable in sterling. This does not necessarily imply that the actual payments by Burma to India would be made otherwise than in rupees. The suggestion is rather that if the value of the rupee varies in terms of sterling, the outstanding indebtedness of Burma would be correspondingly increased or diminished.

81. We have given reasons for holding that in the case of one particular liability, the obligation undertaken in respect of British War Loan, Burma should be directly responsible for her share of the actual sterling payments. With regard to the remainder of her liability, however, we are of opinion that any attempt to express a portion in sterling is inadvisable. The liability of Burma to India has no specific relation to the various items of India's outstanding debt, and it is not possible, therefore, to formulate with confidence any principles on which the amount of the sterling liability could be determined. In these circumstances we see no reason for departing from the natural arrangement under which inter-Governmental debts are expressed in the currency of the creditor country. We recommend, therefore, that Burma's obligation to India should be wholly expressed in rupees and should not be subject to revision in the event of any change in the exchange parity after the date of separation.

METHOD OF PAYMENT.

82. We have recommended above that the main body of liabilities should be valued at a rate of interest to be ascertained at the date of separation, and have stated that this rate could properly be used for the calculation of the interest to be paid by Burma on her debt to India. We have next to consider the method by which Burma should discharge this debt. It has been represented to us that inter-Governmental debts are a fruitful source of ill-feeling and that it is desirable that provision should be made not only for the payment of interest, but for the ultimate repayment of the capital. Various proposals have been put forward as to the period and method of repayment. The Government of India consider that repayment should be complete within 30 years from separation, but have formulated no definite scheme for the determination of the periodic amounts to be refunded. The Government of Burma contemplate repayment by means of a level annuity calculated to redeem principal and interest in 60 years. They support their advocacy of this period by its general accordance with the average of the periods assumed in Sir Basil Blackett's debt redemption scheme of 1924 as appropriate for the redemption from revenue of the various types of debt. We do not regard this argument as relevant. Although Burma might think it desirable as a measure of sound finance to meet all repayment of the debt from revenue, it is not necessary to assume that the requisite funds will be

raised in this way. On the other hand we consider that in all the circumstances the period assigned by the Government of India is too short. We recommend that repayment should be made by means of an annuity due in half-yearly instalments, and sufficient to repay the whole capital, with interest at the rate employed for the valuation of the debt, by the end of 45 years, the first instalment to be payable six months after separation.

83. We would, however, exclude from the operation of the above recommendation one item of the debt. We have recommended that the liability in respect of pensions should, if possible, be capitalised. There will, however, be a charge coming into course of payment after separation for pensions of staff transferred to Burma, the growth of which would in the normal course be an offset to the decrease in the charge for pensions previously in issue. There are practical advantages in preserving this compensatory action, which has the effect of keeping the total charge for pensions approximately constant. This may be to some extent achieved if the liability to India is discharged by an annual payment, decreasing by level decrements over a period of, say, 20 years, and we advise that this course should be followed.

The above recommendation applies solely to the liability for pensions in course of payment at the date of separation. The liability for part-earned pensions, the actual payments in respect to which will not commence until after separation, and will extend over a long period, may appropriately be added to the general debt and included in the general annuity.

84. We have considered whether, with a view to shortening the period during which Burma will remain under an obligation to India, she should have the option of redeeming her debt, or any portion of it, in advance of the date of termination of the annuity. We prefer to leave both countries entirely free at any time to settle by negotiation the terms on which they are willing, on the one hand to pay, and on the other to receive, sums in redemption of the outstanding instalments of the annuity, or of any portion thereof.

MISCELLANEOUS.

85. The question has been raised whether certain annual payments and receipts connected with defence should be apportioned between India and Burma. These are on the one hand the contribution made from British revenues towards the cost of India's defence expenditure, and on the other the annual payment made by India towards the cost of the British Navy. It appears to us that these payments, which are not in the nature of fixed or legal obligations, cannot be treated as assets or liabilities at the date of separation. The problem of the defence of Burma as a separate State in the British Empire will no doubt involve consideration of the share she should properly take in the common defence.

86. Inasmuch as the apportionment of reparation receipts between the various constituents of the Empire has been based on the pensionary liabilities incurred in consequence of the War, and we have recommended that Burma should bear $7\frac{1}{2}$ per cent. of India's liabilities in this respect, it follows that any sums received in future on account of reparation should be divided in the same proportion.

THE FINAL SETTLEMENT.

87. As we have stated above in connection with the valuation of assets and liabilities, our investigation has necessarily had regard to general principles rather than to particular instances. The figures appertaining to the actual date of separation cannot be known, at the earliest, for a period of nearly two years, and it will then be necessary to set up some machinery for the translation of our general recommendations into concrete figures. Under the third of our terms of reference we are asked to advise as to the nature of this machinery. It will be useful, as a preliminary to the statement of our views on this question, to set out the various tasks which will confront an individual or body of individuals charged with the duty of drawing up the actual settlement.

88. It will be necessary for such a body to draw up a list of all the assets and liabilities of the present Government of United India as they stand at the date of separation and to assign a value to each. For this purpose it will doubtless rely in the main on the audited accounts of the Government of India. We have endeavoured to indicate, wherever doubt might arise, the manner in which these figures should be utilised to arrive at a valuation, and we do not anticipate that any question will arise as to the validity of the actual figures. In certain respects, however, our recommendations involve the framing of estimates or the determination of essential factors in regard to which the accounts offer no assistance, and the necessity for independent judgment will therefore arise. The main questions which must remain incapable of purely consequential determination are as follows :—

The determination of the rate of interest to be used for the valuation of debt.

The assessment of the capital value to be assigned to divisible pensions, both earned and part earned.

The appraisalment of the value of dead assets both in continental India and in Burma.

There is, in addition, the possibility that, as instanced in paragraph 33, questions may arise which we have been unable to foresee and the application to which of the principles we have recommended is not immediately evident.

89. It has been proposed to us by the representatives, with the approval of their respective Governments, that the application in

detail of our award might appropriately be entrusted to a Committee of three, of whom two would be members of the Indian and Burman services appointed by the respective Governments, with a chairman nominated by the Secretary of State. It is contemplated that where the nominees of the two Governments were in agreement, their decisions would stand and that the functions of the chairman would be mainly those of an umpire.

90. We are of opinion that the above procedure should provide a suitable machinery for the settlement of the problems that will arise, and we accordingly recommend its adoption. We proceed to consider in more detail the methods which we consider that the Committee, referred to hereafter as the Application Committee, might suitably adopt in relation to the points of difficulty enumerated above.

91. With regard to the rate of interest, we have advised (paragraph 19) a method of determination which will afford little scope for divergence. The Application Committee, who will doubtless have placed at their disposal the services of the Secretary of State's expert advisers, should have no difficulty in reaching a decision as to the precise figure. The rate so determined should apply, not only to the valuation of debt, but to the capitalisation of pensions and to the calculation of the periodic payments to be made by Burma to India.

92. The assessment of the capital value of pensions is a task demanding specialised technical knowledge which can be performed only by a qualified actuary. We recommend that an actuary should be appointed to carry out the work. As we are advised that a considerable portion of his preliminary investigations could be made in advance of the actual date of separation, it is clearly desirable that he should be selected at an early date. We consider it advisable that he should be formally appointed by, and should report to, the Application Committee, and for this among other reasons the Committee should be constituted in the near future. The actuary appointed by the Committee would in the early stages of his investigation rely on the advice and assistance of the two Governments, supplied to him through the medium or under the instructions of their respective nominees. His report when finally submitted, after consideration of such advice, should be final.

We do not intend, in making the above recommendation, to preclude the Committee from making use of the services of separate actuaries to deal with specific portions of the total pension obligations if, for special reasons, they consider such a course desirable.

93. We have stated above our view that an attempt should be made, under the supervision of the Application Committee, to assign a value to the "dead" assets. The precise means by which this task can be carried out can best be settled by the Committee itself, and we do not feel it incumbent upon us to offer any detailed

suggestion. We would, however, draw attention to the desirability of setting in motion at an early date such machinery as the investigation may require.

94. In conclusion we wish to express our indebtedness to Mr. Sidney Turner, C.B.E., for his services as Secretary. His knowledge and ability have been of very great assistance to us.

L. S. AMERY.

S. A. T. ROWLATT.

W. F. NICHOLSON.

SIDNEY TURNER,
Secretary.

15th March, 1935.

APPENDIX.

ESTIMATES OF BURMA'S LIABILITY TO THE GOVERNMENT OF INDIA AFTER SEPARATION ON VARIOUS ASSUMPTIONS AS TO THE RATE OF INTEREST TO BE EMPLOYED FOR THE VALUATION OF PERMANENT DEBT AND FOR THE CALCULATION OF THE ANNUITY.

(The figures relate throughout to the 31st March, 1933, and must be regarded as illustrative only.)

I.—RATE OF INTEREST 3½ PER CENT.

Liabilities:—

Permanent Debt:—	<i>Rs. lakhs.</i>	<i>Rs. lakhs.</i>
Sterling	5,06,82-40	
Rupee	4,92,78-57	
		9,99,60-97
Liability for British War Loan (at par)		22,29-47
Treasury Bills (including accrued discount)		61,46-68
Cash Certificates (including accrued bonus)		64,85-11
Post Office Savings Bank deposits		43,39-64
Provident Funds, Special Loans, &c... ..		76,73-80
Family Pension Funds		15,29-72
Provincial Balances		7,02-37
Sinking Fund Deposits		95-50
Part-earned Pensions		87,00-00 (a)
Miscellaneous liabilities		22,14-10
		14,00,77-36

Assets:—

Railways:—	<i>Rs. lakhs.</i>
Gross capital at charge	7,97,11-72
Amount written off prior to 1924	39,89-05
	8,37,00-77

	Rs. lakhs.	Rs. lakhs.	Rs. lakhs.
<i>Deduct—</i>			
Amount contributed by Companies and Indian States...	40,36-25		
Correction for difference between cash and stock ...	1,95-32 (b)		
Amounts set aside for depreciation or replacement ...	26,54-15		
		68,85-72	
		7,68,15-05	
Securities held on account of General Reserve		46-81	
			7,68,61-86
<i>Other Commercial Assets:—</i>			
Posts and Telegraphs... ..	15,82-84		
Less Depreciation	2,69-42		
		13,13-42	
Irrigation		69-00	
Security Printing Press		42-22	
Currency Note Press		32-04	
Northern India Salt Department	89-47		
Less Depreciation	22-79		
		66-68	
Forests		12-95	
Vizagapatam Port		3,03-83	
			18,45-14
New Delhi			14,49-29
Military Lands at Bombay			2,31-12
"Dead" Assets			91,50-00 (c)
Advances to Provinces			1,73,03-74 (d)
Other interest-bearing advances			20,92-48 (d)
Investments of Cash Balances			1,88-24 (d)
Investments of Sinking Funds			3,22-49 (d)
Cash and Miscellaneous Assets			31,82-90
			Total Assets 11,26,27-26
Excess of Liabilities over Assets			2,74,50-10
Share of excess assignable to Burma (7.5 per cent.) ...			20,58-76
<i>Assets of which Burma will assume possession:—</i>			
<i>Railways:—</i>			
Capital at charge		35,05-52	
Less amounts set aside for depreciation or replacement		57-03	
			34,48-49
<i>Other Commercial Assets:—</i>			
Posts and Telegraphs		1,16-15	
Less Depreciation		12-42	
			1,03-73
"Dead" Assets			3,25-00 (c)
Advances to Provinces			7,51-47 (d)
Other interest-bearing advances			22-24 (d)
Cash to provide working balance (say)			2,00-00
			Total 48,50-93

Liabilities for which Burma will assume direct responsibility:—	<i>Rs. lakhs.</i>
Portion of liability for British War Loan	1,67-21
Post Office Savings Bank Deposits	1,46-25
Provident Funds	3,07-18
Part-earned pensions	3,75-00 (a)
Non-interest-bearing liabilities (say)	3,00-00
Total	12,95-64
Net assets to be assumed by Burma	35,55-29
Debt of Burma to India, being net assets as above, Rs. 35,55-29 lakhs, plus share of excess liabilities, Rs. 20,58-76 lakhs	56,14-05
Annual interest on above at 3½ per cent.	1,82-46
Annuity required to redeem principal and interest in 45 years	2,38-32

II.—RATE OF INTEREST 3½ PER CENT.

<i>Liabilities:—</i>	<i>Rs. lakhs.</i>	<i>Rs. lakhs.</i>
Permanent Debt:—		
Sterling	4,83,54-97	
Rupee	4,76,28-80	
		9,59,83-77
Other liabilities as before		4,01,16-39
Total		13,61,00-16
Assets as before		11,26,27-26
Excess of liabilities over assets		2,34,72-90
Share assignable to Burma		17,60-47
Net assets to be assumed by Burma, as before		35,55-29
Debt of Burma to India		53,15-76
Annual interest on above at 3½ per cent.		1,86-05
Annuity required to redeem principal and interest in 45 years		2,35-46

III.—RATE OF INTEREST 3½ PER CENT.

<i>Liabilities:—</i>	<i>Rs. lakhs.</i>	<i>Rs. lakhs.</i>
Permanent Debt:—		
Sterling	4,62,86-60	
Rupee	4,61,35-26	
		9,24,21-86
Other liabilities as before		4,01,16-39
		13,25,38-25
Assets as before		11,26,27-26

	<i>Rs. lakhs.</i>
Excess of liabilities over assets	1,99,10-99
Share assignable to Burma	14,93-32
Net assets to be assumed by Burma, as before... ..	35,55-29
Debt of Burma to India	50,48-61
Interest on above at 3½ per cent.	1,89-32
Annuity required to redeem principal and interest in 45 years	2,33-12

NOTES.

(a) Part-earned pensions.—As no material was available for the accurate assessment of this liability the rough estimate given by Mr. Nixon has for illustrative purposes been adopted. The liability will in practice vary with the rate of interest assumed.

(b) Difference between cash and stock values in Railway Capital.—The rates of exchange at which these differences, which arose in sterling, were converted into rupees for inclusion in the total, are not available. The correction is therefore approximate only.

(c) "Dead" assets.—The figures are inserted for illustrative purposes only.

(d) Interest-bearing advances and investments.—No allowance has been made for accrued interest, the material for calculating which was not available.

The liability in respect of earned pensions must in all cases be added to the debt calculated as above. No estimate of this liability can at present be made with any claim to accuracy. The order of magnitude, however, of the payments to be made under the arrangements outlined in paragraph 83 of the Report may perhaps be represented roughly by an annuity commencing at 80 lakhs and decreasing by 4 lakhs a year.



EAST INDIA (CONSTITUTIONAL REFORMS)

Trade and Immigration Relations
between India and Burma after
the Separation of Burma

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*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
August 1935*

LONDON

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NOTE BY THE SECRETARY OF STATE FOR INDIA.

The Government of India and the Government of Burma have reached agreement on the subject of the trade relations between India and Burma in the period immediately following the separation of Burma from India and on the subject of the regulation of immigration into Burma from India after separation. His Majesty's Government think it desirable that the results of these agreements should be published forthwith.

2. For convenience the agreements have been drawn up by the two Governments in the form of provisional drafts of the Orders in Council to be made under Sections 160, 453 and 456 of the Government of India Act, 1935. These provisional drafts are published for information. His Majesty's Government will in due course present draft Orders in Council for the consideration and approval of both Houses of Parliament under the procedure prescribed by Sections 309 and 475 of the Act.

3. The Immigration Agreement is self-explanatory, but it may be convenient to summarise briefly the purport of the principal articles of the Trade Agreement.

4. The effect of Articles 3 and 5 of the Trade Agreement is to ensure, subject to a proviso in respect of certain goods and the application of Article 10 in respect of duties corresponding to excises, that Indian goods shall enter Burma free of duty and without restriction and vice versa, without qualification other than that contained in Schedule I to the Agreement.

5. The effect of Article 6 is to provide that the tariff schedules in operation at the date of the separation of Burma from India shall remain effective in both countries in respect of goods imported into either from other countries. Under the first proviso to this Article duties upon goods imported from other countries may be lowered by either party to the Agreement with the consent of the other. Under the second proviso such consent is not required in the case of the employment either by the Governor-General of India or the Governor of Burma of the powers to reduce duties enjoyed under the present Indian Tariff Act and Sea Customs Act, but it is understood that the use of those powers should be limited as at present to the purposes of giving relief in the case of individual importations or giving temporary relief for special purposes to particular classes of commodities. Under the third proviso either country may on two months' notice lower duties on goods not produced in the other country, and under the fourth proviso the second country may then follow suit.

6. Article 12 provides that if India, after the expiry of the present Indo-Japanese Cotton Agreement, which limits the importation of Japanese cotton goods into India by a system of

quotas, again imposes a limit on the quantity of Japanese cotton piece goods that may be imported into British India, Burma shall, during the currency of the Trade Agreement with India, limit the importation of such goods into Burma to a quantity not exceeding that imported in 1934-5.

7. The purpose of Article 7 is perhaps not self-evident. Its purpose is to secure that tea, cotton or lac produced in India and shipped duty free to Burma under the provisions of Article 3 does not escape the levy of cess on re-export from Burma, and vice-versa.

8. Each Agreement is to remain in force for three years, and, if not then terminated by due notice having been given by either party to the Agreement embodied in the Order, will remain in force subject to termination on twelve months' notice (Article 17 of the draft Trade Order and Article 4 of the draft Immigration Order).

9. The Trade Agreement (Article 21) contains provision for its application to Indian States and the Immigration Agreement (Article 6) contains similar provision in respect of the subjects of Indian States.

PROVISIONAL DRAFT INDIA AND BURMA TRADE REGULATION ORDER

WHEREAS by sections 160 and 453 of the Government of India Act, 1935, His Majesty in Council is empowered, for the purpose of preventing undue disturbance of trade between India and Burma in the period immediately following the separation of India and Burma and of safeguarding the economic interests of Burma during that period to give such directions as he thinks fit with respect to the duties which are, while the Order is in force, to be levied on goods imported into or exported from India or Burma and with respect to ancillary and related matters;

AND WHEREAS the Governor-General of India in Council and the Governor of Burma in Council have come to an agreement in the matter;

NOW THEREFORE His Majesty is pleased by and with the advice of his Privy Council to order and it is hereby ordered as follows:—

1. This Order may be cited as the India and Burma Trade Regulation Order, 1935.

2. This Order shall come into force on the date with effect from which Burma shall be separated from India (hereinafter referred to as the date of separation).

3. Except as otherwise provided in this Order—

(1) no customs duties or cesses shall be leviable in British India on goods imported from or exported to Burma by sea other than those, if any, leviable at the date of separation; and

(2) no customs duties or cesses shall be leviable in Burma on goods imported from or exported to British India by sea other than those, if any, leviable at the date of separation:

Provided that this Article shall not apply to—

(a) opium, salt, salted fish, or spirit, or

(b) goods brought in bond, or

(c) goods brought from a place beyond the limits of British India and Burma to a port in British India or in Burma and without payment of duty, there transhipped for, or thence carried to, and imported at, a port in the other country.

4. Except as otherwise provided in this Order—

(1) all goods imported from or exported to a customs port in Burma to or from a customs port in British India shall be deemed, for the purposes of the Sea Customs Act, 1878, to be goods imported from or exported to another customs port in British India, as the case may be; and

(2) all goods imported from or exported to a customs port in British India to or from a customs port in Burma, shall be

deemed, for the purposes of the Sea Customs Act, 1878, to be goods imported from or exported to another customs port in Burma, as the case may be.

5.—(1) No prohibitions or restrictions other than of the nature specified in Schedule I to this Order shall be imposed on the bringing of any goods into British India from Burma or the taking of any goods from British India to Burma.

(2) No prohibitions or restrictions other than of the nature specified in Schedule I to this Order shall be imposed on the bringing of any goods into Burma from British India or the taking of any goods from Burma to British India.

6. The customs duties and cesses levied at the date of separation on goods imported into India or Burma from other countries or exported from India or Burma to other countries may be reduced in either country with, but not without, the previous consent of the Governor-General or Governor of the other country, as the case may be :

Provided, first, that should either of these authorities seek the consent of the other to a reduction of the customs duty leviable on any class of goods, such consent shall not be unreasonably withheld :

Provided, secondly, that the provisions of this Article shall not apply to any reduction of duties made under Article 11 :

Provided, thirdly, that in the case of classes of goods which at the date of separation are not produced or manufactured in Burma, the Governor-General of India, after giving two months' notice of his intention to the Governor of Burma, may reduce the customs duties levied on such goods when imported into British India from other countries, and that in the case of classes of goods which at the date of separation are not produced or manufactured in India, the Governor of Burma after giving two months' notice of his intention to the Governor-General of India, may reduce the customs duties levied on such goods when imported into Burma from other countries :

Provided, fourthly, that if under the last preceding proviso the Governor-General of India should reduce the customs duties levied on any goods, the Governor of Burma may similarly reduce the customs duties levied on such goods, and if the Governor of Burma should reduce the customs duties levied on any goods the Governor-General of India may similarly reduce the customs duties levied on such goods.

7. For the purposes of section 3 of the Indian Tea Cess Act, 1903, section 3 of the Indian Cotton Cess Act, 1923, and section 3 of the Indian Lac Cess Act, 1930, tea, cotton or lac produced in Burma shall in India be deemed to have been produced in India, and tea, cotton or lac produced in India shall in Burma be deemed to have been produced in Burma.

8.—(1) Should at any time the cess leviable under any of the Acts referred to in Article 7 on any goods when exported from British India be higher than the cess leviable on such goods when exported from Burma, the Governor-General of India may levy on such goods when exported from British India into Burma a cess equal to the difference between the cesses leviable in British India and Burma.

(2) Should at any time the cess leviable on any goods when exported from Burma, such goods being goods on which a cess is leviable under any of the Acts referred to in Article 7 when exported from British India, be higher than the cess so leviable in British India, the Governor of Burma may levy on such goods when exported from Burma into British India a cess equal to the difference between the cesses leviable in Burma and British India.

9.—(1) Should at any time the customs duty leviable on any foreign goods when imported into British India be higher than the customs duty leviable on such foreign goods when imported into Burma, the Governor-General of India may levy on such foreign goods when imported into British India from Burma a customs duty equal to the difference between the duties leviable in British India and Burma.

(2) Should at any time the customs duty leviable on any foreign goods when imported into Burma be higher than the customs duty leviable on such foreign goods when imported into British India, the Governor of Burma may levy on such foreign goods when imported into Burma from British India a customs duty equal to the difference between the duties leviable in Burma and British India.

10.—(1) Should an excise duty be leviable in British India at the date of separation on any goods, the Governor-General of India may levy a countervailing duty on such goods, the produce or manufacture of Burma when imported into British India; and should an excise duty be leviable in Burma at the date of separation on any goods, the Governor of Burma may levy a countervailing duty on such goods, the produce or manufacture of British India when imported into Burma:

Provided that in the case of steel ingots and articles manufactured therefrom the countervailing duty, if any, shall be at a rate not exceeding the appropriate rate of refund prescribed in section 7 of the Iron and Steel Duties Act, 1934.

(2) Should at any time the excise duty leviable in British India on any goods be increased, reduced or abolished, the countervailing duty leviable on such goods, the produce or manufacture of Burma when imported into British India, shall be correspondingly increased, reduced or abolished:

Provided that the advantage enjoyed by Burma in British India at the date of separation in respect of such goods, other than the commodities and articles mentioned in Item 40 of the Provincial

Legislative List in the Seventh Schedule to the Government of India Act, 1935, as against imports from other countries is not reduced.

(3) Should at any time the excise duty leviable in Burma on any goods be increased, reduced or abolished, the countervailing duty leviable on such goods, the produce or manufacture of British India when imported into Burma, shall be correspondingly increased, reduced or abolished :

Provided that the advantage enjoyed by British India in Burma at the date of separation in respect of such goods, other than the commodities and articles mentioned in Item 40 of the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935, as against imports from other countries is not reduced.

(4) Should at any time a new excise duty be imposed in British India on any goods produced or manufactured therein, the Governor-General of India may levy a countervailing duty on such goods, the produce or manufacture of Burma when imported into British India :

Provided that the advantage enjoyed by Burma in British India at the date of separation in respect of such goods, other than the commodities and articles mentioned in Item 40 of the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935, as against imports from other countries is not reduced.

(5) Should at any time a new excise duty be imposed in Burma on any goods produced or manufactured therein, the Governor of Burma may levy a countervailing duty on such goods, the produce or manufacture of British India when imported into Burma :

Provided that the advantage enjoyed by British India in Burma at the date of separation in respect of such goods, other than the commodities and articles mentioned in Item 40 of the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935, as against imports from other countries is not reduced.

11. Nothing contained in this Order shall be construed as restricting in any way the exercise by the Governor-General of India, or the Governor of Burma of any of the powers conferred by section 23 of the Sea Customs Act, 1878, or by the Indian Tariff Act, 1934 :

Provided that in the exercise of any of these powers each of these authorities shall have due regard to the interests of the other country and to the principles underlying the provisions of this Order and shall before exercising any of these powers ordinarily consult the other authority.

12. Should the Governor-General of India after 31st March 1937 impose a limit on the quantity of Japanese cotton piece-goods that may be imported into British India, the Governor of Burma shall

also impose a limit on the quantity of such goods that may be imported into Burma. The maximum quantity so permitted to be imported into Burma in any year shall not exceed the total quantity of Japanese cotton piece-goods imported into and retained in Burma during the financial year 1934-35, goods imported into Burma and subsequently re-exported not being taken into account. The Governor of Burma may from time to time divide into categories the quantity so limited and may provide for transfers between categories.

13. Notwithstanding anything contained in this Order, the Governor-General of India may prescribe the duties to be levied on goods imported from or exported to foreign countries across the land frontiers of India, and the Governor of Burma may prescribe the duties to be levied on goods imported from or exported to foreign countries across the land frontiers of Burma :

Provided that in prescribing such duties and in the administration of the land customs each of these authorities shall have due regard to the principles underlying the provisions of this Order and shall, so far as local conditions permit, safeguard the interests of the other country, if the import of any class of foreign goods across the land frontier otherwise than on payment of the duties leviable on similar goods imported by sea affects or is likely to affect seriously the advantages enjoyed by the other country under the provisions of this Order.

14. The Governor of Burma may impose on rice exported to India a duty not exceeding that imposed on rice exported to other countries.

15. The provisions of the Sea Customs Act, 1878, and of any rules made thereunder relating to coasting vessels and to goods imported or exported in such vessels shall continue to be applied to vessels plying between ports in India and ports in Burma.

16. Ships employed in trading between ports in India and ports in Burma shall both in India and Burma be deemed to be " home trade ships " and " coasting ships " for the purposes of the Indian Merchant Shipping Act, 1923, and ships which prior to the date of separation were entitled to exemption under section 218 of the said Act from the provisions of that Act relating to load lines shall continue to be so entitled.

17. This Order shall remain in force for three years from the date of separation :

Provided that in case neither the Governor-General of India nor the Governor of Burma shall have given notice to the other twelve months before the expiry of this period of his intention to terminate the operation of this Order, the Order shall continue in force until the expiry of twelve months from the date on which such notice shall have been given.

18. In the event of any dispute between the Governor-General of India and the Governor of Burma as to the interpretation or application of any of the provisions of this Order, the matter shall be referred to one of His Majesty's Principal Secretaries of State, whose decision shall be final.

19. For the purposes of this Order the expression "foreign goods" means goods which are the produce or manufacture of any country other than British India or Burma.

20. For the purposes of this Order, goods shall be deemed to be the produce or manufacture of British India or of Burma which satisfy the following conditions:—

(1) where the goods are unmanufactured, that they have been grown or produced in British India or in Burma, as the case may be;

(2) where the goods are manufactured—

(i) that they have been wholly manufactured in British India or in Burma, as the case may be, from material wholly produced in that country; or

(ii) that they have been wholly manufactured in British India or in Burma, as the case may be, from unmanufactured material; or

(iii) that they have been partially manufactured in British India or in Burma, as the case may be, and that the final process of manufacture has been performed in that country and that the expenditure on material produced and labour performed in that country in the manufacture of that article is not less in the case of an article specified in Schedule II to this Order than one-half and in the case of other articles than one-quarter of the factory or works cost of the article in its finished state.

Explanation.—For the purposes of condition (2) (iii) the final process of manufacture shall not be deemed to have been performed in either country in which no process other than a process of mixing, bottling, labelling, packing into retail containers or the like has been performed, but where such process as aforesaid has been performed in the country in which the final process of manufacture has also been performed, nothing herein shall render the cost of such process ineligible for inclusion in the computation of the fraction of the factory or works cost of the article in its finished state which represents the expenditure on material produced and labour performed in that country.

21. If and so long as any Indian State, having declared its adherence to the terms of this order and of the India and Burma Immigration Order, 1935, continues to adhere thereto, the provisions of this order shall apply in respect of such State as they apply in respect of British India, but with the substitution for references in this Order to the Governor-General of India or the Governor-General, of references to the Ruler of such State.

SCHEDULE I.

1. Prohibitions or restrictions relating to public security.
2. Prohibitions or restrictions imposed on moral or humanitarian grounds.
3. Prohibitions or restrictions regarding traffic in arms, ammunition and implements of war, or, in exceptional circumstances, all other military supplies.
4. Prohibitions or restrictions imposed for the protection of public health or for the protection of animals or plants against disease, insects and harmful parasites.
5. Export prohibitions or restrictions issued for the protection of national treasures of artistic, historic or archæological value.
6. Prohibitions or restrictions designed to extend to foreign products the régime established within the country in respect of the production of, trade in, and transport and consumption of, native products of the same kind.

SCHEDULE II.

1. Machinery and component parts thereof, meaning machines or parts of machines to be worked by manual or animal labour and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one quarter of one brake-horse-power.
2. Carriages and carts which are not mechanically propelled and cycles (other than motor cycles) imported entire or in sections, and parts and accessories thereof; excluding rubber tyres and tubes.
3. Motor cars including taxicabs and articles (other than rubber tyres and tubes) adapted for use exclusively as parts and accessories thereof.
4. Motor omnibuses; chassis of motor omnibuses, motor vans and motor lorries; and parts of mechanically propelled vehicles and accessories excluding rubber tyres and tubes.

PROVISIONAL DRAFT INDIA AND BURMA IMMIGRATION ORDER.

WHEREAS by section 456 of the Government of India Act, 1935, His Majesty is empowered by Order in Council to direct that during such period as may be specified in the Order immigration into Burma from India shall be subject to such restrictions as may be specified in the Order (being such restrictions as may have been mutually agreed before the commencement of Part XIV of the said Act between the Governor-General of India in Council and the Governor of Burma in Council and approved by the Secretary of State) and no other restrictions;

AND WHEREAS it is expedient that in the period immediately following the separation of Burma from India the mutual advantages which the two countries have derived from their close economic association should be continued;

AND WHEREAS for this reason it is expedient that the entry of Indians into Burma and of Burmans into India should not be subject, immediately after the date of separation, to any restrictions other than restrictions of general application necessary in the interests of public health and public safety or restrictions necessary for the exclusion of undesirable individuals;

AND WHEREAS the Governor-General of India in Council and the Governor of Burma in Council have come to an agreement in the matter;

AND WHEREAS the restrictions so agreed upon have been approved by the Secretary of State;

Now, THEREFORE, His Majesty is pleased by and with the advice of His Privy Council to order and it is hereby ordered as follows:—

Article 1.—This Order may be cited as the India and Burma Immigration Order, 1935.

Article 2.—This Order shall come into force on the date with effect from which Burma is separated from India (hereinafter referred to as the date of separation).

Article 3.—There shall be no restrictions on the entry of Indians into Burma or of Burmans into India other than those in force on the date of separation;

Provided that nothing herein contained shall limit the authority of the Governor-General of India or the Governor of Burma to exclude undesirable individuals or to impose regulations of general application in the interests of public health or public safety;

Provided further that nothing herein contained shall limit the authority of the Governor-General of India to take any action that he may consider necessary in the discharge of the special responsibility laid upon him by the Government of India Act, 1935, for the

prevention of any grave menace to the peace or tranquillity of India or any part thereof or the authority of the Governor of Burma in the discharge of his corresponding responsibility in respect of Burma or any part thereof.

Article 4.—This Order shall remain in force for three years commencing on the date of separation;

Provided that in case neither the Governor-General of India nor the Governor of Burma shall have given notice to the other 12 months before the expiry of this period of his intention to terminate the operation of this Order, the Order shall continue in force for 12 months from the date on which such notice shall have been given.

Article 5.—In this Order “Indian” means a British subject domiciled in India and “Burman” means a British subject domiciled in Burma.

Article 6.—If and so long as any Indian State, having declared its adherence to the terms of this Order and of the India and Burma Trade Regulation Order, 1935, continues to adhere thereto, the provisions of this Order shall apply in respect of the subjects of such State as they apply in respect of Indians, but with substitution for references in this Order to India and to the Governor-General of India of references to such State and to the Ruler thereof respectively.



THE GOVERNMENT OF
INDIA BILL

V212.N35

GS

EXPLANATORY MEMORANDUM

*Presented to Parliament by the Secretary of State for
India by Command of His Majesty
January, 1935*

LONDON

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THE GOVERNMENT OF INDIA BILL

EXPLANATORY MEMORANDUM

The great length of the Bill is to a large extent apparent rather than real. The Bill has to provide for three separate entities—

- (a) the Indian Federation ;
- (b) the Indian Provinces which, with the States, will compose the Federation ; and
- (c) Burma.

The clauses relating to the Federal Executive and Legislature—11 and 27 respectively in number—are repeated in identical form, and to a large extent with identical matter, in relation to the Indian Provincial Executives and Legislatures, and again in relation to the Executive and Legislature of Burma. Further, the Bill, having set out the provisions for the Legislative Powers, Administrative Relations, Finance, Railways, the Judicature, the Civil Services, the Secretary of State and his Department and the matters included in Part XII described as “ Miscellaneous and General ”, in their application to the Indian Constitution, necessarily repeats almost the whole of this matter with some modifications for Burma. The result is that, of the matter contained in the 150 clauses relating to Burma, there is nothing except the few provisions special to Burma which is not to be found in substance in other connexions in the earlier clauses of the Bill.

2. There are two reasons which have ruled out any attempt to avoid this duplication—in some cases triplication—of matter. First, it must be remembered that the provisions relating to Burma—that is to say the whole of Part XIV of the Bill—comprising as they do the future constitution for Burma, must be complete and self-contained, since it would obviously be inappropriate that the constitution for the separate country of Burma should have to be sought for all time among provisions relating to the government of India. Secondly, so far as the Central and Provincial Constitutions of India are concerned, although, as already explained, there are some 40 clauses which appear twice, to a large extent in common form, first in relation to the Federation and secondly in relation to the Provinces, there are none the less important differences of detail between these clauses in their relation to the Federation and the Provinces respectively, and any attempt to set out the Provincial Constitutions by a system of reference to the Federal Constitution, or *vice versa*, would have inevitably resulted in a most complex and confusing presentation.

3. The result of the arrangement adopted in the Bill is, however, that, although it contains 450 clauses, if due account is taken of the repetitions just described, it could be accurately described as a Bill of about half the length.

4. There is no need to explain in any detail the general purpose of the Bill, nor the nature of the Constitutions which it is designed to provide for India and Burma respectively: these matters have been set out at length and in detail in the Report of the Joint Select Committee, of which the Bill is the expression in legislative form. The Bill follows the Committee's Report with one or two exceptions (such as that it provides that the Federal Court should entertain appeals relating only to the interpretation of the Constitution Act and not to the interpretation of Acts passed by the Federal Legislature in the exercise of its exclusive legislative jurisdiction), and with certain additional details that were not dealt with by the Committee.

5. But, although detailed exposition of the contents of the Bill is for the reason just given unnecessary, there are one or two points which it is desirable to explain in order that its construction may be more readily understood. The present Government of India Act, after formally vesting in the Crown the government of India and assuming for the King all the powers which, up to 1858, had been vested in the East India Company, proceeded to place in the hands of a corporate body known as "the Secretary of State in Council of India" complete control over "all acts, operations and concerns which relate to the government or revenues of India". Further, the present Act commits the "civil and military government of India" to the Governor-General in Council, and the government of each Province to a Governor acting with an Executive Council and Ministers, but at the same time places the Provincial Governments in subordination to the Governor-General in Council, and the latter to the Secretary of State in Council, the Act merely enabling the Secretary of State in Council so far as "transferred" subjects in the Provinces are concerned by statutory rules to relax or remove his hitherto all-embracing powers of superintendence and control.

6. The purpose of the present Bill is to resume into the hands of the King all powers hitherto exercisable in, or in relation to, India by any authority (clause 2), and thereafter to distribute to the various authorities set up by this Bill the exercise of the whole of these powers so far as they are distributed by the Act, and to leave His Majesty free to delegate such of those as are outside the strict ambit of the Act as he may think fit to the Governor-General or the Governors to be exercised on his behalf. The consequence of this Bill will, therefore, be that the Federal Executive and each Provincial Executive will, by direct delegation from the Crown, exercise independently on behalf of the King the powers respectively vested in them by this Bill, subject

to superintendence by the Secretary of State over the Governor-General and Governors in certain directions referred to below.

7. The entry of the States into the Federation is dealt with in clause 6 and other provisions of the Bill of which the effect is that, while the States which accede to the Federation will accept the whole Act, the extent of the powers exercisable in relation to any Federated State by the Federal Executive and Legislature will be governed by the Ruler's Instrument of Accession which will specify the matters in the Legislative Lists which he accepts as Federal matters in and in relation to his State. It is proposed that, immediately after the Bill has been passed, the Crown should enter into negotiation with the States individually for the conclusion of their accession to the Federation. The extent to which each Ruler is proposing to accede will be brought to the knowledge of Parliament before Parliament, by affirmative Resolutions of both Houses, invite His Majesty to issue the Proclamation inaugurating the Federation.

8. The legislative powers conferred upon the Federation and the Provinces respectively are statutorily defined by Part V of the Bill, read with the connected Seventh Schedule. The distribution of financial resources is effected in part through the legislative powers and in part through the provisions of Part VII.

9. Executive authority will be exercised in the Federation by the Governor-General, and in the Provinces by the Governor: but the Governor-General and each Governor will have to aid and advise him in the exercise of this authority a Council of Ministers. In this connexion it is important that the meaning and effect of two technical terms used throughout the Bill should be clearly understood. The duty of Ministers is described in the Bill as being that of aiding and advising the Governor-General (or the Governor) "in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them *in his discretion*". Other provisions of the Bill require the Governor-General to exercise in his discretion his functions with regard to the three Departments which it is proposed to reserve for his own control (the Departments of External Affairs, Defence and Ecclesiastical Affairs), and various other specific powers conferred upon the Governor-General and upon the Governors by the Bill are described as being powers the exercise of which is in their discretion.

10. The result is that in regard to any power or function so described Ministers have no constitutional right to tender advice, but in regard to every matter not described as being exercisable by the Governor-General (or Governor) in his discretion the right to advise, i.e., to initiate proposals, rests with Ministers. The second technical term used in this connexion throughout the Bill is the phrase "exercise *his individual judgment*". This phrase, which is applicable to matters within the purview of Ministers, means that the Governor-General (or Governor) after considering

the advice of Ministers is free to direct such action as he thinks fit, that is to say, not necessarily to accept the advice tendered to him. This course is open to the Governor-General (or Governor)—

- (a) whenever any of the special responsibilities enumerated in clause 12 (and 52) of the Bill is, in his opinion, involved, and
- (b) whenever any of the powers conferred upon him by the Act specifically require him in their exercise to exercise his individual judgment.

Whenever the Governor-General or a Governor is "acting in his discretion" or "exercising his individual judgment" he is subject to the superintendence of the Secretary of State (clauses 14 and 54). Full directions will be given to the Governor-General and Governors by an Instrument of Instructions to be issued with the approval of Parliament by the Crown. This document, though it cannot of course confer powers which are not to be found in the Act, will regulate the use of the powers conferred by the Act, and though the Instrument will cover many other matters, the directions on the points just described as to their relations with Ministers will be of fundamental importance. Amongst the more important of the other matters with which it is contemplated that the Instrument of Instructions should deal are consultation between the Governor-General's Counsellors and his Ministers in the day to day working of the Federal Executive, and an explanation of the line which it is intended that the Governor-General and Governors should follow in the interpretation and application of their special responsibilities; the Instrument will also indicate the nature of the rights of Indian States which require protection, and the line to be followed by the Governor-General in giving his previous sanction to certain kinds of legislation (an important instance of this category is certain financial legislation and, in particular, legislation affecting a federal surcharge on income tax (clause 138)). It is intended that a provisional draft of the Instructions contemplated by the Government shall be available for the information of both Houses of Parliament before the Bill comes under detailed discussion in Committee.

11. As to the coming into operation of the various parts of the Bill, the intention is that, with the exception of Part II relating to the Federation, the rest of the Bill will come into force on such date as the King in Council may fix, and that Part II of the Bill shall be brought into force by Proclamation on such date after the coming into force of the remainder of the Bill as Parliament may, by the Resolutions referred to in paragraph 7 above, request. During the period while the Bill, other than the provisions of Part II, is in operation, the transitional provisions contained in Part XIII, read with the Ninth Schedule, will regulate the powers of the existing Central Government. The effect of the provisions in Part XIII is to keep in operation, with some necessary modifications, such as the transfer of the conduct of

relations with the States to the authority specified in clause 3 (2), the provisions of the present Act relating to the Central Executive and Legislature, and to make such modifications as are necessary in the powers exercisable by that authority under such Parts of the Bill as are in operation. Their effect is also, while bringing to an end the Council of India as at present constituted, to leave in the hands of the Secretary of State and of the Advisers, who, under this Bill are to take the place of the members of the Council of India, the same measure of control over the financial operations of the Central Government, during the period intervening between the commencement of "provincial autonomy" and the establishment of the Federation, as is at present exercised by the Secretary of State in Council.

12. The Bill necessarily contains provisions (clauses 156 and 426) giving power to regulate the trade relations between India and Burma during the period immediately following separation, with the object of minimising the disturbance of the economic conditions in Burma which might otherwise result. In their present form these clauses must be regarded as provisional since discussions on the matter are still in progress, and it is impossible until they are concluded to be certain that provisions on the lines at present in the Bill are sufficiently precise. But, whatever form the powers granted to His Majesty in Council by the Bill may ultimately assume, it is not intended that they should be so exercised as to prejudice the fiscal autonomy which India has enjoyed in the past.

13. The franchise proposed for the provincial legislature is that embodied in the White Paper, as modified by the Joint Select Committee. It will be observed that the details of this find at present no place in the Schedules to the Bill, which has been drawn on the assumption that these matters in view of their technical character will, like many other matters of detail, be prescribed by Orders in Council to be made, subsequently to the passage of the Bill, with the approval of both Houses of Parliament. If, however, it should be found that Parliament would prefer that the provisions for franchise for the territorial Constituencies should be included in Schedules to the Bill, it should be possible to move the addition of another Schedule or Schedules for this purpose.

14. As for the expenditure necessitated by the Bill, so far as there is any charge on British Revenues, the financial memorandum attached to the Bill explains the position. So far as Indian Revenues are concerned, whilst it is impossible to estimate in advance and with precision the exact figures, the general effect may be gauged by the estimate laid before the Joint Select Committee and discussed in paragraphs 267-273 inclusive of their Report.



GOVERNMENT OF INDIA BILL
(Vol. I : Clauses)

Memorandum
in explanation of the Amendments
to be moved on behalf of the Government
on Report Stage V2:21N35
65

Presented by the Secretary of State for India to Parliament
by Command of His Majesty
May 1935

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the Governor-General shall not transmit to His Majesty any such request until there has been presented to him by each Chamber of the Federal Legislature, for submission to His Majesty, an address praying that His Majesty may be pleased to admit the State into the Federation.

(8) In this Act a State which has acceded to the Federation is referred to as a Federated State, and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(9) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by His Majesty under this section, copies thereof shall be laid before Parliament, and all Courts shall take judicial notice of every such Instrument.

The changes brought about by this redraft of the clause do not affect the principles of the Joint Select Committee's Report or the intentions of the clause in the Bill as it stands. The differences of form may be summarised as follows:—

- (a) A Ruler is required by his Instrument of Accession to declare that he "accedes to the Federation established under this Act" instead of declaring that he "accepts this Act as applicable to his State and his subjects."
- (b) The revised clause makes plain on the face of the Bill—what was always the intention—that a Ruler, in accepting a subject in any of the Lists as a Federal Subject may attach limitations to the power to be exercised in respect of that subject by the Federal Legislature in relation to his State and also to the executive power of the Federation which itself arises from the entries in the Lists. This does not, however, involve power to qualify the provisions of the Act itself apart from the Lists.
- (c) On the other hand, the clause also makes it clear on the face of the Bill—what was always intended—that the Crown has full discretion to reject any proposals for an Instrument of Accession by an individual State and, in particular, if it appears that "the terms thereof are inconsistent with the scheme of Federation embodied in this Act"; it is at the same time, however, made clear that an Instrument of Accession once accepted is to be conclusive as to the extent of Federal authority, both legislative and executive, in relation to the State.
- (d) The redraft of subsection (5) is intended chiefly to remove difficulties raised in Committee as to the effect of the words "shall not be construed as extending to a Federated State without the concurrence of the Ruler."

The redraft of the clause maintains the principles indicated in the White Paper (pp. 31-5) under the heading "clause 6."

Clause 8.—The second, third and fourth amendments to this clause affect the States. The substitution of the words "save as

expressly provided in this Act" for "by virtue of this section" follows on paragraph (iv) under clause 8, on page 36 of the White Paper.

The third amendment on page 6, line 25, is consequential on the revised form of clause 6 (2).

The fourth amendment gives effect to the undertaking given at the end of paragraph (ii) under clause 8, on pages 35-6 of the White Paper.

Clause 12 (and clause 52).—The substitution in these clauses of "the protection of the rights of any Indian State and the rights and dignity of the Ruler thereof" for "the protection of the rights of any Indian State" as the definition of the Governor-General's and Governors' special responsibility in relation to the States is intended to provide the means of securing for the Rulers recognition of the personal status which has always been accorded to them in British India.

Clause 16.—The Bill as it stands secures for the Federal Advocate-General a statutory right of audience "in all Courts in British India and in any Federated State." The second amendment confines this right, so far as State Courts are concerned, to cases which involve Federal interests.

Clause 38 (and clause 84).—The power of the Governor to make rules prohibiting the discussion of, or the asking of questions on any matter connected with an Indian State subject to certain exceptions stated in the clause (84), was amended in Committee to include any matter connected not merely with the State, but with the Ruler thereof. It was, in any case, of course, intended to make on Report Stage a similar amendment to clause 38. The amendments now proposed, however, extend the scope of this to members of the ruling family in the State.

Clause 40 (and clause 86).—The prohibition of discussion in the Legislature of the conduct of Judges of the Federal Court and High Courts is extended by the amendments on these clauses to cover Judges of a Court recognised as a High Court in a Federated State.

Clause 45.—The proviso and new subsection to be added to this clause have two purposes:—

- (a) The proviso meets the point raised in Committee that the carrying on of the government by a Proclamation under this clause in the case of a constitutional breakdown should not be permissible, as it was under the Bill as it stands, for an indefinite period. The proviso now secures that the approval of Parliament to the continuation of a Proclamation under this clause for more than six months shall be required at six-monthly intervals and not merely once and for all; and further, that in no case shall a Proclamation under this clause continue in operation for more than three years.

- (b) The new sub-clause secures that, on the expiry of three years, if the government of the Federation cannot be carried on under the Act as it stands and amendment of the Act is, therefore, required, any such amendments shall, so far as the States are concerned, be subject to the provisions of sub-clause (5) of clause 6 as amended and Schedule II. In this respect the new sub-clause (4) gives effect to the intentions of the Government as expressed in answer to the States' objections to this clause under "clause 45" (page 47 of the White Paper).

Clause 101.—The first two amendments to this clause are merely drafting: the third is consequential on the revised form of clause 6.

Clause 106.—Here again the amendments are merely drafting in the sense that they make explicit in relation to the States what was always the intention of the clause.

Clause 116.—The first amendment to this clause is consequential on an amendment made in Committee, whereby the words "payable out of the revenues of the Federation or of a Province" were substituted for the phrase "payable out of public moneys" in sub-clause (1), lines 32-3, in order to make it clear that this clause does not apply directly to the States. The amendment removes the same phrase from the proviso.

As regards the second, third and fourth amendments, sub-clause (2) of this clause as drafted enables an Indian Legislature to attach certain specified conditions to eligibility for a subsidy in the circumstances stated in the sub-clause. These conditions—as to the place of incorporation of a company and as to the race of the directors or of the persons for whom training facilities will be given—are at present confined to British India and British Indians. The amendments will enable these conditions to be applied to Federated States and their subjects.

Clause 122.—These amendments are designed, without making any change in the clause, to meet the States' point that it is beyond the scope of this Bill to require them to secure respect for their own laws. Sub-clause (1) as amended would read:—

"The executive authority of every Province and Federated State shall be so exercised as to secure respect for the laws of the Federal Legislature which apply in that Province or State."

Clause 124.—Sub-clause (3) of this clause enables the Federal Legislature in passing a Federal Act to "confer powers and impose duties upon the State or officers and authorities thereof," the provisions in this respect being parallel to that relating to the Provinces in sub-clause (1). The amendment requires that the officers and authorities empowered in a State are "to be persons

designated by the Ruler." This is the more necessary in that the nomenclature of State officials is not uniform throughout India, as it is for the most part in the case of the Provinces. The point was dealt with in the White Paper, page 38, under "clause 123."

Clause 125.—The amendment imports the same provision as is included in clause 6 (9) as amended, dispensing with formal proof of an agreement under this section when produced before a Court, owing to the close connection which will be established between agreements under clause 125 and the Rulers' Instruments of Accession.

Clause 128.—The first amendment is consequential on the new sub-clause (2) to be inserted in clause 8. The words "so far as it is exercisable in the State" were inserted in Committee at the end of sub-clause (1), and this further addition is therefore in further amplification of the undertaking given in the White Paper, clause 127, page 38.

The second amendment provides that the Ruler may make representations to the Governor-General before any directions under the clause are received. The third amendment is intended to enable a State to obtain a ruling from the Federal Court if any question arises under this clause as to whether the Federal Government can, in fact, legally claim executive authority in the matter in relation to which the Governor-General proposes to issue directions to the State under the clause.

These two amendments may therefore be regarded as being in further amplification of the observations made in the second paragraph under clause 127 on page 39 of the White Paper.

Clause 138 (second and third amendments).—These two amendments are related to the point dealt with in the White Paper on page 39 under "clause 136" (now clause 138). For the reasons given in the White Paper it is not proposed to fix in the Bill the percentage of taxes on income to be permanently assigned to the Federation as the States suggested. This percentage would of course have been fixed before the States accede to the Federation. The first of these two proposed amendments would, however, have the effect of preventing any subsequent Order in Council from diminishing the percentage originally assigned to the Federation by Order in Council and thereby perhaps increasing the chances of an imposition of a Federal surcharge on taxes on income, to which the States would have to contribute.

The second of these two amendments is connected with a similar, though somewhat less important, point, and prevents the two periods to be fixed by Order in Council which govern the handing over of the Provincial share of taxes on income from being reduced once these periods have been prescribed by Order in Council.

Clause 138 (fourth amendment).—This provides that if the Governor-General is considering the postponement of the process

of handing over the Provincial share of taxes on income he should be required to consult not merely Federal and Provincial interests but also State interests before he reaches his decision. Any decision on this point might have reactions on the States.

Clause 139.—This amendment completes the machinery required for the assessment of a contribution by a State which elects to pay the equivalent of Corporation Tax direct to the Federation.

Clause 141.—This amendment concerns a point dealt with in the White Paper on page 40, paragraph (ii). On further examination there has proved to be no objection to transferring to the Act (as is proposed by this amendment) the conditions which were to be inserted in the Governor-General's Instrument of Instructions (paragraph XXIII of the draft) which the Governor-General has to satisfy himself have been fulfilled before a Bill imposing a Federal surcharge is introduced.

Clause 148 (third, fourth, fifth, sixth and seventh amendments).—These are drafting amendments which do not alter the general effect of the clause, but more correctly describe some of the items mentioned in (a) to (e) of subsection (6).

Clause 148 (eighth amendment).—This is in effect a drafting amendment the object of which is to make it possible for the Instrument of Accession to contain a complete credit and debit account of the contributions, immunities, &c., which will be relevant in the case of any given State for the purpose of its accession.

Clause 150 (first and second amendments).—The first two amendments are inserted to prevent any possibility of the clause being interpreted in such a way as to allow the Federation when making a distribution of taxes to which clause 150 applies to take into account arrears of immunities, &c. It was, of course, only intended that the immunities should be taken into account as from the date from which a distribution takes place.

Clause 150 (third amendment).—This amendment limits the possible set-off against a distribution of a tax to immunities, &c., enjoyed in relation to the subject-matter of that tax and prevents a set-off against immunities of a different kind.

Clause 186.—The amendments on this clause all operate on sub-clause (2) and are intended to secure that the provisions of that sub-clause relating to reimbursement by the Federation of the cost of a particular branch of the Railway Police, shall be applicable in appropriate circumstances to Federated States as well as to the Provinces.

Clause 192.—This is a drafting amendment intended to make clearer the intended scope of the words in the Bill “discriminates unfairly against the State.”

Clause 202.—The two amendments to this clause are designed to express more accurately the scope of the original jurisdiction of the Federal Court, as regards all units in relation to the first amendment, and as regards disputes to which a State is a party in relation to the second amendment. The form of the second amendment is to some extent consequential on the revised form of clause 6.

Clause 205.—This amendment, amplifying the description of the scope of the appellate jurisdiction of the Federal Court, is consequential on the second amendment to clause 202.

Clause 208.—Paragraph (a) of the new sub-clause is consequential on the proposed amendment to clause 207. Paragraph (b) is intended to limit, in relation to the States, the powers of the Federal Court under this clause in matters arising out of its Federal jurisdiction proper, that is to say, to exclude from the scope of this clause, so far as the States are concerned, the enforcement of any orders in relation to the "Supreme Court" appellate powers which may be conferred on the Court by Indian legislation under clause 204. This extended jurisdiction, if and when it is conferred, will of course have no application to the States.

Clause 282.—The amendment to this clause, which was inserted in the Bill in Committee, merely amplifies and makes clear what was the intention of the clause when it was introduced.

Clause 288.—It was never intended that any action under this section should make an existing Indian law apply to a Federated State; that will be the function of the Federal Legislature. The amendment makes this clear on the face of the Bill.

Clause 289.—The two subsections to be added to this clause are intended to preserve the existing position in relation to the trial of British subjects and the subjects of foreign Powers for offences committed in a State.

B.—AMENDMENTS INTENDED TO GIVE EFFECT TO UNDERTAKINGS GIVEN IN COMMITTEE.

Clause 16 (and clause 55), requiring the Advocate-General (federal and provincial) to possess the qualifications of a High Court Judge.

Clause 17 (and clause 59).—Drafting amendments to clarify the intention of the final words of sub-clause (2) of these clauses.

Clause 26, first amendment (and clause 69, first amendment).—To extend the sentence for criminal conviction which disqualifies for candidature for a Legislature from one year to two years.

Clause 28 (and clause 71).—To lessen the restriction imposed by this clause on the powers of the Legislatures in connection with

privilege, by enabling them to make refusal to attend or give evidence before a Committee of the Legislature a criminal offence punishable in the ordinary course by the Courts, subject to a safeguard in relation to evidence by officials, the disclosure of which would be contrary to the public interest.

Clause 44 (and clause 90).—To provide an alternative procedure for the enactment of Governor-General's and Governors' Acts, namely, with or without reference to the Legislature, as circumstances may dictate.

Clause 60.—In order to make provision for an Upper Chamber in Assam.

Clause 89.—To absolve the Governor from the necessity of obtaining the Governor-General's concurrence in the promulgation of an Ordinance by the Governor if circumstances make this impracticable.

Clause 91.—To make provision for the prescription by Order in Council of Excluded and Partially Excluded Areas in consequence of the omission of Schedule VI.

Clause 93.—To require the approval of Parliament at six-monthly intervals to the continuance of a Proclamation under this clause, and to place a time-limit of three years in all on the operation of such a Proclamation.

Clause 107.—A drafting amendment.

Clause 108.—To require the previous sanction of the Governor-General to any proposal for differential taxation on non-residents.

Clause 110.—Drafting amendments.

Clause 113, page 69, line 28.—To add "the currency in which capital or loan capital is expressed" to the matters in respect of which discriminatory requirements or conditions in relation to companies incorporated in the United Kingdom are debarred.

Clause 118.—The amendments are intended to meet two points raised in Committee:—

- (1) That the clause as drafted would apparently prevent the Legislatures, in regulating or prescribing qualifications for a profession, from preventing unqualified persons already practising that profession from continuing so to practise, even where this is clearly in the public interest.
- (2) To require that rules or regulations prescribing professional qualifications shall be subject to annulment by the Governor-General or Governor, if he considers that they would operate unfairly as against any class of persons affected thereby.

Clause 180, page 107, line 35.—To express more clearly the nature of the functions to be exercised by the Federal Government in relation to securing safety on railways.

Clause 182.—To provide a means of determining disputes on the question as to what is and what is not a question of policy in the relations between the Federal Government and the Federal Railway Authority.

Clause 198.—To require that the Chief Justice of the Federal Court must always be a barrister or pleader of 15 years' standing.

Clause 206.—To secure that there shall be an appeal as of right from the Federal Court to the Privy Council in "constitutional" cases, an appeal in other cases being by leave of the Federal Court or of the Privy Council.

Clause 212.—To ensure that if and when the Federal Court is given "Supreme Court" appellate jurisdiction by the Indian Legislature there shall be a separate Division constituted for the hearing of those cases.

Clause 218.—To secure that the Chief Justice of any High Court constituted by Letters Patent must be either a barrister or a pleader or have served at least three years as a puisne judge.

Clause 220.—To make the Governor-General, instead of the Governor, the appointing authority in respect of additional judges of High Courts.

Clause 241.—The proposed new subsection is proposed in consequence of the omission of clause 251 from the Bill as introduced.

Clause 242.—To give the Secretary of State wider powers in connection with the appointment of irrigation officers wherever this may be necessary.

Clause 244.—To expand the matters in relation to which rules are required to be made by the Secretary of State himself for persons whom he appoints to cover general rights in regard to medical attendance.

Clause 250.—The amendment brings pensions specifically within the scope of this clause.

Clause 251, page 143, line 3.—Expands the clause to cover Chief Judges of Small Cause Courts and Chief Presidency Magistrates.

Clause 263.—The first amendment adds to the duties of Public Service Commissions that of assisting in the framing and operating of schemes of general recruitment for Forest and other technical services; the second excludes specifically from the purview of Public Service Commissions all matters relating to methods of recruitment, appointment and disciplinary matters connected with the subordinate police.

Clause 293.—The amendments bring the wording of this clause into line in certain respects with the wording of clause 111 (1) (b).

Clause 294.—To expand the scope of this clause relating to expropriation so as to cover commercial and industrial undertakings, as well as land, by whomsoever possessed, and to require that any Act to which the section applies shall either fix the amount of compensation to be granted or specify the principles on which, and the manner in which, compensation is to be determined.

Clause 299.—To enable the Governor-General, or Governor, as the case may be, to forward his opinion on any aspect of a proposal made under this clause, and not merely his opinion as to its effect on minorities.

Clause 301.—To limit the time within which the provisions of this clause may be utilised.

C.—AMENDMENTS WHICH MAY BE DESCRIBED FOR THIS PURPOSE AS DRAFTING OR TECHNICAL AMENDMENTS IN THE SENSE THAT THEY ARE EITHER DRAFTING AMENDMENTS PROPER OR AMENDMENTS SUPPLYING TECHNICAL OMISSIONS OR AMPLIFYING OR CORRECTING TECHNICAL DETAILS OF WHICH EXAMINATION HAS SHOWN THE NECESSITY.

Clause 8 (first amendment), 22, 37, 82, 111, 113 (except the amendment to page 69, line 28, which is included under Head B), 114, 124 (page 77, line 35), 127, 130, 132, 133 (first, fifth and sixth amendments), 144, 145, 146, 147, 148 (first and second amendments), 155, 166, 167, 172, 175, 177, 178, 179, 180 (in so far as it is not included under Head B), 184, 185, 186 (first amendment), 188, 193, 195, 196, 203, 207, 209, 221, 222, 232, 245, 246, 247, 250 (first amendment), 251, 256, 259, 270, 271, 283, 295, 300, 302 and 464.

D.—NEW CLAUSES.

The two clauses (one for India and the other for Burma) removing the sex disqualification are in pursuance of an undertaking given in Committee.

The second clause (exempting Provincial Governments and Rulers of Federated States, subject to exceptions, from Federal taxation) carries out the undertaking given in the White Paper at page 42 under clause 151.

The third clause fills a technical gap in the Bill.

The fourth and fifth clauses will take the place of clause 173, which it is proposed to omit. These two clauses are redrafts of the provisions now contained in clause 173, and make the necessary provision in regard to the complicated and technical subject-matter with which they deal in a manner which legal opinion regards as more satisfactory and more complete than that provided by the existing clause 173.



GOVERNMENT OF INDIA ACT, 1935

PROPOSALS OF
HIS MAJESTY'S GOVERNMENT

for

- (i) The Electorate for the Council of State and for Provincial Legislative Councils ;
- (ii) Electorates in Chief Commissioners' Provinces for the Federal Legislature ; and
- (iii) "Scheduled Castes" for the purposes of paragraph 26 of the First Schedule to the Act

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*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
September 1935*

LONDON

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INTRODUCTION

In the course of the debates in Parliament on the Government of India Act it was explained that it was not then possible to include in the franchise provisions inserted in the Bill provision for the qualifications of voters for the Council of State and for Provincial Upper Chambers. His Majesty's Government, therefore, indicated their intention of leaving these matters to be settled in due course by Order in Council, the drafts of which would be laid before Parliament for approval by Resolution under the provisions of section 309 of the Act.

On 31st July the appointment was announced in Parliament of an Indian Delimitation Committee, the terms of reference of which were placed in the Library of both Houses. The duty of this Committee will be to make recommendations upon the delimitation of constituencies and upon numerous other points of detail connected with the franchise and elections, provision for which will be made by Order in Council. It is essential to the due discharge of this Committee's task (which, as already announced, is to be commenced in India at the end of September) that it should be in possession of a general indication of the proposals which it is the present intention of His Majesty's Government to submit to Parliament for approval in relation to the franchise for the Council of State and for the Provincial Upper Chambers.

The particulars which follow are accordingly a statement in general terms of the proposals which His Majesty's Government have now framed for this purpose ; they also include proposals on two other matters of which it is necessary that the Delimitation Committee should be informed, namely, the qualifications (in so far as these are not already embodied in the Government of India Act, 1935) of voters and candidates for the Federal Legislature in Chief Commissioners' Provinces and the castes and tribes to be classified as Scheduled Castes for the purposes of the Act. The Delimitation Committee have been instructed, in framing their recommendations, to take into account the present proposals, which will in due course be submitted for the approval of both Houses of Parliament in pursuance of the provisions of section 309 of the Government of India Act, along with the other matters relating to elections under the Act which remain to be settled by Order in Council.

It may be added that, so far as it is possible to estimate the effects of these proposals for the electorate for the Council of State without actually framing electoral rolls, His Majesty's Government believe that they will produce an electorate consisting in the aggregate of about 130,000 voters.

FRANCHISE FOR THE COUNCIL OF STATE AND FOR THE PROVINCIAL UPPER HOUSES.

QUALIFICATIONS OF VOTERS FOR THE COUNCIL OF STATE (IN ALL PROVINCES) AND FOR PROVINCIAL LEGISLATIVE COUNCILS IN MADRAS, BOMBAY, BENGAL, THE UNITED PROVINCES, BIHAR AND ASSAM.

The qualifications a general statement of which is set out below in respect of the various Provinces are those which, subject to the provisions of the First Schedule to the Government of India Act, 1935, will entitle a person to vote at an election for the filling of a seat in the Council of State. The same qualifications will entitle a person to vote at an election to a seat in the Provincial Upper Houses in Madras, Bombay, Bengal, the United Provinces, Bihar, and Assam. It should, however, be explained that the European, Anglo-Indian and Indian Christian seats in the Council of State will be filled, not by direct election, but in the manner laid down in paragraph 10 of the First Schedule to the Government of India Act. The qualifications which entitle a European, Anglo-Indian or an Indian Christian to vote at an election for the seats reserved to those communities in a Provincial Upper House will not therefore operate in the case of seats so reserved in the Council of State.

I.—Madras.

1. Being resident* in the constituency ; and

2.—(a) Being registered as an inamdar, ryotwari pattadar or occupancy ryot under the Madras Estates Land Act, 1908, in respect of land in the Presidency on which the assessment or rent, including the water rate, is not less than Rs. 300 ; or

(b) having held on the last day of the previous fasli year in the Presidency an estate of which the annual income is not less than Rs. 1,500 ; or

(c) having been assessed in the previous financial year to income-tax on a total income of not less than Rs. 7,500 ; or

(d) being in receipt from Government of a malikhana allowance the annual amount of which is not less than Rs. 500 ; or

(e) being or having been—

(i) a non-official member of any Legislature in British India ; or

* The requirements as to residence throughout will be those laid down in Schedule VI to the Government of India Act, 1935.

- (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow, Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
- (f) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy ; or of the Kaiser-i-Hind Medal ; or
- (g) being in receipt from Government of a civil, military or political pension of not less than Rs. 250 per mensem.

Differential Qualifications for Women.

3. Being the wife of a person who—
- (a) holds in the Presidency an estate of which the annual income is not less than Rs. 3,000 ; or
 - (b) is registered as a pattadar or an inamdar or an occupancy ryot under the Madras Estates Land Act, 1908, in respect of land in the Presidency on which the assessment or rent, including the water rate, is not less than Rs. 1,500 ; or
 - (c) receives from Government a malikhana allowance the annual amount of which is not less than Rs. 3,000 ; or
 - (d) was in the previous financial year assessed on his own account to income-tax on a total income of not less than Rs. 20,000 ; or
 - (e) is a person entitled to vote in respect of the qualifications referred to in 2 (f) and 2 (g) above.

Differential Qualifications for Scheduled Castes.

4. Being a member of one of the Scheduled Castes who on the last day of the previous fasli year—
- (a) was registered as a pattadar or inamdar or occupancy ryot under the Madras Estates Land Act, 1908, of land in the Presidency on which the assessment, including the water rate, is not less than Rs. 50 ; or

- (b) was registered as a ryotwari pattadar or as an inamdar or occupancy ryot under the Madras Estates Land Act, 1908, of land of which the annual rent value is not less than Rs. 100 ; or
 - (c) was a mortgagee with possession, or lessee, under a registered instrument, of immovable property (other than house property) of an annual rent of not less than Rs. 100 ; or
 - (d) was registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land of which the annual value is not less than Rs. 100 ; or
 - (e) held as ryot or as tenant under a landholder land of which the annual rent value is not less than Rs. 100 ; or
 - (f) held in the Presidency an estate of which the annual income is not less than Rs. 100 ; or
5. Being a member of one of the Scheduled Castes who—
- (i) was in the previous financial year assessed to an aggregate amount of Rs. 20 or more either in Madras City or in a Municipality elsewhere in the Presidency, in respect of property tax or profession tax ; or
 - (ii) was in the previous financial year assessed to income-tax.

II.—Bombay.

1. Being resident in the constituency ; and
- 2.—(a) Being the holder or tenant of land assessed at or of the assessable value of not less than Rs. 350 land revenue per annum ; of
 - (b) being assessed to income-tax on an income of not less than Rs. 15,000 per annum ; or
 - (c) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or

(d) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy; or of the Kaisar-i-Hind Medal; or

(e) being in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per mensem; or

(f) being a Sardar, Inamdar, or Talukdar of an entire village, or an alienee of an entire village.

Differential Qualifications for Women.

3. Being the wife of a person—

(i) possessing the property qualifications at present entitling to a vote for the Council of State; or

(ii) entitled to vote in respect of the qualifications referred to in 2 (d) and 2 (e) above.

Differential Qualifications for Scheduled Castes.

4.—(a) Being the holder or tenant of land assessed at, or of the assessable value of, not less than Rs. 50 per annum; or

(b) occupying in a municipal, cantonment or notified area a house of the annual rental value of not less than Rs. 201, or of a capital value of not less than Rs. 3,350.

III.—Bengal.

1. Being resident in the constituency; and

2.—(a) Paying land revenue or cess at the following rates:—

	General	Mohammedan	
Presidency and Burdwan divisions	L.R. 2,000	Cess 500	}
Rajshahi, Dacca and Chittagong divisions.	L.R. 1,500	Cess 350	}
			L.R. 250
			Cess 50

or,

(b) being assessed to income-tax on an income of not less than Rs. 5,000 per annum; or

(c) being or having been—

(i) a non-official member of any Legislature in British India; or

(ii) a member of any Executive Council or a Minister in British India; or

(iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or a Member of a Senate or Court of any University legally constituted in British India; or

- (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
- (d) being the holder of any title or honour conferred by His Majesty the King-Emperor, or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or
- (e) being in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per mensem.

Differential Qualifications for Women.

3. Being the wife of a person—

- (i) possessing the property qualification at present entitling to a vote for the Council of State ; or
- (ii) entitled to vote in respect of the qualifications referred to in 2 (d) and 2 (e) above.

IV.—United Provinces.

1. Being resident in the constituency ; and

2.—(a) Being the owner of land in the constituency in respect of which land revenue of not less than Rs. 1,000 (in the hill patts of Kumaon Rs. 100) per annum is payable ; or

(b) being the owner of land in the constituency free of land revenue, if the land revenue nominally assessed on such land for determining the amount of rates payable in respect of the same, either alone or together with any land revenue payable by him as owner in respect of other land in the constituency, is not less than Rs. 1,000 (in the hill patts of Kumaon Rs. 100) per annum ; or

(c) being a tenant of agricultural land who pays a rent of not less than Rs. 1,500 (in the hill patts of Kumaon Rs. 100) per annum ; or

(d) being an under-proprietor in Oudh who pays a rent of not less than Rs. 1,000 per annum ; or

(e) being assessed to income-tax on an income of Rs. 4,000 per annum and over ; or

(f) being or having been—

- (i) a non-official member of any Legislature in British India ; or

- (ii) a member of any Executive Council or a Minister in British India ; or
- (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India ; or
- (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
- (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
- (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or

(g) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or

(h) being in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per mensem.

Differential Qualifications for Women.

3. Being the wife of a person—
- (i) possessing the property qualifications at present entitling to a vote for the Council of State ; or
 - (ii) entitled to vote in respect of the qualifications referred to in 2 (g) and 2 (h) above.

Differential Qualifications for Scheduled Castes.

- 4.—(a) Being the owner of land in the constituency—
- (i) in respect of which land revenue of not less than Rs. 200 is payable ;
 - (ii) free of land revenue, if the land revenue nominally assessed on such land for determining the amount of rates payable in respect of the same, either alone or together with any land revenue payable by him as owner in respect of other land in the constituency, amounts to not less than Rs. 200 per annum ; or
- (b) a person paying in respect of agricultural land in the constituency a rent of Rs. 500 per annum and over ; or
- (c) being assessed to income-tax on an income of not less than Rs. 2,000 per annum ; or
- (d) being an under-proprietor in Oudh who pays a rent of not less than Rs. 200 per annum ; or
- (e) being the holder of any title.

V.—Punjab.

1. Being resident in the constituency ; and
- 2.—(a) Being liable to payment, or an assignee, of land revenue of not less than Rs. 250 per annum ; or
 - (b) being assessed to income-tax on an income of not less than Rs. 5,000 per annum ; or
 - (c) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
 - (vii) a Provincial Darbari ; or
 - (d) being the holder of any title or honour conferred by His Majesty the King-Emperor, or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or
 - (e) being a person in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per mensem.

*Differential Qualifications for Women.**

3. Being the wife of a person—
 - (a) possessing the property qualifications at present entitling to a vote for the Council of State ; or
 - (b) possessing the qualifications referred to in 2 (d) and 2 (e) above.

Differential Qualifications for Scheduled Castes.

- 4.—(a) Being a member or ex-member of a panel of members of the Scheduled Castes for the purposes of election to a seat in the Punjab Legislative Assembly reserved for Scheduled Castes ; or
- (b) being or having been a member of a local body.

* The special differential qualifications proposed for women will be registered on application only.

VI.—Bihar.

1. Being resident in the constituency; and

2.—(a) Being liable to payment of land revenue or cess at the following rates per annum :—

Non-Mohammedan	-	-	Rs.
			L. R. 600
			Cess 100
Mohammedan	-	-	L. R. 375
			Cess 62½, or

(b) being assessed to income-tax on an income of not less than Rs. 7,500 per annum; or

(c) being or having been—

- (i) a non-official member of any Legislature in British India; or
- (ii) a member of any Executive Council or a Minister in British India; or
- (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India; or
- (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India; or
- (v) a Sheriff or Mayor of any Municipal Corporation in British India; or
- (vi) a chief officer (non-official) of certain local bodies and central co-operative banks; or

(d)—(i) in the districts of Ranchi, Singhbhum, or the Santal Parganas, being a headman styled Parganait or Manki and who is a member of a backward tribe; or

(ii) in the districts of Manbhum and Singhbhum, being a headman styled Tarafsardar irrespective of whether he is also a member of a backward tribe; or

(e) being the holder of any title or honour conferred by His Majesty the King-Emperor, or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy; or of the Kaiser-i-Hind Medal; or

(f) being in receipt of a Government pension, civil, military or political, of not less than Rs. 150 per mensem.

Differential Qualifications for Women.

3. Being the wife of a person—

- (i) liable to payment of land revenue of Rs. 2,400 or cess of Rs. 400 in the case of non-Mohammedans, or of land revenue of Rs. 1,200 or cess of Rs. 200 in the case of Mohammedans; or

- (ii) assessed to income-tax on an income of Rs. 20,000 a year or over ; or
- (iii) possessing the qualifications referred to in 2 (e) and 2 (f) above.

Differential Qualification for Scheduled Castes.

4. Being a member or an ex-member of a panel of members of the Scheduled Castes for the purposes of election to a seat in the Bihar Legislative Assembly reserved for Scheduled Castes.

VII.—The Central Provinces and Berar.

1. Being resident in the constituency ; and
- 2.—(a) Holding land assessed or assessable to land revenue of not less than Rs. 500 per annum ; or
 - (b) being assessed to income-tax on an income of not less than Rs. 7,000 per annum ; or
 - (c) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of a Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
 - (d) being the holder of any title or honour conferred by His Majesty the King-Emperor, or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or
 - (e) being in receipt of a Government pension, civil, military or political, of Rs. 200 per mensem or over.

Differential Franchise for Women.

3. Being the wife of a person—
 - (i) liable to payment of land revenue of not less than Rs. 3,000 per annum ; or

- (ii) assessed to income-tax on an income of not less than Rs. 20,000 per annum ; or
- (iii) possessing the qualifications referred to in 2 (d) and 2 (e) above.

Differential Qualifications for Scheduled Castes.

- 1. Being liable to payment of land revenue of not less than Rs. 100 per annum.
- 2. Being assessed to income-tax of any amount.

VIII.—Assam.

- 1. Being resident in the constituency ; and
- 2.—(a) Being liable to payment of land revenue of not less than Rs. 500 or local rate of not less than Rs. 50 per annum ; or
- (b) being assessed to income-tax on an income of not less than Rs. 3,000 per annum ; or
- (c) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow, or Member of the Senate or Court, of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
- (d) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur, or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or
- (e) being in receipt of a Government pension, civil, military or political, of Rs. 100 per mensem or over.

Differential Franchise for Women.

- 3. Being the senior wife of an elector—
 - (a) possessing double the minimum property or income-tax qualification proposed above ; or
 - (b) possessing the qualifications referred to in 2 (d) and 2 (e) above.

Differential Qualifications for Scheduled Castes.

- 4.-- (i) Being assessed to payment of income-tax of any amount.
 (ii) Being liable to payment of land revenue at the rate of not less than Rs. 150 per annum, or of local rates amounting to Rs. 15 per annum.

IX.—The North-West Frontier Province.

1. Being resident in the constituency ; and
- 2.—(a) Being the owner of immovable property not being land assessed to land revenue of a value of not less than Rs. 20,000 ; or
- (b) being the owner of not less than 200 acres irrigated or 400 acres unirrigated land ; or
- (c) being assessed to or the assignee of land revenue of Rs. 250 per annum or over ; or
- (d) being a tenant of immovable property (not being land assessed to land revenue) paying rent of not less than Rs. 600 per annum ; or
- (e) being the owner of immovable property (not being land assessed to land revenue) receiving rent of not less than Rs. 1,200 per annum ; or
- (f) being the recipient of a jagir or barat of not less than Rs. 250 per annum ; or
- (g) being assessed to income-tax on an income of not less than Rs. 4,000 per annum ; or
- (h) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of the Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
 - (vii) a Provincial Darbari ; or
- (i) being the holder of any title or honour conferred by His Majesty the King-Emperor, or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur, or Khan Bahadur conferred by the Viceroy ; or of the Kaiser-i-Hind Medal ; or
- (j) being in receipt of a Government pension, civil, military or political, of Rs. 100 per mensem or over.

*Differential Qualifications for Women.**

3. Being the wife of a person who—

- (a) is assessed to or is the assignee of land revenue of not less than Rs. 500 per annum ; or
- (b) is in receipt of a jagir or barat of not less than Rs. 500 per annum ; or
- (c) is the owner or tenant of immovable property (not being land assessed to land revenue) receiving or paying rent of not less than Rs. 2,400 per annum ; or
- (d) is the owner of immovable property (not being land assessed to land revenue) of a value of not less than Rs. 30,000 ; or
- (e) was during the previous financial year assessed to income-tax on an income of not less than Rs. 8,000 ; or
- (f) possesses the qualifications referred to in paragraphs 2 (i) and 2 (j) above.

X.—Orissa.

1. Being resident in the constituency ; and

2.—(a) Being liable to payment of land revenue or cess at the following rates per annum :—

		Rs.
Non-Mohammedans	- -	L.R. 800 Cess 100
Mohammedans	- - -	L.R. 400 Cess 50

or

- (b) being assessed to income-tax on an income of not less than Rs. 10,000 per annum ; or
- (c) being or having been—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of the Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or

* The special differential qualifications proposed for women will be registered on application only.

- (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
- (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
- (d) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur, or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or
- (e) being in receipt of a Government pension, civil, military or political, of not less than Rs. 150 per mensem.

Differential Qualification for Women.

3. Being the wife of a person—

(a) liable to payment of land revenue or cess of not less than the following amounts per annum :—

	Rs.
Non-Mohammedans - - -	L.R. 3,200
	Cess 400
Mohammedans - - -	L.R. 1,000
	Cess 125

or

(b) assessed to income-tax on an income of not less than Rs. 20,000 per annum ; or

(c) possessing the qualifications referred to in 2 (d) and 2 (e) above.

Differential Qualification for Scheduled Castes.

4. Being a member or an ex-member of a panel of members of the Scheduled Castes for the purposes of election to a seat in the Orissa Legislative Assembly reserved for Scheduled Castes.

XI.—Sind.

1. Being resident in the constituency ; and

2.—(a) Being a first- or second-class jagirdar in Sind ; or

(b) being a person who in each of the three revenue years preceding the publication of the roll has paid not less than Rs. 1,000 land revenue ; or

(c) being assessed to income-tax on an income of not less than Rs. 12,500 per annum ; or

(d) being or having been—

(i) a non-official member of any Legislature in British India ; or

- (ii) a member of any Executive Council or a Minister in British India ; or
 - (iii) a Pro-Chancellor, Vice-Chancellor, Fellow or Honorary Fellow or Member of the Senate or Court of any University legally constituted in British India ; or
 - (iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) a Sheriff or Mayor of any Municipal Corporation in British India ; or
 - (vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or
- (e) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur, or Khan Bahadur conferred by the Viceroy ; or of the Kaiser-i-Hind Medal ; or
- (f) being in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per mensem.

*Differential Qualification for Women.**

3. Being the wife of a person who is—
- (i) liable to payment of land revenue of not less than Rs. 3,000 per annum ; or
 - (ii) assessed to income-tax on an annual income of not less than Rs. 30,000.

* Registration of women qualified in respect of the wifehood qualification will be on application only.

CHIEF COMMISSIONERS' PROVINCES.

QUALIFICATIONS OF ELECTORS, AND, IN CERTAIN CASES,
OF CANDIDATES.

I.—British Baluchistan.

His Majesty's Government propose that the seats allotted to British Baluchistan in the Federal Assembly and the Council of State shall be filled by nomination by the Governor-General, and no question of prescribing a qualification for voters will therefore arise.

The qualification for candidates will be—

- (1) being a member of the Shahi Jirga ; or
- (2) being or having been a member of a Municipal Committee, who has been domiciled in Baluchistan for not less than two generations, and who possesses unencumbered immovable property in Baluchistan of the value of not less than Rs. 50,000.

II.—Delhi.

FEDERAL ASSEMBLY SEAT.

Qualifications of Voters.

1. Being resident in the constituency ; and
- 2.—(a) Being the owner of immovable property (not being land assessed to land revenue) of a value of not less than Rs. 4,000, or an annual rental value of not less than Rs. 96, or the tenant of such property of an annual rental value of not less than Rs. 96 ; or
- (b) being liable to payment of direct municipal or cantonment tax of Rs. 50 or over ; or
- (c) being the owner or the tenant with right of occupancy as defined in Chapter II of the Punjab Tenancy Act, 1887, of land paying land revenue of Rs. 25 or over ; or
- (d) being the tenant of Crown land, rented at Rs. 25 per annum or over, on a lease of not less than three years ; or
- (e) being the assignee of land revenue amounting to not less than Rs. 50 per annum ; or
- (f) being a village officer or headman zaildar, inamdar, sufedposh or lambardar) in the constituency ; or
- (g) being assessed to income-tax ; or
- (h) having passed the examination for Matriculation or the School Leaving Certificate, or an examination accepted by the Local Government as the equivalent thereof ; or
- (i) being a retired, pensioned, or discharged officer, non-commissioned officer, or soldier of His Majesty's Regular Military Forces, or of the Indian Territorial or Indian Auxiliary Forces, or a retired, pensioned or discharged officer or man of the Indian Police Force.

Qualifications of Candidates.

To be eligible as a candidate a person must possess the qualifications laid down in Schedule I, Part I, paragraph 1, of the Government of India Act, 1935, and must be a voter in the constituency.

COUNCIL OF STATE.

The qualifications proposed for voters for the seats allotted to Delhi in the Council of State will be identical with those proposed for the Punjab in Section V above, except that the amount of annual income for the purpose of the income-tax qualification will be Rs. 10,000 or over.

III.—Ajmer Merwara.

FEDERAL ASSEMBLY SEAT.

Qualifications of Voters.

1. Being resident in the constituency ; and
- 2.—(a) Having been the owner or tenant in the constituency for the 12 months preceding the date of publication of the electoral roll of immovable property, not being land assessed to or granted free of land revenue, but including any building erected on such land of the value of not less than Rs. 1,500 or of an annual rental of not less than Rs. 150 ; or
- (b) being the owner of land in the constituency assessed to land revenue of not less than Rs. 20 per annum, or the assignee of land revenue of not less than Rs. 20 per annum ; or
- (c) being liable to payment of rent of not less than Rs. 50 per annum as a tenant of agricultural land of which he has been the tenant during the three years preceding the date of publication of the electoral roll ; or
- (d) being assessed to income-tax ; or
- (e) being a head bhumia or a village headman of a Khalsa, or Istimrari, or a Jagir village ; or
- (f) being a retired, pensioned, or discharged officer, non-commissioned officer, or soldier of His Majesty's Regular Military Forces, or of the Indian Territorial or Indian Auxiliary Forces, or a retired, pensioned or discharged officer or man of the Indian Police Force.

Qualifications of Candidates.

To be eligible as a candidate a person must possess the qualifications laid down in Schedule I, Part I, paragraph 1, of the Government of India Act, 1935, and must be a voter in the constituency.

COUNCIL OF STATE.

1. Being resident in the constituency ; and
- 2.—(a) Being the owner of land paying land revenue of not less than Rs. 150 per annum or being an assignee of land revenue of the same amount ; or

(b) paying rent for agricultural land of not less than Rs. 150 per annum ; or

(c) being assessed to income-tax on an income of Rs. 4,000 per annum or over ; or

(d) being or having been—

(i) a non-official member of any Legislature in British India ; or

(ii) a member of any Executive Council or a Minister in British India ; or

(iii) a Pro-Chancellor, Vice-Chancellor, Fellow, Honorary Fellow, or Member of the Senate or Court of any University legally constituted in British India ; or

(iv) a Judge of any High Court, Chief Court or Judicial Commissioner's Court in British India ; or

(v) a Sheriff or Mayor of any Municipal Corporation in British India ; or

(vi) a chief officer (non-official) of certain local bodies and central co-operative banks ; or

(e) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur, or Khan Bahadur conferred by the Viceroy ; or of the Kaisar-i-Hind Medal ; or

(f) being in receipt of a Government pension, civil, military or political, of not less than Rs. 250 per month.

Differential Qualifications for Women.

3. Being the wife of a person who—

(i) is assessed to income-tax on an income of not less than Rs. 10,000 per annum ; or

(ii) owns land assessed to land revenue of not less than Rs. 500 per annum ; or

(iii) holds land free of revenue assessable to not less than Rs. 500 per annum ; or

(iv) possesses the qualifications referred to in 2 (e) and 2 (f) above.

IV.—Coorg.

FEDERAL ASSEMBLY SEAT.

Qualifications of Voters.

Election to the seat reserved for Coorg in the Federal Assembly will, under the terms of Schedule I, Part I, paragraph 24 of the Government of India Act, be by the Coorg Legislative Council.

The following modifications of the existing franchise are proposed for the Coorg Legislative Council :—

1. Being resident in the constituency ; and

2.—(a) Being liable to payment of jama assessment of not less than Rs. 2. 8 or sagu assessment of not less than Rs. 5, or combined assessment of not less than Rs. 2. 8 calculated at jama rate; or

(b) being liable to payment of house or municipal tax of not less than Rs. 5; or

3. Being a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's Regular Military Forces, or of the Indian Auxiliary or Indian Territorial Force, or a retired, pensioned or discharged officer or man of the Indian Police Force; or

4. Being in possession of a completed secondary school leaving certificate (in the case of women, the lower secondary standard).

COUNCIL OF STATE SEAT.

Qualifications of Voters.

1. Being resident in the constituency; and

2.—(a) Being liable to payment of an aggregate assessment of not less than Rs. 200, the assessment on jama land being calculated at Sagu rate; or

(b) being assessed to income-tax on an income of not less than Rs. 5,000 per annum; or

(c) being or having been—

(i) a non-official member of any Legislature in British India; or

(ii) a member of any Executive Council or a Minister in British India; or

(iii) a Pro-Chancellor, Vice-Chancellor, Fellow, Honorary Fellow, or Member of the Senate or Court of any University legally constituted in British India; or

(iv) a Judge of any High Court, Chief Court, or Judicial Commissioner's Court in British India; or

(v) a Sheriff or Mayor of any Municipal Corporation in British India; or

(vi) a chief officer (non-official) of certain local bodies and central co-operative banks; or

(d) being the holder of any title or honour conferred by His Majesty the King-Emperor or of a title not lower than Rai Bahadur, Rao Bahadur, Sardar Bahadur or Khan Bahadur conferred by the Viceroy; or of the Kaiser-i-Hind Medal; or

(e) being in receipt of a Government pension, civil, military, or political, of not less than Rs. 150 per month.

Differential Franchise for Women.

3. Being the wife of a person—

(i) possessing double the minimum property or income-tax qualification referred to in paragraph 2 above; or

(ii) possessing the qualification referred to in 2 (d) and 2 (e) above.

SCHEDULED CASTES.

The "Scheduled Castes," for the purposes of paragraph 26 of Part I of the First Schedule to the Government of India Act, 1935, will be as follows:—

I.—Madras.

Adi-Andhra	Hasla	Nalakeyava
Adi-Dravida	Holeya	Nayadi
Adi-Karnataka	Jaggali	Paga dai
Ajila	Jambuvulu	Paidi
*Aranadan	*Kadan	Painda
Arunthuthiyar	Kalladi	Paky
Baira	Kanakkan	Pallan
Bakuda	*Karimpalan	Pambada
Bandi	*Kattunayakan	Pamidi
Bariki	Kodalo	Panchama
Battada	Koosa	Paniyan
Bavuri	Koraga	Panniandi
Bellara	*Kudiya	*Pano
Byagari	*Kudubi	Paraiyan
Chachati	Kudumban	Paravan
Chakkiliyan	Kuravan	Pulayan
Chalavadi	*Kurichchan	Puthirai Vannan
Chamar	*Kuruman	Raneyar
Chandala	Madari	Relli
Cheruman	Madiga	Samagara
Dandasi	Maila	Samban
Devendrakilathan	Mala	Sapari
*Dombo	Mala Dasu	Semman
Ghasi	*Malasar	Thoti
Godagali	Matangi	Tiruvalluvar
Godari	*Mavilan	Valluvan
Godda	Moger	Valmiki
Gosangi	Muchi	Vettuvan
Haddi	Mundala	

II.—Bombay.

Asodi	Chambhar or Mochi-	Dhegu-Megu
Bakad	gar or Samagar	Dhor
Bhambi	Chena-Dasaru	Garode
Bhangi	Chuhar or Chuhra	Halleer
Chakrawadya-Dasar	Dakaleru	Halsar or Haslar or
Chalvadi	Dhed	Hulsavar

* Scheduled Castes in those localities which are not treated as backward tracts for the purpose of special representation of aboriginals.

II.—Bombay—continued.

Holaya	Mangarudi	Shenva or Shindhava
Khalpa	Meghval or Mengh-	Shingdav or Shin-
Kolcha or Kelgha	war	gadya
Koli Dhor	Mini Madig	Sochi
Kotegar (North	Mochi (except in	Timali
Kanara only)	Gujarat)	Turi
Lingader	Mukri	Vankar
Madig or Mang	Nadia	Vitholia
Mahar		

III.—Bengal.

Agariya	Hari	Mal
Bagdi	Ho	Mallah
Bahelia	Jalia Kaibartta	Malpahariya
Baiti	Jhalo Malo or Malo	Mech
Bauri	Kadar	Mehtor
Bediya	Kan	Muchi
Beldar	Kandb	Munda
Berua	Kandra	Musabar
Bhatiya	Kaora	Nagesia
Bhuimali	Kapuria	Namasudra
Bhuiya	Karenga	Nat
Bhumij	Kastha	Nuniya
Bind	Kaur	Oraon
Binjhia	Khaira	Paliya
Chamar	Khatik	Pan
Dhenuar	Koch	Pasi
Dhoba	Konai	Patni
Doai	Konwar	Pod
Dom	Kora	Rabha
Dosadh	Kotal	Rajbanshi
Garo	Lalbegi	Rajwar
Ghasi	Lodha	Santal
Gonrhi	Lohar	Sunri
Hadi	Mahar	Tiyar
Hajang	Mahli	Turi
Halalkhor		

IV.—United Provinces.

Agariya	Balahar	Beldar
Aheriya	Balmiki	Bengali
Badi	Banmanus	Beriya
Badhik	Bansphor	Bhantu
Baheliya	Barwar	Bhuiya
Bajaniya	Basor	Bhuyiar
Bajgi	Bawariya	Boriya

IV.—United Provinces—*continued*.

Chamar	Hela	Majhwar
Chero	Kalabaz	Nat
Dabgar	Kanjar	Pankha
Dhangar	Kapariya	Parahiya
Dhanuk (Bhangi)	Karwal	Pasi
Dharkar	Khairaha	Patari
Dhobi	Kharot	Rawat
Dom	Kharwar (excluding	Saharya
Domar	Benbansi)	Sanaurhiya
Gharami	Khatik	Sansiya
Ghasiya	Kol	Shilpkar
Gual	*Kori	Tharu
Habura	Korwa	Turaiha
Hari	Lalbegi	

V.—Punjab.

Ad Dharmis	Marija (Marecha)	Khatik
Bawaria	Bangali	Kori
Chamar	Barar	Nat
Chuhra	Bazigar	Pasi
Dagi and Koli	Bhanjra	Perna
Dumna	Chanal	Sapela
Od	Dhanak	Sirkiband
Sansi	Gagra	Meghs
Sarera	Gandhila	Ramdasis

VI.—Bihar.

I. All districts :—

Chamar	Halalkhor	Mochi
Chaupal	Hari	Musahar
Dhobi	Kanjar	Nat
Dusadh	Kurariar	Pasi
Dom	Lalbegi	

II. The Patna division, the Tirhut division, and the Palamau, Monghyr, Bhagalpur and Purnea districts :—

Bauri	Bhumij	Rajwar
Bhogta	Ghasi	Turi
Bhuiya	Pan	

* Excluding the Koris residing in the Meerut, Agra and Rohilkhand Divisions.

VI.—Bihar—continued.

III. The Dhanbad subdivision and the Central Manbhum general rural constituency :—

Bauri	Ghasi	Rajwar
Bhogta	Pan	Turi
Bhuiya		

VII.—Central Provinces and Berar.

Throughout the Central Provinces and Berar :—

Mehra or Mahar (except in the Harda and Sohagpur tahsils of the Hoshangabad district), Basor or Burud, Mehtar or Bhangi, Dom, Chamar, Satnami, Mochi, Ganda, Mang.

In the Jubbulpore, Saugor, Hoshangabad, Chhindwara, Nimar, Betul and Mandla districts :—

Kori (except in the Harda and Sohagpur tahsils of the Hoshangabad district), Mala, Balahi or Balai.

Throughout the Berar Division and in the Nagpur, Chanda, Wardha, Bhandara and Balaghat districts :—

Balahi or Balai, Madgi, Pradhan (except in Balaghat district), Ghasia, Katia, Panka, Khatik, Kaikari (except in the Balaghat district), Dohor.

In the Raipur, Bilaspur and Drug districts :—

Ghasia, Katia, Panka and Dewar.

Additional castes scheduled in the districts specified after their name :—

Panka [Saugor, Chhindwara (except in the Seoni subdivision)].

Katia [Saugor (except in the Damoh subdivision), Hoshangabad (only in Hoshangabad and Seoni-Malwa tahsils), Nimar, Betul, Chhindwara (except in the Seoni subdivision)].

Khatik [Saugor (except in Damoh subdivision), Hoshangabad (only in Hoshangabad tahsil), Chhindwara (except in Seoni subdivision)].

Dhobi [Saugor, Hoshangabad (only in Hoshangabad and Seoni-Malwa tahsils), Bhandara, Raipur, Bilaspur].

Khangar [Saugor, Bhandara, Buldana, Hoshangabad (only in Hoshangabad and Seoni-Malwa tahsils)].

Chadar (Saugor, Bhandara).

Dhanuk [Saugor (except in the Damoh subdivision)].

Kumhar [Saugor, Hoshangabad (only in Hoshangabad and Seoni-Malwa tahsils), Bhandara].

Dahayat [Saugor (only in the Damoh subdivision)].

Nagarchi (Mandla, Chhindwara, Nagpur, Bhandara, Balaghat, Raipur).

VII.—Central Provinces and Berar—continued.

- Ojha [Mandla, Hoshangabad (only in Hoshangabad tahsil), Bhandara, Balaghat].
 Pardhi [Hoshangabad (only in the Narsinghpur subdivision)].
 Rujjhar [Hoshangabad (only in Sohagpur tahsil)].
 Pradhan [Nimar, Chhindwara (except in the Seoni subdivision), Raipur].
 Holiya (Bhandara, Balaghat).
 Kori (Bhandara, Balaghat, Raipur, Amraoti, Buldana).
 Audhelia (Bilaspur).
 Chauhan (Drug).
 Koli (Chanda, Bhandara).
 Jangam (Bhandara).
 Bedar (Amraoti, Akola, Buldana).
 Bahna (Amraoti).
 Dhimar (Bhandara).
 Mala (Balaghat).

VIII.—Assam.

1. *Assam Valley* :—

Namasudra.	Lalbegi.
Kaibartta.	Mehtar (Bhangi).
Bania (Brittial-Bania).	Bansphor.
Hira.	

2. *Surma Valley* :—

Mali (Bhuimali).	Sutradhar.	Kaibartta (Jaliya).
Dhupi (Dhobi).	Muchi.	Lalbegi.
Dugla or Dholi.	Patni.	Mehtar (Bhangi).
Jhalo and Malo.	Namasudra.	Bansphor.
Mahara.		

IX.—Orissa.

I. All districts :—

Adi-Andhra	Godra	Mangan
Audhelia	Gokha	Mehra or Mahar
Bariki	Haddi or Hari	Mehtar or Bhangi
Basor or Burud	Irika	Mochi or Muchi
Bavuri	Jaggali	Paidi
Chachati	Kandra	Painda
Chamar	Katia	Pamidi
Chandala	Kela	Panchama
Dandasi	Kodalo	Panka
Dewar	Madari	Relli
Dhoba or Dhobi	Madiga	Sapari
Ganda	Mahuria	Satnami
Ghusuria	Mala	Siyal
Godagali	Mang	Valamiki
Godari		

II. Areas other than the Vizagapatam and Ganjam Agencies, the Khondmals subdivision and the district of Sambalpur :—

Pan or Pano

III. Areas other than the Vizagapatam and Ganjam Agencies and the Khondmals :—

Dom or Dombo.

IV. Areas other than the district of Sambalpur :—

Bauri	Ghasi or Ghasia
Bhuiya	Turi
Bhumij	

V. The Khâriar subdivision of the district of Sambalpur :—

Kori	Nagarchi	Pradhan
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DRAFT

Government of India (Provincial Legislative Assemblies)
Order

Government of India (Provincial Legislative Councils)
Order

Government of India (Scheduled Castes) Order

Government of Burma (House of Representatives) Order

Government of Burma (Senate Elections) Order

Explanatory Memorandum

by the

Secretary of State for India

*Presented to Parliament by the Secretary of State for
India by Command of His Majesty
March, 1936*

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Cmd. 5133

INDIA.

PROVINCIAL LEGISLATIVE ASSEMBLIES ORDER PROVINCIAL LEGISLATIVE COUNCILS ORDER SCHEDULED CASTES ORDER

The purpose of these three Orders is to complete the provision made by the Government of India Act, 1935, for voters and candidates for the new provincial Legislatures. The Act (ss. 60 and 61 and Schedules V and VI) prescribed the nature of the Legislature—bicameral or single-chamber—for each Province, the strength and composition of each Chamber and the qualifications of voters in the “territorial” constituencies for the Lower Chambers and the qualifications of certain classes of candidates. But it left to be “prescribed” the qualifications of voters in the “special” constituencies for the Lower Chambers and the qualifications of most classes of candidates; for the Upper Chambers, the franchise as a whole and the qualifications of candidates; and, for both Chambers, the actual delimitation of the constituencies of all kinds and the method of voting in them. It also left to be “prescribed” the selection of the castes, members of which are to come within the purview of the special provisions of the Act for the representation of the castes now described as “Scheduled Castes”, but more commonly known as Depressed Classes.

2. In September last His Majesty's Government announced their proposals for the last-mentioned purpose, and also, in pursuance of the general indication of their intentions given in the House of Lords in the course of the passage of the Bill, their detailed proposals for the franchise for the Federal Council of State and for the provincial Legislative Councils (Upper Chambers), which is intended to be identical. These proposals were contained in a White Paper (Cmd. 4998) and, so far as the provincial Legislatures are concerned, are embodied, with some slight modifications, which subsequent consultation with the provincial Governments has shown to be expedient, in the Scheduled Castes Order and in the Legislative Councils Order now submitted for the approval of Parliament. The necessary provision for the Federal Legislature and for election offences in relation to all elections will be made by subsequent Orders.

3. The rest of the matter contained in the Legislative Councils Order and the whole of the Legislative Assemblies Order is based upon the recommendations of the Committee known as the Indian Delimitation Committee presided over by Sir Laurie Hammond, whose Report was presented to Parliament on 2nd March (Cmd. 5099 and 5100) and whose recommendations have with two exceptions been adopted. The main purpose of this memorandum is to facilitate examination of the Orders by Parliament by giving a brief explanation of the points upon which, in framing the Orders, it has been thought desirable on the one hand to modify the Hammond Committee's recommendations and, on the other

hand, to adopt those recommendations in spite of arguments to the contrary advanced by provincial Governments or the Government of India. These explanations are confined to points of major importance.

4. So far as the areas and arrangement of the territorial constituencies are concerned, these follow exactly, with one major and a few minor exceptions, the recommendations of the Committee. The minor exceptions are that, on the advice of the provincial Government concerned, a three-member constituency in Bihar (Palamau) with one reserved seat has been divided into two—one a single-member constituency, and the other a two-member with a reserved seat—each covering approximately half the district; and, on the advice also of the local Government, two cantonment areas have been transferred from one to the other of the two Muhammadan urban constituencies in the North-West Frontier Province. The Bombay Government are opposed to the Committee's recommendation that a seat should be allotted to the towns of Surat and Rander forming a constituency jointly, and would prefer to allot this seat to Belgaum. The Committee's reasons for this proposal have been thought to make this change inadvisable. The Punjab Government also would have preferred a different allocation of the two Muhammadan women's seats allotted to that Province, but the Government of India support the Committee's proposal and it has been thought best to adopt it. These instances apart, the arrangement of the territorial constituencies is accepted by Provinces concerned. The major exception is the arrangement of the Madras "general" territorial constituencies for the provincial Legislative Assembly (Legislative Assemblies Order, Schedule II, Section I). The Committee recommended that, in addition to the constituencies in Madras which must in any case be plural member owing to the necessity of reserving in each of them a seat for Scheduled Castes, there should be a considerable number of other two-member constituencies, and that some of the "reserved seat" constituencies should be three-member. Their reasons for this recommendation will be found in paragraphs 39-43 of Volume I of their Report. The Madras Government have, however, very strongly represented that the Committee's plan is unacceptable to them, and their objections have the support of the Government of India. They urge that the arrangement proposed by the Committee will tend to perpetuate and intensify religious and caste antagonisms amongst the numerous castes and sub-castes of the Hindu community which are to be found in that Province, and by tending to encourage the formation of small groups will be inimical to the development of party Government which, during the past 15 years has shown a stronger tendency to emerge in that Province than perhaps in any other. Further they urge that it is unsafe to argue, as the Committee have done, from the conditions in the Bombay Presidency to those in Madras. In these circumstances, His

Majesty's Government have not seen their way to force upon the Madras Government a system to which not only they and the Government of India, but also so far as can be judged, a substantial body of public opinion in the Presidency, are strongly opposed. Accordingly provision is made in the Order that all the territorial constituencies in Madras shall be single-member except in those cases where a seat is to be reserved for Scheduled Castes and in six other cases, and that such plural-member constituencies as will thus remain are all two-member constituencies.

5. On the other hand, His Majesty's Government feel no doubt that the Committee are right in their recommendation that, wherever there are plural-member constituencies the method of voting (except in a few cases for special reasons) should be that which they describe as cumulative. The Madras Government advocated, for all plural-member constituencies, the system of the single non-transferable vote; the Punjab Government and the Central Provinces Government would have preferred the distributive vote.* The Government of India, however, whose view His Majesty's Government accept, consider that the cumulative vote will not only give greater protection to minorities than the distributive system—it should be mentioned that the system has been in force for the past 15 years in the Bombay Presidency where this has been found to be one of its advantages—but that it is also elastic and enables the voter to distribute his support in a manner which would be impossible with the single non-transferable vote. The latter would, in their view, tend to intensify caste division and, if used in constituencies in which seats are reserved for the Scheduled Castes is likely to be challenged in some quarters as being inconsistent with the Poona Pact.

6. The Governments of Madras and the Central Provinces have urged that the electors for the University seats should be confined to the Senate and Court and should not include graduates, and the Government of India agree with their view. His Majesty's Government see no sufficient reason, however, to vary the Committee's recommendation on this point, which is that the existing system should be maintained, whereby members of the Senate and graduates of seven years' standing should exercise this franchise.

7. His Majesty's Government have in the main adopted the Committee's recommendations, following those of the Lothian Committee, for treating Trades Unions as the basis of one form of constituency for the return of labour representatives. The Madras and Bihar Governments are opposed to this: the Bombay Government on the other hand are anxious to utilise Trades Unions to an extent and in a manner which His Majesty's Government

* All three methods of voting are described in paragraphs 44–52 of Volume I of the Committee's Report. The cumulative method, which is adopted in the Order, is indicated in paragraph 14 of Part I of the Legislative Assemblies Order.

cannot regard the conditions as warranting. But they entirely agree with the Committee (notwithstanding the objection of the Bombay Government) that, having regard to the somewhat rudimentary development of trade unionism in India and to the instability of individual unions, a union which is to undertake the responsibility of returning representatives to the Legislature must satisfy reasonable conditions. It has not been found possible, after consultation with the provincial Governments, to adopt as they stand the Committee's recommendations for the achievement of this object, but the provisions of paragraph 24 of Part II of the Order (and the corresponding provision in other Parts) translate the spirit of their recommendation into the only form in which it appears to be practicable: and His Majesty's Government commend this solution for the approval of Parliament.

8. His Majesty's Government have been unable to accept the proposal of the Bengal Government, which the Committee endorsed in paragraph 527 of their Report, that where election by trade unions is indirect the votes should be cast by the executives of the union, the number of votes at the disposal of each union being proportioned to the membership of the union. Such a system appears wholly at variance with democratic principles and the Order accordingly provides that the voters in Trades Union constituencies where the method of election is to be indirect are to be delegates specially elected for the purpose.

9. It should be added that the opportunity offered by these Orders has been taken of utilising the power which the Act provides (s. 308 (4)) of modifying the provisions of the Sixth Schedule to the Act for the purpose of increasing in four Provinces—Madras, the United Provinces, Bihar and Orissa—the Scheduled Caste electorate by providing further differential qualifications. Closer estimates of the number of voters likely to be enfranchised for the Lower Chamber by the provisions of the Sixth Schedule as they stand have shown that it is probable that in the Provinces named the Scheduled Caste electorate would be appreciably below 10 per cent. of the Scheduled Caste population—a percentage which the Franchise Committee recommended as a minimum and which His Majesty's Government are anxious as nearly as may be to secure. A further modification has been made to remove in Madras the necessity at the first elections for application by women who are entitled to be registered on the basis of their husband's qualifications. Finally, while the Orders provide that election to seats reserved for women shall be by special territorial constituencies, the voters in most Provinces being those (both men and women) possessing the necessary qualifications, it has been thought advisable in two Provinces—the Punjab and Sind—to confine to women the electorate for the seats allotted to Muhammadan women. Although the women's organisations have, in general, expressed themselves as being opposed to such a provision, His Majesty's

Government feel no doubt that Muhammadan opinion in general in the Punjab and Sind is most strongly opposed to their women candidates being forced to solicit the votes of men; they have, therefore, decided that the principle adopted in the Act with regard to the electorate for the Muhammadan women's seats in Bengal and Bihar should be extended to the Punjab and Sind.

BURMA.

HOUSE OF REPRESENTATIVES ORDER SENATE ELECTIONS ORDER

10. The purpose of these two Orders is likewise to complete the provisions made by the Government of Burma Act, 1935. Section 17 of the Act prescribes a bicameral Legislature and the strength of each Chamber; the Third and Fourth Schedules provide for the qualifications for membership of, and for the distribution of seats in, the House of Representatives, the method of filling the seats in, and the qualifications for membership of, the Senate, and the franchise for the general constituencies for the House of Representatives. All provision on substantial points is made for the Senate in the Third Schedule to the Act, and, accordingly, the content of the draft Senate Elections Order is confined to matters comparatively of detail for which it is more appropriate to make provision by Order in Council rather than to leave them to Governor's Rules and Acts of the Burma Legislature.

11. But the provision made in the Act and Schedules for the House of Representatives is not complete; and Sir Laurie Hammond visited Burma, and, after consultation there with the local Government and with a representative Advisory Committee, made recommendations (which also were laid before Parliament on 2nd March—Cmd. 5101) for provisions to deal with the matters affecting the House of Representatives which are not covered by the Act or the Schedules. His Report makes recommendations for the definition of the territorial constituencies, for the qualifications for the electorates and the candidates in the special constituencies, and for the method of voting in the four multi-member constituencies contemplated. There are to be two multi-member constituencies among the general constituencies (*viz.*, the European and the Anglo-Burman, for both of which the area is the whole of Burma) and two among the special, Commerce and Industry, constituencies; for these four constituencies which, unlike the multi-member constituencies in Indian Provinces, contain no racial or communal minorities Sir Laurie Hammond, in deference to strong local opinion, recommends the employment of the distributive vote.

Sir Laurie Hammond's recommendations have been accepted in all respects without modification, and effect is given to them in the draft House of Representatives Order.



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GOVERNMENT OF INDIA ACT, 1935
GOVERNMENT OF BURMA ACT, 1935

DRAFT

GOVERNMENT OF INDIA (COMMENCEMENT AND TRANSITORY
PROVISIONS) ORDER: GOVERNMENT OF INDIA (DISTRI-
BUTION OF REVENUES) ORDER: GOVERNMENT OF BURMA
(COMMENCEMENT AND TRANSITORY PROVISIONS) ORDER

EXPLANATORY MEMORANDUM ON THE DRAFT ORDERS

AND

VIEWPOINTS OF THE PROVINCIAL GOVERNMENTS, THE GOVERN-
MENT OF INDIA AND THE SECRETARY OF STATE FOR INDIA
IN THE REPORT OF THE FINANCIAL ENQUIRY MADE BY
SIR OTTO NIEMEYER

*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
May 1936*

LONDON

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I.—Explanatory Memorandum.

(a) DRAFT GOVERNMENT OF INDIA (COMMENCEMENT AND TRANSITORY PROVISIONS) ORDER, 1936.

The primary purpose of this Order is to fix the date for the commencement of Part III of the Government of India Act, 1935, the date more commonly described as "the commencement of Provincial Autonomy." For the purposes of section 320 of the Act (under which this Order is, in part, to be made) the expression "the commencement of Part III of this Act" means the bringing into operation of the whole Act (other than Part II relating to the Federation), except so far as express provision is made to the contrary; and the section enables particular provisions to be brought into force at earlier or later dates than that fixed generally as the date for the "commencement of Part III."

Paragraph 3 of the Order fixes the date for the commencement of Part III, namely, 1st April next, and further provides that the provisions relating to the Railway Authority (Part VIII and Schedule VIII) and to the Federal Court (Part IX, Chapter I) are not to come into operation as the result of this Order, but that a separate Order will be required to bring those provisions into operation, and further that the operation of section 232 (which relates to the pay and allowances of the Commander-in-Chief) is to be postponed until the establishment of the Federation. The reason for this last provision is that, until the Federation is established, the existing provision for the pay, allowances and leave of the Commander-in-Chief is continued by sections 85, 86 and 87 of the Ninth Schedule to the Act.

Paragraph 4.—Since the new Provincial Governments and Legislatures are to be in being on 1st April 1937, it will clearly be necessary to arrange for the election of the Legislatures some time in advance of that date. The actual general elections will probably be held in most Provinces in February next, but a lengthy process preliminary to the elections—the preparation of electoral rolls (on which work has already provisionally begun), the publication of the rolls, the hearing of objections, the final publication of the rolls and the primary elections to select the Scheduled Caste candidates—has to be gone through well in advance of that date. Sub-paragraph (1) of this paragraph makes the necessary provision to enable this to be done.

Sub-paragraph (2) makes applicable to the existing Indian Legislature, which will continue in being pending the creation of the Federal Legislature, the provisions of section 68 (2) debarring membership of both a Provincial and the Central Legislature.

The purpose of sub-paragraph (3) is to enable the elections to the Upper Chambers of the two Provinces where part of the membership of the Upper Chamber is elected by members of the Lower Chamber to be held before the Lower Chamber has actually met as such, and consequently before the newly-elected members have taken their seats and the oath.

Paragraphs 5 and 6 are designed to provide a form of financial machinery which will be adapted to the transition from the existing to the new system. Power is accordingly given to the Governor in his discretion as a purely temporary measure—

(a) to authorise appropriations from provincial revenues for a period which may extend up to six months from the 1st April 1937; and

(b) to continue for a period not exceeding twelve months from the same date any existing taxation in the Province which, in the ordinary course, would require legislation to continue it beyond 31st March.

The assumption underlying these provisions is that, within six months, a budget session should be held at which estimates for the whole year would be laid before the Legislature, though, in effect, the Legislature would necessarily be dealing only with expenditure for the second portion of the year.

Paragraph 5 (3) also gives the necessary power to regularise the expenditure (if any) incurred in the financial year ending 31st March 1937, in excess of budget provision.

Paragraphs 7 and 8 provide for winding up the old Provincial Legislatures and the removal from the Central Legislature of the Burma members.

Paragraph 9.—Section 292 of the new Act continues in force all existing British Indian law, subject to its repeal or alteration after the commencement of Part III by the competent legislative authority. There is, however, no provision, either in this section or elsewhere in the Act, which enables the Central Legislature to pass legislation before the commencement of Part III which shall come into force on or after the date of the commencement of Part III. This paragraph is designed to give, for a limited period, this enabling power, which will be required in particular for the annual Finance Act.

Paragraph 10.—The purpose of this paragraph is to enable the existing agency functions performed by Provincial Governments on behalf of the Central Government to be carried on for a period sufficient to enable the new Governments and Legislatures to reconsider and, if necessary, modify under their own new powers the existing position.

Paragraph 11.—Section 225 (2) of the new Act, which will be brought into force by paragraph 1 of the Order on 1st April 1937, contemplates the existence of an Advocate-General for the Federation. For this reason, and for other administrative reasons, it is desirable that the office of Advocate-General contemplated by section 16 of the Act should come into existence on 1st April next. This paragraph makes provision accordingly; section 16 will, of course, during the transitional period be construed in the light of the provisions of section 313 (3).

Paragraph 12.—This, in effect, corrects an oversight in the Act. It was intended, in re-enacting through the Ninth Schedule section 67 of the old Act, to retain that portion of subsection (2) which is referred to in this paragraph, whereas the whole subsection was inadvertently omitted.

Paragraph 13.—Under sections 26 and 27 of the old Act the accounts of the Secretary of State in Council are required to be audited annually, and to be laid annually, together with the Auditor's Report, before Parliament. This is an obligation which necessarily ceases with the commencement of the new Act. But, under the terms of these sections, the accounts which are annually presented to Parliament in May are those "for the financial year preceding that last completed," that is to say, in May 1937 the accounts to be laid would be those for the year 1935-36. Accordingly, if sections 26 and 27 were merely repealed with effect from the commencement of Part III, the Secretary of State and his Auditor would be precluded from carrying out the obligations imposed on them by those sections in respect of the accounts for the years 1935-36 and 1936-37. The object of this paragraph is, therefore, to continue the obligations imposed by sections 26 and 27 of the existing Act until they are completed, not including, however, the annual statement referred to in section 26 (3).

Paragraph 14.—This is a technical provision of a transitory character to give a meaning to such terms as "individual judgment" in relation to certain preparatory steps which have to be taken (in accordance with the provisions of the Act) before 1st April next.

Paragraph 15.—Sub-paragraph (1) continues in office any person who is not a British subject pending the regularising of his position in accordance with the provisions of section 262 of the Act.

Sub-paragraph (2) is intended to preserve the "conditions of service" secured by certain existing Indian Acts to persons appointed under those Acts until these provisions can be replaced by rules under the new Act.

(b) DRAFT GOVERNMENT OF BURMA (COMMENCEMENT AND TRANSITORY PROVISIONS) ORDER, 1936.

Owing to climatic and other local conditions which limit the seasons at which a general election can satisfactorily be conducted in Burma and sessions of the Legislature held, the procedure proposed for the transition from the provisions of the present to those of the new Act is different from that proposed for the Indian Provinces.

Paragraph 3 should be read with the First Schedule, which sets out the provisions of the new Act which are to be brought into operation by the Order, in advance of the date for complete commencement, for the purpose of enabling elections for the House of Representatives to be held in this coming autumn and the Legislature to be summoned and exercise its powers, subject to the limitations laid down in the second sub-paragraph and elsewhere in the Order, at a session to be held in February—March 1937.

Part II is not brought into force; consequently the new Executive is not authorised to function before the 1st April, and therefore the provisions of the new Act which are brought into force must be subject to modifications which have the effect of conferring on the present Executive the relations with the Legislature which are conferred by the Act on the new Executive. This is secured by the third sub-paragraph to paragraph 3, read with the Second Schedule.

The second sub-paragraph specifies the scope of legislation which will be permissible during the special pre-separation session of the new Legislature which the Order authorises.

Paragraph 4 indicates the dates between which the special pre-separation session may be held.

Paragraph 5 contains a provision different from that of the corresponding Indian Order, but necessary in the case of Burma because in Burma the Legislature established by the new Act is to meet and exercise some of its functions before the Act commences, whereas in the Indian Provinces this is not contemplated. A difficult situation might be created if the Legislative Council of Burma only stood prorogued at a period when the Legislature set up by the new Act is actually in session.

The effect of *paragraph 6* is (i) to state that the new Legislature has no powers in relation to expenditure required to be incurred before the 1st April 1937, and (ii) as the Legislative Council of Burma is by *paragraph 5* no longer in existence, to give the Governor in his discretion power to authorise expenditure over and above that authorised by the 1936-37 Budget which has to be incurred in the latter months of the financial year 1936-37, and which would, if the Legislative Council were still in existence, be authorised by supplementary grants passed by it.

Paragraph 7.—This provision surmounts simultaneously two difficulties, the continuance in separated Burma of an expiring Indian law and the transfer to the authorities of separated Burma of a function which is at present that of the Central Government and cannot be discharged by the Executive in Burma (for Budget framing purposes) until after the commencement of the financial year 1937–38—a date which would, in the particular circumstances, be embarrassingly late. The proviso empowers the Governor to maintain or reduce or waive the surcharge at present levied in India including Burma.

The second sub-paragraph is designed to deal with certain rather technical sequelæ of the transfer to the authorities of separated Burma of the responsibility for administering Income Tax laws.

Paragraph 8.—The Indian Post Office Act contains a schedule of maximum charges for inland postage, and, since these are not always adequate, the practice is to append to the annual Finance Act—an expiring law—an overriding schedule fixing the actual charges for the current year. The schedule so laid down in the Finance Act, 1936, will expire on 31st March 1937, and unless provision is made in this Order the maximum charges laid down in the schedule to the Indian Post Office Act will have to be operative in Burma. These rates are too low in respect to inland charges and they do not deal with the matter of any new charges which may be required to cover postal communications between separated Burma and continental India. Accordingly the Executive Government of Burma, in the person of the Governor in his discretion, is given latitude to fix, before the beginning of the financial year 1937–38, postage charges for that year (but not limited specifically to that year).

Similar considerations apply to the question of telegraph rates.

Paragraph 9 (with which the first paragraph of the Second Schedule should be read) explains in the first and second paragraphs by what authorities the functions allotted by the Act to the Governor in his discretion, or exercising his individual judgment or on the advice of his Ministers, as the case may be, are to be discharged before those provisions of the Act are in force by which the Governor is authorised or required to act in discretion or in the exercise of individual judgment, and by which the Council of Ministers is authorised to be set up.

The effect of sub-paragraph (3) is that if the Executive or the Legislature of Burma, in the anticipatory exercise of the powers accorded by the Act, deal with a matter which could not now be dealt with by the Government of the Province of Burma without the prior sanction of the Governor-General, they shall do so under the superintendence, not of the Governor-General, but of the Secretary of State.

Paragraphs 10 and 11 correspond respectively to paragraphs 14 (2) and 15 of the Indian (Commencement) Order.

(c) DRAFT GOVERNMENT OF INDIA (DISTRIBUTION OF REVENUES)
ORDER, 1936.

This Order is designed to give effect to the recommendations made by Sir Otto Niemeyer which are summarised in paragraph 37 of his Report (Cmd. 5163). The Provincial Governments and the Government of India were invited to express their views on the Report, which are printed, together with the Secretary of State's conclusions, below.

II.—Views on Sir Otto Niemeyer's Report (Cmd. 5163).

(i) THE GOVERNMENT OF INDIA

(dated 14th May 1936).

1. We wish, at the outset, to express our great appreciation of the service which Sir Otto Niemeyer has rendered to India in making the survey of Indian Finances contained in his Report and in undertaking the task of trying to satisfy all the Provinces as well as the Centre from resources which are not indefinitely expansible.

2. Sir Otto estimates the cost of his recommendations at about 2 crores a year, diminishing by a few lakhs as the special non-recurring grants to Orissa and Sind run off. To this figure must be added the cost of the decentralisation of balances and the cost of the debt consolidation scheme referred to in Appendix III.

Altogether, the Government of India calculate that the initial cost of all these adjustments is about $2\frac{1}{2}$ crores a year, of which 2 crores will fall directly on the Budget and $\frac{1}{2}$ crore will be a diminution of capital repayments. The consolidation proposals also involve a spreading of repayment instalments which will have the effect of increasing somewhat the interest charges in the Central Budget in the early years, though the increase will be counterbalanced by corresponding decreases later on.

3. The figures of the initial cost are in excess of anything that the Government of India have hitherto contemplated; but nevertheless, having regard to the supreme importance which is attached to giving Provincial Autonomy a fair start, they are prepared to accept the conclusion reached by Sir Otto in paragraph 18 of his Report (viz. that His Majesty's Government may safely propose to Parliament that Part III of the Government of India Act, 1935, should be brought into operation as from 1st April next), provided that there is no question of increasing in any appreciable degree the total of the initial assistance recommended, and provided that it is clearly understood that it may be necessary to retain the remainder of the surcharge on Income Tax and Super Tax, at any rate for some time after 1st April 1937, in order to maintain a balanced Central Budget. Incidentally, we desire to indicate that we attach very great importance to the general adoption of the arrangements which we have proposed for the decentralisation of balances and the consolidation of pre-Autonomy debt, and to express our earnest hope that these arrangements will have your full support. Indeed, we go so far as to say that we regard them as an integral part of the initial financial adjustments. In this connection, we wish to correct a misapprehension which appears to exist, that some Provinces will get large uncovenanted benefits from these arrangements. The

greater part of the gain shown in Appendix III represents merely the immediate budgetary effect of spreading debt repayments over a longer period. In the later years, of course, the result of this spreading will be to prevent budgetary reductions which would otherwise have taken place.

4. The next question which arises out of the Report is whether the Central Budget can continue to sustain the burden involved by these initial adjustments plus the cost of the separation of Burma (estimated at $2\frac{3}{4}$ crores per annum) and in addition can forgo in stages over the following ten years a further sum of at least 6 crores. Naturally, we have had to frame, for the information of Sir Otto Niemeyer, such a forecast as we could reasonably make of our position in the years to come. Inevitably these estimates are invested with great uncertainty. The factors which make for uncertainty are, with two exceptions, set out by Sir Otto. Those exceptions are the possibility of India being involved in war and the possibility of internal political disturbances of such a magnitude as materially to affect the prosperity of the country. The former possibility no calculation can take into account; the latter the Government of India think that they may safely reject. For the rest, there falls still to be considered the position of the Railways and the possibility of the law of diminishing returns setting in in connection with Customs revenue.

5. As regards the Railways, the Government of India have no hesitation in saying that, unless their solvency on the basis of a full commercial accounting system can be restored, and that before very long, the latter stages of the programme envisaged by Sir Otto Niemeyer will be quite impossible of execution. At present it is hoped that deficits can be met without depleting the existing reserve of 9 or 10 crores, but in the not distant future the annual demand for renewals and replacements is bound to increase considerably; and unless, in the meantime, a position of complete solvency has been reached, the reserve will rapidly become exhausted, with the consequence of a call upon the Central Budget. The Government of India have under consideration practical steps to be taken in this connection and they hope to approach the Secretary of State shortly in the matter.

6. As regards Customs, the general level of the tariff is now so high that the maintenance of the aggregate yield, which is by far the most important single factor in the whole revenue position, has become a somewhat precarious task. There is plainly no further reserve which could now be drawn upon to meet an emergency, as was done twice in 1931; and any serious relapse in the value of India's import trade would inflict damage which would be beyond the remedy of a mere increase of the tariff. Even if we exclude a further deterioration in the conditions of international trade, the present pitch even of the revenue duties is itself liable to provoke regressive tendencies. The Government of India therefore consider

that any material increase in the tariff will endanger the practicability of the plan; they conceive, in fact, that in order to conserve the revenue yield it will be necessary from time to time to propose reductions of particular duties.

7. The question now is whether, subject to the considerations set out above, the programme recommended is regarded by the Government of India as feasible and acceptable. On this, the Government of India are bound to observe that they had hoped that, in view of the initial assistance to the Provinces recommended by Sir Otto being far greater than was originally contemplated, the proportion of the divisible Income Tax receipts to be permanently retained by the Centre would be fixed at two-thirds and not one-half. However, recognising that the Report is in the nature of a quasi-arbitral award, the Government of India content themselves with saying that they hope and have fair reason to believe that Sir Otto's programme is feasible. In making this statement they rely, of course, on the powers of the Governor-General under the proviso to section 138 (2) of the Act, to which Sir Otto pointedly draws attention in the concluding words of paragraph 32 of his Report; but they would obviously have felt considerably more confident that the delaying power would not need to be invoked if the percentage allocated to the Provinces had been fixed at 33 $\frac{1}{3}$.

8. In this connection, the Government of India cannot refrain from referring to some of the implications of the Report. Those which relate to the solvency of the Railways and the general level of the Customs tariff have already been dealt with. That relating to the permanent retention of the remaining surcharge on Income Tax and Super Tax raises very difficult questions which cannot be fully discussed here. But we do say that, so far as we can estimate, the adoption of the suggestions contained in paragraph 31 (1) of the Report would not enable the Centre appreciably to increase the scale of the initial subventions, though it would obviously advance the date when a distribution of Income Tax to the Provinces commences, and it would render more certain the completion of the full programme within ten years. In any case, whether the surcharges are retained permanently or only temporarily, it seems to us indubitable that, in recommending a settlement so generous to the Provinces, Sir Otto has rendered it difficult in the next ten years for the Government of India either to increase its exiguous provision for sinking fund to a reasonable figure or to reduce those indirect taxes which are an undue burden either upon enterprise or upon the consumer, except in cases where such action would be clearly advantageous to the revenue. Indeed, unless prosperity returns at a quicker pace than now seems likely, both the present Government of India and its Federal successors will find their freedom of action in the financial sphere uncomfortably limited.

9. Finally, the Government of India would wish to mention one point of detail in regard to the first period of five years after Provincial Autonomy. Sir Otto recommends that the Provinces should, during this period, get any sums by which the divisible pool of Income Tax exceeds 13 crores, less any contribution to General Revenues from the Railways. He explains that this Railway contribution is to be assessed in accordance with the present separation Convention. But this is not in itself a precise basis of assessment, and indeed it would be quite possible within the present Convention to render Sir Otto's recommendation nugatory. For example, if surpluses are applied first to replace the sums borrowed from the Depreciation Fund, no contribution can possibly arise. The Government of India assume that the Secretary of State will provide in the Order in Council against a possibility such as this. On the other hand, they wish to point out that they have for some time been considering whether, and have now actually decided, to remedy the present accounting rules under which an excessive amount of expenditure upon renewals and replacements is charged to capital. The plan decided on involves reducing the charge to capital and increasing the net charge both against revenue and against the Depreciation Fund. In a normal year it will mean an additional charge of something like 25 lakhs against Railway revenues, and they assume that there is no question of regarding it as inconsistent with the Report, which clearly could not intend that the Centre should make payments on revenue account to the Provinces at the expense of an illicit expansion of the Railway capital account.

10. So far we have thought fit to set out our own views without specific reference to the views expressed by the Provincial Governments. For the most part, these take the form of asking for more for themselves and of complaining that other Provinces have been treated too well. The cost to the Central Budget of the various additional demands now put forward is nearly 1 crore a year as from 1st April next, while there is a further proposal that the Centre should forgo an additional crore or more a year by way of reduction of the Jute Duty not later than 1st April 1942. We wish to make it clear beyond a peradventure that we see no prospect whatever of being able to undertake additional burdens of this magnitude, or indeed, as we have previously tried to show, of any appreciable size at all. This means that, if concessions are to be made to individual Provinces, it can only be done at the expense of other Provinces and not of the Centre. And, for our part, we see great difficulties in any re-distribution of relief, which may easily create more discontent than it alleviates.

11. Apart from these general observations there are a few specific points which require mention.

Assam.—We are clear that Sir Otto deliberately limited the cancellation of debt to that incurred prior to 1st April 1936. There

are obvious reasons for such a course, but, apart from that, the residual relief which he recommends is definitely assessed on that basis.

Sind.—The Government of India would point out that the subventions proposed are equivalent to a capital gift of something like 20 crores, so that in effect a very large part of the Barrage debt is being cancelled. But in our opinion it is important that Sind should retain an incentive to make the Barrage remunerative as a business proposition. On the basis of present estimates, the Barrage will ultimately yield a considerable net annual surplus after allowing for the complete cessation of the subvention.

Bihar.—This arithmetical argument is clearly invalid. There can be no doubt that, if the debt had first been made less onerous by being spread over a longer period, Sir Otto Niemeyer would have assessed the relief immediately required, not at 25 lakhs, but at some smaller figure.

Bengal.—(a) The proposal that the datum line of divisible Income Tax receipts for the first five-year period should be fixed at 12 and not 13 crores is unacceptable. The latter figure was doubtless fixed, after a review of a forecast of the Central budgetary position year by year, at the minimum which would reasonably promise equilibrium. At all events, that is definitely our view of the situation.

(b) As regards the distribution of Income Tax between Bengal and Bombay, we clearly can have nothing to say except perhaps to point out that Sir Otto explains that his proposals are not based on any uniform combination of population and residence.

(c) We have already made it clear that we see no chance of being able to relinquish any further part of the Jute Duty by 1942, or indeed by any specific date. In the circumstances, we deem it unnecessary to argue on the merits of this proposition.

(ii) THE SECRETARY OF STATE FOR INDIA

(dated 20th May 1936).

1. I have now received the views of each of the Provincial Governments and of Your Excellency's Government upon Sir Otto Niemeyer's Report, and having carefully examined these communications I have reached the conclusions which are set forth below. In order that full information of the considerations that I have had to weigh may be available, I propose to present to Parliament both the views of the Governments in India and this reply.

2. I cordially join in the acknowledgments which are due to Sir Otto Niemeyer for undertaking the responsible and difficult task that was allotted to him and for the manner in which he has discharged it. No problem connected with the process of constitutional reform in India has given rise to a greater conflict of views and interests than the matter of finance, and it is indeed fortunate that one who combined such exceptional experience and authority with complete detachment from Indian controversies was able to assist in the final stages of its solution. There could be no more striking evidence of the formidable complexity of the issues upon which he has delivered so clear a judgment than the documents now under review.

3. Sir Otto's task had two aspects. On the one hand he was appointed to conduct an independent investigation of the present and prospective budgetary positions of the Government of India and of the Governments of the Provinces before final decisions were taken by His Majesty's Government and Parliament as to the date for the introduction of the new Provincial Constitutions. On the other hand, he was required to make recommendations for the completion, by Order in Council, of the scheme of financial relations between the Centre and the Provinces embodied in the Government of India Act, 1935, and for other adjustments ancillary to that scheme. The matters remaining to be determined by Order in Council were the allocation between the Centre and the Provinces of the proceeds of Income Tax and the Jute Export Duty and the prescription of grants in aid of the revenues of such Provinces as were found to require assistance in this form. The two aspects of the Enquiry are connected by the objective, inherent in the constitutional plan, of equipping the Provinces with at least a sufficient minimum of resources at the outset, and of providing them with further resources in the future; for questions at once arise both of the ability of the Central Government to surrender a part of its present resources and of the manner in which the sums available should be distributed among the Provinces.

4. Sir Otto's conclusion upon the general question of the adequacy of financial resources is "that the budgetary prospects

of India, given prudent management of her finances, justify the view that adequate arrangements can be made, step by step, to meet the financial implications of the new constitution" (paragraph 8); and, after making recommendations to meet the immediate needs of the Provinces, he adds specifically: "From the financial point of view, I conclude that His Majesty's Government may safely propose to Parliament that Part III of the Government of India Act, 1935, should be brought into operation a year hence" (paragraph 18). These conclusions have been reached after an expert and exhaustive examination of the position in consultation with the financial authorities of each of the Provinces and of the Government of India, and must accordingly command respect.

It was perhaps inevitable that, so long as a final decision had not been pronounced upon the extent of the benefits that each Province might expect to receive, the comments of the Provincial Governments should, generally speaking, have been designed mainly to emphasise their individual difficulties and natural desires for greater resources. In any case, it was scarcely to be expected that, where aspirations considerably outrun financial possibilities and expectations have risen high, and where the effects of the setback that accompanied the depression are still keenly felt, the necessarily limited proposals now under consideration would receive from this quarter an unqualified welcome. I fully realise, indeed, that the financial administration of all the Provinces will continue to demand great caution and that the budgetary problems of some Provinces will present difficulties. I see no reason, however, to believe that these problems need prove insoluble, and I find confirmation for this view, not only in Sir Otto Niemeyer's judgment, but also in the fact that no Provincial Government makes any suggestion that the introduction of Provincial Autonomy should be delayed on financial grounds.

On the other hand, the problem of the Government of India in finding some 5 crores, partly to assist the Provinces and partly in consequence of the separation of Burma, demands consideration. Sir Otto Niemeyer was far from ignoring the implications of this problem, which are further emphasised by the Government of India. It is clear that the Central Government, no less than the Provincial Governments, will have to direct its financial policy with special care; but I do not understand that the Government of India anticipate insuperable difficulties, and I share this view.

5. In considering this question it is well, I think, to appreciate the extent to which such practical difficulties as remain to be overcome are inherent in the existing situation, independently of the prospect of constitutional reform. The anxiety of the Provinces for a more liberal allotment of resources has been continuously

manifested over a long period. Moreover, the problem of chronic deficits in certain of the Provinces could not much longer have been left unresolved. These are the major factors in the situation and would have to be faced even if no change in the existing form of government was contemplated. Beside them the cost of such changes as enlarged electorates and Legislatures, which are connected with the new constitution, is relatively insignificant.

It is, of course, clear that the solution of all these problems might have been simpler had they been under consideration in more propitious economic circumstances. Unless, however, a completely unforeseeable setback occurs, the position will evidently be markedly better than could have been anticipated at the time when the framework of the new constitution was under discussion. It will be recalled that the Joint Committee gave special attention to the financial background of the reforms and concluded that Parliament would, at the appropriate time, require an assurance from His Majesty's Government that the new constitution could be inaugurated without thereby aggravating the financial difficulties to a dangerous extent. In my view the assurance that may now be given can be framed in appreciably more positive and hopeful terms.

After full consideration I entirely accept Sir Otto Niemeyer's conclusion, and I have no hesitation in proposing, with the concurrence of Your Excellency's Government, that 1st April 1937 should be appointed as the date for the commencement of Provincial Autonomy. A draft Order in Council for this purpose (upon the technical details of which the Government of India and Provincial Governments have been separately consulted) will shortly be submitted to Parliament.

6. In regard to the second aspect of Sir Otto Niemeyer's Enquiry, it is evident that the past history of the discussion of financial relations between the Centre and the Provinces afforded no good reason to hope that his recommendations would be immediately acceptable to all the parties concerned. As the Joint Committee pointed out, the problem of the allocation of resources in a federal system has everywhere proved singularly intractable, for the conflict of interests that arises is practically incapable of complete resolution. The assessment of the relative financial needs of the Centre and of the Provinces collectively is a sufficiently difficult task, but the other facet of the problem—the adjudication of the rival claims of the Provinces—gives rise to issues of even greater delicacy. I share the Government of India's view that in both respects Sir Otto's Report must be regarded as in the nature of a quasi-arbitral award, and it is accordingly clear that such a nicely-balanced scheme could not properly be disturbed except for the strongest reasons.

I have examined the recommendations closely on this basis. So far as concerns the aggregate assistance to be afforded to the

Provinces, I am not prepared to dissent from the Government of India's view that it is out of the question at the present moment for the Central Government to undertake greater commitments, immediate or prospective, than Sir Otto has recommended. In these circumstances it is, of course, clear that any material alteration in the treatment accorded to particular Provinces can be made only at the expense of other Provinces. How extensive is the field of controversy to which this would lead is readily apparent from the conflicting views of the Provincial Governments that are before me. Each Province is inevitably convinced of the strength of its own claims and is bound to experience difficulty in appreciating the significance of its case relatively to the circumstances of other Provinces. It cannot be overlooked that Sir Otto Niemeyer has brought an independent judgment to bear on this subject, and that he has had an exceptional opportunity of appreciating the problem as a whole. It is my considered view that he has achieved as equitable a settlement between the various contestants as the case allows. I propose accordingly to accept his recommendations as a whole.

7. Before accepting the recommendations as not only equitable but practicable, I have paid attention to the special problems that are mentioned by the Government of India. As regards the financial position of the Railways, I note with satisfaction that the Government of India have the matter actively under consideration, and Your Excellency's Government may count on my support in any measures that may be necessary for the improvement of the position.

I note the Government of India's view regarding Customs revenue, which is a matter that will undoubtedly call for the most careful consideration in the near future.

The question of the remaining surcharge on Income Tax is, as the Government of India point out, one of some difficulty; and although it is only one aspect of the general budgetary problems which will arise from time to time, I feel bound to say at once, with reference to their observations on this subject, that, if the scheme of finance upon which the successful operation of Provincial Autonomy depends is found to necessitate the continuance for some time longer of this burden (either in its present or in any equivalent form), I shall accord my full support to the Government of India.

I agree that in any case there is bound to be some uncertainty whether the programme for the transfer of Income Tax to the Provinces can be fully realised, and in this connection I think it well to associate myself with the warning given by Sir Otto Niemeyer in paragraph 32 of his Report. While every effort will be made, so far as I am concerned—and also, I have no doubt, by the Government of India—to fulfil the hopes now extended to the Provinces, the scheme cannot be assumed by them to represent a final commitment. At the same time, with reference to the

Government of India's observations as regards the Provincial percentage, I am bound to emphasise the importance that I attach to securing the maximum possible ultimate distribution to the Provinces, for which reason I welcome both Sir Otto's proposal and the Government of India's view, which I share, that there is fair reason to believe in its feasibility. It is relevant to remember that a mistake in fixing the percentage unduly low cannot be rectified, since the percentage originally prescribed is incapable of increase by a subsequent Order in Council. Against any mistake in the contrary direction, however, there are the safeguards both of the Governor-General's delaying power, to which attention has been drawn by Sir Otto and the Government of India, and in the last resort of a possible reduction in the percentage by an amending Order.

8. In view of my general conclusions already indicated, it would serve no good purpose to attempt a detailed commentary on the views submitted by each individual Province. There are, however, certain specific points upon which a brief comment is unavoidable; and in the first place I wish to express concurrence in the Government of India's observations in connection with the representations of Assam, Sind, Bihar and Bengal. As regards Bengal I would add that it cannot, in my opinion, properly be assumed that the power in respect of the Jute Export Duty placed by the Government of India Act in the Central Legislature will not be exercised with due regard to the economic interests of that Province. On such an assumption, applied throughout the field of Central legislation, which of necessity includes subjects that affect certain units more than others, the federal idea would be practically unworkable. In so far, however, as there may be a case for reducing sooner or later the rate of the Jute Export Duty, I think it necessary to say now that if, on account of such a reduction, the value to the jute-growing Provinces of their percentage were materially reduced, it would be necessary to consider whether, in the circumstances, those Provinces required additional assistance, either in the form of a change in the Jute Duty percentage or otherwise.

I appreciate the practical problem that confronts the Government of the United Provinces. I have, however, not understood that Sir Otto Niemeyer's recommendation was related to the precise requirements of each particular year, and I am unable to accept the suggestion that in the aggregate it need prove inadequate. Having regard to the circumstances of the United Provinces and to the special problems that the Central Budget will present in the first year or two, it appears to me not unreasonable that the beneficiary should accept assistance in even amounts and make budgetary dispositions accordingly.

I sympathise with the natural disappointment of the Punjab Government that that Province alone of the Provinces of India

should receive no immediate assistance, except to a trifling degree through the debt scheme. But I am not satisfied that there are sufficient grounds for giving any special relief to that Province which Sir Otto Niemeyer has not recommended. The Central resources, especially at the outset, are not such that assistance can be given except when the need is imperative. I have no doubt that a Province so well endowed with natural resources, and with so high a tradition of efficient administration as the Punjab, will in fact, without assistance, be much more favourably situated than many of the other Provinces, even after allowing for the help which the latter will receive. The fact that one or two other Provinces, whose economic strength is perhaps comparable with that of the Punjab, happen to receive relief owing to territorial reorganisations and to the debt scheme, cannot afford justification for granting some equivalent benefit to the Punjab. It has also to be remembered that additional resources will become available to the new Punjab Government when Income Tax begins to be distributed. I note that the Punjab Government consider that they will be at some small financial disadvantage on the introduction of Provincial Autonomy owing to an expected loss in connection with the supply of liquor by the Province to other administrations. Arrangements covering the supply of excisable liquor by one Province to another will have to be reviewed in the light of the new constitutional position, and I consider that the point raised by the Punjab Government in this connection will require further examination.

9. I am submitting to Parliament a draft Distribution of Revenues Order which deals with Income Tax, the Jute Export Duty and grants-in-aid to certain Provinces in strict accordance with Sir Otto Niemeyer's recommendations. The technical points in the draft Order have been separately discussed with the Government of India; but there are certain fundamental assumptions that I must set forth on the present occasion.

(a) The calculations to which section 138 (1) of the Government of India Act gives rise involve certain assumptions as to the interpretation of that section, and Sir Otto Niemeyer has recorded the assumptions that he has made in the annexed letter. The Order has been drafted upon the basis of these assumptions, and as the allocation of appreciable sums is involved it is necessary that I should make this clear.

(b) It has always been assumed that "Corporation Tax" (which is allocated by the Act as a Federal source of revenue) would mean a tax of the nature of the existing Super Tax on Companies; and the definition in section 311 (2) of the Act was intended to have this result. I understand, however, that doubt has arisen whether the definition is entirely satisfactory. If such doubt is substantiated hereafter, it may be necessary to ask Parliament to rectify the position.

(c) Sir Otto Niemeyer has recommended that, for the purpose of the formula which governs the allocation of Income Tax in the first five-year period, the computation of the Railway contribution to General Revenues should be made on the basis provided by the present Railway Convention, which was formulated in a Resolution passed by the Legislative Assembly on the 24th September 1924. In accepting this recommendation, I agree with the Government of India that the method of application of that Resolution to the present purpose should, in respect of the treatment of loans from the Depreciation Fund, the treatment of arrears of contribution to General Revenues (which are not specifically mentioned but are *in pari materia*), and the improvement of accounting procedure, be on the lines suggested in paragraph 9 of their views. The relevant provisions of the draft Order in Council are intended to give effect to the above.

(d) The provisions of the draft Order in respect of the North-West Frontier Province grant-in-aid do not bear on the face of them the qualification that the case of this Province is to be reconsidered in five years' time, which was what Sir Otto Niemeyer recommended. It would, in fact, be inconvenient to make such provision in the Order; but I wish to make it clear that the intention is to reconsider the matter at the end of five years. In this connection I have noted the concluding comment in the views of this Province, and I think it desirable to state that, so far as I am concerned, there is no question of prejudging at the present time any decision that may have to be taken in the light of circumstances five years hence.

(e) The provisions for Sind assume that the Barrage debt funding scheme will be on the lines recommended by Sir Otto Niemeyer, and measures to this end are in contemplation.

10. The scope of the draft Order in Council does not extend to the decentralisation of balances and cancellation and consolidation of debt referred to in paragraphs 19 to 21 and Appendix III of the Report. These are matters which will fall to be dealt with immediately before the commencement of Provincial Autonomy under existing statutory powers (subject to certain amendments of the Devolution Rules). It is clear in any event that the grant of the specified assistance to certain Provinces by the cancellation of debt is an essential part of Sir Otto Niemeyer's scheme, and I shall assure Parliament that the necessary action in this regard will be taken. In addition, however, I entirely agree with the Government of India that the scheme for the decentralisation of balances and the consolidation of debt must be regarded as an integral part of the whole plan, and on this basis I have decided to accept the scheme. The detailed arrangements for its execution will be separately discussed.

ANNEXURE.

Sir,

6th April 1936.

In the course of my consideration of the problems arising under section 138 of the Government of India Act, 1935, it has been necessary to make estimates of the amounts which, in various circumstances, would be assignable to the Centre and the Provinces respectively. This process involves certain assumptions as to the precise interpretation of these provisions; and since my recommendations might have been different had I not made the particular assumptions which I did in fact make, it is desirable that I should place them on record.

(1) Although the Act treats "corporation tax" and "taxes on income" as distinct taxes, the present super-tax on companies ("corporation tax" under the Act) is in practice levied under the same law and by the same administration as any other form of income-tax. It is obviously convenient that it should be, but as a result there are certain difficulties in determining what amount of the produce of the various forms of income-tax is in fact "corporation tax" and what amount is "taxes on income" within the meaning of section 138.

(a) In the first place, when refunds on account of double income-tax are given to companies, relief is calculated upon the basis of the total tax suffered, both income-tax and super-tax. The amount of such relief in a recent year was nearly Rs. 90 lakhs. Obviously the question whether so large a sum is to be regarded as falling entirely upon the wholly Federal head of "corporation tax" or entirely upon the heads which are divisible with the Provinces, or partly on the one and partly on the others, is of considerable importance. A fair workable basis of calculation is to divide the double tax refunds granted to companies in any year between "corporation tax" and "taxes on income" in the proportion that gross collections of "corporation tax" less other refunds granted in that year bear to collections of company income-tax less other refunds (including section 48) granted in that year. I have myself adopted this formula, and I think it should be followed in future practice.

(b) Since a common administration is occupied with all forms of income-tax, costs of collection are not readily divisible between "corporation tax" and the other heads. The amount at stake is comparatively small; and I think it would be waste to attempt an elaborate enquiry (which would have to be periodically renewed) as to the precise time and money spent in collecting "corporation tax." I have in fact divided the cost of collection of all forms of income tax between "corporation tax" and the other heads in the ratio that "corporation tax" as reduced by refunds in accordance with sub-paragraph (a) above bears to the other heads of tax as similarly reduced; and this practice should similarly be followed in future.

(2)—(u) To arrive at the divisible pool it is necessary to deduct from "taxes on income" the proceeds of taxes on Federal emoluments. Collections under this head, less refunds, can apparently be readily ascertained from the income-tax returns; but, again, in determining the amount to be retained by the Centre under this head, regard must be paid to cost of collection. I have again assumed that the cost should be proportionate to the yield, after deducting refunds.

(b) A further deduction has to be made on account of "proceeds attributable to Chief Commissioners' Provinces." The Act does not define the meaning of "attributable"; but it appears to me reasonable (and the first paragraph of section 57 of the Introduction to the White Paper suggests that it was intended) that the attribution should be determined by factors similar to those which determine the distribution of the Provincial share among the various Governors' Provinces. Having considered the matter on this basis, I recommend that the Centre should retain, in respect of Chief Commissioners' Provinces, 1 per cent. of the net tax remaining after the elimination of "corporation tax" and tax on Federal emoluments. The divisible pool, of which the Provinces will receive 50 per cent. according to their respective percentages, will be what remains thereafter.

(3) I should not regard these questions of principle as fitting subjects for a decision by the Auditor-General under section 144 (1) of the Act. I think they are proper matters for administrative decision in the ordinary course of administering the Act, and I should personally be disposed to leave them at that, unless there is any serious likelihood that such administrative decision might be challenged.

But I understand that the Government of India are dissatisfied with the existing definition of "corporation tax" in section 311 (2) of the Act, and contemplate the submission to the Secretary of State of proposals for its amendment; and it may be that, in view of a conceivable danger under section 204, he may prefer to cover all or some of the above matters also by legislation, or by taking power to deal with them by Order in Council.

The Under Secretary of State for India.

I am, &c.,
O. E. NIEMEYER.

(iii) THE PROVINCIAL GOVERNMENTS.

MADRAS

(dated 5th May 1936).

1. The Madras Government regret that the form of the Report, which sets out the conclusions respecting special assistance to certain Provinces with little or no indication of the reasons for arriving at these conclusions, creates difficulty at the outset in formulating arguments by way of criticism.

2. The sources of revenue of all Provinces are at present substantially the same, except that Bengal, Assam, Bihar and Orissa enjoy the advantage of a subsidy to the extent of 50 per cent. of the Export Duty on Jute. In the absence of evidence to the contrary, it may be assumed that the natural resources of the Provinces are approximately equal. Though there are admittedly special circumstances affecting some smaller Provinces, it follows that the burden of proof that their present or future resources are inadequate lies heavily on the Provinces whose budgets show recurring deficits. *Prima facie* it is to be presumed that their administrative systems are unduly expensive or that they have failed to retrench adequately when retrenchment was necessary (and the Report admits that some Provinces have retrenched more than others) or that they have failed to tax themselves adequately.

3. It may be agreed that it is difficult to assess exactly the relative extravagance or economy of administrative systems or the adequacy of retrenchments in the different Provinces owing to differences in conditions; but the annual reports of the Accountant-Generals and Auditor-General give some indication of the general soundness or unsoundness of the financial policy pursued by the different Provincial Governments.

4. In the matter of taxation, comparison is possible with reference either to the ratio of taxation or *per capita* incidence.

5. The Madras Government regret that the Report attempts no statistical comparison when such comparison is practicable. In the opinion of the Madras Government, the Report attaches too great importance to the budgetary positions of the Provinces as they now stand and ignores the budgetary positions as they might or should have been had the deficit Provinces consistently followed sounder financial principles. The Madras Government contend that their comparatively sound position is due, not to the intrinsic superiority of the natural resources of the Presidency, but to prudent financial administration and adequate taxation. If, for example, Bengal are considered to be hampered by the Permanent Settlement (and it must not be overlooked that one quarter of the Madras Presidency is subject to the Permanent Settlement) it is open to Bengal to impose a tax on agricultural incomes.

6. The proposals of the Report penalise the Provinces who have followed the path of financial orthodoxy in balancing their budgets in spite of the economic depression, which has hit them no less severely than the Provinces who have failed to cover deficits. The Madras Government can therefore see little justification for remission of debt to the extent contemplated, or the increase of the proportion of the Export Duty on Jute allotted to four Provinces. Taking Bengal for comparison, judged on the basis of *per capita* expenditure the standard of administration in some respects appears lower than that of Madras, though not in all. Bengal, for example, spend twice as much as Madras on University Education and considerably more on Public Health and Sanitation. But the *per capita* and acreage incidence of Land Revenue in Bengal is much lower than in Madras,—actually less than half on a *per capita* basis. The Madras Government contend that had the incidence of land tax and other taxes been as high in Bengal as in Madras, the Bengal standard of administration could have approximated to that of Madras. The revised budget estimates for 1935-36 show a deficit of 15 lakhs for Bengal against 32 lakhs for Madras. Following a consistent policy of financial orthodoxy, Madras have restricted expenditure for 1936-37 so as to balance the budget, while Bengal have budgeted for a deficit of 42 lakhs, including considerable new expenditure which the financial position does not appear to justify.

7. On these figures, the proposed further assistance of 75 lakhs to Bengal is out of all proportion. Assistance on the scale proposed to eight Provinces will seriously jeopardise the possibility of the distribution of the share of Income Tax receipts. The Madras Government trust that their case will not be prejudiced by the circumstance that, under the scheme of decentralisation of balances and the consolidation of debt, it is forecast that they will benefit more than other Provinces. The budgetary benefit of the decentralisation of balances to Madras is estimated to be less than 1 lakh per annum; the benefit of the debt consolidation proposals, estimated at 26·2 lakhs against the 1936-37 Budget, falls to a negligible figure by 1940-41 and becomes minus from 1944-45 onwards.

8. With reference to the method of distribution of the proceeds of Taxes on Income, the Madras Government suggest that Bombay, with a population of 18 millions, is disproportionately benefited by the allocation of a percentage of 20, as against Madras with a population of 44 millions and an allocation of a percentage of 15 only, more especially as Bombay gains 90 lakhs by the separation of Sind while Madras gains 20 lakhs only by the transfer of a small area to Orissa. The grounds for the proposal are presumably that Bombay is at present more highly industrialised than Madras and so contributes a greater share of Income Tax. The Report fails to

take into account the probability of industrial development in Madras consequent on the supply of cheap electricity from the new hydro-electric and thermo-electric schemes now completed or in course of completion or under investigation. The progress of industrialisation in the areas already supplied with electricity justifies the expectation of a considerable change in the relative incidence of Income Tax in Bombay and Madras in future. On this ground, and on the general ground that the population factor is more constant and is more exactly determinable than the residence factor, the Madras Government contend that if both factors are to be taken into consideration greater weight should be given to the population factor, and would press for some revision of the proposed percentages of distribution accordingly.

BOMBAY

(dated 5th May 1936).

1. The Government of Bombay wish to record an emphatic protest in regard to the recommendations contained in the Niemeyer Report. While fully accepting the paramount need for financial stability at the Centre and the necessity for so equipping all the Provinces as to give them a reasonable prospect of reaching and maintaining financial equilibrium, the Government of Bombay feel strongly that the case of this Presidency does not appear to have received the consideration it merited inasmuch as no steps have been proposed to correct the position in which the Province of Bombay has been involved by reason of the inequities and inherent unsoundness of the Meston Settlement, including the falsification of the forecast of revenue made by the Meston Committee, the complete failure of the anticipations of the Percy Committee, the cost of development schemes in Bombay City undertaken at the behest of the Secretary of State, and the long drain on the Presidency proper caused by its association with Sind. The financial difficulties caused by these circumstances and the more recent economic disturbances common to all Provinces have been met by the Bombay Government's enforcing the most rigid retrenchment, supplemented by emergency taxation. The retrenchment measures have produced an approximate immediate annual saving of some 150 lakhs, but it has been clearly recognised from the beginning that a very large proportion of this retrenchment is unobtainable. The additional emergency taxation at present yields 72½ lakhs annually in the Presidency, excluding Sind.

2. Public opinion is unanimous that if the Government of Bombay, assisted by their Legislative Council, had not made these great sacrifices for the maintenance of their financial stability and the standard of their ordinary administration, they would have shared in the benefits now proposed for other Provinces which faced their financial difficulties with less resolution.

3. In particular, the Government of Bombay consider that the estimate in paragraph 11 of the Report of the annual benefit from the separation of Sind as approximately 90 lakhs is exaggerated. The amount of this relief was placed at 98 lakhs in the Irving-Harris Report and at 79 lakhs by the Sind Conference of 1932, which certainly had no reason to underestimate it. The Bombay Government have not thought it safe to place the figure for the 1936-37 Budget higher than 76 lakhs.

4. As for the share in Income Tax receipts, the Government of Bombay must deplore the recommendation made that its distribution to the Provinces should be made entirely dependent upon the successful running of the Railways, the position of which, as is pointed out in paragraph 31 of the Report, is "frankly disquieting." In addition to the delaying power given to the Governor-General by section 138 of the Government of India Act, there is now this recommendation. Any dislocation of the finances of the Centre or failure of the Railways to show a profit will mean that the passing on of any substantial amount of this source of revenue to the Provinces will become impossible. In fact, it is more or less certain that the Provinces will receive no share of the tax during the first five-year period and that they will be indeed fortunate to receive any substantial share during the second. The Government of India should not be inhibited from supplementing their revenues from sources other than the Railways in order to accelerate the distribution of Income Tax to the Provinces.

5. The net results of the recommendations, as far as the Bombay Presidency is concerned, are that the Province is left with no expanding source of revenue until such time as a share in the Income Tax proceeds is received; is faced with the additional expenditure which must follow the introduction of Provincial Autonomy and the prospect of being compelled to restore a considerable amount of retrenchment which will swallow up the bulk of the relief accruing from the separation of Sind; and will be forced to abandon any hopes of expansion in such directions as Education, Public Health, Agriculture, animal husbandry and the like.

6. In conclusion, the Bombay Government again press strongly for cancellation of the fictitious debt created in 1920 in respect of unproductive irrigation works. These works were financed from revenue and not from loan money. They are protective in character and were not intended to yield a profit. They have been and always will be a source of loss. They should have been left with the Bombay Government without the creation of this fictitious debt, which was no more justified than a fictitious debt for previous expenditure on roads or buildings. Bombay suffered almost as much as all the other Provinces combined by this false debt. Since it was based on forecasts which were entirely falsified, the continued existence of the burden is unjust.

BENGAL

(dated 6th May 1936).

1. The Government of Bengal accept the proposals contained in paragraph 17 of the Report in regard to the assistance to be given to certain Provinces on the introduction of Provincial Autonomy. They regard the proposals as in the nature of an award given after a determination of the amount immediately available for distribution among the Provinces and after an examination of the budgetary position of the several claimants to that amount. Looked at in this light, they cannot but accept them as fair and reasonable, though they are deeply disappointed that the immediate assistance to be given to Bengal—a Province in which, by reason of what is now admitted to have been an unfair distribution of resources, the standard of administration is admittedly low—falls far short of their original expectation.

2. As regards the proposals relating to the distribution of Taxes on Income, the Government of Bengal, while accepting the general scheme, desire to raise two points.

3. First, in paragraph 30 of the Report it is recommended that, during the initial period, the prescribed sum which the Centre may in any year retain out of the provincial share of the proceeds of Taxes on Income shall be the whole or such amount as, together with any General Budget receipts from the Railways, will bring the Central Government's share in the divisible total up to 13 crores. At present, the divisible total is approximately 12 crores, and the Government of Bengal suggest that this is the more appropriate figure. The adoption of this figure will fortify the argument advanced in the Report in favour of creating an interest in the Provinces in securing an improvement in the revenue from Income Tax and Railways. Further, the Government of Bengal attach great importance to the early distribution of some share in the proceeds of the Taxes on Income among the Provinces. It was recognised on the introduction of the present Constitution (*vide* Devolution Rule 15) that the Provinces, particularly the industrial Provinces, were entitled to a share in the Taxes on Income; and during the last fifteen years the industrial Provinces have had a legitimate grievance, since that Rule failed to give the relief for which it was specially designed. In justice to the industrial Provinces, therefore, it is essential that every endeavour should be made to expedite the allocation to the Provinces of some share in the proceeds of Taxes on Income.

4. Second, in paragraph 34 of the Report the conclusion reached is that substantial justice will be done by fixing the scale of distribution partly on residence and partly on population; and in paragraph 35 it is recommended that the division among the

Provinces should be according to the percentages given therein. The same percentage (20 per cent.) is proposed both for Bengal and Bombay. If residence alone had been taken as the determining factor, there would be little difficulty in accepting parity between Bengal and Bombay, and each would then gain at the expense of other Provinces; but the Government of Bengal find it difficult to understand how parity can be justified with population as one of the bases, for the population of Bengal is nearly three times that of Bombay. Calculations made with reference to the figures given in Table III of paragraph 74 of the Report of the Federal Finance Committee (the Percy Committee) produce percentages approximating closely to those recommended by Sir Otto Niemeyer in respect of all Provinces except Bengal, Bombay and Assam. As regards Bengal and Bombay, the percentages given by these calculations are somewhat below 25 for Bengal and somewhat above 15 for Bombay. The Report does not indicate if weightage has been given to Bombay, but if weightage were to be given anywhere the Government of Bengal would have expected to find it given to Bengal and not to Bombay in view of the facts that (i) Bombay has obtained fortuitous relief to the extent of 90 lakhs from the separation of Sind, and (ii) for many years Bengal has, through no fault of her own, been compelled to submit to an administrative standard markedly inferior to that of Bombay. It is possible that the incidence calculated by reference to residence alone has moved in favour of Bombay since the Federal Finance Committee reported, but, in the absence of more detailed information, the Government of Bengal find themselves unable to accept the proposal that Bengal and Bombay should be given the same percentage.

5. As regards the Jute Export Duty, the Government of Bengal must reiterate their claim that this should, on principle, be treated as a Provincial source of revenue.

6. The Jute Export Duty was imposed originally as an emergency measure during the war. After the war and up to the onset of the trade depression jute commanded high prices, and the *ad valorem* incidence of the Duty was low. In 1924-25 the incidence was between 4 and 5 per cent. The position has, however, now changed. The price of jute has fallen enormously, whereas the deadweight of the Duty has remained constant and at to-day's prices the *ad valorem* incidence is over 13 per cent. Again, competition by substitutes has increased—for instance, paper bags are now largely used for the transport of cement and the adoption of bulk handling of grain is extending. In these changed conditions, the Government of Bengal consider it unlikely that the Export Duty is now passed on to the consumer and in their view it is more probable that it is borne for the greater part by the producer.

7. The Bengal case was not, however, by any means founded entirely on the present incidence of the Duty. There are other cogent arguments, though of a political rather than an economic and financial nature. In the first place, Bengal can never rest content under a fiscal system which aims at protecting, largely at her expense as a consumer, the products of other Provinces, while taxing her distinctive staple product for the benefit of the Centre, in other words for the benefit of those Provinces. In the second place, the prosperity of Bengal is bound up with the prosperity of the jute trade. The Royal Commission on Agriculture of 1926-28 drew attention to the risk of substitutes. They were impressed with the danger to the prosperity of Bengal if jute failed to retain its present position, and stressed the fact that if jute is to retain that position every effort must be made to maintain the relative cheapness of jute as compared with other fibres. The Provincial Government share to the full these views and are of opinion that it is inherently unsound that the Centre, which for this purpose means the non-jute producing Provinces that will command a majority in the Central Legislature, should be financially interested in the taxation of a product with which the prosperity of a comparatively small area is so vitally linked.

8. The question of Export Duties was examined at considerable length by the Indian Fiscal Commission and one of the principles they recommended for adoption was that in every case an Export Duty should be moderate in amount. Wherever the actual incidence may be, it seems clear that the Jute Export Duty, to the extent that it falls on the consumer, must raise the world price of jute and thus put jute at a disadvantage with its competitors. Similarly, to the extent that it falls on the producer, it must reduce the price which the producer would otherwise obtain. As long as the amount of the Duty is moderate it does not have an appreciable effect in either of these directions : hence the insistence of the Fiscal Commission on the principle mentioned. Now, the Jute Export Duty, up to the commencement of the trade depression, was moderate in its incidence, but, at present-day prices, it certainly transgresses that sound principle—an Export Duty which works out at approximately 13 per cent. *ad valorem* cannot be described as moderate. It appears unlikely that jute prices will return to the pre-depression level and the Government of Bengal are therefore of opinion that a reduction of the Duty must be contemplated in the not distant future. At present financial considerations do not permit of any reduction of the Duty, and the terms and implications of the Report definitely negative the possibility of a reduction in the future at the expense of the Provincial Governments concerned. But, unless the assumptions made in the Report are entirely falsified, there will be a progressive improvement at the Centre and, accordingly, the proposal which

the Bengal Government put forward for acceptance as part of the present scheme of financial adjustment between the Centre and the Provinces, is that at a date not later than the end of the first five-year period the rate of the Duty should be reduced to the figure necessary to produce the amounts now allocated to the Provinces plus any sum required for research, and that simultaneously the percentage of the proceeds of the Duty to be assigned to the jute-producing Provinces should be increased so as to give the Provinces the whole amount of the net proceeds except what is retained by the Centre for research.

9. The Government of Bengal press most strongly for the adoption of the proposal put forward in the preceding paragraph. This does not involve any modification of the Orders in Council now to be made, nor any addition to the resources which the Report recommends should be given to Bengal. At the same time it recognises the position as regards the rate of the Duty and possesses the great political advantage of removing, once for all, the sense of injustice under which this Province has laboured for so many years and which, if not now removed, will continue, to the prejudice of sound administration and to the exceeding detriment of relations between the Province of Bengal and other parts of India.

UNITED PROVINCES
(dated 6th May 1936).

1. The United Provinces Government recognise that the Niemeyer Report presents a carefully balanced scheme which, in its main outline, stands or falls as a whole. Though there are certain important factors to which they would have wished a different value given, they realise that it is not practicable at this stage to suggest fundamental changes in the scheme put forward for the solution of an extremely difficult and complicated problem.

2. There is, however, one important point relating to the United Provinces which appears to the United Provinces Government not to have been fully appreciated, and which is likely to have such a serious effect on the new Constitution in the Province that they feel bound to press it strongly on the attention of the Government of India and the Secretary of State.

3. The United Provinces Government accept the general conclusion of Sir Otto Niemeyer that, apart from the ultimate share in Income Tax receipts, temporary relief only is necessary in this Province. The reason for the peculiar position of the United Provinces noted by Sir Otto Niemeyer is that its revenues are at present depleted by no less than 112 lakhs—the annual Land Revenue remission that has been given for the last five years

necessitated by the slump in agricultural prices. This Land Revenue remission carries with it a remission of annual rent to tenants amounting to 4 crores and thus affects vitally the whole agrarian position. The loss in Land Revenue can only gradually be reduced. Temporary relief is thus essential in the earlier stages of the process of recovery.

4. The position for the first few years of Autonomy is, however, appreciably worse than appears to have been realised. The policy for readjusting the Land Revenue demands which the Government, with the unanimous approval of the Legislature, have just embarked upon, involves a somewhat slow and costly procedure of resettlement and revision of Land Revenue on the basis of existing prices, and expenditure thereon in the first two years will exceed the resulting increase in Land Revenue receipts by substantial sums. Drastic retrenchments in provincial expenditure have been effected since the slump, and during the past year this Government have again scrutinised every item of expenditure with the utmost care and have made and taken into account in their estimates further reductions which, in their judgment, carry retrenchment to its extreme limit. They have, indeed, reduced the standard of administration in some cases to an unreasonably low level, which cannot be maintained much longer. In addition, the Legislature, in its last session, passed two taxation measures increasing Court Fees and Stamp Duties; but the effect of this will be largely discounted during the next few years by the depressing effect of debt legislation on receipts under this head, the depression being at present greater and likely to be more sustained than was formerly anticipated.

5. A careful re-examination of the position reveals that there will inevitably be a revenue deficit of 53 lakhs in the first year of Autonomy, which the proposed subvention of 25 lakhs would reduce to 28 lakhs. In the second year it is estimated that, with the subvention of 25 lakhs, there must still be a deficit of 7 lakhs. This means that, as a result of two years' working of the new Constitution, the Government, even if it provided for no fresh expenditure for developments which are urgently required, would have incurred a deficit of 35 lakhs. This Government feels confident that neither the Government of India nor the Secretary of State would consider it reasonable that the new Government should be faced at the outset with an inevitable deficit on this scale. The effect on the working of the new Constitution and on the public attitude towards finance would be most harmful. So far as the Government of the United Provinces can judge, it is not the intention of the Niemeyer Report that any other Province should be launched into the new Constitution with an actual and inevitable deficit. This Government therefore strongly urges that sufficient assistance should be given at the outset to enable the

Province to start not in a submerged condition. They suggest that the subvention should be raised by 15 lakhs to 40 lakhs for each of the first three years and be fixed at 25 lakhs, as proposed in the Report, for the remaining two years. This would still leave the new Government with a deficit of 13 lakhs in its first year, but recovery would at least be in sight.

6. In connection with the distribution of Income Tax receipts, this Government wish to emphasise the very great importance they attach to Sir Otto Niemeyer's proposals for an early and thorough-going overhaul of Railway expenditure.

7. Lastly, if it is necessary for the Governor-General at the end of five years to exercise his delaying power under section 138 of the Government of India Act, so that this Province does not at that time receive any appreciable amount of Income Tax, the loss by the cessation of the subvention would result in serious budgetary difficulties. This Government therefore suggests that after the first period of five years, until receipts from Income Tax amount to 15 lakhs, a subvention should be given sufficient to bring the total Income Tax receipts plus the subvention to 15 lakhs.

PUNJAB

(dated 30th April 1936).

1. The only comparative figures as between the Provinces are contained in Appendix II-B of the Report. The figures for the Punjab incorrectly represent the revenue position. They should be :—

	Lakhs of rupees.			
1930-31 :				
Revenue	-	-	-	10,10
Expenditure	-	-	-	10,99
				-89
1935-36 (Revised) :				
Revenue	-	-	-	10,24
Expenditure	-	-	-	10,45
				-21
1936-37 (Budget) :				
Revenue	-	-	-	10,44
Expenditure	-	-	-	10,60
				-16

The error is due to the fact that the figures as given in the Report include Extraordinary Receipts on the revenue side and specific capital charges against them on the expenditure side. In fact, since 1922 the Punjab have consistently treated these receipts as of a capital nature, and have used none of them for revenue purposes. The balance not charged against specific capital heads

has been used to reduce capital loans. This was explained in our Memorandum* and to Sir Otto Niemeyer personally; and, until we saw the figures, we had no reason to suppose that there was any misunderstanding. The practice is fully understood by the Legislative Council and has been consistently approved by them. The Finance Member this year, according to the accepted practice, introduced Revised 1935-36 and Budget 1936-37 as deficit budgets, and as such they were debated. The only comparative figures in the Report, therefore, contain a serious mistake as regards the Punjab, and overstate the revenue position.

2. In case it is contended that the Punjab practice tends to conceal revenue strength, we refer to the fact that, by ear-marking Extraordinary Receipts for capital purposes, we have saved 9 crores in loans since 1921-22. Had we used them for revenue purposes, we should have had to borrow an additional 9 crores at rates of interest averaging roughly $4\frac{1}{2}$ per cent. We have thus saved interest which would now amount to 40 lakhs per annum. Our actual Extraordinary Receipts for 1934-35 were 16 lakhs; the estimates for 1935-36 are 22 lakhs, and for 1936-37 are 36 lakhs. Owing to the fall in land prices, there is no prospect of receipts showing any appreciable increase. The savings in interest, therefore, exceed the total receipts from this source, and the policy consistently pursued, far from concealing revenue strength, has made the ordinary revenue position stronger than it would otherwise be.

3. So far as immediate assistance is concerned, two very relevant considerations are the following:—

First, the amount of assistance given to any Province during the last few years from Central Revenues, and—

Second, relief other than from Central Revenues which Provinces will gain as a direct result of the new Constitution.

The various relevant forms of assistance from Central Revenues proposed or already given are—

- (i) Cash subventions—paragraph 24 of the Report.
- (ii) Fifty per cent. of the Jute Duty.
- (iii) Additional $12\frac{1}{2}$ per cent. of the Jute Duty.
- (iv) Benefits from debt adjustments.
- (v) Prospective shares from Income Tax.

As a result of the new Constitution, Madras, Bombay and Bihar will secure relief through the separation of Provinces.

We omit proceeds from the Road Fund, because the petrol surcharge was imposed for distribution to the Provinces, and we

*The Memorandum referred to was the official representation of the Government of the Punjab on the Financial Enquiry. It was submitted to the Government of India in November 1935 and passed on by them to Sir Otto Niemeyer.

omit also special grants for rural reconstruction, which we gratefully acknowledge, but which are non-recurring (paragraph 29 of the Report).

Omitting non-recurring grants, the figures of relief which the various Provinces will secure are given in the attached statement. It is assumed throughout that it will not be possible to give any share of Income Tax to the Provinces before the sixth year.

4. This statement speaks for itself. Out of recent and immediate relief amounting to 822 lakhs, it is proposed that the Punjab should get 1·7 lakhs, or one-fifth of one per cent. Out of total relief which is estimated at 1,422 lakhs at the end of ten years, the Punjab will get 49·7 lakhs or 3·5 per cent. of the total.

So far as immediate relief is concerned, the position is actually worse than that shown, since the Government of India are withdrawing an assignment of 7 lakhs which the Punjab receives at present on account of compensation for loss of Excise duty on Punjab liquors consumed in Delhi and the North-West Frontier Province. Allowing for this, the proposals mean that not only will the Punjab start under the new Constitution with no outside relief whatever, but to the extent of 5 lakhs will be helping Central Revenues. In contrast with this, every Province in India will get immediate relief, varying from the enormous sum of 243 lakhs in the case of Bengal to 21 lakhs in the case of the Central Provinces. Of the major Provinces, the United Provinces is second to the Punjab, but will get 38 lakhs.

5. The only Provinces to which it is not proposed to give direct subventions are Madras, Bombay and the Punjab. As regards the first two, however, they get direct relief from the separation of Provinces and additional assistance from debt transactions. Madras gets relief to the extent of 46 lakhs from these sources and Bombay to the extent of 104·5 lakhs. The system of direct or indirect relief is, therefore, universal, there being one exception only and that the Punjab. We have sought for reasons in the Report itself for this exception, but have found only the following.

In paragraph 11 of the Report reference is made to the relief given to Madras and Bombay through the separation of Provinces, and this is presumably one reason why they have been given no direct subvention. In the same paragraph it is mentioned that these two Provinces and the Punjab have certainly not the lowest administrative standards in India. We can find in the Report no other specific reason why no subvention has been proposed for the Punjab. In paragraph 20 of the Report Sir Otto Niemeyer supports the debt proposals of the Government of India, and he welcomes the fact that Madras, Bombay and the Punjab, to whom he does not suggest any immediate assistance as part of his proposals, will derive certain advantages from the scheme. Madras gets 26 lakhs immediate advantage, and Bombay 14½ lakhs.

The Punjab will get the nominal immediate benefit of 1·7 lakhs, and, as already mentioned, this is more than wiped out by the loss of an existing assignment from Central Revenues. It is a misapprehension to suppose that, under the proposals, the Punjab will get any immediate relief. For the first five years it will get less assistance than at present, and there are no compensating factors, as in the case of Madras and Bombay, to weigh, even partially, against the non-grant of a subvention.

6. If the proposals are accepted the Punjab, so far as external assistance is concerned, will have to start the new Constitution worse off than it is at present, and with no prospect of any relief until the sixth year. It will, therefore, have to depend on its own resources for the first five years, and the Punjab Government see no prospect whatever of the Province remaining solvent in present conditions, unless the existing standards of administration are seriously reduced. The comparative stability of provincial revenues during the past three years is attributable to four main causes:—

First, high standard of taxation ;

Second, drastic retrenchment ;

Third, the strictest control over new expenditure ; and

Fourth, favourable harvests.

In spite of adhering to the most rigorous economy, the Finance Member had this year to present a deficit budget. On the receipt side the prospects for the future are definitely bad, and, as explained to Sir Otto Niemeyer, have deteriorated since our Memorandum to the Government of India was written. Mention was made in that Memorandum of prospective losses in receipts on account of the reassessment of the Lyallpur District, and the sudden and rapid decline in civil litigation. The former loss may be put at 20 lakhs per annum, and the latter at 15 lakhs per annum. In addition, there is the loss of the assignment of 7 lakhs already mentioned from the Government of India, and also a prospect of a loss, within two years, of revenue from the consumption of *Charas* of between 10 and 13 lakhs per annum. The Chinese authorities in Turkestan have placed a ban on the export of *Charas*, and the Punjab Government are powerless in the matter. They received information of it after the Memorandum was written. Against the above falls in revenue, the only visible off-sets are 1·7 lakhs from the Government of India scheme of debt conversion, and a gradual increase in receipts from the hydro-electric scheme. On the present level of agricultural prices, the average net receipts during the next few years will be down by 40 to 50 lakhs per annum.

On the other hand, assuming that there will be no expansion of beneficent activities, or any improvement in the administrative

standards, it is inevitable that there should be an increase in expenditure. Automatic increases will result from the following causes :—

- First*, unavoidable expenditure in connection with the new Constitution ;
- Second*, incremental scales of pay ;
- Third*, pension charges ;
- Fourth*, educational grants ; and
- Fifth*, the maintenance and repair of public works, following the period of rigorous economy.

The drastic character of the retrenchment made after the slump, and the standard of economy followed since, make it the more difficult to keep expenditure down to existing figures. In his last budget speech, when the Finance Member introduced a deficit Budget for the current year, he promised that he would again examine expenditure in every department ; but he warned the Legislative Council that so much retrenchment had been done in recent years that little scope was now left.

7. The position, therefore, is that, unless agricultural prices rise, of which there is little, if any, hope, the Punjab Government must have increasing deficits, unless they again carry out drastic retrenchment. This can only be done by stopping expansion in all directions, and by cutting down existing standards in many branches of the Administration. There is no question of starting on an "even keel," or of the Punjab having, to some extent, to progress more slowly (paragraphs 4 and 10 of Report). It must go back unless it gets assistance.

8. Its position may be contrasted with that of all other Provinces under the present proposals. Owing to direct subventions or indirect relief, every Province, except the Punjab, will be able to start the new Constitution with greater resources than at present. Taking the 1936-37 figures as a basis and allowing for the immediate relief that will accrue on the commencement of the new Constitution, every Province, except the United Provinces and Assam, will have a surplus. In all of them the first Ministry will be able to start on a progressive programme—a matter of the greatest importance from the political point of view. In the Punjab alone, which claims to be one of the most progressive Provinces in India, will the new Government have to face shrinking revenues and carry out at once a programme of retrenchment.

9. The Punjab Government know of no reason for this discrimination against a single Province. Its case is clearly distinguishable from the other two Provinces which will receive no direct subvention. Both these Provinces will receive large benefits, while the Punjab gets nothing at all. If the Punjab has attained standards of administration, and especially in the beneficent departments, higher than in some Provinces, it is mainly because the

people have accepted high standards of taxation. The Legislative Council has consistently supported the proposals of Government for new taxation. If the financial position of the Province has been comparatively good, it is because its Government and Legislative Council have for years insisted on sound principles of finance, and, immediately after the economic slump, carried out the most drastic retrenchment. It appears to be manifestly unfair to impose a perpetual penalty on the Province for these reasons, or to leave the unfortunate impression that it might have fared better if it had been less provident in the past. Even if the principle be admitted that the present occasion should be used to apply, as between the older Provinces, a certain amount of correction to existing standards, the Punjab Government contend that it is unreasonable and unfair to apply it in such a way as to exclude one Province only from all benefits, and to give to another Province benefits out of all proportion to those given to the rest. The direct recurring subventions out of Central Revenues proposed in the Report amount, roughly, to 450 lakhs (paragraph 17 of Report). To this sum should be added the share of the Jute tax already given to certain Provinces (paragraph 22 of Report). The total is 640 lakhs. Of this sum, Bengal receives 243 lakhs, or 38 per cent. Out of the total sum of 640 lakhs, 375 lakhs goes to older Provinces, of which Bengal receives 65 per cent. This seems to go far beyond the "certain measure of correction" to which reference is made in paragraph 10 of the Report. If it is possible to give the Punjab immediate assistance without encroaching on the relief proposed to other Provinces, so much the better; but, if it is not possible, then the Punjab Government consider that the proposed division of available funds is so inequitable, as between different Provinces, as to require modification.

10. In short, the Punjab Government ask that the Punjab be included in the scheme of immediate relief on the following grounds :—

(i) The figures given in Appendix II-B do not correctly represent the revenue position of the Punjab relative to other Provinces, which is less favourable than there shown.

(ii) Taking the scheme of relief as a whole, the Punjab will receive from Central Revenues, on the inception of the new Constitution, less than it is at present receiving.

(iii) Every other Province in India will get substantial relief in one form or another. In this respect, the case of the Punjab is clearly distinguishable from that of Madras and Bombay, the only other Provinces for which no direct subvention is proposed, but which get large relief in other forms.

(iv) Owing to unavoidable circumstances, there will be a serious decline in the recurring revenue receipts of the Punjab, coinciding with the introduction of the new Constitution.

(v) At the same time there will be an unavoidable and considerable increase in recurring expenditure.

(vi) As a result the Punjab must be for some years a deficit Province, unless drastic retrenchment is again carried out, which, owing to the rigour of retrenchment in the past, can now be done only by seriously reducing existing standards of administration.

(vii) In the Punjab alone, the first autonomous Government will have no resources with which to carry out even the most modest progressive programme, but will have, instead, to adopt a policy of retrenchment, or, in the alternative, go back on the sound principles of finance which the Province has consistently followed since the Reforms of 1921.

(viii) From the political point of view, the effects will be deplorable.

(ix) The present scheme, if accepted, will leave a permanent sense of injustice in the Punjab, which will be accentuated by the fact that the Punjab alone gets no benefit whatever, while, in contrast, another Province gets advantages out of all proportion to those given to any of the older Provinces.

11. With regard to the proposed distribution of the proceeds of Income Tax, the Punjab Government make the following submissions. If the scheme stood alone, the Punjab would urge distribution on a population basis, which would give them about 9 per cent. instead of 8 per cent. of the proceeds. The scheme, however, does not stand alone, since, in practice, it cannot be divorced from the other forms of permanent relief which the Provinces will get. When these are taken into consideration, it is clear that the Punjab comes out the worst of all the Provinces. The amount which they will get does not set off the amount which even the smallest Province will get by way of total relief, while as between them and Bengal the difference of treatment becomes still more marked. As between the Punjab and the other two Provinces, namely, Madras and Bombay, which get no direct subventions, the proceeds from Income Tax further distinguish the cases to the great disadvantage of the Punjab. The scheme of distribution accentuates the illiberal treatment proposed for the Punjab. The general result is that not only will the Punjab be crippled for the first five years of the new Constitution, but the assistance it will receive later will be on so modest a scale as to impose very narrow limits on progress dependent on external assistance. The Punjab Government would, therefore, ask that their share be increased in any case to at least the population percentage, and that, if it is not given any other means of direct relief, the share be raised well above the population basis, so as to compensate for the complete absence of relief in other directions.

Statement.

Province	Financial assistance already given, proposed to be given or which will be effective immediately on introduction of new Constitution (in lakhs)						Share from income tax which will accrue in full after 10 years (to be ascertained) that the amount surrendered by Government will be Rs. 6 crores)		Total of columns (7) and (9) (in lakhs)	Percentage of total amount already surrendered by the Government of India.
	Relief from separation of Sind and Orissa (para. 11)	Subvention proposed by Sir Otto Niemeyer (para. 24)	50 per cent. share of duty on jute (based on figures in para. 22)	Extra 12½ per cent. of duty on jute proposed by Sir Otto Niemeyer (para. 22)	Benefit from consolidation and reduction or cancellation of debt (para. 21 and Appendix III)	Total	Per centage	Amount (lakhs)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Madras	20	—	—	—	26·2	46·3	15	90	136·2	9·6
Bombay	90	—	—	—	14·5	104·5	20	120	224·5	15·7
Bengal	—	—	168	42	33	243	20	120	363	25·6
U.P.	—	25 (a)	—	—	12·7	37·7	15	90	127·7	9
Punjab	—	—	—	—	1·7	1·7	8	48	49·7	3·5
Bihar	8	—	10	2·5	22	43·5	10	60	102·5	7·2
C.P.	—	—	—	—	20·9	20·9	5	30	50·9	3·6
Assam	—	30	9	2·25	15·5	56·75	2	12	68·75	4·8
N.W.F.P.	—	100 (b)	—	—	12	112	1	6	118	8·3
Orissa	—	40 (c)	1	0·25	9·5	50·75	2	12	62·75	4·4
Sind	—	105 (d)	—	—	0·7	105·7	2	12	117·7	8·3
TOTAL	118	300	188	47	168·7	821·7	100	600	1,421·7	100

(a) For a period of five years.

(b) Subject to reconsideration at the end of five years.

(c) An additional Rs. 7 lakhs will be given in the first year, and Rs. 3 lakhs in each of the next four years.

(d) For a period of 10 years, to be reduced gradually thereafter (paragraph 13). In the first year an additional Rs. 5 lakhs to be given for the jail at Shakarpur.

BIHAR

(dated 6th May 1936).

1. Paragraph 17.—In paragraph 11 Sir Otto Niemeyer admits, as past Committees have admitted, that Bihar and Orissa is the poorest Province in India. Bihar itself has an extremely dense population. It contributes largely to the wealth of India from its minerals and agriculture, but derives no financial advantage as it is not permitted to tax minerals and is under a disability attaching to no other Province except Bengal owing to the Permanent Settlement making any increase in Land Revenue impossible. The existence of mining and industrial areas is consequently only an extra financial burden. The Local Government urge strongly that the figure of 45 lakhs asked for by them is the minimum immediate requirement as a grant-in-aid. This figure is fully justified by the financial history of the Province, which has been starved since it came into existence in 1912 and has had perforce to maintain a

lower standard of administration than any other Province of India, which standard has been recently lowered by the policy of retrenchment which has been followed. While 25 lakhs will allow some increase over the expenditure in the 1936-37 budget, provided Excise receipts remain stable, this figure takes insufficient account of the factors mentioned above. The assistance proposed is therefore inadequate to start the Province on an even keel as proposed in paragraph 9.

2. *Paragraphs 19 to 21.*—The Bihar debts contracted before 1st April 1936, outstanding on 1st April 1937, will amount to 471 lakhs. Of this sum, 341 lakhs are pre-Reform undated debt, carrying interest at the rate of $3\frac{1}{2}$ per cent. The balance of 130 lakhs is dated (repayable in years between 1941 and 1966), of which 30 lakhs are bearing interest at a rate varying from $4\frac{1}{2}$ to $5\frac{1}{2}$ and the balance at $3\frac{3}{4}$ or less. If the debt were consolidated as in Appendix III and repayable in forty-five years, the interest should not exceed $3\frac{3}{4}$ per cent., giving annual instalments of about 21 $\frac{3}{4}$ lakhs. If the debt were not consolidated, the annual budget saving resulting from the cancellation of the debt would, for a few years, slightly exceed this figure, but would rapidly decrease as the loans are repaid and would drop to 12 lakhs in 1956. Not more than 22 lakhs should therefore be taken as the maximum of the annual recurring budget benefits resulting from debt cancellation.

3. In these circumstances the Local Government assumed that the figure of 22 lakhs in paragraph 21 implied that, in the case of Bihar, no part of the decentralised balance would be set off against debt cancellation, and that the whole of the decentralised balance of about 3 crores would be available to the Local Government for ways and means and for utilisation to secure funds for the payment of the new liability of the Province after the decentralisation of balances, namely, interest of 6 $\frac{1}{2}$ lakhs on Provident Funds, which is approximately all that can be realised by investment of the balance after providing for ways and means.

4. The Government of India have, however, advised, in response to a reference, that this assumption is incorrect, and that Bihar will receive only a single sum of 21 lakhs out of its provincial balances under the scheme of decentralisation, implying that the rest of the provincial balances will be retained by the Government of India as a set-off to debt cancellation.

5. If the Government of India's view is correct, Bihar will not only have to find 6 $\frac{1}{2}$ lakhs a year to meet the interest on Provident Funds, but will be deprived of the capital by the investment of which this sum might have been produced. The Local Government claim that on this theory the benefit which it is intended they

should receive will be reduced not only by $6\frac{1}{2}$ lakhs, but by the annual value of the balance of 280 lakhs, which will be appropriated by the Government of India. This figure they put at $10\frac{1}{2}$ lakhs, that being the sum by the payment of which a debt of 280 lakhs can be repaid in forty-five years at $2\frac{1}{2}$ per cent. The approximate net annual budget saving resulting from debt cancellation is therefore, if the Government of India's view is correct, reduced to $11\frac{1}{2}$ lakhs in place of the 22 lakhs referred to in paragraph 21.

6. The Local Government cannot believe that the Government of India's interpretation is correct in the case of Bihar, as on that interpretation the special assistance for Bihar becomes largely fictitious and the Local Government are convinced that Sir Otto Niemeyer's recommendation for the net improvement of Bihar finances was intended to be the equivalent of a genuine grant-in-aid of 25 lakhs; and this at least the Local Government claim should be given without any reduction of the decentralised balance. To sum up, on the Government of India's interpretation, Sir Otto Niemeyer's recommendation would only benefit Bihar to the extent of $11\frac{1}{2}$ lakhs plus $2\frac{1}{2}$ from the Jute tax, in place of the 25 lakhs which Sir Otto found necessary in the first instance; and to reach the Niemeyer figure of the requisite assistance, debt cancellation and the extra share in the Jute tax would have to be supplemented by a grant-in-aid of $10\frac{1}{2}$ lakhs.

7. The Local Government are the more firmly convinced of their interpretation of the intention because, under the present proposals, they are being deprived of the benefit which will accrue on the decentralisation of balances to other Provinces which are not held to be in need of immediate assistance. By the methods proposed in Appendix III for the consolidation of debt, Madras is shown as benefiting to the extent of 26 lakhs and Bombay $14\frac{1}{2}$, which benefit is lost by the Provinces whose debts are cancelled by paragraph 21. In fact, if the assignment of 45 lakhs claimed by Bihar cannot be given, the Local Government urge that, in addition to a 25 lakhs grant-in-aid, they should be allowed in the same way to share the advantages given to Provinces on the liquidation of their debts against outstanding balances.

8. *Paragraph 35.*—The Local Government's claim was that the basis of distribution should be wholly that of population, and they still consider that, as the distribution of Income Tax is a balancing factor to equalise the opportunities of the various Provinces, a distribution entirely on this basis would be fair. They would, therefore, press for an increase to 12 in the percentage allotted to Bihar, to compensate, in future, for the past financial starvation of Bihar.

CENTRAL PROVINCES
(dated 6th May 1936).

While regretting that it has not been found possible, as a result of the Financial Enquiry, to recommend the provision immediately or in full measure of the relief contemplated in the Local Government's representation made during the Enquiry, the Governor-in-Council welcomes the cancellation of part of the debt and the relief afforded by the proposed scheme of decentralisation of balances and consolidation of debt so far as they go. He trusts that, with this assistance and with the continuance of the policy of rigid economy already pursued by this Local Government, it will be possible to inaugurate the reforms with at least a balanced budget and with a reasonable prospect of a return to an adequate standard in the development departments when the full share of Income Tax is distributed to the Provinces.

ASSAM
(dated 6th May 1936).

1. The Government of Assam have examined Sir Otto Niemeyer's proposals regarding Assam. On the basis of the acceptance of the Government of India's proposals for the decentralisation of balances it is proposed that all debts contracted prior to 1st April 1936 will be cancelled and the Province granted an increase in its share of Jute Export Duty, a share at a future date in Income Tax receipts, and a subvention of 30 lakhs. The Government of Assam assume that the cancellation of previous debts will result in the sum provided in the current year's budget for the payment of interest and capital of such debts (amounting to nearly 19 lakhs) being saved, and the current year's deficit of 63 lakhs reduced thereby. In the interests of the new Constitution this Government would request that the remainder of the current year's deficit, so far as it refers to strictly Provincial expenditure, may be also cancelled.

2. Beyond this point the opinions of the Local Government differ to some extent. The Indian Member and Ministers have read the Report with profound disappointment. They were looking forward to the Province being made as self-sufficient as possible so that Provincial Autonomy may have substance. It was with that intention that the Government of Assam presented before Sir Otto, in addition to an estimate of normal receipts and expenditure, an estimate for such institutions as a High Court, a university and medical and technical (including agricultural) schools. They now find that there is not only no room for further progress in making up the essential deficiencies, but, on the contrary, even on the present scale of expenditure, there will still be a deficit of about 25 lakhs to be covered either by taxation or

retrenchment. They consider that the economic condition of the people, the bulk of whom are agriculturists, does not permit of additional taxation. Retrenchment, on the other hand, would entail curtailment of services rendered at present to the public, a prospect which they are confident no Ministry under the new Constitution will face with equanimity. Considering all these factors and the slender hope of an early expansion of revenues, they think an additional subvention of 25 lakhs is essentially necessary to put the Province on an even keel.

3. The minority of the Local Government, though agreeing with a great part of this, are not able to accept the position that a deficit of 25 lakhs is involved in the proposals and think that they are such as, with some retrenchment, will just enable the Province to balance its income and expenditure in the opening years of the new Constitution, provided that no natural calamity occurs to necessitate heavy additional expenditure. There will, of course, be no margin for some years to come for any expansion or improvement in the standards of administration, the necessity of which has been particularly stressed in the discussions. Especially it is regretted that it will be impossible to establish a university, without which the Government cannot control the educational system, and an agricultural institute to explore the agricultural needs of the Province. The recurring cost of those institutions was estimated at 5½ lakhs in the papers put before Sir Otto Niemeyer.

NORTH-WEST FRONTIER PROVINCE

(dated 5th May 1936).

1. We appreciate the extent of the relief proposed, but wish to make clear the exact result of the proposals over the next five years. Sir Otto Niemeyer has not specified which of our proposals he has negatived, but the fact remains that many of them have been cut out, though they contained nothing that we did not consider essential.

(a) The subvention of one crore, fixed in the depression year 1932, was admittedly less than the Haig Committee considered necessary. Our standing deficit is 8 lakhs in the current budget in spite of economies so rigorous as to cripple any attempt at normal progress.

(b) Further expenditure statutorily necessary is 1,67,000 on account of the inauguration of Provincial Autonomy, and an average of about 2 lakhs a year on account of normal growth of pensionary charges during the next five years.

(c) Further expenditure on the reserved side which we consider imperatively necessary in the interests of law and order, namely, the formation of Mardan District, 90,000, and

reorganisation of the Criminal Investigation Department, increase in police investigating staff and police training school, 1,00,000.

(d) The total of (a), (b) and (c) is 13½ lakhs.

(e) The benefit proposed by Sir Otto Niemeyer amounts to about 13 lakhs. We also hope to increase revenue by 2 lakhs from the new Paharpur canal scheme and also by 1 lakh if the Motor Taxation Bill is passed. This will leave 2½ lakhs, and even if the whole of this sum is allotted to the beneficent departments, many schemes of these and other departments which have long been accepted by the Government as desirable will have to remain undone. This leaves nothing for buildings which are urgently required and for which we estimated at 68 lakhs in our proposals to Sir Otto Niemeyer.

2. If the beneficent departments are to receive the assistance which the people of this Province hope for (based particularly on the assurance given by the Government of India in 1931 of approximate equality with Northern Punjab), the view of this Government is that a further sum of at least 2 lakhs annually may be added to the subvention for the next few years until we receive a share of Income Tax to that extent.

3. As regards buildings, it is considered that the following items are unavoidable: Council Hall, 1,15,000, the total cost of which is estimated at 2,65,000 inclusive of 1,50,000 provided in the current year's Budget; Government Printing and Stationery Office, 2,00,000; buildings for the new Mardan District, 1,00,000; police stations, 1,00,000; quarters for clerical establishments, 2,00,000; and buildings for beneficent departments and water supply schemes, 8,00,000. The first two items are necessitated by Provincial Autonomy and the remaining ones are imperative. A non-recurring sum of at least 15 lakhs will be required for the above buildings, and it is earnestly requested that this amount may be allotted to this Province in three annual instalments of 5 lakhs each. Even this sum makes no provision for such items as married quarters for police and many buildings which are required by the beneficent departments.

4. We agree to the method of benefit by cancellation of debt and to revision of the subvention after five years. We have no comments to make regarding the distribution of residual Taxes on Income.

5. Public opinion has hardly had time to express itself, but harps on the fact that the original subvention was an economy subvention and that the Haig Committee proposals were arbitrarily reduced by the Government of India, and on the Government of India's assurance referred to in paragraph 2 of this telegram.

During the last four years the Government has continually been attacked in the Legislature and outside on these grounds, and there can be no doubt as to the genuineness of this feeling. Adverse comment has been attracted by the last but one sentence of paragraph 16 of the Niemeyer Report, which is taken as unnecessarily prejudging the position five years hence.

ORISSA

(dated 4th May 1936).

1. The Orissa Government consider that the proposals of the Niemeyer Report regarding Orissa require modification for the following reasons.

2. The draft budget for 1936-37, on which the Orissa Government are now working, was originally framed after normal budget procedure and scrutiny by the parent Provinces and further scrutinised by the Government of India. Savings of $4\frac{1}{2}$ lakhs have still to be found to make that budget balance on the basis of the subvention of $40\frac{1}{2}$ lakhs granted this year, without encroaching on the 2 lakhs opening balance. After careful examination the Orissa Government cannot foresee savings of much more than 1 lakh in place of $4\frac{1}{2}$ lakhs, although all proposals for improvement of the present retrenched standard have already been cut out. Even that saving can only be found by avoiding expenditure which is either obligatory (e.g. Ministers) or highly desirable (e.g. bacteriological laboratory) in future years. Therefore the revenue deficit this year, excluding the subvention, even on the low existing post-retrenchment basis, is $40\frac{1}{2}$ plus $3\frac{1}{2}$, equals 44 lakhs.

3. In future years expenditure will rise by the cost of the Legislative Assembly and other charges incidental to the new Constitution. Moreover, this year's estimate is based on the lowest pay of the time-scales of all new establishment, which includes the whole headquarters establishment, and will inevitably increase as new incumbents draw increments. This year's estimates also include only eleven months' salary instead of twelve for the whole of the new Secretariat and other headquarters staff, whereas future budgets must provide for twelve months. There will also be inevitable increases in other directions, especially in maintenance charges for buildings constructed from the capital grant and roads from the central reserve of the Road Fund, while expenditure postponed this year must be eventually incurred. The Province is a composite one, with different methods of administration in different parts, and it is difficult and undesirable to level all parts down to the lowest standard. Therefore the revenue deficit in future years, even on the existing retrenchment basis, will be little less than 50 lakhs; and if the subvention is limited

as proposed to 50 lakhs, there will be hardly any scope for improvement in the existing standard. In particular, there will be no prospect for many years of improving Education, Agriculture and Health services or of establishing a University. Orissa depends on two Universities with little voice in either. The scope for the expansion of revenue is, as Sir Otto Niemeyer says, unusually limited. The Land Revenue of half the total area is permanently settled at less than 4 lakhs, and the greater part of the remainder is settled for the next twenty years. Two-thirds of the Province is partially excluded and half of the Province is more backward than any part of India, except excluded areas. Orissa has the special problem of floods, and retrenchment in recent years has prevented even the proper maintenance of vital protective works, not to speak of the adoption of many measures recommended by the 1928 Expert Committee. Even with the additional 15 lakhs now proposed, the provision for buildings necessitated by separation is still inadequate, since provincial headquarters, one district headquarters and two sub-divisional headquarters have to be built, besides a central jail and other necessary buildings. The opening balance of 2 lakhs given this year will, as shown above, have disappeared by the end of the year. No margin will be left for unforeseen expenditure, capital or otherwise, or for a working balance.

4. Once it is admitted that certain Provinces and centrally administered areas must receive help from Indian revenues, it is fair to aim at some common standard for those areas. But the proposals involve great disparity in treatment among the assisted units, giving to Orissa a subvention far less per head of population than to other units who have already a far higher standard of expenditure per head. The Orissa Government ask for 10 lakhs as an opening balance to cover unforeseen non-recurring expenditure and 10 lakhs more as a recurring subvention to enable a popular government to make some slight improvement in the low existing standards during the opening years of the new Constitution, and to enable the Governor to discharge his responsibility for the partially excluded areas. The Orissa Government regard these additional sums as essential in order to prevent the purpose of Parliament in bringing the Province into existence being stultified by inadequate initial resources.

5. The Orissa Government desire to press strongly for an additional subvention immediately on the further ground that the future relief by way of Income Tax will be relatively very meagre. Thus, putting Orissa's future relief per head of population at 100, the figures in the estimates for the other Provinces are Madras 141, Bombay 461, Bengal 166, United Provinces 123, Punjab 139, Bihar 128, Central Provinces 136, Assam 97, North West Frontier Province 184, Sind 213; so that again the poorest Province gets nearly the least of all.

SIND

(dated 6th May 1936).

1. It is a matter of some disappointment to the Sind Government that it has not been found possible in the Niemeyer Report to give assistance to Sind in the form of a substantial reduction of the Barrage Debt. In the absence of any reasons in the Report why this course is considered inconvenient, the Sind Government are unable to appreciate why such an arrangement should not be given effect to; but if this be found impossible, the proposals in the Report are accepted subject to the following remarks.

2. The proposals, both as regards the annual subvention and the repayment of the Barrage Debt, depend on the forecast of increased revenue due to the Barrage proving correct. This can only happen if normal agricultural and economic conditions obtain every year during the next forty-five years; but it is impossible to say that this condition will be fulfilled. In particular the forecast assumes an increase of 19 lakhs in revenue in 1947-48 and of increasing amounts for the next fifteen years owing to the levy of increased rates of Land Revenue assessment. The imposition of these rates will also depend on the then prevailing agricultural and economic conditions.

3. The Sind Government therefore presume that the door will be left open for an adjustment of the subvention and debt repayments in case the revenue expectations are not realised. In any such readjustment Sind must be assured of the minimum revenues required for its needs as a progressive Province.



East India (Constitutional Reforms—Elections)

V2,3;91.N34
GS

RETURN
SHOWING THE RESULTS OF THE
GENERAL ELECTION TO THE
LEGISLATIVE ASSEMBLY
IN INDIA
1934

[For the previous Return see Cmd. 3922 (1931)]

*Presented by the Secretary of State for India to Parliament
by Command of His Majesty
July, 1935*

LONDON

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EXPLANATORY NOTE

This return relates to the fifth General Election to the Legislative Assembly under the Government of India Act of 1919. This election would, in the ordinary course of events, have been held in 1933, since the statutory duration of the Legislative Assembly is three years. This period was, however, extended for a further year by the Governor-General under the powers conferred by the Act, and the election was accordingly held in the Autumn of 1934.

Since 1930, no election has been held for the Council of State or the Provincial Councils. The statutory duration of the former is five years, and in the case of the latter the statutory period of three years has been extended, under the powers conferred by the Act, in view of the impending constitutional changes.

SUMMARY

Class of constituency.	Number of seats.	Number of seats filled without contest.	Number of candidates for contested seats	Percentage of votes polled to number of electors in contested constituencies.	Percentage in 1930.
(1)	(2)	(3)	(4)	(5)	(6)
<i>Madras—</i>					
Non-Muhammadian ...	10	—	21	58·4	30·4
Muhammadian ...	3	—	8	62·7	56
European ...	1	1	—	—	—
Landholders ...	1	—	2	88·07	72·95
Indian Commerce ...	1	—	2	89·04	—
<i>Bombay—</i>					
Non-Muhammadian ...	7	—	18	60·38	10·0
Muhammadian ...	4	1	8	55·52	58·41
European ...	2	2	—	—	—
Landholders ...	1	—	3	76·98	—
Indian Commerce ...	2	1	2	83·09	—
<i>Bengal—</i>					
Non-Muhammadian ...	6	2	11	26·7	—
Muhammadian ...	6	4	4	34·1	40·3
European ...	3	3	—	—	—
Landholders ...	1	—	2	60·4	—
Bengal Marwari Association ...	1	—	2	94·6	87·0
<i>United Provinces—</i>					
Non-Muhammadian Urban	1	1	—	—	—
Non-Muhammadian Rural	7	3	13	56·76	14·18
Muhammadian Urban ...	1	—	3	57·00	—
Muhammadian Rural ...	5	—	11	70·00	43·72
United Provinces Landholders ...	1	1	—	—	—
United Provinces European ...	1	1	—	—	—
<i>Punjab—</i>					
Non-Muhammadian ...	3	—	6	64·0	40·5
Muhammadian ...	6	4	4	75·9	62·2
Sikh ...	2	—	7	60·6	49·9
Landholders ...	1	1	—	—	—
<i>Bihar and Orissa—</i>					
Non-Muhammadian ...	8	1	16	64·1	8·7
Muhammadian ...	3	2	2	73·3	53·7
Landholders ...	1	—	2	85·7	62·6
<i>Central Provinces and Berar—</i>					
Non-Muhammadian ...	4	—	9	58·2	—
Muhammadian ...	1	—	4	62·9	41·0
Landholders ...	1	1	—	—	—
<i>Assam—</i>					
Non-Muhammadian ...	2	—	4	45·8	—
Muhammadian ...	1	1	—	—	—
European ...	1	1	—	—	—

SUMMARY—continued

Class of constituency.	Number of seats.	Number of seats filled without contest.	Number of candidates for contested seats.	Percentage of votes polled to number of electors in contested constituencies.	Percentage in 1930.
(1)	(2)	(3)	(4)	(5)	(6)
<i>North-West Frontier Province—</i>					
General	1	—	3	73·0	—
<i>Burma—</i>					
Burma European Constituency	1	1	—	—	—
Burma (Non-European) Constituency	3	—	4	29·99	17·7
<i>Delhi—</i>					
General	1	—	2	38·62	22·87
<i>Ajmer Merwara—</i>					
General	1	—	4	76·6	35·88
TOTAL	106	32	177	53·54	26·1

Province.	Provincial percentage of votes polled in contested constituencies.	No. of candidates who forfeited deposit.
Madras	58·9	5
Bombay	59·99	6
Bengal	28·7	2
United Provinces	60·1	4
Punjab	65·5	2
Bihar and Orissa	64·5	3
Central Provinces and Berar	58·5	4
Assam	45·89	Nil.
North-west Frontier Province	73	”
Burma	29·99	”
Delhi	38·62	”
Ajmer Merwara	76·6	1

TOTAL ELECTORATE: 1,415,892

TOTAL NUMBER OF VOTES IN CONTESTED CONSTITUENCIES: 1,135,899

TOTAL NUMBER OF VOTES POLLED 608,198

WOMEN VOTERS

Province.	No. enrolled.	No. enrolled in contested constituencies.	No. who voted.	Percentage of col. (4) on col. (3).	Percentage in 1930.
(1)	(2)	(3)	(4)	(5)	(6)
Madras	28,322	28,048	8,165	29·11	11·5
Bombay	8,829	7,260	2,119	29·19	3·2
Bengal	20,262	9,359	898	9·6	—
United Provinces	8,651	4,764	700	14·7	3·3
Punjab	3,491	2,547	578	22·7	7·5
Bihar and Orissa	2,906	1,867	348	18·6	3·0
Central Provinces and Berar	1,388	1,367	237	17·3	—
Assam	706	604	112	18·54	—
North-west Frontier Province	—	—	—	—	—
Burma	6,134	6,028	1,111	18·43	—
Delhi	913	913	237	25·95	—
Ajmer Merwara	—	—	—	—	—

DETAILED STATEMENT

In Column (7) the initials prefixed in heavy type denote, where known, the Political Party to which each Candidate belongs (C. = Congress, I. = Independent, C.N. = Congress National, E. = European.)

Place and class of constituency.	Number of Seats.	Number of candidates.	Total number of electors.	Total number of electors who voted.	Percentage of col. (5) on col. (4).	Successful candidate.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MADRAS—						
<i>Non-Muhammadian Urban—</i>						
Madras City	1	2	15,131	12,419	82·07	C. Mr. S. Satyamurti Iyer.
<i>Non-Muhammadian Rural—</i>						
Ganjam cum Vizagapatam ...	1	2	50,949	27,430	53·8	C. Mr. V. V. Giri.
East Godavari, West Godavari cum Kistna	1	2	61,654	34,391	55·8	C. Mr. K. Nageswara Rao Pantulu.
Guntur cum Nellore	1	2	25,399	16,601	65·4	C. Mr. G. Ranganayakulu.
Madras Ceded Districts and Chittoor Salem and Coimbatore cum North Arcot	1	2	26,822	16,776	62·5	C. Mr. M. Ananta Sayanam Garu.
South Arcot cum Chingleput ...	1	2	25,448	17,549	68·9	C. Mr. T. S. Avanashilingam Chettiar.
Tanjore cum Trichinopoly ...	1	2	19,824	14,123	71·2	C. Mr. C. N. Muthuranga Mudaliar.
Madura and Ramnad cum Tinnevely	1	3	27,082	17,081	63·07	C. Dr. T. S. S. Rajan.
	1	2	37,529	13,189	35·1	C. Mr. P. S. Kumaraswami Raja Avargal.
West Coast and the Nilgiris ...	1	2	21,964	12,776	58·2	C. Mr. Samuel Aaron.
<i>Muhammadian—</i>						
North Madras	1	4	2,820	1,869	66·2	I. Mr. Umrlisha.
South Madras	1	2	8,252	4,395	53·2	I. M. Syed Murtuza Sahib Bahadur.
West Coast and the Nilgiris ...	1	2	4,786	3,689	77·07	I. Mr. H. A. SatharHaji Essack Sait.
Madras—European	1	1	2,447	—	—	E. Mr. F. E. James.
Madras—Landholders	1	2	629	554	88·07	— Raja Sir Vasudeva Raja.
Madras—Indian Commerce ...	1	2	1,652	1,471	89·04	C. Mr. Sāmi Venkatachalam Chetty.
Total	16	34	332,388	194,313	58·4	

DETAILED STATEMENT—continued

Place and class of constituency.	Number of Seats.	Number of candidates.	Total number of electors.	Total number of electors who voted.	Percentage of col. (5) on col. (4).	Successful candidate.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
BOMBAY—						
<i>Non-Muhammadan Urban—</i>						
Bombay City	2	4	45,213	30,923	68·39	I. Sir Cowasji Jehangir, Bt., K.C.I.E., O.B.E. C. Dr. G. V. Deshmukh.
<i>Non-Muhammadan Rural—</i>						
Bombay Northern Division ...	1	2	50,796	25,990	51·17	C. Mr. Bhulabhai J. Desai.
Bombay Central Division	2	6	45,464	26,465	58·21	C. Mr. K. M. Jedhe. C. Mr. N. V. Gadgil.
Bombay Southern Division ...	1	3	33,346	22,383	67·12	C. Mr. S. K. Hosmani.
Sind	1	3	21,497	12,778	59·44	C.N. Mr. Lalchand Navalrai.
<i>Muhammadan Urban—</i>						
Bombay City	1	1	6,551	—	—	I. Mr. M. A. Jinnah.
<i>Muhammadan Rural—</i>						
Bombay Central Division	1	5	2,548	1,869	73·35	— Mr. A. E. Haroon Jaffer.
Sind	2	3	24,017	12,880	53·63	I. Seth Haji Abdullah Haroon. — Mr. N. B. I. B. Bhutto.
<i>European—</i>						
Bombay	2	2	9,769	—	—	E. Mr. W. B. Hossack. E. Sir Leslie Hudson, Kt.
<i>Landholders—</i>						
Sind Jagirdars and Zamindars ...	1	3	1,638	1,261	76·98	— Sir Ghulam Hussain Hidayatullah, K.C.S.I.
<i>Indian Commerce—</i>						
The Indian Merchants' Chamber and Bureau	1	2	562	467	83·09	— Mr. Mathuradas Vissanji.
The Bombay Millowners' Association	1	1	84	—	—	I. Mr. H. P. Mody.
Total	16	35	241,485	135,016	55·9	

∞

BENGAL—

<i>Non-Muhammadian Urban—</i>						
Calcutta	1	1	16,008	—	—	C.N. Mr. S. C. Bhowe
Calcutta Suburbs	1	1	27,884	—	—	C.N. Dr. P. N. Banerjee.
<i>Non-Muhammadian Rural—</i>						
Burdwan Division	1	3	37,243	11,220	30·1	C.N. Mr. A. N. Chattopadhyaya.
Presidency Division	1	4	32,195	9,358	29·1	C.N. Mr. L. K. Maitra.
Dacca Division	1	2	30,256	1,143*	3·8*	C.N. Mr. S. K. Shome.
Chittagong and Rajshahi Divisions ...	1	2	36,106	14,560	40·3	C.N. Mr. A. C. Dutta.
<i>Muhammadian Urban—</i>						
Calcutta and Suburbs	1	1	6,805	—	—	(President) Sir Abdur Rahim, K.C.S.I.
<i>Muhammadian Rural—</i>						
Burdwan and Presidency Divisions ...	1	2	20,187	5,798	28·7	— Sir Abdulla Suhrawardy, Kt.
Dacca cum Mymensingh	1	1	9,105	—	—	— Mr. A. H. K. Ghuznavi.
Bakarganj cum Faridpur	1	1	14,190	—	—	I. Mr. A. K. Fazlul Huq.
Rajshahi Division	1	2	22,097	8,639	39·1	C. Mr. M. A. Y. Baqui.
Chittagong Division	1	1	17,933	—	—	— Mr. M. Anwar-ul-Azim.
Bengal European	3	3	1,594	—	—	E. Mr. George Morgan, C.I.E.
Bengal Landholders	1	2	740	447	60·4	E. Sir Darcy Lindsay, Kt. C.B.E.
Bengal Marwari Association	1	2	111	105	94·6	E. Mr. J. A. Milligan.
						I. Mr. D. K. Lahiri Chaudhury.
						— Mr. Baijnath Bajoria.
Total	17	28	272,454	51,270	18·9	

* The election was purely formal as one of the candidates did not contest the poll.

AB—						
<i>m-Muhammadan—</i>						
nabala Division	1	2	7,577	5,811	76·7	C. Mr. Sham Lall.
llundur Division	1	2	5,029	3,422	68·0	C.N. Lala Fakir Chand.
east Punjab	1	2	18,520	10,700	57·8	- Bhai Parmanand.
<i>ammadan—</i>						
st Punjab	1	1	3,695	—	—	I. Syed Ghulam Bhik Nairang.
st Central Punjab...	1	2	6,079	4,264	70·1	I. Mr. K. L. Gauba.
east Central Punjab	1	1	12,045	—	—	- Mr. Abdulla Hafiz.
orth Punjab	1	1	3,238	—	—	- Sir Muhammad Mehr Shah, Kt.
orth-West Punjab ...	1	2	7,616	6,125	80·4	- K. S. Shaikh Fazal Haq.
outh-West Punjab	1	1	3,975	—	—	I. K. B. Makhdum Sayyid Rajan Bakhsh Shah.
—						
st Punjab	1	4	3,122	2,367	75·8	C.N. Sardar Mangal Singh.
east Punjab	1	3	16,134	9,296	57·6	C.N. Sardar Sant Singh.
<i>holders—</i>						
njab Landholders...	1	1	1,132	—	—	I. Mian Ghias-ud-Din.
Total	12	22	88,162	41,985	47·6	

DETAILED STATEMENT—continued

Place and class of constituency.	Number of Seats.	Number of candidates.	Total number of electors.	Total number of electors who voted.	Percentage of col. (5) on col. (4).	Successful candidate.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
BIHAR and ORISSA—						
<i>Non-Muhammadan—</i>						
Patna cum Shahabad	1	3	13,071	9,334	71·4	C. Mr. Anugrah Narayan Singh.
Gaya cum Monghyr	1	2	15,455	10,859	70·3	C. Mr. Shri Krishna Sinha.
Darbhangha cum Saran	1	3	8,134	5,956	73·2	- Mr. Satya Narain Singh.
Muzaffarpur cum Champaran ...	1	2	7,232	4,721	65·3	C. Mr. Bepin Behari Varma.
Bhagalpur, Purnea and Santal Parganas	1	1	9,130	—	—	C. Mr. Dip Narain Sinha.
Orissa Division	2	3	6,696	3,685	55·0	C. Mr. Bhubanananda Das.
Chota Nagpur Division	1	3	12,542	5,967	47·6	C. Pt. Nilkantha Das. C. Mr. Ram Narayan Singh.
<i>Muhammadan—</i>						
Patna, Chota Nagpur cum Orissa Division	1	1	5,062	—	—	I. Mr. Nauman Muhammad.
Bhagalpur Division	1	1	3,845	—	—	I. Maulvi Badi-uz-Zaman.
Tirhut Division	1	2	2,006	1,471	73·2	I. Maulvi Mahomed Shafi Daudi.
<i>Landholders—</i>						
Bihar and Orissa, Landholders ...	1	2	161	138	85·7	- Raja Harihar Prasad Narain Singh.
Total ...	12	23	83,334	42,131	50·6	

CENTRAL PROVINCES and BERAR—						
<i>Non-Muhammadian—</i>						
Nagpur Division	1	2	10,288	7,105	69·06	C. Dr. N. B. Khare. C. Seth Govind Das. C. Mr. Ghansiam Singh Gupta. C.N. Mr. M. S. Aney.
Central Provinces Hindi Divisions	2	4	18,293	9,764	53·3	
Berar	1	3	13,611	7,679	56·4	
<i>Muhammadian—</i>						
Central Provinces Muhammadan	1	4	2,873	1,809	62·9	L. K. S. Nawab Siddique Ali Khan.
<i>Landholders—</i>						
Central Provinces Landholders ...	1	1	238	—	—	C. Seth Sheodass Daga.
Total ...	6	14	45,303	26,357	58·2	
ASSAM—						
<i>Non-Muhammadian—</i>						
Assam Valley	1	2	19,008	8,682	45·68	C. Srijut Nabin Chandra Bardaloi. C. Mr. Basanta Kumar Das.
Surma Valley cum Shillong ...	1	2	9,442	4,353	46·10	
<i>Muhammadian—</i>						
Assam Muhammadan	1	1	11,542	—	—	L. Maulvi Abdul Matin Chaudhury.
<i>European—</i>						
Assam European	1	1	1,466	—	—	E. Mr. F. W. Hockenhill.
Total ...	4	6	41,458	13,035	31·4	
NORTH-WEST FRONTIER PROVINCE—						
General	1	3	7,613	5,524	73·0	C. Dr. Khan Sahib.

DETAILED STATEMENT—continued

Place and class of constituency. (1)	Number of Seats. (2)	Number of candidates. (3)	Total number of electors. (4)	Total number of electors who voted. (5)	Percentage of col. (5) on col. (4). (6)	Successful candidate. (7)
BURMA—						
Burma European Constituency, Rangoon	1	1	2,535	—	—	E. Mr. W. J. C. Richards. People's } U. Thein Maung. Party. } Dr. Thein Maung. U Ba Si.
Burma (Non-European) Constituency, Rangoon	3	4	50,577	15,171	29.99	
Total ...	4	5	53,112	15,171	28.5	
DELHI—						
General	1	2	11,371	4,392	38.62	C. Mr. Asaf Ali.
AJMER-MERWARA—						
General	1	4	6,596	5,054	76.6	Non-Party. Seth Bhag Chand Soni.

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EAST INDIA
(ACCOUNTS AND ESTIMATES
1935-1936)

EXPLANATORY MEMORANDUM

By the Under Secretary of State
for India

*Presented by the Secretary of State for India to
Parliament by Command of His Majesty
October, 1935.*

LONDON

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MEMORANDUM

BY THE

UNDER SECRETARY OF STATE FOR INDIA

RELATING TO THE

**ACCOUNTS of the GOVERNMENT OF INDIA (Central Government)
for 1933-34 and the ESTIMATES for 1934-35 and 1935-36**

I.—INTRODUCTION

SEPARATION OF CENTRAL AND PROVINCIAL FINANCES

The chief Provincial Governments in India have assigned to them specific revenues of their own, and are responsible for the discharge of those functions of Government which have been classified as "provincial subjects."

The finances of the Central Government and of the several Provincial Governments are thus kept separate and distinct from each other.

The annual volumes of the "Finance and Revenue Accounts of the Government of India," commencing with that for 1921-22, exhibit separately the revenue and expenditure of the Central Government and of each of the Provincial Governments. The Central Government and each Provincial Government issues annually its own budget estimate for the forthcoming year and, in most cases, a revised estimate for the closing year. **This Memorandum, however, deals with the Accounts and Estimates of the Central Government only, except where otherwise stated.**

SEPARATION OF RAILWAY FINANCE FROM GENERAL FINANCE

In accordance with a Resolution passed in the Legislative Assembly in September, 1924, Railway Finance has been separated from the general finances of Government with effect from the year 1924-25. Notes on the Railway Budget will be found on pages 12 to 14.

RATES OF EXCHANGE

The sterling amounts under Revenue and Capital heads in the Annual Accounts are converted into rupees at the average of the daily rates for telegraphic transfers in Calcutta on London in each year; the rate applied in 1933-34 being Rs. 13·31853 per £. In the Budgets for 1934-35 and 1935-36, a conversion rate of 1s. 6d. per rupee is assumed, and in the Revised Estimate for 1934-35 a rate of 1s. 6 $\frac{1}{2}$ d. per rupee.

The sterling amounts under Debt and Remittance heads are converted into rupees at Rs. 13 $\frac{1}{2}$ per £ (1s. 6d. per rupee).

II.—REVENUE, AND EXPENDITURE CHARGED TO REVENUE.

GROSS REVENUE AND EXPENDITURE

The Gross Revenue and Expenditure of the Government of India for the three years to which this Memorandum refers are shown in Table A on pages 6 and 7.

All receipts on revenue account are included in the total of revenue and all outlay in the total of expenditure, with the main exceptions that the working expenses of railways, irrigation works and posts and telegraphs, and the surplus profits paid to Indian States and certain railway companies, are treated not as expenditure but as a deduction from revenue.

NET REVENUE AND EXPENDITURE

The figures of Gross Revenue given in Table A, although showing the net receipts of railways and other commercial undertakings, make no deduction on account of interest charges; the total receipts under tax revenue do not eliminate the cost of collection; and the receipts from opium sales take no account of the cost of cultivation and manufacture. Customs revenue includes the portion of the Customs and Excise duties on motor spirit payable to the Road Development Fund for expenditure by Provincial Governments, etc. On the expenditure side, Defence expenditure is shown gross, the Defence receipts being included under revenue, and the appropriation to the Road Development Fund is included under Civil Works.

To present a picture of the revenue available for administrative purposes and the expenditure on such purposes, an analytical table of the *Net Revenue and Expenditure of the Central Government* is given in Table B on pages 8 and 9.

A.—GROSS REVENUE AND EXPENDITURE CHARGED

REVENUE	Accounts, 1933-34.	Budget Estimate, 1934-35	Revised Estimate, 1934-35.	Budget Estimate, 1935-36.
	Rs.	Rs.	Rs.	Rs.
Principal Heads of Revenue—				
Customs	47,16,41,385	47,76,00,000	51,17,00,000	51,84,00,000
Taxes on Income	17,12,85,181	17,25,00,000	17,25,00,000	16,40,00,000
Salt	8,85,64,579	8,73,00,000	8,55,00,000	8,73,00,000
Opium	1,58,96,779	95,07,000	71,46,000	61,16,000
Other Heads	1,80,44,729	1,81,81,000	1,90,16,000	1,91,05,000
Total Principal Heads ..	76,54,32,653	76,50,88,000	79,58,62,000	79,49,21,000
Railways : Net Receipts	33,03,87,228	32,58,27,000	32,37,83,000	32,25,45,000
Irrigation : Net Receipts	6,799	3,000	15,000	14,000
Posts and Telegraphs : Net Receipts	32,44,499	69,78,000	97,69,000	70,52,000
Interest Receipts	1,62,82,626	1,86,25,000	2,11,85,000	82,56,000
Civil Administration	76,21,910	78,28,000	81,26,000	92,75,000
Currency and Mint	1,33,41,216	1,27,02,000	1,29,18,000	1,07,01,000
Civil Works	26,93,048	23,86,000	23,88,000	23,30,000
Miscellaneous	78,95,428	56,37,000	74,16,000	56,63,000
Defence Receipts	5,32,61,929	5,20,47,000	5,23,32,000	4,92,77,000
Provincial Contributions and Miscellaneous Adjustments between Central and Provincial Governments	—	—	—	—
Extraordinary Items	35,63,550	—	2,000	—
Total Revenue	1,20,37,30,886	1,19,71,21,000	1,23,37,96,000	1,21,00,34,000

TO REVENUE OF THE CENTRAL GOVERNMENT

EXPENDITURE.	Accounts, 1933-34.	Budget Estimate, 1934-35.	Revised Estimate, 1934-35.	Budget Estimate, 1935-36.
	Rs.	Rs.	Rs.	Rs.
Direct Demands on the Revenue ..	4,21,56,206	4,00,79,000	4,04,90,000	4,19,58,000
Forest and other Capital Outlay charged to Revenue	88,887	1,46,000	1,14,000	49,000
Railways : Interest and Miscellaneous Charges	33,03,87,228	32,58,27,000	32,37,83,000	32,25,45,000
Irrigation	4,05,423	5,95,000	5,92,000	5,57,000
Posts and Telegraphs	89,11,568	88,32,000	87,45,000	86,46,000
Debt Services	12,28,56,924	13,33,55,000	13,28,43,000	13,39,13,000
Civil Administration	9,53,62,049	9,58,62,000	11,10,60,000	10,17,13,000
Currency and Mint	59,30,917	66,39,000	74,04,000	32,56,000
Civil Works	1,98,23,459	2,01,96,000	2,46,18,000	2,25,32,000
Miscellaneous	4,21,26,524	4,31,74,000	4,36,99,000	4,45,76,000
* Defence Services	49,75,08,929	49,58,47,000	49,57,58,000	49,90,77,000
Miscellaneous adjustments between the Central and Provincial Gov- ernments	*1,00,00,000	2,52,44,000	2,94,90,000	3,04,94,000
Extraordinary Items	2,81,72,772	3,10,000	1,16,00,000	1,36,000
Total Expenditure Charged to Revenue	1,20,37,30,886	1,19,61,06,000	1,23,01,96,000	1,20,94,52,000
Surplus	—	10,15,000	36,00,000	5,82,000
Total	1,20,37,30,886	1,19,71,21,000	1,23,37,96,000	1,21,00,34,000

B.—NET REVENUE AND EXPENDITURE OF THE CENTRAL GOVERNMENT

Net Revenue

	Accounts, 1933-34.		Budget Estimate, 1934-35.		Revised Estimate, 1934-35.		Budget Estimate, 1935-36.	
	Rs. lakhs.		Rs. lakhs.		Rs. lakhs.		Rs. lakhs.	
I. Tax Revenue :—								
Customs	45,09·33		45,57·42		48,84·90		49,38·06	
Taxes on Income	16,30·36		16,39·97		16,39·55		15,48·43	
Salt	7,70·92		7,57·92		7,39·25		7,55·12	
Other Heads	55·00		57·12		64·73		64·70	
		69,65·61		70,12·43		73,28·43		73,06·31
II. Opium		88·15		52·79		35·42		25·35
III. Commercial Departments :—								
Railways	—		—		—		—	
Irrigation	—3·75		—5·71		—5·56		—5·24	
Posts and Telegraphs	—51·94		—14·47		13·81		—13·01	
		—55·69		—20·18		8·25		—18·25
IV. Currency and Mint		74·10		60·63		55·14		74·45
V. Interest Receipts		162·83		1,86·25		211·85		82·56
VI. Extraordinary Receipts		35·63		—		·02		—
VII. Other Revenue :—								
Civil Administration	76·22		78·28		81·26		92·75	
Payments from Indian States	74·85		73·73		73·66		73·60	
Other Heads	121·13		95·27		110·01		90·68	
		272·20		2,47·28		264·93		257·03
Total Net Revenue		75,42·83		75,39·20		79,04·04		77,27·45

Net Expenditure

	Accounts, 1933-34.		Budget Estimate, 1934-35.		Revised Estimate, 1934-35.		Budget Estimate, 1935-36.	
	Rs. lakhs.		Rs. lakhs.		Rs. lakhs.		Rs. lakhs.	
I. Debt Services :—								
Interest	9,28·57		10,33·55		10,28·43		10,39·13	
Reduction or Avoidance of Debt	3,00·00		3,00·00		3,00·00		3,00·00	
		12,28·57		13,33·55		13,28·43		13,39·13
II. Defence Services :—								
Effective	35,55·20		36,68·52		35,80·71		37,30·42	
Non-effective	8,17·56		8,19·23		8,18·57		8,24·20	
Transfers to or from Defence Reserve Fund	69·71		—49·75		34·98		—56·02	
		44,42·47		44,38·00		44,34·26		44,98·00
III. Net Capital Outlay on Commercial Departments charged to Revenue:—								
Posts and Telegraphs and Irrigation		4·96		4·28		3·78		3·12
IV. Miscellaneous Adjustments between Central and Provincial Governments		1,00·00		2,52·44		2,94·90		3,04·94
V. Extraordinary Payments		2,81·73		3·10		1,16·00		1·36
VI. Other Expenditure :—								
Civil Administration	9,53·62		9,58·62		11,10·60		10,17·13	
Other Heads	5,31·48		5,39·06		5,80·07		5,57·95	
		14,85·10		14,97·68		16,90·67		15,75·08
Total Net Expenditure		75,42·83		75,29·05		78,68·04		77,21·63
Surplus (+) or Deficit (—)		—		+10·15		+36·00		+5·82

c

ACCOUNTS, 1933-34.

The Revised Estimates for 1933-34 envisaged the transfer of an anticipated surplus of Rs. 129 lakhs to the fund for reconstruction due to earthquake damage. The Revenue accounts show improvements under several heads and the actual surplus was Rs. 272 lakhs. The whole of this surplus was transferred in the accounts of 1933-34 to the fund for reconstruction due to earthquake damage but it has now been decided to utilise Rs. 62 lakhs of this for debt redemption, the balance of Rs. 210 lakhs being retained in the fund.

REVISED ESTIMATES, 1934-35.

The Revised Estimate compares with the Budget Estimate for 1934-35 as follows :—

	Budget Estimate. <i>Rs. lakhs.</i>	Revised Estimate. <i>Rs. lakhs.</i>
Revenue	119,71	123,38
Expenditure	119,61	120,11
Surplus	10	3,27

The Revised Estimate shows a net improvement of Rs. 317 lakhs over the Budget Estimate, after taking into account an increase in Customs Revenue of Rs. 341 lakhs and an increase in the subventions to jute growing Provinces from the jute export duty of Rs. 43 lakhs to Rs. 169 lakhs.

The following reductions were made by the Legislative Assembly in the Supplementary Demands for Grants, 1934-35, presented to them, viz. :

	<i>Rs. .</i>
Customs	11,01,000
Transfer to the Fund for the transfer of the Agricultural Research Institute from Pusa to Delhi	36,00,000

The Governor-General in Council has, under Section 67A (7) of the Government of India Act, declared that the supplementary demand under "Customs" is essential to the discharge of his responsibilities; and, in accordance with the intentions of the Legislative Assembly, he has decided to debit to Capital the cost of the removal of the Agricultural Research Institute from Pusa to Delhi.

From the surplus of Rs. 327 lakhs mentioned above, the following provisions have been made, namely :—

Special contribution to the Road Development Fund	<i>Rs. lakhs.</i> 40
---	-------------------------

Grants to Provinces for economic development and improvement of rural areas	Rs. lakhs.
Development in tribal areas on the North West Frontier	113
Development of Broadcasting	25
Development of Civil Aviation	20
	93

The remainder of the surplus, amounting to Rs. 36 lakhs, will go towards debt redemption.

BUDGET, 1935-36.

After making allowance for the discontinuance of the 5 per cent. cut in pay, it was estimated that the Revenue account in 1935-36 will show a surplus of Rs. 150 lakhs: of this amount, approximately Rs. 144 lakhs will be utilised to reduce taxation, the final budget estimate showing a nominal surplus of Rs. 5.82 lakhs.

The following reductions were made by the Legislative Assembly in the demands for grants for 1935-36 presented to them, viz. :—

<i>Railways.</i>	Rs.
Railway Board	8,24,999
Miscellaneous expenditure	10
Repairs and maintenance of Structural works	100
Expenses of Traffic Department	300
<i>Civil</i>	
Salt	100
Home Department	100
Army Department	4,30,999
Baluchistan	100

Of these reductions the Governor-General in Council has, under Section 67A (7) of the Government of India Act, restored the demands under "Railway Board" and "Army Department" as being essential to the discharge of his responsibilities.

The following reductions in taxation were made, viz. :—

Income-tax and Super-tax: A reduction in the rate of tax on incomes of Rs. 1,000 or upwards but less than Rs. 1,500 from 2 pies to $1\frac{1}{2}$ pies in the rupee; and on incomes of Rs. 1,500 or upwards but less than Rs. 2,000 from 4 pies to $2\frac{2}{3}$ pies in the rupee. Also a reduction was made in the surcharges on income-tax and super-tax from one-fourth to one-sixth. Estimated cost Rs. 136 lakhs.

Export duty on raw skins: Abolition of the duty, estimated to cost Rs. 8 lakhs.

Import and export duties on silver: Reduction from 5 to 2 annas an ounce. No change in yield estimated.

The Indian Finance Act, 1935, which effected the reductions in taxation and continued the existing rates of Salt duty and Inland postage, was, after being recommended by the Governor-General, not passed by the Legislative Assembly. It was, however, passed by the Council of State and was made an Act, on the 22nd April, 1935, by the Governor-General under the provisions of Section 67B of the Government of India Act (*vide* Parliamentary Paper H.C. 113 of 1934-35). Pending the coming into operation of the Indian Finance Act, 1935, two Ordinances were promulgated on 30th March and 1st April, respectively, to continue the existing inland postage rates and to fix the rates of income-tax and super-tax from 1st April, 1935, until the passing of the Finance Bill. A Notification was also issued on the 30th March continuing the existing rate of salt duty. The additional import duty on foreign salt was also continued for another year by an Act, which received the assent of the Governor-General on the 21st April, 1935.

III.—RAILWAYS

In accordance with the resolution passed by the Legislative Assembly in September, 1924, railway finance was separated from the general finances of the Government of India with effect from 1924-25. After deducting all working expenses, including interest charges of commercial lines, the railways have to make a contribution to general revenues equal to 1 per cent. on the capital at charge of the commercial lines (excluding Capital contributed by Companies and Indian States) in the penultimate year *plus* one-fifth of surplus profits in such penultimate year and one-third of the amount remaining available for transfer to Railway reserves in excess of Rs. 3 crores, but from the amount of these contributions are deducted the interest on capital and loss in working of strategic lines.

The contribution to general revenues during the six years 1924-25 to 1929-30 totalled Rs. 36 crores. The contribution for 1930-31—some Rs. 6 crores—was found from the Railway reserves, but in consequence of the serious fall in Railway earnings due to the general economic depression, a contribution has not been found practicable since. At the end of 1935-36 the total contributions to general revenues remaining unpaid during the five years commencing with 1931-32 will amount to about Rs. 26 crores.

In comparing the figures of Railway Revenue and Expenditure for 1934-35 and 1935-36 with those for previous years, account must be taken of a decision to include in the estimates and accounts, from 1934-35 onwards, the receipts and expenditure of lines belonging to private Companies or Indian States, but worked by the Main Line Administrations for a percentage of the gross earnings. The practice formerly followed was to deduct the receipts and expenditure of these lines from the total receipts and expenditure of the system by which they were administered. The

Railway Revenue and Expenditure figures for 1933-34 to 1935-36 are given in the following table.

	Accounts, 1933-34.	Budget Estimate, 1934-35.	Revised Estimate, 1934-35.	Budget Estimate, 1935-36.
REVENUE.				
State Railways—	Rs.	Rs.	Rs.	Rs.
(1) Commercial Lines :—				
Gross Receipts	86,55,28,052	94,20,00,000	95,77,10,000	98,57,10,000
Deduct—				
Working Expenses	61,20,62,688	63,95,50,000	64,66,00,000	65,12,00,000
Surplus Profits paid to Indian States and Railway Com- panies	56,65,149	56,00,000	61,25,000	56,00,000
Payments to worked lines ..	—	2,77,90,000	2,82,60,000	2,87,30,000
Net Receipts	24,78,00,215	26,90,60,000	27,67,25,000	30,01,80,000
(2) Strategic Lines :—				
Gross Receipts	1,26,32,905	1,30,15,000	1,33,00,000	1,38,00,000
Deduct—				
Working Expenses and Re- funds of Revenue	1,85,15,932	1,94,65,000	1,87,10,000	2,06,10,000
Net Receipts	-58,83,027	-64,50,000	-54,10,000	-68,10,000
Total Net Receipts—Commercial and Strategic Lines	24,19,17,188	26,26,10,000	27,13,15,000	29,33,70,000
Subsidized Companies : Government Share of Surplus Profits	18,28,017	21,50,000	23,00,000	21,00,000
Interest on Depreciation and Reserve Funds	48,81,339	60,75,000	43,71,000	48,52,000
Other Receipts	21,27,359	19,70,000	34,21,000	32,66,000
Transferred from Railway Reserve Fund Loan from Railway Depreciation Fund	7,96,33,325	5,30,22,000	4,23,76,000	1,89,50,000
Total Revenue	33,03,87,228	32,58,27,000	32,37,83,000	32,25,45,000
EXPENDITURE.				
Interest Charges :—				
(1) Commercial Lines	31,13,81,785	30,64,40,000	30,43,69,000	30,29,75,000
(2) Strategic Lines	1,44,15,552	1,40,77,000	1,40,34,000	1,38,85,000
Total Interest Charges	32,57,97,337	32,05,17,000	31,84,23,000	31,68,60,000
Other Expenditure	45,89,891	53,10,000	53,60,000	56,85,000
Total Expenditure	33,03,87,228	32,58,27,000	32,37,83,000	32,25,45,000

The losses on commercial lines—after making provision for full accrued depreciation—are: 1933-34, Accounts, Rs. 6,01 lakhs; and 1934-35, Revised Estimate, Rs. 2,39 lakhs; while for 1935-36 it is estimated that a small surplus of Rs. 7 lakhs will be realised.

Since 1932-33, there has been no free balance in the Reserve Fund, and the Railway Accounts and Estimates' have been balanced by loans from the Railway Depreciation Fund, amounting for the four years 1931-32 to 1934-35 to Rs. 26.68 lakhs.

The results anticipated for 1934-35 have been more than realised and it is estimated that the gross traffic receipts will exceed the Budget estimate by about Rs. 1½ crores. The improvement has, however, been under goods receipts, passenger receipts having again shown a decline. Part of this decline is ascribed to the recent experimental reduction in third-class fares on some of the railways. During the twelve months following the revision of fares on the North Western Railway, referred to in last year's memorandum, there was an increase of nearly six million in the number of passengers carried, but a decrease of Rs. 4 lakhs in earnings. The figures are now being analysed by zones to ascertain whether the reduction in fares can be

considered as justified by results, and what, if any, modifications are necessary.

The Budget Estimate for 1935-36, which is based on the assumption that the steady improvement of receipts from goods traffic maintained throughout 1934-35 will continue, assumes a further increase in gross traffic receipts of Rs. 2½ crores and a reduction of about Rs. ½ crore in the contribution towards depreciation. Interest charges remain practically unchanged, but with an increase in working expenses of nearly Rs. 1 crore, on account of the discontinuance of the cut in pay, it is estimated that the year's working will result in an improvement on that of 1934-35 by about Rs. 2½ crores. In view of the small surplus anticipated in 1935-36 the Railway Authorities have felt justified in making, with effect from 1st April, 1935, certain small reductions in the surcharge on coal freights.

With effect from 1935-36, it has been decided, in order to simplify calculation, that the amount to be set aside annually to cover depreciation of Railway assets shall be $\frac{1}{80}$ th of the total capital at charge at the end of the previous year. This fraction is the nearest simple fraction calculated to give results approximately equal to the results of the previous complicated procedure. The Railway Depreciation Fund is estimated to have a closing balance on 31st March, 1936, of Rs. 12.88 crores.

Particulars of the capital expenditure on Railways are given in chapter V (*vide* page 18).

IV.—TAXATION PER HEAD IN BRITISH INDIA

Total Tax Revenue.	Accounts, 1933-34.	Budget Estimate, 1934-35.	Budget Estimate, 1935-36.
	<i>Lakhs of Rs.</i>	<i>Lakhs of Rs.</i>	<i>Lakhs of Rs.</i>
Customs	46,85.59	47,45.36	51,53.35
Taxes on Income	17,15.89	17,28.30	16,44.85
Salt	8,51.25	8,41.85	8,36.73
Excise	14,74.32	14,72.43	14,79.70
Stamps	12,24.43	12,39.98	12,33.80
Registration	1,12.66	1,14.83	1,19.24
Scheduled Taxes	40.66	42.17	42.42
Total (excluding Land Revenue) ..	1,01,04.80	1,01,84.92	1,05,10.09
Land Revenue	29,74.29	31,66.54	30,52.09
Total (including Land Revenue) ..	1,30,79.09	1,33,51.46	1,35,62.18
The <i>taxation per head</i> , on the assumption that the whole is paid by the inhabitants of British India, is:—			
(i) exclusive of Land Revenue..	Rs. 3.61	Rs. 3.61	Rs. 3.69
(ii) inclusive of Land Revenue..	4.68	4.73	4.76

The above figures include both Central and Provincial revenue.

For the purpose of calculating the taxation per head, the population of British India has been estimated at 279,540,000 in 1934, 282,232,000 in 1935, and 284,952,000 in 1936.

V.—PUBLIC DEBT AND CAPITAL EXPENDITURE

DEBT TRANSACTIONS, 1934-35

The sale of Indian Treasury Bills in the form of 3 months' maturities was continued, with a temporary suspension from 5th June to 17th July, up to 5th March, 1935, when sales were again discontinued. The amount outstanding with the public on 31st March, 1934, was Rs. 33·31 crores, and on 31st March, 1935, Rs. 18·27 crores. In addition, Rs. 25·93 crores were held in the Paper Currency Reserve on 31st March, 1934, and Rs. 36·07 crores on 31st March, 1935.

On 15th May, 1934, notice was given of repayment on 16th August, 1934, of the 4 per cent. Rupee Loan, 1934-37.

On 5th June, 1934, a further issue of 3½ per cent. Rupee Loan, 1947-50, was opened to subscriptions in the form of cash, Indian Treasury Bills, 4 per cent. Loan, 1934-37, and 4½ per cent. Bonds, 1934. The price of issue was 98½ per cent. and the amount was subject to a limit of Rs. 32 crores. The loan closed on 20th June, 1934, and the subscriptions, totalling Rs. 25·13 crores, were as follows: cash, including Treasury Bills, Rs. 6·22 crores; 4½ per cent. Bonds, 1934, Rs. 4·72 crores; and 4 per cent. Loan, 1934-37, Rs. 14·19 crores.

On 10th and 11th September, 1934, Subscriptions (unlimited) in the form of cash and 4½ per cent. Rupee Bonds, 1934, were invited to an issue of 3 per cent. Rupee Bonds, repayable at par in 1941. The issue price was 99 per cent. The subscriptions in cash were Rs. 8·61 crores and in 4½ per cent. Bonds, 1934, Rs. 2·06 crores: total Rs. 10·67 crores.

On 23rd November, 1934, the Secretary of State gave notice of redemption at par on 1st June, 1935, of £3,500,000 East Indian Railway 4½ per cent. Debenture Stock, 1935-55.

No sterling loan was issued during the year. The Permanent Debt in India was increased in 1934-35 by approximately Rs. 2·8 crores, about Rs. 35·8 crores new debt having been raised and about Rs. 33·0 crores of debt having been discharged by repayment or conversion. The floating debt in India was reduced by Rs. 9·7 crores owing to a reduction of Rs. 11·3 crores in the amount of Treasury Bills held by the Public, partly set off by an increase of Rs. 1·6 crores in the holding of Treasury Bills in the Paper Currency Reserve.

Unfunded debt in India was estimated to be increased by Rs. 15·75 crores, including Savings Bank deposits, Rs. 13 crores (net), and Post Office Cash Certificates, Rs. 2¾ crores (net.)

Permanent Debt in England was increased by approximately £347,000 (net), resulting from the issue of £2·3 millions (nominal)* of Sterling Stock; the repayment of £1·8 millions of the capital portion of the Railway Annuities; and the redemption of £200,025 of debt by the operation of the State Railways Sinking Fund.

DEBT TRANSACTIONS, 1935-36

The Budget provided for expenditure charged to capital of Rs. 12·28 crores, including Rs. 5·5 crores on State Railways; Rs. 4·99 crores on Currency; Rs. 20 lakhs on Orissa and Sind; Rs. 55 lakhs on Posts and Telegraphs; Rs. 52½ lakhs on the new capital at Delhi; and Rs. 44 lakhs for payment of commuted value of pensions; for the discharge in India of Rs. 27·6 crores of Permanent Debt; and in England of:—

- £1,831,800 for part capital redemption of the Railway annuities created in purchase of railways;
- £11,952,450 for the discharge of India 6 per cent. Bonds, 1935-37;
- £3,500,025 for the discharge of East Indian Railway 4½ per cent. Debenture Stock, 1935-55; and
- £200,025 for the statutory sinking funds established in connection with the purchase of the East Indian, Eastern Bengal, and the Scinde Punjab and Delhi Railways.

The Budget also provided for an issue of a Rupee Loan of Rs. 25 crores.

Net receipts of Rs. 2¾ crores from sales of Post Office Cash Certificates, and of Rs. 15¼ crores from Savings Bank deposits in 1935-36 are assumed.

The sale of 3 months' Indian Treasury Bills was re-opened on 16th April and was continued weekly until 16th July. After the transfer on 1st April, 1935, of the assets in the Paper Currency Reserve to the Reserve Bank of India, all Treasury Bills will be shown under one head, and on the 1st July, 1935, the Bills outstanding amounted to Rs. 49·22 crores.

On 9th July, 1935, notice was given of the repayment at par on 15th October, 1935, of the balance outstanding of the £12,000,000 6 per cent. Bonds, 1935-37.

On 11th July, 1935, £10,000,000 India 3 per cent. stock, repayable at par in 1949-52, was issued in part replacement of the £12,000,000 6 per cent. Bonds, 1935-37, under notice of repayment. The issue price was £98 per cent. and the loan was oversubscribed.

On 5th August, 1935, a 3 per cent. Rupee Loan, repayable 1951-54, was opened to subscription in the form of cash, 5 per cent. Bonds 1935, or 6½ per cent. Bonds, 1935. The issue price was 96½ per cent. and the loan was to be closed as soon as the total subscriptions amounted approximately to Rs. 15 crores, cash subscriptions receiving, if necessary, only partial allotment.

* Part of £10 millions issued in Nov., 1933, but not taken into account until 1934-35.

The loan was closed on the morning of the opening day, the subscriptions being approximately as follows: cash, Rs. 16·53 crores; 5 per cent. Bonds, Rs. 8·37 crores; and 6½ per cent. Bonds, Rs. 4·63 crores; total Rs. 29·53 crores.

PUBLIC DEBT OUTSTANDING

The amount of the permanent and floating public debt of the Government of India (Central Government) outstanding is given in the following table. The figures include debt incurred on behalf of Provincial Governments, the debenture stocks of various railways taken over by the Secretary of State on the transfer of the lines, and the capital value of liabilities undergoing redemption by way of terminable railway annuities.

	In India‡	In England*
	Rs.	£
31st March, 1934	4,94,66,80,173	383,084,743
31st March, 1935	4,92,65,12,453	383,687,618
31st March, 1936 (Estimate)	4,76,54,01,453	376,203,318*

‡ Excludes Post Office Cash Certificates.

* Includes liability for British Government 5 per cent. War Loan, 1929-47, taken over by India.

A statement of the interest-bearing obligations (including the public debt) of the Government of India is given on page 20.

PROVISION FOR REDUCTION OR AVOIDANCE OF DEBT

Prior to 1933-34 the provision for the reduction or avoidance of debt was made on the basis of a scheme settled in 1924, whereby the appropriation of revenue on this account was Rs. 4 crores *plus* a sum representing one-eightieth of the net amount of new debt contracted (up to the end of the previous year) since 31st March, 1923. The actual provision in 1924-25, the year before the scheme was applied, was Rs. 3·78 crores and in 1932-33 the amount had risen to Rs. 6·84 crores. Since 1924, however, the increase that has taken place in the total indebtedness of the Government of India has been more than counterbalanced by an increase in interest-yielding assets; and on 1st April, 1935, out of a total indebtedness of Rs. 1235 crores, the amount not represented by such assets was only Rs. 254 crores.

The automatic application of the 1924 formula would, if continued, prove particularly burdensome under present conditions, when the general revenues of Government are receiving no contribution, beyond the actual interest on the capital invested, from the principal productive asset, railways. It was, therefore, decided that, although the question of the permanent basis of the future provision for the reduction or avoidance of debt cannot yet be settled, in view of the strong position which has been built up by past efforts and the high

percentage of the debt which is invested in potentially profitable undertakings, it was fully justifiable to reduce the provision to Rs. 3 crores, which amount has been adopted in the accounts of 1933-34 and the Estimates of 1934-35 and 1935-36.

RAILWAYS

The capital expenditure on railways shown in the Accounts for 1933-34 and in the Estimates for 1934-35 and 1935-36, is as follows:—

	Accounts, 1933-34.	Revised Estimate, 1934-35.	Budget, 1935-36.
	Rs.	Rs.	Rs.
Outlay on lines worked by the State and by guaranteed companies:—			
(1) From funds provided by the State ..	—1,81,48,888	1,89,93,000	5,50,00,000
(2) From funds raised through companies or provided from other sources ..	—	—	—
	—1,81,48,888*	1,89,93,000*	5,50,00,000

* These figures have been arrived at after allowing for adjustment in respect of exchange.

In addition to the above figures, capital expenditure is incurred on branch lines from funds deposited by Branch line Companies or advanced by the Government.

The following table shows the capital outlay on all State lines up to the end of the year and the net return obtained:—

	Accounts, 1933-34.	Revised Estimate, 1934-35.	Budget, 1935-36.
	Rs.	Rs.	Rs.
Capital at charge at end of each year (Central Government)	7,95,06,26,839	7,96,53,26,839	8,01,99,26,839
Working profit from railways excluding interest charges	24,61,64,012	27,60,47,000	29,79,10,000
Percentage of same to capital at charge ..	3.10%	3.47%	3.71%
Final working loss after meeting interest charges	Rs. 7,96,33,325	Rs. 4,23,76,000	Rs. 1,89,50,000
Percentage of same to capital at charge ..	1.00%	0.53%	0.24%

OTHER CAPITAL EXPENDITURE

Provision has also been made for the following items of expenditure of the Central Government charged outside the Revenue accounts :—

	Accounts, 1933-34.	Revised Estimate, 1934-35.	Budget, 1935-36.
	Rs.	Rs.	Rs.
Capital outlay on—			
Security Printing Press ..	—9,01,165	—1,15,000	—1,04,000
Posts and Telegraphs ..	5,38,292	34,50,000	55,07,000
Vizagapatam Port	51,01,505	15,00,000	12,50,000
Currency	—4,14,277	—49,000	4,99,14,000
New Capital at Delhi ..	9,09,579	75,60,000	52,45,000
Civil Works	1,77,312	—	—
Orissa and Sind	—	—	20,00,000
Payment of Commuted Value of Pensions	82,99,286	54,18,000	43,93,000
Payments to Retrenched Per- sonnel	2,94,343	—1,11,000	—4,00,000
Total	1,40,04,875	1,76,53,000	6,78,05,000

The figure for Currency Capital outlay in 1935-36 is net, after providing for the transfer to the Reserve Bank of India of 5 crores of Rupee Securities for its Reserve Fund under Section 46 of the Reserve Bank of India Act.

The Rs. 20 lakhs capital outlay connected with the institution of the Provinces of Orissa and Sind is for the purpose of construction of buildings for the capitals of the new Provinces.

The debits to the Capital head of account "Payments to retrenched personnel" are gratuity payments, and are to be written back to revenue by five equal annual instalments commencing in 1933-34.

INTEREST-BEARING OBLIGATIONS AND INTEREST-YIELDING ASSETS

The following table exhibits the interest-bearing obligations of the Government of India and shows also the portion of Indian Debt incurred on behalf of Government Commercial undertakings and of the Provincial Governments.

Statement showing the interest-bearing obligations and certain interest-yielding assets of the Government of India, at the close of each financial year

	31st March, 1931.	31st March, 1932.	31st March, 1933.	31st March, 1934.	31st March, 1935. (Estimate.)
<i>In India:</i>					
Loans (a)	(In crores of rupees.)				
Treasury Bills in the hands of the public	417·24	422·69	446·89	435·43	438·28
Treasury Bills in the Paper Currency Reserve	55·38	47·53	26·09	33·31	22·00
Ways and Means Advance	5·89	49·67	35·48	25·93	27·50
Other Obligations:—					
Post Office Savings Banks	—	9·50	—	—	—
Cash Certificates	37·03	38·20	43·40	52·23	59·33
Provident Funds, etc.	38·43	44·58	55·64	63·71	66·49
Depreciation and Reserve Funds	70·33	73·04	76·74	82·49	88·36
Provincial Balances (b)	21·39	17·65	15·22	13·04	14·83
	6·09	4·32	7·02	6·17	5·59
Total Loans, etc.	478·51	529·39	508·46	494·67	487·78
Total Other Obligations	173·27	177·79	198·02	217·64	234·60
Total in India	651·78	707·18	706·48	712·31	722·38
<i>In England:</i>					
Loans (a)	(In millions of £.)				
War Contribution'	316·81	313·60	314·33	321·01	323·57
Capital value of liabilities undergoing redemption by way of terminable railway annuities	16·72	16·72	16·72	16·72	16·72
India Bills	50·32	48·72	47·06	45·35	43·58
Provident Funds, etc.	4·05	—	—	—	—
	·69	·80	·91	1·03	1·15
Total in England	388·59	379·84	379·02	384·11	385·02
<i>Equivalent at 1s. 6d. to the Rupee</i>					
	(In crores of rupees.)				
Total Interest-bearing obligations	518·12	506·45	505·26	512·15	513·96
Total Interest-bearing obligations	11,69·90	12,13·63	12,11·84	12,24·46	12,35·74
<i>Interest-yielding assets:</i>					
(i) Capital advanced to Railways	743·98	750·73	756·75	754·94	756·84
(ii) Capital advanced to other Commercial Departments	23·65	24·25	21·89	23·23	23·71
(iii) Capital advanced to Provinces	151·82	163·64	173·04	175·20	179·22
(iv) Capital advanced to Indian States and other interest-bearing loans	19·45	20·29	20·92	21·11	21·26
Total Interest-yielding assets	938·90	958·91	972·60	974·48	981·03
Cash, bullion, and securities held on Treasury account	34·03	41·42	35·69	45·03	51·52
Balance of total interest-bearing obligations not covered by above assets	196·97	213·30	203·55	204·95	203·19

(a) These figures represent the nominal amounts of loans outstanding and also include comparatively small amounts of expired loans which do not bear interest.

(b) The figures represent those portions of provincial balances which bear interest.

In addition to the cash, bullion and securities held on Treasury account, the Central Government held on 31st March, 1935, £40,000,000 in the Gold Standard Reserve.

**VI.—GENERAL STATEMENT OF THE RECEIPTS AND
DISBURSEMENTS AND BALANCES OF THE GOVERN-
MENT OF INDIA, IN INDIA AND IN ENGLAND**

The following table shows the opening balances, receipts, disbursements and closing balances, actual or estimated, of the Government of India in 1933-34, 1934-35, and 1935-36.

	Accounts, 1933-34.	Budget Estimate, 1934-35.	Revised Estimate, 1934-35.	Budget Estimate, 1935-36.
	Rs.	Rs.	Rs.	Rs.
Opening Balance, India	14,58,99,614	13,43,92,614	11,88,97,891	13,10,06,891
Opening Balance, England	(a) 13,19,33,230	(a) 7,10,26,230	(b) 20,87,50,507	(b) 14,17,95,507
Total Opening Balance	27,78,32,844	20,54,18,844	32,76,48,398	27,28,02,398
RECEIPTS—				
Revenue Surplus	—	10,15,000	36,00,000	5,82,000
Capital Contributions by Railway Companies and Indian States towards construction of State Railways	—	—	3,77,71,000	—
Permanent Debt (net incurred)	—	—	—	—
Floating Debt (net incurred)	—	—	—	—
Unfunded Debt (net incurred)	22,81,07,211	17,65,38,600	15,91,25,000	18,08,56,000
Deposits and Advances (net)	—	5,69,48,060	—	18,22,34,000
Railway Depreciation and Reserve Funds (net)	—	—	1,49,24,000	1,88,50,000
Remittances (net)	62,94,471	3,14,000	2,83,000	5,91,000
Balances of Provincial Governments (net)	25,23,349	—	—	—
Total Receipts	23,69,25,031	23,48,15,000	21,57,03,000	38,31,13,000
Total	51,47,57,875	44,02,33,844	54,33,51,398	65,59,15,398
DISBURSEMENTS—				
Revenue Deficit	—	—	—	—
Capital Outlay on Security Printing Press	—9,01,165	—1,15,000	—1,15,000	—1,04,000
Construction of State Railways	—2,06,44,729	4,68,90,000	1,50,00,000	5,50,00,000
Discharge of Railway Debentures	23,95,841	—	39,93,000	—
Capital Outlay on Posts and Telegraphs	5,38,292	39,70,000	84,50,000	65,07,000
Capital Outlay on Vizagapatam Port	51,01,505	18,46,000	15,00,000	12,50,000
Payment of Commuted Value of Pensions	82,99,286	49,56,000	54,18,000	43,98,000
Initial Expenditure on new Capital at Delhi	9,09,579	67,67,000	75,60,000	52,45,000
Currency Capital Outlay	—4,14,277	—85,000	—49,000	4,99,14,000
Payments to Retrenched Personnel	2,94,343	—3,36,000	—1,11,000	—4,00,000
Civil Works	1,77,312	—	—	—
Outlay on Orissa and Sind	—	—	—	20,00,000
Permanent Debt (net discharged)	4,90,80,068	12,44,30,000	—	25,42,31,000
Floating Debt (net discharged)	2,33,50,000	—	9,73,70,000	3,50,00,000
Deposits and Advances (net)	7,08,28,521	—	9,40,79,000	—
Railway Depreciation and Reserve Funds (net)	—2,56,38,761	85,22,000	—	—
Loans and Advances by Central Govern- ment (net advances)	2,23,56,140	7,48,95,000	3,84,54,000	10,23,68,000
Balances of Provincial Governments (net)	—	25,00,000	40,00,000	57,00,000
Total Disbursements	18,71,09,477	26,91,50,000	27,05,49,000	52,01,04,000
Closing Balance	32,76,48,398	17,10,83,844	27,28,02,398	13,58,11,398
Total	51,47,57,875	44,02,33,844	54,33,51,398	65,59,15,398
DISTRIBUTION OF CLOSING BALANCE—				
Closing Balance, India	11,88,97,891	10,39,61,614	13,10,06,891	12,61,34,891
Closing Balance, England	(b) 20,87,50,507	(a) 6,71,22,230	(b) 14,17,95,507	96,76,507

(a) Of this amount, £897 represents the cash portion of the Gold Standard Reserve.

(b) Of this amount, £568 represents the cash portion of the Gold Standard Reserve.

VII.—HOME CHARGES.

The following is an analysis of the Net Expenditure in England charged on the Revenue of the year :—

Net Expenditure.	Accounts, 1933-34.	Revised Estimate, 1934-35.	Budget, 1935-36.
	£	£	£
Direct demands on the Revenues :—			
Stores for India	1,322	600	750
Leave Allowances and Miscellaneous	41,719	38,700	38,550
Railway Revenue Account :—			
Interest and management of debt	9,587,232	9,366,675	9,274,350
Government share of Surplus profits	7,655	9,675	9,450
Leave Allowances and Miscellaneous	447,877	402,150	381,375
Irrigation Revenue Account :—			
Leave Allowances	124	525	525
Posts and Telegraphs :—			
Indian Postal and Telegraph Department :—			
Leave Allowances and Miscellaneous	63,796	62,625	60,375
Debt Services :—			
Interest on Ordinary Debt (less interest realised from invest- ment of Cash Balance)	5,584,395	5,607,300	5,482,575
Interest, Discount, etc., on Gold Standard Reserve credited to Revenue	334,590	1,155,000	2,100
Silver Redemption Reserve	—	—	150,000
Management of Debt	430,623	100,050	88,950
Interest on Other Obligations	43,476	47,700	48,750
Civil Administration :—			
Home Administration :—			
India Office : Salaries and Contingencies	208,397	215,250	222,000
High Commissioner's Office : Salaries and Contingencies	190,107	194,250	208,725
Audit Office : Salaries	15,251	15,600	15,600
Contribution by His Majesty's Treasury in respect of the Ad- ministrative Expenses of India Office	104,349	104,550	107,175
Payments on account of Departments in India :—			
Stores for India	10,437	27,675	16,275
Leave Allowances and Miscellaneous	327,825	323,100	338,400
Currency and Mint :—			
Stores for India	2,500	3,300	3,675
Leave Allowances and Miscellaneous	3,805	4,050	4,725
Interest on Paper Currency Reserve Investments	—	60,000	4,200
Civil Works :—			
Leave Allowances and Miscellaneous	10,791	6,150	8,325
Miscellaneous :—			
Territorial and Political Pensions	7,385	8,025	8,550
Civil Superannuation Allowances and Pensions (including Home establishment Pensions)	1,319,750	1,324,875	1,313,850
Contribution to the Secretariat of the League of Nations	103,773	107,850	112,950
Other Miscellaneous Charges	20,680	9,225	14,475
Stationery and Printing :—			
Stores for India	13,324	11,475	12,075
Expenditure at the India Office and the High Commissioner's Office, Leave Allowances, etc.	7,687	11,175	9,000
Defence Services (Army, Marine and Air Force) :—			
Home Charges of British Forces serving in India	40,000	60,975	64,950
Sea Transport Charges	475,097	469,800	471,300
Unemployment Insurance	98,246	136,950	138,600
National Health Insurance	38,936	39,975	39,450
Aden Contribution	115,500	145,650	120,000
Contributions under Contributory Pensions Act, 1925	116,808	119,700	118,350
Contribution to the expenses of His Majesty's Ships in Indian Seas	100,192	100,800	100,800
Furlough Pay and Miscellaneous	930,551	962,700	1,024,950
Stores	635,013	698,025	762,900
Marriage Allowances and Allotments	348,965	358,200	364,800
Retired Pay of British Forces for Service in India	1,232,808	1,211,025	1,217,475
Retired Pay : Indian Services and Family and Miscellaneous (including Military Funds) Pensions	2,442,575	2,460,150	2,481,300
Extraordinary Receipts and Payments	218,461	8,700	8,100
Total	24,271,912	23,209,800	24,174,975
Expenditure by Secretary of State	21,193,199	20,061,225	20,995,725
" " High Commissioner	3,078,713	3,148,575	3,179,250
Total	24,271,912	23,209,800	24,174,975

Expenditure in England not charged on the Revenue of the year :—

Expenditure.	Accounts, 1933-34.	Revised Estimate, 1934-35.	Budget. 1935-36.
	£	£	£
Capital outlay on State Railways	946,081	1,425,000	1,500,000
New Capital at Delhi	—	1,350	—
Posts and Telegraphs	124	300	—
Vizagapatam Fort	9,663	7,875	3,750
Lighthouses and Lightships	120	225	450
Expenditure by Secretary of State	878,097	1,365,000	1,440,000
„ High Commissioner	77,891	69,750	64,200
Total	955,988	1,434,750	1,504,200

VIII.—GOLD STANDARD RESERVE AND SILVER REDEMPTION RESERVE.

The Gold Standard Reserve was built up out of the profit from the coinage of rupees. The principal objects for which it was maintained were (1) to provide funds from which the Secretary of State could finance his requirements at times when remittance of funds from India through the usual market channels could not conveniently be arranged, and (2) to furnish resources against which sterling drafts might, if necessity arose, be sold by the Government of India to remitters in India.

The Reserve was maintained at £40,000,000, any assets in excess of this amount, on the basis of current market prices or below, being appropriated to revenue, subject to credits to an Equalisation Fund (instituted with effect from 1929-30) which was designed to mitigate the effect on the budgetary position of fluctuations in the value of the securities in the Reserve. There had been no amount at the credit of the fund since 1931-32.

The earlier history of the Reserve is described in the Explanatory Memorandum for 1922-23 [Command Paper 1766 of 1922], and the operation of the Revenue Equalisation Fund is described in the issue for 1931-32 [Command Paper 3969 of 1931].

On the 1st April, 1935, the Reserve Bank of India assumed its currency responsibilities and on the same date certain assets were handed over to it by Government, including £32,500,000 from the Gold Standard Reserve. The balance of £7,500,000 of the Gold Standard Reserve in the form of sterling securities and cash was retained by Government in the newly created Silver Redemption Reserve, which is held to meet the liability imposed by Section 36 of the Reserve Bank Act, under which Government are obliged to pay full value for surplus rupees which may be transferred by the Bank up to a maximum of Rs. 5 crores a year.

Statistics regarding the Gold Standard Reserve

The total receipts from profit on coinage, interest and discount, and profit by exchange up to 31st March, 1935, were as follows :—

	£
Profits on Coinage from 1900-01 ..	28,573,606
Interest and discount	32,891,371
Profit by exchange	194,917
	<hr/>
	61,659,894

Of the above sum, £1,123,655 has been used for capital expenditure on railways, £2,866,217 has been transferred to the Paper Currency Reserve in reduction of created Rupee securities, £16,025,828 has been transferred to Revenue, and the remainder has been credited to the Gold Standard Reserve. The following tables give a summary of the transactions to 31st March, 1935, and the composition of the Reserve on that date :—

Summary of Transactions.

Profits on Coinage paid to Gold Standard Reserve—	£
Total Profits realized since 1st April, 1900 ..	28,573,606
Deduct amount used for Capital Expenditure on Railways	1,123,655
	<hr/>
	27,449,951
Interest and discount received up to 31st March, 1935	32,891,371
Profit by exchange	194,917
Profit through appreciation	525,452
	<hr/>
	33,611,740
Profits and Interest paid to Reserve from 1st April, 1900, to 31st March, 1935	61,061,691
Deduct—	
Loss on Sale, Redemption, and Conversion of Securities	2,149,072
Transferred to Paper Currency Reserve in reduction of created securities	2,866,217
Transferred to Revenue	16,025,828
Miscellaneous Charges	20,574
	<hr/>
	21,061,691
Amount of Gold Standard Reserve on 31st March, 1935	<hr/> <u>£40,000,000</u>

State of Reserve, 31st March, 1935.

Sterling Securities held in England (value at, or below, minimum market price)—	£
Treasury Bills	11,623,806
Other Securities (Treasury Bonds and Conversion Loans)	26,221,723
	<hr/>
	37,845,529
Gold held on deposit at Bank of England (valued at par) ..	2,152,334
Cash held in England	2,137
	<hr/>
	<u>£40,000,000</u>

IX.—EXCHANGE AND REMITTANCE

The purchases of sterling in India by the Government of India and the sterling taken over in London during the last ten years, have been as follows :—

Year.	Purchases of Sterling by the Government of India.	Sterling taken over in London.	Total.	Average Rate of Exchange per Rupee.	
	£	£	£	s.	d.
1925-26	46,316,500	—	46,316,500	1	6-152
1926-27	2,115,000	—	2,115,000	1	6-019
1927-28	28,325,000	—	28,325,000	1	5-897
1928-29	30,810,000	—	30,810,000	1	6-026
1929-30	15,215,000	—	15,215,000	1	5-908
1930-31	5,395,000	—	5,395,000	1	5-841
1931-32	40,049,000	300,000	40,349,000	1	6-123
1932-33	35,733,000	1,212,998	36,945,998	1	6-154
1933-34	45,158,000	60,317	45,218,317	1	6-071
1934-35	37,542,000	33,926	37,575,926	1	6-086

The sales by the Government of India of immediate telegraphic transfers on London during the last ten years have been as follows :—

1925-26 .. *Nil.*

1926-27 .. £1,425,000 at the rate of 1s. 5 $\frac{3}{4}$ d.

1927-28 to 1929-30 .. *Nil.*

1930-31 .. £5,733,626 at the rate of 1s. 5 $\frac{1}{2}$ d.

1931-32 .. £14,047,804 at the rate of 1s. 5 $\frac{3}{4}$ d.

1932-33 to 1934-35 .. *Nil.*

X.—SEA-BORNE TRADE

The figures of Exports from, and Imports into, India of Merchandise and Treasure during 1932-33, 1933-34 and 1934-35, are summarised below. Further particulars are given in the published statements of the Sea-Borne Trade of British India.

Summary of Sea-borne Trade

—	1932-33.	1933-34.	1934-35.
<i>On Private Account.</i>			
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>
Exports of Merchandise ..	1,35,49,14,410	1,49,73,22,629	1,54,78,67,927
Imports of Merchandise ..	1,32,58,43,175	1,15,35,70,144	1,32,25,19,539
Net Exports of Merchandise	2,90,71,235	34,37,52,485	22,53,48,338
Net Exports of Gold	65,52,27,956	57,05,35,961	52,53,74,607
Net Imports of Silver	72,84,602	1,36,593	2,16,08,542
Net Exports of Currency Notes	13,43,433	19,41,306	36,89,565
Net Exports of Treasure ..	64,92,86,787	57,23,40,674	55,06,72,714
Net Exports of Merchandise and Treasure on Private Account	67,83,58,022	91,60,93,159	77,60,21,052

Summary of Sea-borne Trade—continued.

	1932-33.	1933-34.	1934-35.
<i>Government Transactions.</i>	Rs.	Rs.	Rs.
<i>Imports of Merchandise</i> ..	2,43,32,879	1,94,75,278	2,29,60,405
<i>Exports of Merchandise</i> ..	44,19,699	50,34,820	28,17,431
<i>Net Imports of Merchandise</i>	1,99,13,180	1,44,40,458	2,01,42,974
<i>Net Exports of Gold</i>	—	—	—
<i>Net Exports of Silver</i> ..	2,74,15,553	6,37,08,019	4,18,62,204
<i>Net Exports or Imports of Currency Notes</i>	—	—	—
<i>Net Exports of Treasure</i> ..	2,74,15,553	6,37,08,019	4,18,62,204

R. A. BUTLER

India Office,
23rd September, 1935.

EAST INDIA (FINANCE ACT, 1935)

Indian Finance Act, 1935

Passed under the procedure prescribed by
Section 67B of the Government
of India Act

INDIA OFFICE, } S. F. STEWART,
17th July, 1935 } Under Secretary of State for India

X71.2
G5

*Presented pursuant to the Government of India Act.
Section 67B (2)*

*Ordered by The House of Commons to be Printed
17th July, 1935*

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EAST INDIA (INDIAN FINANCE ACT, 1935).

No. 1.

INDIAN FINANCE ACT, 1935.

(Made by the Governor General on 22nd April, 1935.)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930.

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930; It is hereby enacted as follows :—

Short title and extent. 1.—(1) This Act may be called the Indian Finance Act, 1935.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma or Aden, be construed as if, for the year beginning on the 1st day of April, 1935, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3.—(1) In the First Schedule to the Indian Tariff Act, 1934, in Items Nos. 61 (2) and 62 (1) for the words "Five annas per ounce" in the fourth column the words "Two annas per ounce" shall be substituted.

(2) In the Second Schedule to the Indian Tariff Act, 1934, the heading "SKINS" together with Item No. 3 under that heading shall be omitted.

4. For the year beginning on the 1st day of April, 1935, the Schedule contained in the First Schedule to this Act shall be inserted in the Indian Inland Postage rates. VI of 1898. Post Office Act, 1898, as the First Schedule to that Act.
- 5.—(1) Income-tax for the year beginning on the 1st day of April, 1935, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except Income-tax and super-tax. in the case of total incomes of less than two thousand rupees falling under heading A in the said Part, by one-sixth of the amount of the rate.
- (2) The rates of super-tax for the year beginning on the 1st day of April, 1935, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-sixth of the amount of the rate. XI of 1922.
- (3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.
- (4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule. XI of 1922.
- (5) For the purpose of any assessment to be made for the year ending 31st March, 1936, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1935, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of Section 48 in respect of dividends declared in the year ending 31st March, 1935, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.
- Explanation.*—In this sub-section the term "previous year's rate" with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1935, on a total income equal to that on which he is assessable for the year ending 31st March, 1936.
6. In sub-section (1) of section 3 of the Silver (Excise Duty) Act, 1930, for the words "five annas" the words "two annas" shall be substituted. XVIII of 1930. Excise duty on Silver.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 4.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[See section 7.]

Letters.

For a weight not exceeding half a tola	One anna.
For a weight exceeding half a tola but not exceeding two and a half tolas	One anna and three pies.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna and three pies.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof	Nine pies.
For every additional five tolas or fraction thereof in excess of five tolas	Six pies.

Registered Newspapers.

For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE II.

[See section 5.]

PART I.

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500.	One and one-third pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000.	Two and two-thirds pies in the rupee.

- | | |
|--|--|
| (3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000. | Six pies in the rupee. |
| (4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000. | Nine pies in the rupee. |
| (5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000. | One anna in the rupee. |
| (6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000. | One anna and four pies in the rupee. |
| (7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000. | One anna and seven pies in the rupee. |
| (8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000. | One anna and eleven pies in the rupee. |
| (9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000. | Two annas and one pie in the rupee. |
| (10) When the total income is Rs. 1,00,000 or upwards. | Two annas and two pies in the rupee. |
| B. In the case of every company and registered firm, whatever its total income. | Two annas and two pies in the rupee. |

PART II.

Rates of Super-tax.

In respect of the excess over thirty thousand rupees of total income—

- | | Rate. |
|---|--|
| (1) In the case of every company— | |
| (a) in respect of the first twenty thousand rupees of such excess | Nil. |
| (b) for every rupee of the remainder of such excess | One anna in the rupee. |
| (2) (a) in the case of every Hindu undivided family— | |
| (i) in respect of the first forty-five thousand rupees of such excess ... | Nil. |
| (ii) for every rupee of the next twenty-five thousand rupees of such excess | One anna and three pies in the rupee. |
| (b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company— | |
| (i) for every rupee of the first twenty thousand rupees of such excess ... | Nine pies in the rupee. |
| (ii) for every rupee of the next fifty thousand rupees of such excess ... | One anna and three pies in the rupee. |
| (c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company— | |
| (i) for every rupee of the next fifty thousand rupees of such excess ... | One anna and nine pies in the rupee. |
| (ii) for every rupee of the next fifty thousand rupees of such excess ... | Two annas and three pies in the rupee. |

(iii) for every rupee of the next fifty thousand rupees of such excess ...	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made, may, within thirty days of the receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1935-36 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1934-35.

No. 2.

Recommendations to the Legislature, Certification, Assent and Direction bringing the Act into operation forthwith.

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon do recommend to the Legislative Assembly that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, in the form hereto annexed.

WILLINGDON,

Viceroy and Governor General.

The 5th April, 1935.

Whereas the Legislative Assembly has failed to pass in the form recommended by me the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, a copy of which Bill in the form recommended by me is hereto annexed ;

Now, therefore, I, Freeman, Earl of Willingdon, in exercise of the power conferred by sub-section (1) of section 67B of the Government of India Act, do hereby certify that the passage of the said Bill is essential for the interests of British India.

WILLINGDON.

Viceroy and Governor General.

The 6th April, 1935.

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Council of State that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, in the form hereto annexed.

WILLINGDON,

Viceroy and Governor General.

The 6th April, 1935.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,
President, Council of State.

The 16th April, 1935.

I assent to this Bill.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

Whereas I, Freeman, Earl of Willingdon, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance Act, 1935, being an Act made by me under the provisions of section 67B of the Government of India Act, shall come into operation forthwith:

Now, therefore, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

WILLINGDON,
Viceroy and Governor General.

The 22nd April, 1935.

No. 3.

Despatch to the Right Honourable Sir Samuel Hoare, Bart., G.C.S.I., G.B.E., C.M.G., P.C., M.P., His Majesty's Secretary of State for India.

No. 58, dated Simla, the 25th April, 1935.

The Indian Finance Act, 1935.

SIR,

I have the honour to forward herewith an authentic copy of the Indian Finance Act, 1935, to which I have signified my assent under clause (b) of sub-section (1) of section 67B of the Government of India Act. The Finance Bill was as usual introduced in the Legislative Assembly on the occasion of the presentation of the General Budget on the 28th February. The motion to take the Bill into consideration was made on the 13th

March and after an unusually protracted discussion was carried without a division on the 25th March. In the course of the detailed consideration of the clauses the following amendments were carried against Government :—

(1) An amendment reducing the rate of salt duty from Rs.1/4 per maund to 12 annas per maund involving a loss of revenue of 325 lakhs.

(2) An amendment omitting the provision made for the repeal of the export duty on skins, the result on revenue being a gain of 8 lakhs.

(3) Amendments removing the imposition of income-tax on incomes of not less than Rs.1,000 but less than Rs.2,000 per annum, the loss of revenue involved being 50 lakhs.

(4) The following amendments to the postage rates :—

(a) An amendment substituting one tola for half a tola as the limit of weight to be carried for the initial rate of one anna, the loss of revenue involved being 16 lakhs.

(b) An amendment reducing the rates for single and reply post cards from 9 pies and one and a half annas to 6 pies and one anna respectively, the loss of revenue involved being 54 lakhs.

(c) An amendment introducing a new initial rate of 6 pies for book packets not exceeding $2\frac{1}{2}$ tolas in weight, the loss of revenue involved being $6\frac{1}{2}$ lakhs.

2. Acquiescence in the amendments as a whole, which would have involved a net loss of revenue of $443\frac{1}{2}$ lakhs was clearly impracticable and I was therefore under the necessity of intervening with a recommendation under section 67B of the Government of India Act. The question which required and received my earnest consideration was whether I should recommend to the Assembly the making of all the amendments necessary to restore the Bill to its original form or whether I should endeavour to meet the views of the Assembly in part by acquiescing in such of the amendments carried by the Assembly as might arguably have been accepted without unbalancing the Budget to an impossible extent. I was constrained to conclude that the only amendments which could have been accepted consistently with the minimum requirements of the financial situation were the amendment omitting the provision for the repeal of the export duty on skins and the two less important amendments to the postal rates. Acceptance of the first-named amendment would have resulted in a small improvement in the revenue position but considerations of an extra-financial character led me to conclude that the amendment should none the less not be accepted. The repeal of the duty is calculated definitely to benefit the agricultural classes and I am confident that in carrying the amendment by a majority of one vote

only the Assembly failed accurately to reflect the attitude of public opinion on this question. The benefit to the tax-payer—and particularly to the poorer tax-payer—which would have accrued from the acceptance of either or both of the two minor amendments to the postal rates would have been insignificant, while the acceptance of either or both of the amendments would have seriously retarded the restoration to solvency of the Post and Telegraph Services. On the merits, therefore, I had no doubt that the interests of the country would best be served by the restoration in all respects of the terms of the Bill as originally introduced, and while in different circumstances I would readily have recognised the possibility that the political advantages of deferring in part to the Assembly's verdict might well outweigh the practical disadvantages involved in the acceptance of amendments which I believed to be on the merits mistaken, I could not but feel that on the present occasion this consideration was deprived of most if not all of its normal weight by the indisputable fact that the Opposition in the Assembly had for the most part been concerned merely to defeat and embarrass Government and had accorded little or no impartial consideration to the merits either of the proposals originally embodied in the Bill or of their own amendments to those proposals.

3. I decided, therefore, to recommend all the amendments necessary for the restoration of the Bill to its original form and I briefly explained my reasons for this decision in the Message which I communicated to the Assembly along with my recommendation. The text of this Message was as follows:

"The Finance Bill as introduced contained provisions designed to reduce taxation to the maximum extent possible within our existing resources and incidentally to provide some benefit to the agriculturist by removing a bar on the profitable sale of one of his products. The Bill was the counterpart of the policy represented in the allocation of a non-recurrent surplus for the development of roads, broadcasting, civil aviation and above all for the improvement of the economic position of the villages in this country. So far as the Finance Bill is concerned, the Amendments made by the Legislative Assembly would, if accepted, amount to a serious mutilation of the Bill. They entail a loss of revenue of from four to five crores and so involve budgeting for a heavy deficit and all the deleterious results to India's credit which have invariably followed an unsound procedure of this character. The amendments cannot therefore be accepted.

After anxious consideration I have decided to recommend to the Assembly that the Bill be restored to the form in which it was originally introduced. I have considered whether it is possible to accept some of the financially less important

amendments made but one of these is definitely opposed to the interests of the agriculturist and the others are minor postal concessions which, though affording little or no benefit to the poor, would more than double the estimated deficit on the Posts and Telegraphs Departments and postpone the restoration of solvency in that service. Every one of the remaining amendments involves a loss of at least half a crore of revenue and so must be ruled out so far as the current year is concerned."

4. In pursuance of my recommendation the Member in charge of the Bill moved an amendment to restore the rate of salt duty to Rs.1/4 per maund. The amendment was defeated by 64 votes to 41 and the President in due course furnished a certificate in accordance with sub-rule (5) of Rule 36B of the Indian Legislative Rules to the effect that the Assembly had failed to pass the Bill in the form recommended by me. In the position thus produced it was clearly incumbent upon me to certify the Bill in the form recommended. The certified Bill with the necessary recommendation was thereupon laid before the Council of State on Monday the 8th April and after consideration by that body was passed without amendment on the 16th April. On the 22nd April, 1935, I gave my assent to the Bill and for compelling reasons of an obvious nature caused to be endorsed upon the Bill a direction in the terms of the proviso to subsection (2) of section 67B of the Government of India Act.

5. In accordance with the instructions contained in your predecessor's despatch No. 61, dated the 21st December, 1869, copies of the papers relating to the Act are enclosed herewith.

I have the honour to be,
SIR,
Your most obedient, humble servant,
WILLINGDON.

No. 4.

Telegram from the Secretary of State for India to the Governor General dated 25th June, 1935.

In pursuance of section 67B of the Government of India Act I am taking steps to lay before both Houses of Parliament Indian Finance Act, 1935, which received your assent and was under your direction brought into operation forthwith, in the circumstances related in Your Excellency's despatch No. 58, dated 25th April. I approve Your Excellency's proceedings.

EAST INDIA (FINANCE ACT, 1936)

Indian Finance Act, 1936

Passed under the procedure prescribed by
Section 67B of the Government
of India Act

INDIA OFFICE,
22nd June, 1936

CECIL KISCH
Assistant Under Secretary of State
for India

X71.2
G6

*Presented pursuant to the Government of India Act
Section 67B (2)*

*Ordered by The House of Commons to be Printed
24th June, 1936*

LONDON

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1936

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EAST INDIA (INDIAN FINANCE ACT, 1936)

No. 1.

INDIAN FINANCE ACT, 1936.

(Made by the Governor General on 31st March, 1936.)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax.

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax; It is hereby enacted as follows :

1.—(1) This Act may be called the Indian Finance Act, 1936. Short title
and extent

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma or Aden, be construed as if, for the year beginning on the 1st day of April, 1936, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section. Fixation of
salt duty.

3. For the year beginning on the 1st day of April, 1936, the Schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. Inland
Postage
Rates.

4.—(1) Income-tax for the year beginning on the 1st day of April, 1936, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case by one-twelfth of the amount of the rate. Income-tax
and super-
tax.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1936, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-twelfth of the amount of the rate.

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of
1922.

(4) For the purpose of any assessment to be made for the year ending 31st March, 1937, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1936, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1936, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term "previous year's rate" with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1936, on a total income equal to that on which he is assessable for the year ending 31st March, 1937.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 3.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[See section 7.]

Letters.

For a weight not exceeding one tola	...	...	One anna.
For every tola, or fraction thereof, exceeding one tola	...	...	Half an anna.

Postcards.

Single	...	...	Nine pies.
Reply	...	...	One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof	...	...	Nine pies.
For every additional five tolas or fraction thereof in excess of five tolas	...	...	Six pies.

Registered Newspapers.

For a weight not exceeding ten tolas	...	...	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	...	...	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	...	...	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	...	...	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	...	...	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	...	...	Four annas."

SCHEDULE II.

[See section 4.]

PART I.

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is Rs.2,000 or upwards, but is less than Rs.5,000	Six pies in the rupee.
(2) When the total income is Rs.5,000 or upwards, but is less than Rs.10,000	Nine pies in the rupee.
(3) When the total income is Rs.10,000 or upwards, but is less than Rs.15,000	One anna in the rupee.
(4) When the total income is Rs.15,000 or upwards, but is less than Rs.20,000	One anna and four pies in the rupee.
(5) When the total income is Rs.20,000 or upwards, but is less than Rs.30,000.	One anna and seven pies in the rupee.
(6) When the total income is Rs.30,000 or upwards, but is less than Rs.40,000.	One anna and eleven pies in the rupee.
(7) When the total income is Rs.40,000 or upwards, but is less than Rs.1,00,000.	Two annas and one pie in the rupee.
(8) When the total income is Rs.1,00,000 or upwards.	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income.	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

In respect of the excess over thirty thousand rupees of total income—

	Rate.
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess.	<i>Nil.</i>
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess.	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess.	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess.	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals, not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess.	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess.	Six annas and three pies in the rupee.

No. 2.*Recommendations to the Legislature, Certification, Assent and Direction bringing the Act into operation forthwith.*

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Legislative Assembly that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax in the form hereto annexed.

WILLINGDON,
Viceroy and Governor General.

The 25th March, 1936.

Whereas the Legislative Assembly has failed to pass in the form recommended by me the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of Income-tax and super-tax, a copy of which Bill in the form recommended by me is hereto annexed ;

Now, therefore, I, Freeman, Earl of Willingdon, in exercise of the power conferred by sub-section (1) of section 67B of the Government of India Act, do hereby certify that the passage of the said Bill is essential for the interests of British India.

WILLINGDON,
Viceroy and Governor General.

The 26th March, 1936.

In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Council of State that it do pass the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax, in the form hereto annexed.

WILLINGDON,
Viceroy and Governor General.

The 26th March, 1936.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,
President, Council of State.

The 31st March, 1936.

I assent to this Bill.

WILLINGDON,
Viceroy and Governor General.

The 31st March, 1936.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act.

WILLINGDON,
Viceroy and Governor General.

The 31st March, 1936.

Whereas I, Freeman, Earl of Willingdon, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance Act, 1936, being an Act made by me under the provisions of section 67B of the Government of India Act, shall come into operation forthwith :

Now, therefore, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

WILLINGDON,
Viceroy and Governor General.

The 31st March, 1936.

No. 3.

Despatch to the Most Honourable the MARQUESS OF ZETLAND,
P.C., G.C.S.I., G.C.I.E., *His Majesty's Secretary of State for India.*

No. 65, dated New Delhi, the 14th April, 1936.

The Indian Finance Act, 1936.

MY LORD MARQUESS,

I have the honour to forward herewith an authentic copy of the Indian Finance Act, 1936, to which I have signified my assent under clause (b) of sub-section (1) of section 67B of the Government of India Act. The Finance Bill was introduced in the Legislative Assembly on the 28th February. After four days' discussion the motion for the consideration of the Bill was carried without a division on the 19th March. In the course of the detailed consideration of clauses, the following amendments were carried against Government :—

(1) An amendment abolishing the salt duty, involving a loss of about 8 crores of rupees.

(2) (i) An amendment reducing the rates for single and reply post cards from 9 pies and one and a half annas to 6 pies and one anna respectively, involving a loss of revenue of about 50 lakhs of rupees.

(ii) An amendment that the weight of registered newspapers to be carried for a quarter of an anna be raised from eight to ten tolas, involving a loss of revenue of about Rs.74,000

2. The amendment abolishing the duty on salt was manifestly one in which it was impossible for me to acquiesce. Indeed it is safe to say that all the members who voted for the amendment must have realised that its adoption would involve resort to my special powers. The reduction of the charges payable in respect of post cards stood on a somewhat different footing, but after careful consideration I was constrained to conclude that apart altogether from the extreme importance of maintaining the financial solvency of the Posts and Telegraphs Department, acquiescence in the amendment would have unbalanced the Budget as a whole to an extent incompatible with my responsibility for the financial welfare of India. The financial effect of the amendment relating to the postal charges for registered newspapers was insignificant and I decided to accept the Assembly's verdict on that point. I accordingly recommended to the Assembly to pass the Bill in a form identical, save in this one respect, with the form in which the Bill had been introduced.

3. In pursuance of my recommendation, the Member in charge of the Bill moved an amendment to restore the salt duty at Rs.1-4-0 per maund. The amendment was defeated by 68 votes to 51 and the President furnished a certificate in accordance with sub-rule (5) of Rule 36B of the Indian Legislative Rules to the effect that the Assembly had failed to pass the Bill in the form recommended by me. It thus became incumbent upon me to certify the Bill in the form recommended. The certified Bill with the necessary recommendation was thereafter laid before the Council of State which passed it on the 31st March. I gave my assent to the Bill the same day and for obvious reasons caused to be endorsed upon the Bill a direction in the terms of the proviso to sub-section (2) of section 67B of the Government of India Act.

4. Copies of the papers relating to the Act are enclosed herewith.

I have the honour to be,

My Lord Marquess,

Your Lordship's most obedient, humble Servant

WILLINGTON.

No. 4.

*Telegram from the Secretary of State for India to the
Governor General dated 26th May, 1936.*

In pursuance of section 67B of the Government of India Act, I am taking steps to lay before both Houses of Parliament the Indian Finance Act 1936, which received Lord Willingdon's assent and was under his direction brought into operation forthwith, in the circumstances related in his Despatch No. 65 dated 14th April. I approve Lord Willingdon's proceedings.



EAST INDIA (CRIMINAL LAW AMENDMENT
ACT, 1935)

Criminal Law Amendment Act, 1935

Passed under the procedure prescribed by section 67B
of the Government of India Act

22,5
65

*Presented by the Secretary of State for India to
Parliament by Command of His Majesty
October, 1935*

LONDON

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**EAST INDIA (CRIMINAL LAW AMENDMENT
ACT, 1935)**

No. 1.

WHEREAS by its vote of the 12th September, 1935, the Legislative Assembly has refused to take into consideration a Bill entitled a Bill to amend the Criminal Law ;

Now, therefore, I, Freeman, Earl of Willingdon, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, do recommend to the Legislative Assembly that it do pass the Bill in the form hereto annexed.

WILLINGDON,

Viceroy and Governor General.

Simla,

The 16th September, 1935.

WHEREAS the Legislative Assembly has by its vote of the 16th September, 1935, refused leave to introduce a Bill entitled a Bill to amend the Criminal Law ;

Now therefore, I, Freeman, Earl of Willingdon, in pursuance of the provisions of sub-section (1) of Section 67B of the Government of India Act, do hereby certify that the said Bill is essential for the tranquillity of British India.

WILLINGDON,

Viceroy and Governor General.

Simla,

The 18th September, 1935.

In pursuance of the provisions of sub-section (1) of Section 67B of the Government of India Act, I, Freeman, Earl of Willingdon, do recommend to the Council of State that it do pass the Bill to amend the Criminal Law in the form hereto annexed.

WILLINGDON,

Viceroy and Governor General.

Simla,

The 18th September, 1935.

A BILL

To amend the Criminal Law.

WHEREAS it is expedient to amend the Criminal Law in the manner hereinafter appearing; It is hereby enacted as follows:—

1.—(1) This Act may be called the Criminal Law Amendment Act, 1935.
Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

XXIII of
1932.

2.—(1) Sub-section (3) of section 1 and sections 2, 3, 4, 6, 8, 15, 17 and 20 of the Criminal Law Amendment Act, 1932, are hereby repealed.
Repeals.

XXIII of
1931.

(2) Sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, is hereby repealed.

XXIII of
1932.

3. In the preamble to the Criminal Law Amendment Act, 1932, Amendment of preamble, the word "temporarily" shall be omitted.
Act XXIII of 1932.

XXIII of
1932.

4. In sub-section (4) of section 1 of the Criminal Law Amendment Act, 1932, the words and figure "section 4 and" and the words and figure "section 4 or" shall be omitted.
Amendment of section 1, Act XXIII of 1932.

XXIII of
1932.

5. In section 9 of the Criminal Law Amendment Act, 1932,—
Amendment of section 9, Act XXIII of 1932.

(a) in clause (ii) the figures "2", "3" and "6" shall be omitted; and

(b) clause (iii) shall be omitted.

XXIII of
1932.

6. In sections 11, 12 and 13 of the Criminal Law Amendment Act, 1932, the words "So long as this Act remains in force", and the words "deemed to be", shall, wherever they occur, be omitted.
Amendment of sections 11, 12 and 13, Act XXIII of 1932.

XXIII of
1931.

7. In section 32 of the Indian Press (Emergency Powers) Act, 1931; the words "So long as this Act remains in force" shall be omitted.
Amendment of section 32, Act XXIII of 1931.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,
President, Council of State.

The 28th September, 1935.

I assent to this Bill.

WILLINGDON,
Viceroy and Governor General.

The 4th October, 1935.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act.

WILLINGDON,
Viceroy and Governor General.

The 4th October, 1935.

An authentic copy.

L. GRAHAM.
Secretary to the Government of
India, Legislative Department.

STATEMENT OF OBJECTS AND REASONS.

The Criminal Law Amendment Act, 1932, will expire on 18th December, 1935. The Government of India propose by this Bill to continue certain of the provisions of that Act in a permanent form. The present Act includes—

- (a) provisions against certain forms of intimidation (sections 2—4 and 6—8),
- (b) provisions against associations dangerous to the public peace (section 13), and
- (c) provisions to secure greater control over the Press (section 5 and sections 14—16).

2. The civil disobedience movement is at present in abeyance. Government have therefore decided not to continue the provisions against those forms of intimidation which were a special feature of that movement, namely, sections 2, 3, 4, 6 and 8 of the Act. Section 7 stands on a different footing. Picketing has not ceased with the civil disobedience movement. It is now recognised not only as a means of opposition to any form of constituted authority but also of causing annoyance to private persons who differ from the political, economic or religious views of the picketers. It is likely to be a main feature of any subversive movement and it cannot be dealt with effectively under the ordinary law. Government therefore propose to give permanent effect to section 7, which will as at present not come into force unless extended to a particular area by a Local Government.

3. Section 13 confers on Government powers to take certain action in connection with places used for the purposes of an unlawful association. It was enacted to strengthen the Criminal Law Amendment Act of 1908 which is a permanent Act. It is therefore logical to give permanent effect to the provisions of section 13. Unlawful associations are formed for the furtherance of subversive movements other than the civil disobedience movement and it is essential that Government should retain powers to enable them to deal effectively with such associations, when they are of a dangerous character.

4. Section 5 of the Act of 1932 makes it an offence to disseminate the contents of proscribed documents. It is a logical supplement to the Indian Press (Emergency Powers) Act, 1931, and section 99A of the Code of Criminal Procedure, 1898, and should have the same period of validity as those Acts. Sections 14 to 16 continue and extend the scope of the Indian Press (Emergency Powers) Act, 1931. Having regard to the continuance of the terrorist movement, to the existence of a movement which has for its object the overthrow of the present social and economic system by violent means, and the constantly recurring outbursts of communal feeling, Government cannot safely relax their existing powers for the control of the Press and of unauthorised news-sheets and newspapers.

H. D. CRAIK.

SIMLA,
The 16th August, 1935.

No. 2.

THE INDIAN PRESS (EMERGENCY POWERS) ACT, 1931.

ACT No. XXIII OF 1931.

(As amended by Act XXIII of 1932.)

(PASSED BY THE INDIAN LEGISLATURE.)

*(Received the assent of the Governor General on the
9th October, 1931.)*

AN ACT

To provide [for the better control of the Press].

WHEREAS it is expedient to provide [for the better control of the Press]; It is hereby enacted as follows:—

Short title
extent and
duration.

1.—(1) This Act may be called the Indian Press (Emergency Powers) Act, 1931.

[] Amendment made by Criminal Law Amendment Act, XXIII of 1932.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

(3) It shall remain in force [until the expiration of the Criminal Law Amendment Act, 1932].

2. In this Act, unless there is anything repugnant in the subject Definitions or context,—

- (1) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;
- (2) "document" includes also any painting, drawing or photograph or any visible representation;
- (3) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras;
- (4) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;
- (5) "newspaper" means any periodical work containing public news or comments on public news;
- (6) "news-sheet" means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4;
- (7) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;
- (8) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;
- (9) "unauthorised newspaper" means—
 - (a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and
 - (b) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;
- (10) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and
- (11) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867.

Control of printing-presses and newspapers.

Deposit of security by keepers of printing-presses.

3.—(1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration ^{XX} of Books Act, 1867, may be required by the Magistrate before whom ¹⁸⁶⁷ the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose :

Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security or press forfeited in certain cases.

4.—(1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

(a) incite to or encourage, or tend to incite to or encourage, the commission of any offence of murder or any cognizable offence involving violence, or

- (b) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,
 [or which tend, directly or indirectly,—
- (c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or
- (d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or
- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force.]

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above,—

- (i) where security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or
- (ii) where security has not been deposited, declare the press to be forfeited to His Majesty.

and may also declare all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation 1.—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a).

[*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (h) of this sub-section.]

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, XX 1867, shall be deemed to be annulled. 1867

Deposit of
further
security.

5.—(1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of XX Books Act, 1867, shall deposit with the Magistrate before whom 1867 such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(2) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

6.—(1) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

7.—(1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose:

Provided that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the

Power to
declare
further
security as
publication
forfeited.

Deposit of
security by
publisher of
newspaper

Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to
declare
security
forfeited in
certain
cases.

8.—(1) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,—

(a) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(b) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867,

XXV c
1867.

and may also declare all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV c
1867.

Deposit of
further
security.

9.—(1) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

XXV c
1867.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

Power to
declare
further
security
and news-
papers
forfeited.

10.—(1) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such news-

paper, stating or describing such words, signs or visible representation, declare—

- (a) the further security so deposited, or any portion thereof, and
- (b) all copies of such newspapers wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the Local Government.

11.—(1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the Local Government or the Magistrate as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867. Penalty for keeping press or publishing newspaper without making deposit.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the Local Government or the Magistrate as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867.

12.—(1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made. Consequences of failure to deposit security as required.

(2) Where any printing-press is used in contravention of sub-section (1), the Local Government may, by notice in writing to the keeper thereof, declare the press to be forfeited to His Majesty.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press Return of deposited security in certain cases.

is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Issue of
search
warrant.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the Local Government may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

- (i) where any such property may be or may be reasonably suspected to be, or
- (ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

Authorisation of
persons to
publish
news-sheets

15.—(1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

Power to
seize and
destroy un-
authorised
news-sheets
and news-
papers.

16.—(1) Any police-officer, or any other person empowered in this behalf by the Local Government, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in

1898. the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

17.—(1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized :

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

18.—(1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disseminating unauthorised news-sheets and newspapers.

1898. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable.

Special provisions relating to the seizure of certain documents.

19. Where any newspaper, book or other document wherever made appears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any

Power to declare certain public documents forfeited, and to issue search warrants for same.

police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

power to
retain
packages
containing
ertain
publications
sent im-
ported into
British
India.

20. The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

prohibition
trans-
mission by
post of
ertain
documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

power to
retain
articles
being trans-
mitted by
post.

22. Any officer in charge of a post-office or authorised by the Postmaster-General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(b) any unauthorised news-sheet or unauthorised newspaper, and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Powers of High Court.

application
of High
Court to set
aside order
of forfeit-
ure.

23.—(1) The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10, or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

(2) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-section (1)

of that section may apply to such High Court to set aside the order on the ground that the press was not so used.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges. Hearing by Special Bench.

25.—(1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order. Order of Special Bench setting aside forfeiture.

(2) If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing-press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.

(3) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

26. On the hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made. Evidence to prove nature or tendency of newspapers.

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications. Procedure in High Court.

Supplemental.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898 : Service of notices.

Provided that if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5

of the said Act; and thereupon the notice shall be deemed to have been duly served.

conduct of
arches. 29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

V of 18

jurisdiction
erred. 30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

operation
other
ws not
erred. 31. Nothing herein contained shall be deemed to prevent any person for being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

declarations under
ct XXV of
1867 to be
ade before
ertain
magis-
ates. 32. So long as this Act remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate. 1867.

THE CRIMINAL LAW AMENDMENT ACT, 1932.

ACT XXIII OF 1932.

(PASSED BY THE INDIAN LEGISLATURE.)

(Received the assent of the Governor General on the 19th December, 1932.)

AN ACT

To Supplement the Criminal Law.

XIII of
1931.
IV of
1908. WHEREAS it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend temporarily the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

Short title, extent, duration and commencement. 1.—(1) This Act may be called the Criminal Law Amendment Act, 1932.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall remain in force for three years from its commencement.

(4) The whole of the Act except section 4 and section 7 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that section 4 or section 7 shall come into force in any area on such date as may be specified in the notification.

2. Whoever wilfully dissuades or attempts to dissuade the public Dissuasion from enlist- or any person from entering the Military, Naval, Air or Police service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Exception 1.—This provision does not extend to comments on or criticisms of the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment.

Exception 2.—This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants.

3. Whoever induces or attempts to induce any public servant to Tampering with public fail in his duty as such servant shall be servants. punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village choukidar, and an employee of a public utility service as defined in section 2 of the Trades Disputes Act, 1929. XLV of 1860.

VII of 1928

4.—(1) Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with, whether by supplying goods to, or otherwise, or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—For the purposes of this section “ public servant ” has the same meaning as in section 3 but includes also a person in the Military, Naval or Air Service of His Majesty.

(2) No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of or under authority from the Local Government or some officer empowered by the Local Government in this behalf.

5.—(1) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

V of 1898.
XXIII of
1931.

6.—(1) Whoever makes, publishes or circulates any statement, Dissemination of false rumour or report which is false and rumours. which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section public servant means a public servant as defined in section 21 of the Indian Penal Code.

(2) So long as this section remains in force, clause (b) of section 505 of the Indian Penal Code shall be inoperative.

XLV of
1860.

XLV of
1860.

7.—(1) Whoever—

Molesting a person to prejudice of employment or business.

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

8.—(1) Where any young person under the age of sixteen years

is convicted by any Court of an offence, which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian.

Explanation.—In this section the word “ guardian ” includes any person who, in the opinion of the Court, has for the time being the charge of or control over the offender.

(2) Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conducted to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace.

(3) Where a parent or guardian is ordered to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898.

V of 1898.

9. Notwithstanding anything contained in the Code of Criminal Procedure in offences Procedure, 1898,—
under the Act.

V of 1898.

- (i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act ;
- (ii) an offence punishable under section 2, 3, 5, 6 or 7 shall be cognizable by the police ;
- (iii) an offence punishable under section 4 shall be an offence in which a warrant shall ordinarily issue in the first instance ; and
- (iv) an offence punishable under section 7 shall be non-bailable.

10.—(1) The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cogniz-

Power of Local Government to make certain offences cognizable and non-bailable.

XLV of 1860.

V of 1898.

r of 1898. able, and thereupon the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly.

(2) The Local Government may, in like manner and subject to the like conditions, and with the like effect, declare that an offence punishable under section 188 or section 506 of the Indian Penal Code shall be non-bailable.

[IV of 908.

11. So long as this Act remains in force, section 16 of the Indian Amendment of section 16, Criminal Law Amendment Act, 1908, Act XIV of 1908. shall be deemed to be re-numbered as sub-section (1) of section 16 and to that section as so re-numbered the following sub-section shall be deemed to be added, namely :—

“(2) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India.”

[IV of 908.

12. So long as this Act remains in force, to section 17 of the Indian Criminal Law Amendment Act, Amendment of Section 17, 1908, the following sub-section shall be Act XIV of 1908. deemed to be added, namely :—

“(3) An offence under sub-section (1) shall be cognizable by the police, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, shall be non-bailable.”

r of 1898.

13. So long as this Act remains in force, after section 17 of the Indian Criminal Law Amendment Act, Insertion of new sections 17A, 17B, 17C, 17D, 17E and 17F in Act XIV of 1908. 1908, the following sections shall be deemed to be inserted, namely :—

[IV of 908.

“17A.—(1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association. Power to notify and take possession of places used for the purposes of an unlawful association.

Explanation.—For the purposes of this section ‘place’ includes a house or building, or part thereof or a tent or vessel.

(2) The District Magistrate or in a Presidency-town the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government :

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

17B.—(1) The District Magistrate, Commissioner of Police or Moveable property found officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the District Magistrate, or in a Presidency-town the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to His Majesty.

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the District Magistrate or Commissioner of Police, as the case may be, may direct.

(4) The District Magistrate or Commissioner of Police shall publish, as nearly as may be in the manner provided in section 87 of the Code of Criminal Procedure, 1898, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article. V of 1898.

(5) Where any such representation is accepted by the District Magistrate or Commissioner of Police, he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final. V of 1908.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate or Commissioner of Police may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of

the sale shall be disposed of in the manner herein provided for the disposal of other articles.

17C. Any person who enters or remains upon a notified place
Trespass upon notified without the permission of the District
places. Magistrate, or of an officer authorised
by him in this behalf, shall be deemed to commit criminal trespass.

17D. Before a notification under sub-section (1) of section 17A is
The relinquishment of cancelled, the Local Government shall
property. give such general or special directions
as it may seem requisite regulating the relinquishment by Govern-
ment of possession of notified places.

17E.—(1) Where the Local Government is satisfied, after such
inquiry as it may think fit, that any
Power to forfeit funds of monies, securities or credits are being
an unlawful association. used or are intended to be used for the
purpose of an unlawful association, the Local Government may, by
order in writing, declare such monies, securities or credits to be
forfeited to His Majesty.

(2) A copy of an order under sub-section (1) may be served on
the person having custody of the monies, securities or credits, and
on the service of such copy such person shall pay or deliver the
monies, securities or credits to the order of the Local Government :

Provided that, in the case of monies or securities, a copy of the
order may be endorsed for execution to such officer as the Local
Government may select, and such officer shall have power to enter
upon and search for such monies and securities in any premises
where they may reasonably be suspected to be, and to seize the
same.

(3) Before an order of forfeiture is made under sub-section (1)
the Local Government shall give written notice to the person (if
any) in whose custody the monies, securities or credits are found
of its intention to forfeit, and any person aggrieved thereby may
within fifteen days from the issue of such notice file an application
to the District Judge in a District, or to the Chief Judge of the
Small Cause Court in a Presidency-town, to establish that the
monies, securities or credits or any of them are not liable to for-
feiture, and if any such application is made, no order of forfeiture
shall be passed in respect of the monies, securities or credits con-
cerned until such application has been disposed of, and unless the
District Judge or Chief Judge of the Small Cause Court has decided
that the monies, securities or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the
procedure to be followed shall be the procedure laid down in the
Code of Civil Procedure, 1908, for the investigation of claims so
far as it can be made to apply, and the decision of the District
Judge or Chief Judge of the Small Cause Court, as the case may be,
shall be final.

(5) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(6) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business. V of 1898.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(9) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, 'security' includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

(11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of the Local Government.

17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E no proceeding purporting to be taken under section 17A, 17B, 17C, 17D or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf or or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

III of 1931. 14. In the long title and in the preamble of the Indian Press Amendment of title and (Emergency Powers) Act, 1931, for the preamble of Act XXIII of 1931. words "against the publication of matter inciting to or encouraging murder or violence" the words "for the better control of the Press" shall be substituted.

III of 1931. 15. For sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, the following Amendment of section 1, Act XXIII of 1931. sub-section shall be substituted, namely:—

"(3) It shall remain in force until the expiration of the Criminal Law Amendment Act, 1932."

XIII of 1931. 16. In sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931,— Amendment of section 4, Act XXIII of 1931.

(a) after clause (b) the following words and clauses shall be inserted, namely:—

"or which tend, directly or indirectly,—

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force," ;
- (b) the *Explanation* shall be numbered as *Explanation 1*, and after the *Explanation* as so numbered the following *Explanations* shall be inserted, namely :—

" *Explanation 2*.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (h) of this sub-section."

17. On the commencement of this Act section 62 of the Special Cessation of effect of sec- Powers Ordinance, 1932, shall cease to X of 1932. tion 62, Ordinance X of 1932. have effect.

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

20. Any person accused of the commission of an offence punishable under section 24, 25, 26, 28, 67 or 70, or by reason of the provisions of Chapter VI of the Special Powers Ordinance, 1932, may, notwithstanding the expiry of the said Ordinance, be tried and punished as if such offence were an offence punishable under or by reason of the corresponding enactment of this Act, and as if this Act had been in force at the time of such commission; and any trial of any such offence begun but not completed at the expiry of the Special Powers Ordinance, 1932, may be continued and completed as if it had been begun after the passing of this Act:

Provided that no trial of an offence punishable under section 67 or 70 of the said Ordinance shall be begun, continued or completed in any area in which section 4 or section 7, as the case may be, is not in force.

No. 3.

DESPATCH FROM THE GOVERNOR-GENERAL TO THE MOST HONOURABLE THE MARQUESS OF ZETLAND, P.C., G.C.S.I., G.C.I.E., HIS MAJESTY'S SECRETARY OF STATE FOR INDIA, DATED THE 4TH OCTOBER, 1935.

Subject: THE CRIMINAL LAW AMENDMENT ACT, 1935.

I have the honour to submit herewith an authentic copy of the Act noted above to which I have signified my assent. This Act was introduced in the Legislative Assembly on 2nd September.

That House, on 12th September, after six days' discussion, refused by 71 votes to 61 to take the Bill into consideration. For the reasons stated by me (copy enclosed)* in addressing both Houses of the Legislature on 16th September, I felt it my duty to return the Bill to the Legislative Assembly in a recommended form. That House on the same day rejected by 69 votes to 57 the motion for leave to introduce the Bill in the form recommended. In accordance with the provisions of clause (b) of sub-section (1) of section 67 (B) of the Government of India Act, the Bill was then laid before the Council of State, and that House accepted the motion for consideration by 35 votes to 10, and passed the Bill in the form recommended without a division. I do not propose to exercise the power vested in me in the proviso to sub-section (2) of section 67 (B) to direct that the Act shall come into operation forthwith, but I submit the Act so that His Majesty's assent may be obtained after the formalities laid down in sub-section (2) of that section have been duly observed.

2. The effect of this Act is to give permanency to the Indian Press (Emergency Powers) Act, 1931, and certain provisions of the Criminal Law Amendment Act, 1932, both of which Acts would in the ordinary course expire on 18th December, 1935. The Indian Press (Emergency Powers) Act, 1931, was passed to assist Government in checking the very serious recrudescence of terrorism which began in that year by giving powers to deal with the publication of matter inciting to or encouraging murder or violence. As passed that Act had validity for one year only. The Criminal Law Amendment Act, 1932, extended the scope of, and gave further validity to, the Press (Emergency Powers) Act of 1931 and in addition contained provisions which enabled Government to deal with certain forms of intimidation which were a special feature of the civil disobedience movement and also to deal more effectively with associations declared unlawful under the Criminal Law Amendment Act, 1908. The immediate origin of the Act of 1932 was the civil disobedience movement. But the fact that the original form of the Bill placed no limit to its period of validity and the statements made on behalf of Government when the Legislature was asked in 1932 to take the Bill into consideration show conclusively that Government intended the measure to check other subversive movements in addition to civil disobedience and more particularly terrorism and communism. It is important to stress this point because much of the opposition to the Act which I now submit to you was based on assertions that the sole object of the Act of 1932 was to strengthen the hands of Government in dealing with the civil disobedience movement, and that, as that movement no longer exists in an active form, there is no justification for the continuance of the Act. I shall have something more

to say in regard to the present position in relation to civil disobedience in another portion of this despatch.

3. I now desire to explain briefly the more important provisions which are continued in a permanent form by this Act and the reasons which have led me to use the special powers conferred on me by the Government of India Act. These provisions are sections 5, 7, 13 and 14-16 of the Criminal Law Amendment Act, 1932.

Section 5 makes it a penal offence to disseminate the contents of proscribed documents. Government have at present the power in certain circumstances to proscribe documents, but it is no offence to republish a document that has been proscribed. Without such a provision proscription loses much of its effect and this section fills an obvious gap in the ordinary law.

Section 7 makes picketing a penal offence in any area to which the Local Government may, by notification, apply the section. Since it was extensively used during the civil disobedience movement, picketing has become a more or less normal method of expressing opposition not only to Government but to any constituted authority and even to private persons for political, economic or religious reasons. Experience has shown that in India picketing very frequently leads to violence—the serious riots in Dacca in 1930 and Cawnpore in 1931 began with picketing—and that there are no provisions in the ordinary law which enable the authorities to deal with it effectively at the outset. I should explain further that this section was never intended to be used to deal with peaceful picketing in purely industrial disputes. There are executive orders against its use in such cases and, so far as I am aware, these orders have been strictly observed. On the other hand, the section has proved useful in dealing with strikes started with a political as distinct from an industrial object and inspired by communist agents in pursuance of communist aims.

Section 13 contains provisions which strengthen the hands of Government in dealing with associations declared unlawful under the Criminal Law Amendment Act, 1908. If the principle of declaring associations unlawful in certain circumstances is accepted—and that principle has been embodied in the law of India for the last twenty years—then it is only logical that Government should have the power to cripple the activities of such associations. The Act of 1908 provided Government with power to prosecute persons who are members of, or who manage or assist in the management of, such associations, but such prosecutions have been found by experience to be an ineffective check on the activities of the associations. Section 13 gives Government power to take possession of the buildings and funds of these associations. It proved very effective in the civil disobedience movement and Government have reason to believe that the section is a powerful deterrent to the supply of funds to unlawful associations and has placed serious difficulty in

the way of the Communist Party of India obtaining funds for its work.

Sections 14-16 give Government certain powers of control over the Press. These are the most controversial provisions of the Act of 1932. They are also the provisions which my Government consider most vital in the new Act and to which the most determined opposition has been made. Here again I rely on the results of experience. Since the Press Act was passed in 1910 there have been three periods during which the Press has been subject to no control, namely, (1) 1922 to April 1930, (2) October to December 1930 and (3) March to October 1931. The experience of the eight years of the first period shows that the ordinary law was entirely insufficient to stop inflammatory writings of the most dangerous description in support of terrorism, in praise of terrorist murders and in the most violent incitement to communal hatred. There can be little doubt that such inflammatory writings did much to intensify the communal hatred which led to the serious riots in Calcutta in 1926 and Lahore in 1927, and which prepared the ground for the outbreak of terrorist crimes which began in 1931. Immediately after the Press Ordinance of 1930 lapsed in October of that year a new flood of violent and seditious articles in which murderers were praised began to appear. History repeated itself in 1931 when the second Press Ordinance was withdrawn as a result of the Delhi Pact. Once again there was direct and open approval of terrorism and violence with the result that the Indian Press (Emergency Powers) Act was passed in October 1931. There is, in my mind, no doubt whatever that if these sections were allowed to lapse, the same results would again inevitably follow and having regard to the present situation in India, particularly with reference to terrorism and communal unrest, I feel that I would have failed in my duty had I not used such powers as I possessed to prevent such a situation again arising. I may add that there is a very general recognition of the fact that there is a section of the Indian Press which is wholly irresponsible and entirely unscrupulous, and which is run with the sole object of personal gain and which does not hesitate to encourage terrorism and communal hatred. The difference that exists between those who recognise the existence of this fact and my Government is in regard to the sufficiency of the ordinary law to deal with the evil. I am myself entirely satisfied that the experience of the last thirteen years has proved beyond any doubt whatever that the existing law is insufficient to deal with this evil.

4. I now turn to explain the present situation in India in regard to those dangers which in my opinion make this Act essential for the tranquillity of the country. These are the threat of civil disobedience, terrorism, communism and communal hatred. Civil disobedience is at present in abeyance, but the leaders of the Congress Party have made it clear beyond all possibility of doubt

that they have not abandoned the principle of civil disobedience and that they hold themselves free to revive it whenever it suits them to do so. Mr. Gandhi himself has also quite recently and publicly reiterated his belief in "non-violent disobedience of laws." Civil disobedience in some form or other will undoubtedly be an important weapon in the armoury of those who desire to wreck the new constitution. While, therefore, my Government have thought it possible to drop some of the provisions (sections 2, 3, 4, 6 and 8) of the Act of 1932 which were designed to counter certain special features of the civil disobedience movement, I am fully satisfied that the threat of civil disobedience is a sufficiently real danger to strengthen the other reasons which exist for retaining certain other provisions of the Act.

5. The position in regard to terrorism in Bengal has undoubtedly improved very appreciably since 1932. But His Excellency the Governor of Bengal has on more than one recent occasion impressed on the public that the terrorist virus is still active and that the movement is still receiving a steady flow of new recruits. In some other provinces, particularly in Assam, Ajmer, the United Provinces and Bihar and Orissa, there has unfortunately been clear evidence of renewed terrorist activity. Out of 25 terrorist incidents since 1st April, 1935, more than half have occurred in these provinces. Opposition to the continuance of the provisions of the Act of 1932 has to some extent been based on the argument that the special Acts in Bengal are sufficient to meet this danger. But those who use that argument clearly overlook the facts that terrorism is not confined to Bengal and that without the continuance of sections 14 to 16 of the Act of 1932 the Bengal Government will have no effective control over the Press. In my considered opinion, the relaxation of the provisions dealing with the Press would very quickly undo the improvement effected in Bengal and would stimulate recruitment to the terrorist movement throughout India.

6. The avowed aim of communism in India is to bring about an armed revolution as quickly as possible "by the armed insurrection of the widest possible masses of the working class, the peasantry, and the revolutionary petty bourgeoisie". The dangers of this movement are not generally appreciated in this country because of its underground methods of working. But my Government have ample evidence of the determination with which its activities are being pursued and I am satisfied that it forms a very real, though possibly not an immediate, menace to the peace of the country.

7. The last danger is communal feeling. Within the last six months there have been serious riots due to this cause in places as far apart as Karachi and Secunderabad and also in the Agra district of the United Provinces, the Champaran district of Bihar and Orissa, the Rajshahi district of Bengal and in Lahore. At the present moment communal feeling in the Punjab is more tense

than officers with long experience of that province have ever known. In times of such feeling in India an uncontrolled Press is a most serious danger.

8. Much of the opposition to the Act has been due to the fact that no period has been set to its validity. In the form in which it was introduced it was a permanent measure and I retained that feature in the form in which I recommended the Bill. My main reason for doing so was that I find it at present impossible to foresee any reasonable period of time within which, at any rate, terrorism and communal unrest will not be a serious menace to the public peace. A further reason is that temporary legislation designed to counter subversive movements has this unsatisfactory feature, that it encourages the promoters of such movements to cherish the hope that the time will come when their unlawful activities can be resumed. It affords no inducement for them to abandon their schemes. I am also of the opinion that it is in the interests of the new provincial Governments that this Act should be on the statute-book in a permanent form. These Governments will, if they feel that this can safely be done, be in a position to withdraw some or all of the provisions of the Act, and on the other hand, if they feel that the provisions of the Act are essential for the tranquillity of their provinces, will not be placed in the difficult position at an early stage of the reformed constitution of having to face the unpopularity which befalls any Government which finds it necessary to pass legislation of this nature.

9. All Local Governments were consulted on every provision of this Bill. Their opinions have been forwarded to you by my Government, and you will no doubt have observed that they have given the provisions of the Bill practically unanimous support.

10. Copies of the Indian Press (Emergency Powers) Act, 1931, and the Criminal Law Amendment Act, 1932, are enclosed. Copies of the proceedings in both Houses of the Legislature have already been forwarded to you.

I have, etc.,

(Sd.) WILLINGDON.

ANNEXURE TO GOVERNOR-GENERAL'S DESPATCH OF THE 4TH OCTOBER, 1935, TO THE SECRETARY OF STATE FOR INDIA.

Extract from the Speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy on the 16th September, 1935.

On Thursday last the Legislative Assembly to the regret of my Government and myself refused by a majority to take into consideration the Bill to give permanence to the Indian Press (Emergency Powers) Act, 1931, and to certain provisions of the Criminal Law Amendment Act, 1932. I had hoped that the Assembly would share with Government the responsibility for this

measure. Their refusal to do so has transferred the responsibility to me and after taking time to consider all the implications of action or inaction on my part I have decided, in discharge of my responsibility for the safety, tranquillity and interests of British India, to give the Assembly an opportunity to reconsider their decision, and the Bill will be brought before that House again in a recommended form. The arguments for and against the Bill have already been discussed at great length on the floor of the Legislative Assembly, and I shall, therefore, state as briefly as possible my own reasons for considering the passage of the Bill to be essential. We are on the eve of important changes in the Constitution of India. Within the next two years the primary responsibility for the maintenance of peace and good government in the Provinces will be transferred to Ministries responsible to the Legislatures. I consider it my imperative duty to use such powers as I possess to secure that that transfer takes place in the most, favourable conditions possible to the stability and success of these new Governments. Dangerous subversive movements are still active in the country. Communal unrest as I have already said is unfortunately a more serious danger than for many years past. The experience of all Local Governments has been that the provisions of this Bill give them powers which are effective in keeping these movements in check and in preventing the publication of incitements to communal dissension. They are unanimous in considering the retention of these powers essential. I am myself satisfied that they are right and that I would be failing in my duty if I did not use my special powers to secure that these Governments have these powers during the remainder of the present Constitution and that the new Governments shall also have them when they take over the reins of Government.

No. 4.

FROM THE SECRETARY OF STATE FOR INDIA TO THE GOVERNOR-GENERAL, DATED 17TH OCTOBER, 1935.

Telegraphic.—I have received Your Excellency's despatch dated 4th October, and authentic copy of Criminal Law Amendment Act, 1935, to which you have signified your assent. I desire to assure you that the provisions of the Act and your action in respect of it have my full approval, and I am taking the further steps required in pursuance of section 67B, Government of India Act.

EAST INDIA (CRIME)

THE BURMA
CRIMINAL LAW AMENDMENT
(AMENDMENT) ACT, 1936

Passed under the procedure prescribed by
Section 72E of the Government
of India Act

INDIA OFFICE,
17th June, 1936

S. F. STEWART,
Under Secretary of State for India

Z438, 5

G6

*Presented pursuant to the Government of India Act
Section 72E (3)*

*Ordered by The House of Commons to be Printed
17th June 1936*

LONDON

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No. 1.

Whereas the Burma Legislative Council has refused to pass the Burma Criminal Law Amendment Bill (No. 1 of 1936), I recommend that the Bill should be passed in the form below, which is the form in which the Bill was originally introduced.

H. L. STEPHENSON,
Governor of Burma.

BURMA LEGISLATIVE COUNCIL.

BILL No. 1 OF 1936.

THE BURMA CRIMINAL LAW AMENDMENT
(AMENDMENT) BILL, 1936.

A Bill to amend the Burma Criminal Law Amendment Act, 1931.

Whereas it is expedient to amend the Burma Criminal Law Amendment Act, 1931; and whereas the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

Preamble.

Burma Act
III of 1931

It is hereby enacted as follows :—

1.—(1) This Act may be called the Burma Criminal Law Amendment (Amendment) Act, 1936.

Short title and commencement.

(2) It shall come into force on the 30th day of July, 1936.

2. In sub-section (4) of section 1 of the Burma Criminal Law Amendment Act, 1931, for the word " five " the word " ten " shall be substituted.

Amendment of section 1 of
Burma Act III of 1931.

Burma Act
III of 1931.

STATEMENT OF OBJECTS AND REASONS.

The Burma Criminal Law Amendment Act will lapse at the end of July and the Local Government considers that its extension is essential. The Act was originally passed to enable the Government to deal with the influx of Terrorists who had been driven out of Bengal and had established themselves in Burma where the absence of special legislation to deal with them left them free to collect arms for use in Bengal and to plan outrages to be carried out there. They were responsible for dacoities here to provide themselves with funds, and they initiated a strong propaganda campaign to convert the youth of Burma to the methods of Terrorism.

During its life of five years the Act has been successfully employed to check the influx of these dangerous criminals and there can be no doubt that our freedom from Terrorism is largely due to the judicious use of its provisions. Nevertheless the danger still exists. The Terrorist movement in Bengal has not been eradicated, and if the Burma Act is allowed to lapse the situation will be the same as in 1931. Within the last few months a serious plot to smuggle arms into Bengal was frustrated and those who were implicated were interned; their release would mean renewal of the Plots. The Act is directed against Indian criminals who use Burma as a base for the organization of crime and who attempt to corrupt the youth of Burma, and its use has been confined to people of this class. Their propaganda in the Schools and Colleges here would probably lead to Terrorism in Burma and an outbreak of this kind would be a most serious danger to the Government under the new constitution. The Local Government considers that it is necessary to extend the Act for a period of five years.

MAUNG BA,

Member in-Charge of the Bill.

Rangoon,

the 8th January, 1936.

I hereby certify that the Council has failed to pass this Bill in the form recommended by His Excellency the Governor.

CHIT HLAING,

President.

22nd February, 1936.

(True Copy.)

SAW HLA PRU,

*Secretary to the Government
of Burma, Judicial Dept.*

Under section 72E (1) of the Government of India Act, I certify that the passage of this Bill is essential for the discharge of my responsibility for the reserved subject of the Administration of Justice in Burma.

H. L. STEPHENSON,
Governor of Burma.

Rangoon,

23rd February, 1936.

BURMA LEGISLATIVE COUNCIL.

THE BURMA CRIMINAL LAW AMENDMENT
(AMENDMENT) ACT, 1936.

An Act to amend the Burma Criminal Law Amendment Act, 1931. Burma
Act III of
1931.

Whereas it is expedient to amend the Burma Criminal Law Amendment Act, 1931; and whereas

the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:—

1.—(1) This Act may be called the Burma Criminal Law Amendment (Amendment) Act, 1936.

(2) It shall come into force on the 30th day of July, 1936.

2. In sub-section (4) of section 1 of the Burma Criminal Law Amendment Act, 1931, for the word "five" the word "ten" shall be substituted. Burma
Act III of
1931.

H. L. STEPHENSON,
Governor of Burma.

Rangoon,

23rd February, 1936.

This Act was made by me as Governor under the provisions of section 72E of the Government of India Act.

H. L. STEPHENSON,
Governor of Burma.

Rangoon,

23rd February, 1936.

(True copy.)

SAW HLA PRU,
*Secretary to the Govt. of Burma,
Judicial Dept.*

In pursuance of the provisions of sub-section (2) of section 72E of the Government of India Act, I, Freeman Freeman-Thomas, Earl of Willingdon, hereby reserve for the signification of His Majesty's pleasure the Burma Criminal Law Amendment (Amendment) Act, 1936.

WILLINGDON,

Viceroy and Governor General.

New Delhi,

the 19th March, 1936.

An authentic copy.

G. H. SPENCE,

*Secretary to the Government of India,
Legislative Department.*

LEGISLATIVE DEPARTMENT.

No. 27 of 1936.

To

The Most Honourable the Marquess of Zetland, P.C., G.C.S.I.,
G.C.I.E.,

His Majesty's Secretary of State for India.

New Delhi, the 19th March, 1936.

Subject.—The Burma Criminal Law Amendment (Amendment)
Bill, 1936.

MY LORD MARQUESS,

I have the honour to invite your Lordship's attention to Mr. Wedgwood Benn's Despatch No. 28—Public, dated the 6th August, 1931, communicating the signification of assent by His Majesty in Council to the Burma Criminal Law Amendment Act, 1931. That Act was brought into force by notification under sub-section (2) of its own section 1 on the 31st July, 1931, and if sub-section (4) of section 1 were left to its operation it would be due to expire on the 31st July, 1936. Being of opinion, for the reasons set out in the Statement of Objects and Reasons, that it was necessary to extend the duration of the Act for a further period of five years, the Government of Burma introduced a Bill to secure this end. On the 15th February, 1936, the motion that the Bill be taken into consideration was moved by the Home Member and adopted by 30 votes to 24, but on the 17th February the motion that the Bill be passed was rejected by 44 votes to 33. On the 19th February His Excellency the Governor recommended to the Council that it should pass the Bill in the form in which it had previously been introduced and on the 22nd February the Home Member moved for leave to introduce the Bill in the form recommended. The Council refused leave by 37 votes to 32, and on the 23rd February His Excellency the Governor certified that the passage of the Bill was essential for the discharge of his responsibilities for the reserved subject of the Administration of Justice in Burma, with the result that the Bill became an Act of the local Legislature under the operation of sub-section (1) of section 72E of the Government of India Act and on the same day His Excellency endorsed upon the Act a statement that the Act had been made by him as Governor under the provisions of that section. In conformity with sub-section (2) of that section I have reserved the Act for the signification of His Majesty's pleasure and I have the honour to transmit herewith the

authentic copy of the Act together with the other documents specified in the list* of enclosures appended hereto. I have only to add that I am in complete agreement with His Excellency the Governor in considering that the passage of the Bill was essential for the discharge of his responsibilities.

I have the honour to be,

My Lord Marquess,

Your Lordship's most obedient, humble servant,

WILLINGDON.

No. 4.

*Telegram from Secretary of State to Government of India,
dated 28th April, 1936.*

Legislative Department. I have received Your Excellency's despatch dated 19th March, 1936, and authentic copy of Burma Criminal Law Amendment Act, 1936, which Your Excellency has reserved for the signification of His Majesty's pleasure. I desire to assure you that the provisions of the Act and the actions taken in respect of it by the Governor of Burma have my approval. I am taking the further steps required in pursuance of Section 72E of the Government of India Act.

* Not printed.

THE BURMA CRIMINAL LAW AMENDMENT
ACT, 1931.

BURMA ACT NO. III OF 1931.

(Made by the Governor of Burma under the provisions of section 72E of the Government of India Act. Received the assent of His Majesty signified by an Order of His Majesty in Council, which assent was notified by the Governor-General in the Gazette of India, Extraordinary, dated the 28th July, 1931.)

AN Act to Supplement the ordinary Criminal Law in Burma.

Whereas it is expedient to supplement the ordinary criminal law in Burma;

And whereas the previous sanction of the Governor-General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows :—

1.—(1) This Act may be called the Burma Criminal Law Amendment Act, 1931;

(2) It shall come into force on such date as the Local Government may, by notification in the *Burma Gazette*, direct;

(3) It extends to the whole of Burma; and

(4) It shall continue in force for five years from the date of its commencement.

2. In this Act, unless there is anything repugnant in the subject or context, "the Code" means the Code of Criminal Procedure, 1898.

3.—(1) The Local Government may, by order in writing, direct that any person accused of any offence specified in the First Schedule shall be tried by Commissioners appointed under this Act.

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but save as aforesaid an order under that sub-section may be made in respect of, or may include, any person accused of any offence specified in the First Schedule whether such offence was committed before or after the commencement of this Act.

Appoint-
ment and
qualifica-
tion of
Commis-
sioners.

4.—(1) Commissioners for the trial of persons under this Act shall be appointed by the Local Government.

(2) Such Commissioners may be appointed for the whole of Burma or for any part thereof, or for the trial of any particular accused person or persons.

(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who at the time of appointment under this section are serving as, and have for at least three years served as or exercised the powers of, Sessions Judges or Additional Sessions Judges, or are persons qualified under sub-section (3) of section 101 of the Government of India Act, for appointment as Judges of a High Court.

Procedure
of Commis-
sioners.

5.—(1) Commissioners appointed under this Act may take cognizance of offences without the accused being committed to them for trial, and in trying accused persons, shall record evidence in the manner prescribed in section 356 of the Code and shall, in other respects also, subject to this Act and to any rules made thereunder follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

(2) In the event of any difference of opinion among the Commissioners, the opinion of the majority shall prevail.

Powers of
Commis-
sioners.

6.—(1) The Commissioners may pass upon any person convicted by them any sentence authorised by law for the punishment of the offence of which such person is convicted.

(2) If in any trial under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence specified in the First Schedule, the Commissioners may convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

Application
of Code of
Criminal
Procedure
to Pro-
ceedings of
Commis-
sioners.

7. The provisions of the Code, so far only as they are not inconsistent with the provisions of, or the special procedure prescribed by or under, this Act shall apply to the proceedings of Commissioners appointed under this Act, and such Commissioners shall have all the powers conferred by the Code on a Court of Sessions exercising original jurisdiction.

Tender of
Pardon.

8.—(1) Commissioners trying an offence under this Act may, with a view to obtaining the evidence of any persons supposed to have been directly concerned in, or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned whether as principal or abettor in the commission thereof.

(2) Where, in the case of any offence for the trial of which by Commissioners an order has been made under sub-section (1) of section 3, a pardon has, before the passing of such order, been tendered to and accepted by any person under section 337 of the Code, the provisions of sub-sections (2) and (3) of that section of the Code shall apply as if the accused person had been committed for trial to the Commissioners.

(3) For the purposes of sections 339 and 339A of the Code pardons tendered under sub-section (1) and sub-section (2) shall be deemed respectively to have been tendered under sections 338 and 337 of the Code.

of 1872 9. Notwithstanding anything contained in the Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. Special rule of Evidence.

10. The Local Government may, by notification in the *Burma Gazette*, make rules consistent with this Act to provide for all or any of the following matters, namely :— Rule-making powers of Local Government.

- (i) the times and places at which Commissioners appointed under this Act may sit;
- (ii) the procedure of such Commissioners, including the appointment and powers of their President, and the procedure to be adopted in the event of any Commissioner being prevented from attending throughout the trial of any accused person;
- (iii) the conduct of and the procedure at trials, the manner in which prosecutions before such Commissioners shall be conducted and the appointment and powers of persons conducting such prosecution;
- (iv) the execution of sentences passed by such Commissioners;
- (v) the temporary custody or release on bail of persons referred to or included in any order made under sub-section (1) of section 3, and the transmission of records to the Commissioners; and
- (vi) any matter which appears to the Local Government to be necessary for carrying into effect the provisions of this Act relating or ancillary to trials before Commissioners.

11.—(1) Any person convicted on a trial held by Commissioners under this Act may appeal to the High Court of Judicature at Rangoon, and such appeal shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code. Appeals and Confirmations.

(2) When the Commissioners pass a sentence of death, the record of the proceedings before them shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise, in respect of such proceedings, all the powers conferred on the High Court by Chapter XXVII of the Code.

Power of
Local
Government
to deal with
certain
suspects.

12—(1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person—

- (i) has acted, is acting or is about to act in contravention of the provisions of the Indian Arms Act, 1878, or of the Explosive Substances Act, 1908; or 11 of
1878.
- (ii) has committed, is committing or is about to commit any offence specified in the Second Schedule; or 6 of 19
- (iii) has acted, is acting or is about to act with a view to interfere by violence or by threat of violence with the administration of justice;

the Local Government, if it is satisfied that such person is a member, or is being controlled or instigated by a member of any association of which the objects or methods include the doing of any of such acts or the commission of any such offences, may, by order in writing, give all or any of the following directions; namely, that such person—

- (a) shall notify his residence and any change of residence to such authority as may be specified in the order;
- (b) shall report himself to the police in such manner and at such period as may be so specified;
- (c) shall conduct himself in such manner or abstain from such acts as may be so specified;
- (d) shall reside or remain in any area so specified;
- (e) shall not enter, reside in, or remain in any area so specified;
- (f) shall be committed to custody in jail;

and may at any time add to, amend, vary or rescind any order made under this section.

(2) The Local Government in its order under sub-section (1) may direct—

- (a) the arrest without warrant of the person in respect of whom the order is made at any place where he may be found by any police officer or by any officer of Government to whom the order may be directed or endorsed by or under the general or special authority of the Local Government;
- (b) the search of any place specified in the order which in the opinion of the Local Government has been, is being, or is about to be used by such person, for the purpose of doing any act, or committing any offence, of the nature described in sub-section (1).

13. An order made under sub-section (1) of section 12 shall be served on the person in respect of whom it is made in the manner provided in the Code for service of a summons, and upon such service such person shall be deemed to have had due notice thereof.

14.—(1) Any officer of Government authorised in this behalf by general or special order of the Local Government may arrest without warrant any person against whom a reasonable suspicion exists that he is a person in respect of whom an order might lawfully be made under sub-section (1) of section 12.

(2) Any officer exercising the power conferred by sub-section (1) may, at the time of making the arrest, search any place and seize any property which is, or is reasonably suspected of being, used by such person for the purpose of doing any act, or committing any offence, of the nature described in sub-section (1) of section 12.

(3) Any officer making an arrest under sub-section (1) shall forthwith report the fact to the Local Government, and may, by order in writing, commit any person so arrested to custody pending receipt of the orders of the Local Government; and the Local Government may by general or special order specify the custody to which such person shall be committed :

Provided that no person shall be detained in custody under this section for a period exceeding fifteen days save under a special order of the Local Government, and no person shall in any case be detained in custody under this section for a period exceeding one month.

15.—(1) The Local Government and every officer of Government to whom any copy of any order made under section 12 has been directed or endorsed by or under the general or special authority of the Local Government may use any and every means necessary to enforce compliance with such order.

(2) Any officer exercising any of the powers conferred by section 14 may use any and every means necessary to the full exercise of such powers.

16. Whoever, being a person in respect of whom an order has been made under sub-section (1) of section 12, knowingly disobeys any direction in such order, shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

17.—(1) Every person in respect of whom an order has been made under sub-section (1) of section 12 shall, if so directed by any officer authorised in this behalf by general or special order of the Local Government,—

- (a) permit himself to be photographed;
- (b) allow his finger impressions to be taken;

Service of orders under section 12.

Power to arrest without warrant.

Enforcement of orders.

Penalty for breach of order under section 12.

Power of photographing, etc., persons in respect of whom order has been made under section 12.

(c) furnish such officer with specimens of his handwriting and signature;

(d) attend at such times and places as such officer may direct for all or any of the foregoing purposes.

(2) If any person fails to comply with or attempts to avoid any direction given in accordance with the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Powers of search.

18. The power to issue search warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence specified in the First Schedule has been, is being, or is about to be committed and the seizure of anything found therein or thereon which the officer executing the warrant has reason to believe has been, is being, or is intended to be, used, for the commission of any such offence; and the provisions of the Code, so far as they can be made applicable, shall apply to searches made under the authority of any warrant issued under this section, and to the disposal of any property seized in any such search; and an order for search issued by the Local Government under sub-section (2) of section 12 shall be deemed to be a search warrant issued by the District Magistrate having jurisdiction in the place specified therein, and may be executed by the person to whom the order is addressed in the manner provided in this section.

Scrutiny of case by two Judges.

19.—(1) Within one month from the date of an order by the Local Government under sub-section (1) of section 12, the Local Government shall place before two persons, who shall be either Sessions Judges or Additional Sessions Judges having, in either case, exercised for at least five years the powers of a Sessions Judge, or Additional Sessions Judge, the material facts and circumstances in its possession on which the order has been based or which are relevant to the inquiry, together with any such facts and circumstances relating to the case which may have subsequently come into its possession, and a statement of the allegations against the person in respect of whom the order has been made and his answers to them, if furnished by him. The said Judges shall consider the said material facts and circumstances and the allegations and answers and shall report to the Local Government whether or not in their opinion there is lawful and sufficient cause for the order.

(2) On receipt on the said report, the Local Government shall consider the same and shall pass such order thereon as appears to the Local Government to be just or proper.

(3) Nothing in this section shall entitle any person against whom an order has been made under sub-section (1) of section 12 to attend in person or to appear by pleader in any matter connected with the reference to the said Judges, and the proceedings and report of the said Judges shall be confidential.

20.—(1) When an order under sub-section (1) of section 12 has been made against a person, the Local Government may at any time, without conditions or upon any conditions which such person accepts, direct the suspension or cancellation of such order.

Power to suspend operation of orders under section 12.

(2) If any condition on which an order has been suspended or cancelled is in the opinion of the Local Government not fulfilled, the Local Government may revoke the suspension or cancellation, and thereupon the person in whose favour such suspension or cancellation was made may, if at large, be arrested by any police officer without warrant, and the order under sub-section (1) of section 12 shall be deemed to be in full force.

(3) If the conditions on which such suspension or cancellation has been made include the execution of a bond with or without sureties, the Local Government may at once proceed to recover the penalty of such bond.

(4) A Magistrate of the first class shall in default of payment of such penalty issue, on application made in this behalf by an officer of the Local Government specially empowered, a warrant for the attachment and sale of the moveable property belonging to the defaulter or his estate if he be dead. On the issue of such warrant the provisions of sub-sections (3) and (4) of section 514 of the Code shall apply to such recovery.

21.—(1) The Local Government shall, by order in writing, appoint such persons as it thinks fit to constitute Visiting Committees for the purposes of this Act, and shall by rules prescribe the functions which these Committees shall exercise.

Visiting Committees.

(2) Such rule shall provide for periodical visits to persons under restraint by reason of an order made under sub-section (1) of section 12.

(3) No person in respect of whom any such order has been made requiring him to notify his residence or change of residence or to report himself to the police or to abstain from any specified act, shall be deemed to be under restraint for the purpose of sub-section (2).

22. The Local Government shall make to every person, who is placed under restraint by reason of an order made under sub-section (1) of section 12, a monthly allowance for his support of such amount as is, in the opinion of the Local Government

Allowances to persons under restraint and their dependants.

adequate for the supply of his wants, and shall also make to his family, if any, and to such of his near relatives, if any, as are in the opinion of the Local Government dependent on him for support, an allowance for the supply of their wants suitable in the opinion of the Local Government to their rank in life.

Explanation.—In this section the expression “under restraint” has the same meaning as in section 21.

Power to make rules. 23. The Local Government may make rules providing for the procedure to be followed regarding the notification of residence and report to the police by persons in respect of whom orders have been made under section 12, and for the place and manner of custody of all persons arrested or committed to or detained in custody under this Act.

Publication of rules. 24. All rules made under this Act shall be published in the *Burma Gazette*, and on such publication shall have effect as if enacted in this Act.

Bar to suits, prosecutions and other legal proceedings. 25. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act, and the powers conferred by section 491 of the Code shall not be exercised in respect of any person arrested, committed to or detained in custody under this Act.

Effect of the Act. 26. Where, prior to the commencement of this Act, anything has been done, or any action has been taken under the provisions of the Burma Criminal Law Amendment Ordinance, 1931, which thing or action might have been done or taken under the provisions herein enacted had this Act commenced on the 31st day of January, 1931, such thing or action shall be deemed to have been done or taken under the provisions of this Act, and every consequence which would have ensued if this Act had commenced as aforesaid, and such thing or action had been done or taken thereunder, shall thereupon ensue in all respects as if this Act had so commenced and such thing or action had been so done or taken.

Repeal. 27. The Burma Criminal Law Amendment Ordinance, 1931, is hereby repealed.

Ordinance
of 1931

Ordinance
of 1931

THE FIRST SCHEDULE.

(See SECTIONS 3 AND 6.)

Any of the following offences, if in the opinion of the Local Government there are reasonable grounds for believing that such offence has been committed by a member, or a person controlled or instigated by a member, of any association of which the objects or methods include the commission of any of such offences, namely:—

- 5 of 1860. (a) any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 148, 302, 304, 326, 327, 329, 332, 333, 335, 386, 387, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 454, 455, 457, 458, 459, 460 and 506;
- of 1908. (b) any offence under the Explosive Substances Act, 1908;
- 1 of 1878. (c) any offence under the Indian Arms Act, 1878;
- (d) any attempt or conspiracy to commit, or any abetment of, any of the above offences.

THE SECOND SCHEDULE.

(See SECTION 12.)

- 5 of 1860. (1) Any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 148, 302, 304, 326, 327, 329, 332, 333, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 457 and 506.
- (2) Any attempt or conspiracy to commit, or any abetment of, any of the above offences.

CHECKED
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