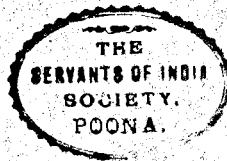


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REPORT
OF
THE COMMITTEE ON DIVISION
OF FUNCTIONS

1918—1919



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SUPERINTENDENT GOVERNMENT PRINTING, INDIA
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THE COMMITTEE ON DIVISION OF FUNCTIONS

1918—1919

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Mr. H. L. STEPHENSON, C.I.E., I.C.S.

Mr. J. P. THOMPSON, I.C.S.

Mr. J. D. V. HODGE, I.C.S., (*Secretary.*)

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COMMITTEE ON DIVISION OF FUNCTIONS.

To

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

YOUR EXCELLENCY,

IN accordance with the directions of the Right Hon'ble the Secretary of State for India we have the honour to forward to Your Excellency, for submission to the Secretary of State, our report on questions connected with the division of functions between the central and provincial Governments, and in the provincial Governments between the Executive Council and Ministers.

2. The terms of reference to us were as follows :—

I. The Committee will be guided by the principles enumerated in paragraphs 212, 213, 238, 239 and 240 and will also take into consideration the illustrative lists contained in appendix II of the Report.

II. With a view to giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India, which is compatible with the due discharge by the latter of their own responsibilities, the Committee will advise as to—

- (1) the functions which should be discharged by the provincial Governments (paragraph 238) ;
- (2) the powers of control which should be retained by the Government of India in relation to the provincial subjects, in order to secure the discharge of their own responsibilities, and the grounds on which and the manner in which these powers should be exercised (paragraphs 213 and 240).

III. The Committee will further advise as to :—

- (1) which of the functions to be discharged by provincial Governments can be transferred at the outset in each province to the charge of Ministers (paragraph 238) ;
- (2) the powers which should be exercised by the Governor in Council in relation to transferred subjects and the grounds on which and the manner in which these powers should be exercised (paragraph 240).

3. Our Report falls into the following sections :—

Section I.—Introductory.

Section II.—Provincial Functions and Relations between the Provinces and the Government of India.

Part 1.—Provincial Functions.

Part 2.—Powers of control by the Government of India in relation to Provincial Subjects.

Part 3.—Lists of All-India and Provincial Subjects.

Section III.—Transfer of Functions to the charge of Ministers, and Powers of Governor in Council in relation to Transferred Subjects.

Part 1.—Transfer of Functions.

Part 2.—Powers of the Governor in Council in relation to Transferred Subjects.

Part 3.—List of Transferred Subjects.

Section IV.—Public Services.

Section V.—Finance.

Section VI.—Conclusion.

It should be noted that it has been found more convenient to treat the various questions arising under both the second and third clauses of the reference with regard to the Public Services and Finance in Sections specially devoted to those two subjects.

Section I.—Introductory.

4. Our first meeting was held at Simla on the 8th November, and after preliminary discussions, including informal interviews with two Members of the Government of India, there and at Delhi, we started on our tour through the country on the 16th. We visited Patna, Lucknow, Lahore, Nagpur, and Calcutta before Christmas, and examined the official and non-official witnesses from Bihar and Orissa, the United Provinces, the Punjab, the Central Provinces and Berar and Assam. After Christmas we re-assembled in Calcutta on January 2nd, and heard the Bengal evidence. From Calcutta we moved on to Madras, and thence to Bombay; returning to Delhi on February 3rd. Burma we did not visit, as it was excluded from the scope of our enquiries. Besides hearing witnesses from the various provinces we were able to examine several officers who serve directly under the Government of India. The final discussions were held after our return to Delhi, between the 3rd and the 26th February. On the latter date our Report was signed.

While on tour, we held sittings on 68 days in all, and we sat as a rule between six and seven hours a day. The sittings and the examination of witnesses were conducted privately. The names of the witnesses and (in the case of representative witnesses) the names of the associations which they represented are set forth in Annexure no. VII. A record of their evidence, together with a record of the material prepared for our assistance by the provincial Governments, has been deposited with the Home Department of the Government of India. Reference is made in later paragraphs to the Memoranda received from the Government of India and the proposals formulated by local Governments.

5. At the outset we suffered a great loss owing to the death of our colleague, the Hon'ble Mr. H. F. W. Gillman, C.S.I., I.C.S., Member of the Executive Council of the Governor of Madras. We realise that his wide administrative experience would have been of the greatest help to us. The Madras officer (Mr. M. E. Couchman) who was selected to take his place was unable to join us until we had completed our tour in Bihar and Orissa, the United Provinces and the Punjab.

6. In examining the case of each province we received the help of two added members appointed by the respective local Governments with a view to the adequate representation of local conditions. Except in the case of Bengal, where the gentlemen nominated by Government were both non-officials, one added member in each province was an official and the other a non-official. We desire to take this opportunity of expressing our obligations to our added members (whose names are given in Annexure VI) for the great assistance they have given us. Not only did they take a share in the examination of witnesses and in the deliberations on the peculiar circumstances of their own provinces, but in several cases they also supplied us with valuable written statements of their views. We further received important assistance from Sir Prabhashankar Pattani, K.C.I.E., and Mr. G. Rainy, C.I.E., I.C.S., who were appointed to join our deliberations at Delhi when we were examining questions affecting the Government of India.

7. It is laid down in our reference that we are to be guided by the principles enunciated in certain paragraphs of the Joint Report of Your Excellency and the Secretary of State on Indian Constitutional Reforms which have a special bearing upon the questions referred to us. The paragraphs in question are 212, 213, 238, 239 and 240. We have given careful consideration to these paragraphs, and frequent references to them will be found in our Report. There are many other passages of the Joint Report which directly affect the

questions with which we have to deal, and our Report must be read with reference to, and in the light of, the Joint Report as a whole and the constitutional scheme of which it lays down the general lines

8. Some preliminary definition of terms is required. We have used the word 'Imperial' in reference only to His Majesty's Government and the Parliament of the United Kingdom. We have used the term "Indian" for the purpose of references to the Government of India and the Indian legislature, as distinct from the provincial Governments and legislatures. It has been found convenient to state many of our proposals in what may perhaps be described as statutory form, but we wish it to be understood that we have done this for the sake only of clear statement, and not with a view to assuming the functions of the Parliamentary draftsman or to deciding questions as to the precise legal machinery to be employed for giving effect to our proposals.

Section II.—Provincial Functions and Relations between the Provinces and the Government of India.

PART I.—PROVINCIAL FUNCTIONS.

9. Our duty, as stated in clause II of the reference, is to advise as to the functions of the provincial Governments and as to the control to be retained by the Government of India in relation to provincial subjects 'in order to secure the discharge of their own responsibilities.' For the purpose of defining the relations between the central and provincial Governments, as we are thus required to do, we have found it essential to examine not only what subjects should be comprised in the list of provincial subjects, but also what are the subjects for which the responsibility must remain with the Government of India. It has thus become necessary to prepare two lists showing:—

- (i) All-India subjects,
- (ii) Provincial subjects.

These lists are attached to this Section of the Report.

10. In the preparation of these lists we have been guided by paragraph 238 of the Joint Report from which the following passage may be quoted:—

"The Committee's first business will be to consider what are the services to be appropriated to the provinces, all others remaining with the Government of India. We suggest that it will find that some matters are of wholly provincial concern, and that others are primarily provincial, but that in respect of them some statutory restrictions upon the discretion of provincial Governments may be necessary. Other matters again may be provincial in character so far as administration goes, while there may be good reasons for keeping the right of legislation in respect of them in the hands of the Government of India."

11. In considering the questions arising in connection with the preparation of these lists, we have had the assistance of a Memorandum received from the Government of India on the general subject of Division of Functions, which forms an annexure to this Report (Annexure II). The following passages may be quoted from this Memorandum:—

"7. There are certain subjects which are at present under the direct administration of the Government of India. The Government of India maintain separate staffs for their administration and the provincial Governments have no share in it. The category is easily recognisable, and for the most part there will not be much room for doubt as to the subjects to be included in it. At the other end of the line are matters of predominantly local interest which, however much conditions may vary between provinces, will generally speaking be recognised as proper subjects for provincialisation.

"8. Between these extreme categories, however, lies a large indeterminate field which requires further examination before the principles determining its classification can be settled. It comprises all the matters in which the Government of India at present retain ultimate control, legislative and administrative, but in practice share the actual administration in varying degrees with the provincial Governments. In many cases the extent of delegation practised is already very wide. The criterion which the Government of India apply to these is whether in any given case the provincial Governments are to be strictly the agents of the Government of India, or are to have (subject to what is said below as to the reservation of

powers of intervention) acknowledged authority of their own. In applying this criterion the main determining factor will be, not the degree of delegation already practised, which may depend on mere convenience, but the consideration whether the interests of India as a whole (or at all events interests larger than those of one province) or on the other hand the interests of the province essentially preponderate.

"The point is that delegation to an agent may be already extensive, but that circumstance should not obscure the fact of agency or lead to the agent being regarded as having inherent powers of his own."

The Memorandum proceeds to state that applying the principle above laid down "the Government of India hold that where extra-provincial interests predominate the subject should be treated as central," while "on the other hand, all subjects in which the interests of the provinces essentially predominate should be provincial, and in respect of these the provincial Governments will have acknowledged authority of their own."

12. We recognise the distinction above drawn between the two classes of functions discharged by provincial Governments—(1) Agency functions in relation to All-India subjects and (2) Provincial functions properly so called. The distinguishing feature of the work done in discharge of agency functions is that it relates to subjects in which All-India interests so far predominate that full ultimate control must remain with the Government of India, and that, whatever the extent of the authority in such matters for the time being delegated by the Government of India to the provinces as their agents, it must always be open to the Government of India to vary the authority and, if need be, even to withdraw the authority altogether. Provincial functions relate to subjects in which, to use the words of the Government of India Memorandum, "the interests of the provinces essentially predominate", and in which provincial Governments are therefore to have "acknowledged authority of their own." We recognise the difficulty of stating the matter in more precise terms. Circumstances, and the experience gained in the working of the existing local Governments, have largely decided in practice what subjects must fall in the provincial class; but the general subordination of local Governments to the Government of India under the terms of the Government of India Act, and centralization in finance, have in the past tended to obscure the actual dividing line between All-India and provincial subjects, which also governs the separation in the provinces of agency from provincial functions.

13 In considering what subjects should be classed as provincial subjects, we have, in accordance with the suggestion of paragraph 238, used the first illustrative list to the Report as the starting point for our deliberations. This list has also been treated by most provincial Governments as affording the basis for their own proposals. The Government of India have not themselves put forward any definite proposal as to how the classification of subjects should be worked out on the lines laid down in their Memorandum, and the provincial proposals under this head were mainly confined to discussing the limits of the authority to be exercised in future by the Government of India, in relation to the subjects included in this first illustrative list, and did not in any case include an attempt to make a general and complete classification as between the central and provincial Governments. It has therefore been left to us to attempt this task, on the basis of the general proposals contained in the Report, and of the material at our disposal, consisting of the Memoranda from the Government of India, the schemes and Memoranda of the different provincial Governments and the evidence which we have received. We are fully conscious of the difficulties of making such a complete classification of the functions of Government as these lists represent, and we put them forward with the reservations necessary in dealing with a subject so various and so complicated. Their purpose is to lay down the main lines of division. They will, no doubt require and receive careful examination by the different Governments concerned as regards their bearing on the detailed work of administration.

14. Certain broad considerations governing the preparation of the lists of All-India and provincial subjects have to be stated :—

- (1) We have proceeded on the basis that there is to be no such statutory demarcation of powers between the central and provincial legislatures as to leave the validity of Acts passed to be challenged in

the Courts, on the ground of their being in excess of the powers of the legislature by which they are passed. We do not propose any alteration in the essential feature of the existing system of legislation in British India, which is that, save for certain special powers entrusted to the Indian legislature under section 65 of the Government of India Act, the Indian legislature as regards British India, and each of the provincial legislatures as regards its own province, have in theory concurrent jurisdiction over the whole legislative field. In fact the powers of provincial legislatures are much restricted owing to the rule, depending in some cases on statute and in other cases on executive order, that provincial Bills require the previous sanction of the Governor-General or the Government of India before introduction, but the validity of a provincial Act duly passed and assented to cannot be challenged on the ground that previous sanction has not been given.

- (2) In accordance with the suggestion made in paragraph 238, many provincial subjects are stated in the provincial list to be "subject to Indian legislation" either in whole or in part. The effect of this limitation is—with regard to Indian powers, that legislation on that subject, in whole or in part, and any powers reserved thereunder to the Governor-General in Council are recognized as an All-India subject—and with regard to provincial powers, not that the province cannot legislate on the subject at all, but that, in so far as the limitation operates, it cannot legislate except with the previous sanction of the Governor-General.
- (3) In framing the lists we have treated as All-India subjects, and committed therefore to the Government of India and the Indian legislature, certain large general heads, such for instance as Commerce, and Laws regarding property, but have taken out of these, and allotted to the provinces, important sections, *e.g.*, in the case of the first, Excise, and, in the case of the second, Laws regarding land tenure. As stated in the rules of interpretation applied to the lists, any matter included in the provincial list is, to the extent of such inclusion, to be deemed to be excluded from any All-India subject of which otherwise it would form part. Subjects not expressly included in either list are regarded as All-India subjects (All-India list, no. 40), but it is left open to the Governor-General in Council to add to the provincial list "matters of merely local or private interest within the province" (Provincial List, no. 47).
- (4) Experience elsewhere has abundantly shown the difficulties involved in working out such a scheme of classification and making it complete, and has proved how impossible it is to forecast beforehand the actual results in practice of the division made. It must, however, be remembered that in this case we are not attempting a division of powers which will be subject to test in the Courts, and we can therefore with greater confidence leave the effect of the division proposed to be worked out in the course of legislative and administrative practice in the light of accepted general principles. Our scheme has been devised on such a basis as to leave the way open for this process of development.

15. We have included in the lists of All-India and provincial subjects notes of an explanatory character, but the proposals made as to the division of functions between the Government of India and the provincial Governments in certain subjects involve some points of such importance as to require special mention here.

(1) *Education*.—We have included Education in the provincial list "subject to Indian legislation controlling the establishment and regulating the constitutions and functions of new universities," and have provided that among the classes of provincial legislation which the Governor will

be required to reserve for the consideration of the Governor-General shall be legislation regulating the constitution and functions of any university unless such legislation has been subject to previous sanction [*vide* paragraph 36 (3)]. The effect of these two proposals will be that (a) apart from powers conferred by future Indian legislation on the provinces, provincial legislation with regard to the establishment, constitution and functions of new universities will be subject to previous sanction, and (b) a provincial Legislative Council will be competent to legislate, subject to reservation but without previous sanction, for the purpose of amending the constitution and functions of any university now existing within the province. In recommending that legislation by a province as to the establishment, constitution and functions of a new university shall be subject to previous sanction, and that the control of legislation as to new universities shall thus, in effect, be placed in the hands of the Indian legislature, we have been influenced by the views of the Calcutta University Commission, which have been communicated to us in advance of the publication of the Commission's report. It is not for us to advise as to the form of such legislation, but we make our recommendation on the assumption that means will be found of giving this legislation such an elastic character as to facilitate university development according to the varying needs and conditions of the different provinces.

The special circumstances of Bengal, and the fact that the Calcutta University Commission have been enquiring into and are about to report on higher education in Bengal, render it necessary to make separate provisions regarding that province. If it is decided to give effect to the recommendations contained in the report of the Commission legislation will be required—

- (i) as to the constitution and functions of the University of Calcutta,
- (ii) as to the control of secondary education in Bengal and the establishment of a Board of Intermediate and Secondary Education,
- (iii) as to the establishment, constitution and functions of the new University of Dacca.

The third point is already covered by the proposed provision for the control by the Indian legislature over the establishment and constitution of new universities, but, as regards the other two points, we recommend that legislation in Bengal with regard to the Calcutta University and with regard to the control and organisation of secondary education, shall be subject to previous sanction for a period of five years from the date when the reforms scheme comes into operation. This will give time to the Indian legislature to pass, if it sees fit to do so, the legislation required to give effect to the Report of the Calcutta University Commission, and will secure such legislation against premature amendment.

(2) *Railways*.—As regards Railways we have been impressed with the evident strength of the desire in many provinces to develop light and feeder railways. There is a general feeling that such development is unduly hampered under existing conditions. This feeling is particularly strong in Madras, where several local authorities have given proof of their keenness on the subject by levying for years a cess for railways the construction of which has not even been sanctioned. We have tried therefore, while conserving the essential interests of the Railway Board as controller of the railway communications of India and guardian of the rights of existing railways, and the ultimate veto of the Government of India, to give to the provincial Legislative Councils a power of initiative in legislation which will give scope to local enterprise. We recommend that local authorities or private corporations should be allowed to introduce Bills for the construction of light and feeder railways in the provincial Councils. But we suggest that provision should be made by standing orders of each provincial Council requiring that, before any Bill providing for construction and management of a light or feeder railway is introduced in the Council, sufficient notice of the proposals contained in such Bill shall be given to the Railway Board, and to such other parties as may be prescribed, and that the Bill shall be referred after introduction to a Select Committee of the Council with power to hear evidence, and shall be dealt with by procedure similar to that applied to private Bills under British Parliamentary practice; and we further

propose that any such Bill shall, after being passed by the provincial Council, be reserved for the consideration of the Governor-General, in accordance with the proposals contained in paragraph 36.

(3) *Ports and Waterways.*—The question of the control of ports and waterways presents certain special features. At present both are administered under the immediate control of the local Governments, but it is obvious that the development and control of ports is very closely connected with the regulation of shipping, which we have assigned as an All-India subject, and has certain aspects which are not only of Indian but also of Imperial importance. The larger inland waterways also are of interest to India as a whole, and may be injuriously affected in one province by action or neglect in another; they also have a most important bearing on the question of railway development. There has been much discussion on the subject, especially in Bengal, where a proposal for a Waterways Trust has been steadily advocated, and the Bengal Government have recommended that if such a Trust is constituted it should be directly under the control of the Government of India. No definite scheme for such central control has been laid before the Committee, but we consider it desirable to leave the way open for the adoption of such a scheme, and have therefore made provision in the All-India and provincial lists which will enable the Government of India to take over direct control of ports and inland waterways to such an extent as may hereafter be thought expedient.

(4) *Religious and Charitable Endowments.*—The question of Religious and Charitable Endowments has been under more or less constant discussion since the Act of 1863 was passed. In the circumstances of India, it seems impossible to deal separately with the two classes of endowments, and the increasing desire for the effective supervision of endowments has been checked by the fear of affecting religious rites and usages. Our proposals under the head of legislative control provide that all provincial legislation affecting the religion or religious rites or usages of any class of British subjects in British India shall be excluded from the class of Bills requiring previous sanction, but shall be reserved for the consideration of the Governor-General [*vide* paragraph 36 (3)], and the object of these proposals, and of including religious and charitable endowments in the list of provincial subjects, is to leave it open to the provincial legislatures to seek a solution of the difficulties that surround the question.

PART 2.—POWERS OF CONTROL BY THE GOVERNMENT OF INDIA IN RELATION TO PROVINCIAL SUBJECTS.

General principles.

16. Under this head arises a question which is inseparable from those which have to be considered in framing the lists of All-India and provincial subjects, namely, what is to be the effect as regards provincial powers of putting a subject in the provincial list? Or in other words, what is to be the extent of the "acknowledged authority" of the province in relation to provincial subjects? In the Memorandum already referred to (Annexure II) the Government of India have given an indication of their views on this question. The following passage may be quoted from paragraph 11 of the memorandum :—

"Among provincial subjects some will be transferred. Taking the case of these first the Government of India think that the exercise of the central Government's power to intervene in provincial subjects should be specifically restricted to the following purposes :—

- (i) to safeguard the administration of Government of India subjects;
- (ii) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province;
- (iii) to safeguard the public services to an extent which will be further determined subsequently;
- (iv) to decide questions which affect more than one province.

So far as legislation is concerned the Government of India think that the exercise of the legislative powers of the central Government should be by convention restricted in the manner proposed in paragraph 212 to the above-named grounds."

This proposal is qualified by the statement that it should be regarded as relating to control which is not based on financial considerations. To the question of financial control we refer later.

17. Our view as to the four purposes for which it is proposed to retain power to intervene in transferred subjects may be briefly stated. As to the first, it is clearly necessary for the Government of India to retain power to safeguard the administration of its own subjects, which we have called "All-India subjects." It is also necessary for the Government of India to retain power to intervene to decide questions in dispute between provinces; but we should prefer to see the fourth purpose expressed in terms less wide than those proposed, and it should, we think, be made clear that the provinces are to have an opportunity of settling for themselves any matter in dispute affecting a provincial subject before the Government of India exercise their power to intervene. We suggest therefore that the fourth purpose should be stated as follows :—

"To decide questions arising between two or more provinces, failing agreement between the provinces concerned."

With regard to the second purpose, we feel that acceptance of the purpose of securing uniformity of legislation stated in these wide terms would make it difficult, if not impossible, for any convention to come into existence limiting the interference of the Indian legislature in provincial subjects. We have, therefore, in our list of provincial subjects, and in our proposals with regard to the legislative powers of the provinces, endeavoured to provide specifically for cases where the need for uniformity of legislation must be recognized, and we have thus, we believe, made the reservation of this general power unnecessary. Where, under our proposals, power has been reserved to the Indian legislature to legislate, we have, as already stated, treated the power so reserved as an All-India subject.

With regard to the third purpose, safeguarding the public services, our proposals on this subject are set out in the Section which deals with the public services. To the extent to which control is to be reserved by the Government of India and the Indian legislature, the public services will be an All-India subject. These proposals as to legislation and the public services enable us therefore to reduce the number of the purposes for which the Government of India and the Indian Legislature should retain power to intervene in transferred subjects to two, which may be stated as follows :—

- (1) To safeguard the administration of All-India subjects.
- (2) To decide questions arising between two or more provinces, failing agreement between the provinces concerned.

18. In the case of provincial subjects which are reserved, the Memorandum (Annexure II), after stating that the Government of India look forward in future to very different relations between the central and provincial Governments, even in reserved subjects, from those which have obtained in the past, proceeds as follows :—

"Nevertheless, as they have already said, the Government of India accept the principle laid down in paragraph 213 that an official government which is not subject to popular control cannot properly be legally exempted from superior official control. Bearing in mind the further fundamental principle that, saving its responsibility to Parliament, the central Government must retain indisputable authority in essential matters, and also the practical danger that the specification of certain grounds for the exercise of powers of control may be taken to imply the exclusion of others, they hold that it would be unwise to lay down any specific limitations upon their legal powers of interference with provincial Governments in reserved subjects. In respect of these therefore they propose no amendment of section 45 of the Government of India Act."

The paragraph then proceeds to give an indication of the Government of India's views as to the purposes for which their control in regard to reserved subjects will generally be exercised in future, but it is made clear that this expression of their views is not intended to serve as the basis of any formal limitation of their legal powers.

19. We think there is great weight in the considerations urged against the plan of making, in the case of reserved subjects, any such list of purposes of

intervention by the Government of India as is proposed in the case of transferred subjects, and thus imposing a specific restriction on the Government of India's general powers of control. At the same time we feel that the effect of the important distinction between agency and provincial functions should receive formal recognition; otherwise the absolute powers of control reserved to the Government of India under sections 33 and 45 of the Government of India Act will apply equally to both sets of functions, except in so far as provincial subjects are transferred, and, apart from transfer, there will be no formal distinction between the delegation of authority to the province as an agent in relation to all-India subjects and the process of devolution whereby it is intended that the province should obtain an acknowledged authority of its own as regards provincial subjects. Failure to recognize this distinction, except in the case of transferred subjects, is bound to be a source of difficulty and confusion in the relations between central and provincial Governments, and between the provincial Governments and their own legislatures, and appears to us to be inconsistent with the policy laid down in the Joint Report.

20. In this connection we would refer to the opening words of clause II of our reference, which enjoin us to keep in view the object of giving to the provinces "the largest measure of independence, legislative, administrative and financial, of the Government of India, which is compatible with the due discharge by the latter of their own responsibilities", and also to the second formula contained in paragraph 189 of the Joint Report, from which these words are taken. This formula runs as follows:—

"The provinces are the domain in which the earlier steps towards the progressive realization of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities."

It will be observed that this formula links together the two questions of provincial independence of the Government of India and growth of responsible government in the province. Subsequent paragraphs of the Joint Report make it clear that, though the Governor in Council remains primarily responsible for provincial reserved subjects, the provincial Legislative Councils are, from the outset, to be directly concerned in these subjects. They are to legislate with regard to them, they are to discuss and deal with the budget which contains provision for them and they are to have Standing Committees which will bring some of their members into immediate touch with their administration. Though special procedure is to be provided by which to secure legislation and to obtain funds for reserved subjects, where the proposals of the Governor in Council do not meet with the approval of the Legislative Council, it may be assumed that a Governor in Council will not resort to this special procedure if he can reasonably avoid it.

21. It appears to be clear therefore that the sphere of influence of the new provincial Councils will extend beyond the actual area of the transferred subjects. The initiative with regard to the reserved subjects will rest with the Governor in Council, but, in shaping his course with regard to such subjects, the Governor in Council will be bound to take into account the important factor of his relations with his Legislative Council, and, it may be added, with the Ministers who form the non-official side of his Government. If the Governor in Council is thus put in a new situation with regard to provincial subjects which remain reserved, this new situation must be recognized in the relations between the Governor in Council and the authorities which control him, represented by the Government of India. We do not read paragraph 213 of the Joint Report, which is referred to in the Government of India Memorandum, and is one of the paragraphs quoted in our reference, as implying that we are to leave this new situation out of account in considering the control which the Government of India are to retain in relation to reserved subjects.

22. A new principle has therefore in our opinion to be applied to all the subjects included in the sphere of provincial administration as provincial subjects, in view of the new conditions which the development of popular institutions in the provinces will create, and we think that this principle can best be laid

down by reference to the terms of the announcement of August 20th, 1917, the essential portion of which will, it may be assumed, be incorporated in the preamble to the new Bill. The preamble will, in that case, contain a statement to the effect that "with a view to the progressive realization of responsible government in British India as an integral part of the Empire, it is expedient gradually to develop self-governing institutions in that country." On the assumption that the preamble will be so framed, we propose that the new position as regards the relations of the Government of India with provincial Governments, in so far as concerns the administration of provincial subjects, should be formally recognized by an authoritative declaration to the following effect:—

"The powers of superintendence, direction and control over local Governments vested in the Governor-General in Council under the Government of India Act, 1915, shall, in relation to provincial subjects, be exercised with due regard to the purpose of the new Act, as stated in the preamble."

The position with regard to the whole class of provincial subjects having been thus dealt with, the special position of transferred subjects should be defined, in accordance with the suggestion of the Government of India, by a clause to the following effect, which will operate as an amendment of the Government of India Act:—

"The powers of superintendence, direction and control over local Governments vested in the Governor-General in Council under the Government of India Act, 1915, shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such power in any particular case comes within the purposes so specified."

The last words are added in order to make it clear that we do not contemplate such a limitation of the powers of the Governor-General in Council as would render the exercise of these powers open to challenge in the Courts. Our acceptance of the proposal with regard to the specification in rules of the purposes to which the exercise of the powers of the Governor-General in Council will be restricted in relation to transferred subjects is based on the assumption that the making of rules under this provision will be subject to effective Parliamentary control.

23. The general effect of these arrangements will be to apply one principle to all subjects marked as provincial; but the division of provincial subjects into the two classes, reserved and transferred, and the different authorities constituted for dealing with those two classes of subjects, will mark the fact that the principle is to have a far wider application in the one case than in the other, and this point will be further emphasized by the limitation of the purposes for which the Government of India may interfere in the one case and the absence of any such limitation in the other. While the proposed declaration will give a guiding principle in relation to the control by the Government of India over provincial subjects, whether reserved or transferred, it cannot be interpreted as laying down any hard and fast rule. The Government of India will not be bound to accept proposals of an official provincial Government merely because they are backed by a majority in the provincial Legislative Council. They will still be responsible to the Secretary of State and to the Imperial Parliament for exercising their full legal authority, where they think necessary, to reject such proposals, however strongly supported; but the effect of the declaration will be to involve definite recognition of the relation between the Governor in Council and his provincial Council as one of the factors in the situation which must be taken into account. The proposed declaration will necessarily apply equally to the exercise of the powers of control vested in the Secretary of State (under section 2 of the Government of India Act), in so far as local Governments are concerned, and the Secretary of State will be responsible to the Imperial Parliament for effect being given to the policy laid down.

24. The distinction between a reserved and a transferred subject in respect of the control to be exercised by the Government of India has an important

bearing on the question of the actual definition of provincial subjects as appearing in the provincial list. As long as the Government of India continue to exercise in relation to a provincial subject the general control vested in them under the Government of India Act, without any restriction of the purposes for which that control may be exercised, the limitation of the provincial subject by precise definition is not a matter of great practical importance; but, as soon as the control of the Government of India becomes a restricted control which can only be exercised for certain specific purposes, the question of definition acquires a new importance and needs very careful examination. The position can be illustrated by reference to such subjects as Land Revenue and Police. In the case of Land Revenue the Memorandum received from the Revenue and Agriculture Department proposes that the control of the Government of India shall, in future, be limited to requiring that the rules made by a local Government for the guidance of Settlement Officers in assessing revenue must be "in accordance with general principles sanctioned by the Governor-General in Council." If Land Revenue is recognized as a purely provincial concern, then it is difficult to justify or give practical effect to such a control by the Government of India as this provision would imply. On the other hand, it may be said that Land Revenue never can be recognized as a purely provincial concern, because the Government of India must always be vitally interested in the safeguarding of the great sources of national revenue, of which Land Revenue is one, though, under the proposed financial arrangement, it is a source from which the province alone will draw. In the case of Land Revenue, as it is not now recommended for transfer and the Government of India's general control therefore remains, we have not attempted to define the exact form which that control should in future take.

The subject of Police affords another illustration of the importance of this question of definition. It is obvious that the interests of the Government of India and of other provinces may be seriously affected if a particular province fails to maintain its police force at a sufficient strength and in a reasonable state of efficiency. If therefore the question arose as to the transfer in any province of the police to the charge of Ministers, the question of the definition of the powers of the central Government and of the obligation of the province in relation to Police would assume quite a different aspect from that which it presents as long as the general control of the Government of India is retained unhampered by any restriction to special purposes.

We have sought by these illustrations to make it clear that, where a provincial subject is not now to be transferred in any province, its definition as a provincial subject, which involves the question of the control to be retained in respect of it by the central Government, is not to be regarded as having received final consideration. The question of such definition must be reviewed and decided when the question of transfer arises, and our proposed definitions of those provincial subjects which are to remain reserved must therefore not be regarded as prejudging the question as to the limitation necessary for the purpose of protecting the interests of the central Government when the date of transfer comes.

25. We received from the Government of India on the 21st February, when our enquiry was approaching its conclusion, a further short Memorandum on the question of Division of Functions between the central Government and the provinces. This Memorandum forms annexure III to our Report. It will be seen that the final paragraph of this Memorandum has a bearing on the proposals contained in paragraphs 20-23. We note a suggestion contained in this Memorandum that the subjects which appear in the provincial budget should be described as the subjects which the provinces administer. We are not quite clear as to the effect of this proposal, but it may be read as a suggestion that the distinction to be drawn between agency functions and provincial functions should be made clear by relieving the provincial exchequer of expenditure on agency functions, and making such expenditure a direct charge against the Government of India. We think that this would be a logical way of dealing with the position, and that there would be obvious advantages in its adoption, provided financial adjustments can be made which would prevent inequitable results.

Administrative Control.

26. The existing control by the Government of India over provincial administration finds expression in the provisions of a considerable number of statutes and regulations which specially reserve power to the Governor-General in Council, or require his previous sanction or subsequent approval to action taken by the provincial Governments. We have received from the provincial Governments a number of detailed proposals for the relaxation of this control in particular matters, either by the delegation of powers or by the amendment of the Act concerned ; and the Government of India have also supplied us with departmental Memoranda treating the question on similar lines. We are not in a position to deal with these detailed suggestions, but we recommend that the matter should be carefully examined now in the light of the material collected and of the new relations to be established between the central and provincial Governments. In the Memorandum dated the 19th February (Annexure III) the Government of India refer to the matter as follows "In respect of these same subjects (i.e. subjects that the provinces administer but which are not transferred subjects) the Government of India will undertake a formal and systematic scheme of devolution of their authority, such scheme to be compatible with the exercise of their control in matters which they regard as essential to good government." If, in the necessary interval before the reforms scheme takes effect, the existing statutes are revised so as to eliminate provisions necessitating references to the Government of India which are considered no longer necessary, the position will be simplified and the provinces will have from the start a freer hand in dealing with provincial subjects.

27. As regards the method by which the Government of India should exercise their right of intervention when necessary in matters of administration we propose in paragraph 63 to give effect to the suggestion contained in the Government of India Memorandum (Annexure II) by providing that the duty shall be laid upon the Governor "to take care that any order given by the Governor-General in Council is complied with by the department concerned, whether such department is reserved or transferred."

Control over provincial legislation.

28. Reference has already been made to the position as to provincial legislation under the existing law, but it is now necessary to deal with the matter more fully. Section 79 of the Government of India Act provides as follows :—

79. (1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, with the previous sanction of the Governor-General, but not otherwise, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

- (a) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India ; or
- (b) regulating any of the current coin, or the issue of any bills, notes or other paper currency ; or
- (c) regulating the conveyance of letters by the post office or messages by the electric telegraph ; or
- (d) altering in any way the Indian Penal Code ; or
- (e) affecting the religious or religious rites and usages of any class of British subjects in India ; or
- (f) affecting the discipline or maintenance of any part of His Majesty's naval, or military forces ; or
- (g) regulating patents or copyright ; or
- (h) affecting the relations of the Government with foreign princes or states.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

(5) Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

29. It will be observed that under this section the previous sanction of the Governor-General has to be obtained

- (1) to any provincial Bill repealing or altering a law made by any authority in British India other than the local legislature of the province concerned;
- (2) to any provincial Bill bearing on certain All-India subjects specified in sub-clause (3); and
- (3) to any provincial Bill affecting the religion or religious rites and usages of any class of British subjects in India [sub-clause (3) (e)].

These statutory provisions as to previous sanction have been supplemented by executive orders which have the effect of requiring provincial Governments to submit their Bills for previous sanction in all but a very limited class of cases. In practice the requirement of previous sanction has been applied so as to render necessary not only the submission to the Government of India of the Bill itself prior to introduction, but also the submission of any important amendments proposed during the passage of the Bill. Reference may be made to paragraphs 114-116 of the Joint Report, which explain the effect of the existing restrictions, and recognise the need of an effective measure of devolution before provincial Councils can acquire "any genuine independence in legislation."

30. It is clear that the requirement of previous sanction is calculated greatly to hamper and delay the work of provincial legislatures. This particular form of limitation has moreover as a rule the unfortunate effect of inviting the judgment of the Government of India upon a provincial Bill before they have had the guidance which could be obtained from a public discussion of its terms. On the other hand, as the provinces have in theory the right to range over the whole legislative field, it is essential that they should be under such effective restraint in the exercise of this right as will suffice to keep them off certain portions of the field altogether, and to place their entry into other portions under very strict control. The problem which we have to solve is to mark off for the provinces a reasonably wide legislative field, which they can be free to enter without first passing the barrier of previous sanction, and at the same time to provide such safeguards as may be necessary to enable the Government of India to exercise their supervision, for the purpose of protecting the wider interests committed to their charge, without being compelled to have recourse to a frequent exercise of the veto.

31. It is contemplated in paragraph 212 of the Joint Report that, subject to certain important reservations, "within the field which may be marked off for provincial legislative control the sole legislative power shall rest with the provincial legislatures". The question of the means by which the control of this legislative field is to be reserved to the provincial legislature is discussed in the paragraph referred to. As has already been indicated we are in agreement with the conclusion to which that paragraph points, that it is better to rely on limitations imposed by convention or constitutional practice rather than on a statutory demarcation so framed as to bar the entry of the Indian legislature into the provincial field. But the growth of such a convention will depend on the degree of success attained in marking out the boundaries of the provincial field of legislation. In this connection there are two points in paragraph 238 of the Joint Report which it is necessary to bear in mind:

- (1) That paragraph does not contemplate that the legislative field of the provinces will be co-extensive with provincial subjects, but suggests that there will be some provincial subjects in respect of which legislation will remain in the hands of the Government of India.

- (2) It is further pointed out in paragraph 238 that, in dealing with each subject included in the provincial list, the powers of provincial legislatures to alter the Acts of the Indian legislature on that subject will have to be carefully considered.

32. The easiest way of explaining our proposals as to previous sanction will be by stating them in relation to the existing provisions of section 79. It may be that for the purpose of drafting the new Bill, it will be found better, as suggested in paragraph 114 of the Report, entirely to recast the existing provisions of section 79, but this is a question of drafting which we do not attempt to decide. Taking section 79 as our basis, we propose that it should be amended as follows:—

• Omit from section 79 (2) the words "with the previous sanction of the Governor-General but not otherwise", and substitute "subject to the provisions of the succeeding sub-section."

Omit from section 79 (3) sub-clause (e) and add the following sub-clauses:—

- "(1) regulating any other All-India subject ;
- (2) affecting any power expressly reserved to the Governor-General in Council by any existing law ;
- (3) altering or repealing the provisions of any of the Acts passed by the Indian Legislative Council included in the schedule ;
- (4) regulating a provincial subject which has been declared to be "subject to Indian legislation ;"
- (5) altering or repealing any provisions of a law passed by the Indian legislature after the commencement of this Act (i.e., the new Bill) which by the terms of such law may not be repealed or altered by a local legislature without previous sanction.

We append a copy of the section showing these amendments:—

79. (1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, [with the previous sanction of the Governor-General, but not otherwise,] *subject to the provisions of the succeeding sub-section* repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

- (a) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India ; or
- (b) regulating any of the current coin ; or the issue of any bills, notes or other paper currency ; or
- (c) regulating the conveyance of letters by the post office or messages by the electric telegraph ; or
- (d) altering in any way the Indian Penal Code ; or
- [e] affecting the religion or religious rites and usages of any class of British subjects in India ; or]
- (e) [(f)] affecting the discipline or maintenance of any part of His Majesty's naval or military forces ; or
- (f) [(g)] regulating patents or copyright ; or
- (g) [(h)] affecting the relations of the Government with foreign princes or states ; or
- (h) *regulating any other All-India subject ; or*
- (i) *affecting any power expressly reserved to the Governor-General in Council by any existing law ; or*

- (f) *altering or repealing the provisions of any of the Acts passed by the Indian Legislative Council included in the schedule; or*
- (k) *regulating a provincial subject which has been declared to be subject to Indian legislation; or*
- (l) *altering or repealing any provision of a law passed by the Indian legislature after the commencement of this Act (i.e., the new Bill) which by the terms of such law may not be repealed or altered by a local legislature without previous sanction.*

The following is the Schedule referred to :—

Schedule.

Indian Penal Code.
Indian Evidence Act.
Bankers' Book Evidence Act.
Indian Contract Act.
Specific Relief Act.
Negotiable Instruments Act.
Indian Trust Act.
Transfer of Property Act.
Civil Procedure Code.
Indian Limitation Act.
Criminal Procedure Code.
Indian Companies Act.

The Provident Insurance Societies Act.
The Indian Life Assurance Companies Act.
The Indian Official Secrets Act.
General Clauses Act.
Indian Short Titles Act.
Common Carriers Act.
Provident Funds Act.
Indian Ports Act.
Indian Lunacy Act.

33. The general effect of these proposals will be to leave the provinces free to legislate without previous sanction on provincial subjects, whether reserved or transferred, which are not specially made subject to Indian legislation. Previous sanction will, however, still be required, even as regards such subjects, where the proposed Bill affects powers expressly reserved by statute to the Governor-General in Council, or amends any provision of certain All-India Acts, such as the Indian Codes, included in the schedule, or amends any clause of an Act passed by the Indian legislature after the new scheme has come into operation which, by the terms of the Act itself, is specially protected. It will be found on examination of the provincial list that under these proposals there are a number of important provincial subjects on which the provinces will be free to legislate without previous sanction, while in other cases, where the freedom is not complete, the limitations proposed affect a small portion of the subject only. The freedom of the province to legislate on these subjects without previous sanction will, it is contemplated, give rise to a corresponding constitutional practice under which the Indian legislature will refrain from legislation on these subjects.

34. The proposal that a provincial Bill, affecting any power expressly reserved by existing statutes to the Governor-General in Council, should require previous sanction will be recognized as reasonable, but it should be noted here that the number of cases in which such power is reserved with regard to provincial subjects will be greatly reduced when legislative effect has been given to the proposals contained in the departmental memoranda which we have received from the Government of India.

35. It will be observed that among the changes which it is proposed to introduce into section 79 is the omission from sub-section (3) of clause (e), which has hitherto required previous sanction for any provincial Bill "affecting the religion or religious rites and usages of any class of British subjects in India." This clause is wide in its terms, and the requirement of previous sanction in respect of Bills falling under this clause has seriously hampered initiative. The proposed exclusion of Bills falling under this head from the class of Bills which require previous sanction raises the question whether the general relaxation proposed of the provisions as to previous sanction does not necessitate the creation of some other machinery whereby, in the case of certain classes of Bills, it will be possible to secure, at a later stage, an opportunity for consultation between the provincial Government and the Government of India, before such finality has been reached as to leave no course open to the Governor-General between assent and veto. It is suggested in the Joint

Report (para. 254) that it should be open to the Governor-General in future to reserve provincial Bills for the signification of His Majesty's pleasure thereon, in the same way as he is now able to reserve Indian Bills under section 68 of the Government of India Act. The adoption of this plan will not, however, meet the point which we now have in view. The plan which we propose embodies another suggestion contained in the same paragraph, that the Governor should have a discretionary power to return a Bill to his Legislative Council for re-consideration of the provisions which it contains, and links with the adoption of this suggestion a provision enabling the Governor in certain cases to reserve a Bill for the consideration of the Governor-General, instead of himself either assenting or withholding assent.

36. The following are our proposals with regard to the reservation of provincial Bills by the Governor for the consideration of the Governor-General :—

Proposed provisions as to reservation of provincial Bills :—

- (1) In the case of any Bill passed by the provincial Legislative Council and presented to the Governor for his assent, the Governor may, according to his discretion, but subject to the provisions of the next succeeding paragraphs as to reservation of Bills, either
 - (a) assent, or
 - (b) withhold assent, or
 - (c) return the Bill with a recommendation for its amendment.
- (2) In the case of any Bill, not previously sanctioned by the Governor-General, presented for the Governor's assent which either
 - (a) appears to the Governor to affect any matter specially committed to his charge under his Instructions, or
 - (b) though primarily relating to provincial subjects, appears to him incidentally to affect any All-India subject, or
 - (c) appears to him to affect the interests of any other province, the Governor may reserve the Bill for the consideration of the Governor-General.
- (3) In the case of any Bill not previously sanctioned by the Governor-General presented for the Governor's assent which either
 - (a) appears to him to affect the religion or religious rites or usages of any class of British subjects in British India, or
 - (b) contains provisions regulating the constitution or functions of any university, or
 - (c) contains provisions which have the effect of including within a transferred subject matters belonging to reserved subjects, or
 - (d) provides for the construction or management of a light or feeder railway or tramway, other than a tramway within a municipal area,
 the Governor shall, unless he is otherwise directed by the Governor-General, reserve the Bill for the consideration of the Governor-General.
- (4) The following provisions shall apply to any Bill reserved for the consideration of the Governor-General under the preceding paragraphs :—
 - (i) The Governor may, at any time within six months of the date of the reservation of the Bill, with the consent of the Governor-General but not otherwise, return the Bill for further consideration by the Council with a recommendation that the Council shall consider amendments thereto, and such Bill, when so returned, together with any recommendations relating thereto, shall be dealt with by the Council either in Council or in Grand Committee, according to the procedure applied to the Bill in the first instance, provided that, if the Bill is of such a nature as to be subject to his certifying power, the Governor may certify the Bill with any amendment recommended at this stage, though the Bill had previously not been certified.

- (ii) After any Bill so returned has been further considered by the Council, either in Council or in Grand Committee, together with any recommendations made by the Governor relating thereto, the Bill, if re-affirmed in accordance with the appropriate procedure, with or without amendment, may be again presented to the Governor.
- (iii) The Governor shall not be bound to reserve a second time any Bill falling under the provisions of clause (3), but may again reserve such Bill if he thinks fit.
- (iv) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, but, if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect, unless before the expiration of that period either
 - (a) the Bill has been returned by the Governor for further consideration by the Council, or
 - (b) in the case of the Council not being in session, a notification of the Governor's intention so to return the Bill at the commencement of the next session has been published in the gazette.

37. It will be observed that the above proposals divide the Bills to which the procedure of reservation is to apply into two classes, and that, while in the case of the first class the adoption of this procedure is left to the Governor's discretion, in the case of the second it is made compulsory. The first class, where the Governor has discretion as to whether he will reserve or not, includes Bills which appear to the Governor to affect any matter specially committed to his charge under his Instructions, or to affect any All-India subject, or to affect the interests of any other province. The second class, as to which the reservation procedure is proposed to be made compulsory, includes Bills which appear to the Governor to affect the religion or religious rites and usages of any class of British subjects in India, university Bills, Bills which shift the boundaries between transferred and reserved subjects, and railway or tramway Bills.

38. These two sets of proposals as to previous sanction and reservation should be taken together. Their adoption will greatly reduce the legislative sphere to which previous sanction applies, and will thus give the provinces much greater freedom in legislation, whilst it will also provide an opportunity for an *interim* examination by the Government of India, and a reasonably effective means of securing the removal of defects in the case of legislative measures affecting the Government of India or interests which it is their special duty to protect, instead of leaving open to the Governor-General no course between assent and veto.

39. Under these proposals as to previous sanction and reservation, provincial Bills will fall into four classes :—

- (i) Bills requiring previous sanction,
- (ii) Bills in respect of which reservation is compulsory,
- (iii) Bills in respect of which reservation is optional, and
- (iv) Bills which are subject neither to reservation nor to previous sanction.

The important distinction, however, is the distinction between the first class and the other three classes. If provincial legislation on a subject requires previous sanction, it follows that there is to be no constitutional or conventional barrier against the intervention of the Indian legislature in that subject. On the other hand, where the province has freedom to legislate without previous sanction, it is working in its own legislative sphere, and constitutional practice will normally forbid the Indian legislature from invading that sphere.

40. There remains, however, a special case for consideration, namely, legislation affecting a certain class of provincial subjects as to which it seems

expedient, while giving freedom to provincial legislatures, also to preserve the full authority of the Indian legislature. The subjects falling into this class are subjects in which the backwardness or laxity of one province is specially liable seriously to endanger the interests of other provinces. They all have to do with health, either that of human beings, or that of animals or plants. The measures which we have in view may be classified under four heads:—

- (i) Prevention of infectious or contagious disease (forming part of the general subject of public health),
- (ii) Prevention of diseases among animals,
- (iii) Prevention of plant diseases, and
- (iv) Measures to be taken against destructive insects and pests.

In regard to these matters, we recommend that it should be definitely recognized that it is open to the Indian legislature to legislate, notwithstanding that they fall within the limits of provincial subjects which are not classified as subject to Indian legislation. The provinces will, however, retain their own freedom to legislate on these subjects without previous sanction, except that, where the Indian legislature passes a law of general application dealing with these subjects, it will be open to that legislature to prescribe that a provincial legislature shall not be competent to amend such a law without obtaining previous sanction.*

41. In making the above recommendation we do not leave out of consideration one of the alternatives mentioned in paragraph 212, namely, that the Indian legislature should pass legislation which might be adopted, either *simpliciter* or with modifications by any province which may wish to make use of it. We agree that this form of legislation should be recognized as within the scope of the Indian legislature as regards any provincial subject, and that such legislation should not be regarded as involving any invasion of the provincial field. But, as the adoption of such model legislation passed by the Indian legislature is to be left entirely to the discretion of the province, the acceptance of this plan does not adequately provide for such conditions as are referred to in the preceding paragraph.

* Reference may be made to existing All-India Acts relating to matters dealt with in this paragraph, *viz.*, Epidemic Diseases Act, Destructive Insects and Pests Act, Glanders and Farcy Act, Live-stock Importation Act and Dourine Act.

PART 3.—LISTS OF ALL-INDIA AND PROVINCIAL SUBJECTS.

These lists are to be read subject to the following Rules of interpretation :—

I. The effect of a provision in the list of provincial subjects that any matter shall be "subject to Indian legislation" is that legislation regulating that matter and powers reserved by such legislation to the Governor-General in Council are made an All-India subject, and that the provincial legislature is precluded from legislating thereon without previous sanction. The use of the phrase "subject to Indian legislation" is not, however, intended to exclude the alternative of a matter being dealt with by imperial legislation, *i.e.*, by an Act of the Parliament of the United Kingdom, or by rules made under such an Act.

II. Any matter included in the Provincial List is, to the extent of such inclusion, to be deemed to be excluded from any All-India subject of which, but for such inclusion, it would form part.

ALL-INDIA SUBJECTS.

Subjects.	Remarks.
1. His Majesty's Naval, Military and Air Forces in India, including Royal Indian Marine and volunteers, but excluding military police maintained by provincial Governments.	
Naval and military works and cantonments.	
2. External relations, including naturalisation and aliens.	
3. Relations with Native States.	
4. Any territory in British India other than a province mentioned in the schedule.	The schedule will include the eight provinces to which the reform scheme applies.
5. Excluded areas.	These are the backward areas referred to in paragraph 199 of the Joint Report which it is suggested should be administered by the Governor under the control of the Government of India.
6. Communications—to the extent described under the following heads :—	
(a) Railways and tramways, except tramways within municipal areas, and except in so far as provision may be made for construction and management of light and feeder railways and tramways, other than tramways within municipal areas, by provincial legislation enacted in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council :	These standing orders of the provincial Legislative Council should require that, before any Bill providing for construction and management of a light or feeder railway is introduced in the Council, sufficient notice of the proposals contained in such Bill shall be given to the Railway Board and to such other parties as may be prescribed, and that the Bill shall be dealt with by procedure similar to that applied to private Bills under British Parliamentary practice, and further that any such Bill shall, after being passed by the provincial Council, be reserved for the consideration of the Governor-General.

ALL-INDIA SUBJECTS—*contd.*

Subjects.	Remarks.
(b) Roads, bridges or ferries declared by the Governor-General in Council to be of military importance :	
(c) Aircraft :	
(d) Inland waterways, to an extent to be declared by or under Indian legislation.	The position regarding inland waterways is indicated in paragraph 15.
7. Shipping and Navigation (including shipping and navigation on inland waterways in so far as declared to be under Indian control in accordance with 6 (d).)	It is suggested that wide powers should be delegated to local Governments to enable them to regulate local shipping traffic, <i>e.g.</i> , coasting vessels plying between ports in the same province, especially as regards accommodation provided for passengers.
8. Light-houses, beacons and buoys.	
9. Port quarantine and marine hospitals.	
10. Ports declared to be major ports by or under Indian legislation.	
11. Posts, telegraphs and telephones.	
12. Sources of imperial revenue, including customs, cotton excise duties, income-tax, salt, stamps (non-judicial).	
13. Currency and coinage.	
14. Public debt of India.	
15. Savings banks.	
16. Department of the Comptroller and Auditor-General.	The proposals regarding audit and accounts are indicated in paragraph 73.
17. Civil Law, including laws regarding status, property, civil rights and liabilities and civil procedure.	
18. Commerce, including banking and insurance.	
19. Trading companies and other associations.	

ALL-INDIA SUBJECTS—*contd.*

Subjects	Remarks.
20. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by or under Indian legislation essential in the public interests, and control of cultivation and manufacture of opium and sale of opium for export.	
21. Control of petroleum and explosives.	The law regarding petroleum and explosives is at present under the direct control of the Government of India and uniformity of law and administration is desirable.
22. Geological survey.	
23. Control of mineral development, in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.	The rules regulating the grant of licenses to prospect for minerals and the grant of leases of mines and minerals are made by the Governor-General in Council and sanctioned by the Secretary of State in Council.
	Mining administration is now controlled by the Government of India and there is a small expert department of Inspectors working freely all over India. It would be impossible without great extravagance and loss of efficiency for each province to have its own expert staff.
24. Inventions and designs.	
25. Copyright.	
26. Emigration and immigration and inter-provincial migration.	It is considered desirable to make inter-provincial migration an All-India subject to be administered by the provincial Governments as agents.
27. Criminal Law, including criminal procedure.	
28. Central police organization and railway police.	
29. Control of possession and use of arms.	
30. Central institutions of scientific and industrial research, including observatories and central institutions for professional or technical training.	
31. Ecclesiastical administration.	The expenditure is incurred entirely by the Government of India. The Bishops and clergy are under the administrative control of the local Governments, except that the Bishop of Calcutta as Metropolitan is under the control of the Government of India. As a large portion of the expenditure is on behalf of the army, the subject must be an All-India one.

ALL-INDIA SUBJECTS—*contd.*

Subjects.	Remarks.
32. Survey of India.	
33. Archæology.	The expenses of the Archæological officers and establishments (except in Madras) are borne by the Government of India, while the cost of excavation, exploration and maintenance is provincial, though the Government of India assist by grants-in-aid. The Director-General of Archæology and his officers are under the control of the Government of India, while the local officers (Superintendents and Assistant Superintendents), whose work in some cases extends over more than one province, are under the executive orders of the local Government in whose jurisdiction their headquarters lie. The Government of India suggest that Archæology should be classed as an All-India subject.
34. Zoological survey.	
35. Meteorology.	
36. Census and Statistics.	It will be necessary to provide that the Governor-General in Council shall have full power to obtain returns and information from local Governments on any subject in such form as he may prescribe.
37. All-India Services.	<i>Vide</i> Section IV.
38. Legislation in regard to any provincial subject, in so far as such subject is stated in the Provincial List to be subject to Indian legislation, and any powers relating to such subject reserved by legislation to the Governor-General in Council.	
39. All matters expressly excepted from inclusion in the Provincial List.	
40. All other matters not included in the list of provincial subjects.	

PROVINCIAL SUBJECTS:

1. Local self-government, that is to say matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, and subject to Indian legislation (a) as regards powers of such authorities to borrow otherwise than from a provincial Government, and (b) as regards the levying by such authorities of taxation not included in the schedule of municipal and local taxation (c. paragraph 82).

PROVINCIAL SUBJECTS—*contd.*

Subjects.	Remarks.
2. Medical administration, including hospitals, dispensaries and asylums and provision for medical education.	Legislation regarding the status and civil rights and liabilities of lunatics is an All-India subject and the Lunacy Act is included among the Indian Acts which cannot be amended without previous sanction. The question of medical registration falls under head 42.
3. Public health and sanitation and vital statistics.	The Committee consider that the Indian legislature should have concurrent power to legislate regarding protection against infectious and contagious diseases (<i>v.</i> paragraph 40).
4. Education (excluding—	<i>v.</i> paragraphs 15 and 45.
(1) the Benares Hindu University	The Benares Hindu University is not a provincial but an All-India university. Chiefs' Colleges concern Native States.
(2) Chiefs' Colleges),	
subject to Indian legislation—	
(a) controlling the establishment, and regulating the constitutions and functions of new universities ; and	
(b) defining the jurisdiction of any university outside its own province ;	
and, in the case of Bengal, for a period of five years from the date when the reforms scheme comes into operation, subject to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.	
5. Public Works included under the following heads :—	
(a) Provincial buildings :	
(b) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance :	
(c) Tramways within municipal areas; and	
(d) Light and feeder railways, tramways, other than tramways within municipal areas, in so far as provision is made for their construction and management by provincial legislation in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council.	<i>Vide</i> note to item No. 6, All-India List.

PROVINCIAL SUBJECTS—*contd.*

Subjects.	Remarks.
6. Irrigation and canals, drainage and embankments, and water storage, subject to such control of the Governor-General in Council in the case of works affecting another province, territory or State as may be provided in Indian legislation.	
7. Land Revenue administration, as described under the following heads :—	
(a) Assessment and collection of land revenue ;	
(b) Maintenance of land records, survey for revenue purposes, records of rights :	
(c) Laws regarding land tenures, relations of landlords and tenants, collection of rent :	
(d) Court of Wards, encumbered and attached estates :	
(e) Land improvement and agricultural loans :	
(f) Colonization and disposal of Crown lands and alienation of land revenue.	
8. Famine relief.	
9. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.	(9) and (10) The Committee consider that the Indian legislature should have concurrent power to legislate regarding protection against destructive insects and pests and prevention of diseases of plants and animals, see paragraph 40.
10. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases.	
11. Fisheries.	

PROVINCIAL SUBJECTS—*contd.*

Subjects.	Remarks.
12. Co-operative Societies, subject to Indian legislation.	
13. Forests, including preservation of game therein.	
14. Land acquisition, subject to Indian legislation as regards acquisition of land for public purposes.	It is considered that in the case of land required for industrial purposes it should be open to the parties concerned to promote private Bills in the provincial legislatures.
15. Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	v. note to item 11, List of Provincial Subjects for Transfer.
16. Administration of justice, including constitution, maintenance and organization of Courts of justice in the province, both of civil and criminal jurisdiction, but exclusive of matters relating to constitution and powers of High Courts and subject to Indian legislation as regards the constitution and powers of Courts of criminal jurisdiction.	
17. Provincial law reports.	
18. Administrator-General and Official Trustee, subject to Indian legislation.	
19. Judicial stamps, subject to Indian legislation as regards amount of court fees levied in relation to suits and proceedings in the High Courts under their Original Jurisdiction.	This limitation is necessary owing to the existing position with regard to fees levied in relation to suits and proceedings on the Original Side of the High Courts under their rules.
20. Registration of deeds and documents, subject to Indian legislation.	
21. Registration of births, deaths and marriages, subject to Indian legislation for such classes as the Indian legislature may determine.	Existing Indian legislation provides for the following classes, <i>viz.</i> , members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and all persons professing the Christian religion.
22. Religious and charitable endowments.	Bills affecting religion or religious rites or usages will be reserved for the consideration of the Governor-General (v. paragraph 35).

PROVINCIAL SUBJECTS—*contd.*

Subjects.	Remarks.
23. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.	
24. Development of industries, including industrial research and technical education.	The report of the Industries Commission has been followed in attaching technical education to the Industries Department.
25. Industrial matters included under the following heads :—	Inspectors of Factories, Electricity and Boilers are provincial officers under the control of the local Governments, but we consider that there are strong grounds for maintaining uniformity in regard to the four matters which are made subject to Indian legislation. As regards the other subjects, especially those included under "Welfare of labour," it is desirable to give the provinces freedom of initiative.
(a) Factories :	
(b) Settlement of labour disputes :	
(c) Electricity :	
(d) Boilers :	
(e) Gas :	
(f) Smoke nuisances ; and	
(g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing ;	
subject as to (a), (b), (c) and (d) to Indian legislation.	
26. Adulteration of food-stuffs and other articles, subject to Indian legislation as regards export trade.	
27. Weights and measures, subject to Indian legislation as regards standards.	
28. Ports, except such ports as may be declared by or under Indian legislation to be major ports.	
29. Inland waterways, including shipping and navigation thereon so far as not declared to be under control of the Government of India, but subject as regards inland steam vessels to Indian legislation.	
30. Police, other than railway police.	As regards railway police the provinces will no doubt continue to act as agents of the Government of India, but the control must remain with the Government of India owing to difficulties regarding jurisdiction, and the contributions of the railway companies.

PROVINCIAL SUBJECTS—*contd.*

Subjects.	Remarks.
31. Miscellaneous matters:—	The object of including these items in the Provincial List is to give the provinces freedom of legislation in regard to them.
(a) regulation of betting and gambling:	
(b) prevention of cruelty to animals:	
(c) protection of wild birds and animals:	
(d) control of poisons:	
(e) control of motor vehicles, subject to Indian legislation as regards licenses valid throughout British India; and	
(f) control of dramatic performances and cinematographs.	
32. Control of newspapers and printing presses, subject to Indian legislation.	
33. Coroners.	
34. Criminal tribes, subject to Indian legislation.	
35. European vagrancy, subject to Indian legislation.	
36. Prisons and reformatories, subject to Indian legislation.	
37. Pounds.	
38. Treasure trove.	
39. Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and zoological gardens.	

PROVINCIAL SUBJECTS—*consolid.*

Subjects.	Remarks.
40. Government Press.	
41. Franchise and elections for Indian and provincial legislatures, subject to Indian legislation.	
42. Regulation of medical and other professional qualifications and standards, subject to Indian legislation.	Under this head will fall the administration of the existing provincial Medical Registration Acts. Power is reserved to the Indian legislature in order to secure uniformity and maintain the standards of professional qualifications.
43. Control, subject to Indian legislation, of members of All-India services serving within the province, and of other public services within the province.	
44. New provincial taxes, that is to say taxes included in the schedule of additional provincial taxes (v. paragraph 75), so far as not included under previous heads.	
45. Borrowing of money on the sole credit of the province, subject to Indian legislation.	
46. Imposition of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject, but subject to Indian legislation where that limitation otherwise applies to such subject.	
47. Any matter which, though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.	

Section III.—Transfer of Functions to the charge of Ministers, and Powers of Governor in Council in relation to Transferred Subjects.

PART 1—TRANSFER OF FUNCTIONS.

42. Under clause III of our Reference we are required to advise as to which of the functions that are to be discharged by provincial Governments can be transferred at the outset in each province to the charge of Ministers. In considering this question we have borne in mind the principles of selection laid down in paragraph 238 of the Joint Report, and we have treated Illustrative List No. II showing transferred subjects, contained in Appendix II to the Joint Report, as the starting point for our deliberations. We have received from the different provincial Governments proposals with regard to the transfer of subjects which have, in most cases, been prepared with special reference to this List.

43. We have summarised in a schedule (Annexure I) the proposals of the different provincial Governments above referred to. These proposals were, however, in some cases put forward subject to important reservations.

His Excellency the Governor of Madras in Council prefaced his scheme for transfer with a note which we quote in full:—

“The views of the Madras Government on the subject of the division of provincial subjects between Ministers and the rest of the Government, as proposed in the Report on Indian Constitutional Reforms, have been set forth in the Hon'ble Mr. Todhunter's letters No. 948, dated 19th October 1918, and No. 1104-A., dated 10th December 1918. As was intimated in those letters the Governor in Council believes that the scheme of dualism outlined in the report is not only unsound in principle but will in practice prove to be unworkable. He decided therefore not to submit any scheme for the division of provincial subjects into two parts. Such a scheme could appropriately be framed only by those who believed diarchy to be both practicable and desirable. As, however, the Government of India have now instructed this Government to prepare such a list and have at the same time conveyed an assurance that the views of the Madras Government, as stated in the letters quoted above, will be placed on the official record of the proceedings of the Reforms Committee dealing with the matter, the subjoined list of transferred subjects is herewith transmitted to that Committee. In transmitting this list to the Committee, His Excellency the Governor in Council requests that, should the Committee desire to include it in any of their published proceedings or reports, the list may be accompanied by the statement that it was framed by this Government in compliance with instructions from the Government of India issued after this Government had expressed their unwillingness to propose any such list.

His Excellency the Governor in Council desires to make it clear that the fact of his framing this list in deference to the wishes of the Government of India must not be taken to indicate that he has in any way withdrawn or receded from the objections he has taken to the whole scheme of diarchy, nor has anything emerged in the course of framing this list which has lessened the objections of the Madras Government to that scheme.”

The Government of Bombay in their letter No. 9745 of the 11th November 1918 had submitted to the Government of India an alternative scheme of constitutional reform which involved no division of the Executive Government. They were, they stated, “unable to accept the proposed scheme of Government as one which was likely to work satisfactorily in practice.” We understand, however, that one Member of Council, while concurring with his colleagues in their preference for the alternative scheme, was not prepared to agree in the view expressed as to the scheme in the Joint Report. At the time of our visit the Government still held the same views on the main question, and in the note they prepared for our assistance they say: “Experience of Council Government shows at once that, even as a temporary device, the proposed distribution of functions must fail in its objects. Our suggestions detailed below must therefore be regarded as indicating the best scheme we can put forward in the circumstances.”

The Punjab Government were also in favour of an alternative scheme which avoided any division of the functions of the provincial Government. In their letter No. 20432 of the 16th November 1918, to the Government of India, it was expressly stated that His Honour the Lieutenant-Governor's suggestions as regards transfer were in no way to be read as derogating from his previously expressed views on the general question.

The scheme prepared by the Chief Commissioner of the Central Provinces for a period of training for self-government did not involve the appointment of a Minister of the status suggested in the Joint Report, nor the transfer of any functions within the meaning of our reference. His note for the Committee accordingly contained no proposal for any such transfer. In preparing at our request a supplementary note on this part of our reference, he specified the subjects which were, in his opinion, least suitable for transfer if the scheme proposed in the Joint Report were finally approved.

A similar reservation was made by the Chief Commissioner of Assam in paragraphs 33 and 34 of his note on Constitutional Reforms. He there enumerates a number of subjects which he regards as suitable for transfer, either immediately or at a later stage, but qualifies his recommendations in the following terms :—

“It is perhaps unnecessary to point out that what I have written in the last two paragraphs is based upon two assumptions—first, that no subject connected with any of the hill districts is included in the portfolio of a Minister; secondly, that the Government of Assam is a corporate Executive Council constituted on the plan which has been recommended both by the Hon'ble Mr. Chanda and by myself. I have therefore refrained from using the expressions ‘transferred’ and ‘reserved,’ which are not strictly applicable to our scheme.”

In his oral evidence, however, the Chief Commissioner stated that, even if the scheme of the Joint Report was adopted, he was ready to adhere to his classification of subjects, so far as the more advanced portions of the province were concerned.

44. A great part of the evidence which we heard in the course of our provincial tour was directed to the question of transfer. In addition to the views of the provincial Governments, which were as a rule put forward by officers appearing as witnesses on their behalf, we received a great mass of information bearing on the work of different departments in the form of written memoranda prepared at our request by the officials concerned. A large number of the officials who appeared before us as witnesses expressed to us their personal views on the suitability of their own departments for transfer, and the advantages or disadvantages which were likely to result from transfer or reservation as the case might be. The non-official evidence tended to concentrate itself on this part of our reference. We received from non-official witnesses written statements giving their personal views, or the views of the associations which they represented, both on the more general aspects of the question and on the suitability of particular subjects for transfer, and stress was also laid on the special circumstances of their own provinces. We examined a number of these witnesses at length on the views expressed in their written statements. The evidence necessarily ranged over a wide field and it is not possible to convey its effect in a summary; but on the completion of our tour we were in possession of a great quantity of material, which has been of assistance to us in applying to the different subjects the criteria laid down for our guidance in paragraph 238 of the Joint Report, and in judging of the weight to be given to special considerations affecting individual provinces.

45. The conclusions which we have formed on the question of transfer will be found in the list of subjects for transfer which forms Part 3 of this Section of the Report. We do not propose to deal at length with the great variety of issues involved in the preparation of this list, but there are certain points to which it is necessary to refer in order to explain departures from proposals contained in Illustrative List No. II.

(1) *Education*.—We refer first to the subject of Education. In dealing with this subject, we have borne in mind the paragraphs of the Joint Report relating to it, especially paragraphs 186 and 187. The suggestion in the Illustrative List is that university education should be reserved while education falling under the following heads—primary, secondary and technical—should be transferred. We have received suggestions for making various divisions of the subject of Education, but we have come to the conclusion that the problem should be treated as a whole, and that any division of education, such as would result from the transfer of primary apart from secondary and university education, or from the transfer of primary and secondary apart from university education, is unsound in theory and would be unworkable in

practice. The actual drawing of the line between either primary and secondary or secondary and university education involves many difficult questions, and any such line, if made the basis of a division, would be bound to produce serious administrative complications. We feel that there is great force in the observation in paragraph 186 of the Joint Report that "the main defect of the system (*i.e.*, the existing system of education) is probably the want of co-ordination between primary and higher education, which in turn reacts upon the efficiency of secondary institutions and, to a great extent, confines university colleges to the unsatisfactory function of mere finishing schools." We have already referred to the recommendations of the Calcutta University Commission, which have an important bearing on the question of the possibility of a division between secondary and university education. We think the situation is fairly summed up in the following sentences extracted from the Fifth Quinquennial Review on the progress of Education in Bengal (paragraph 299) by Mr. W. W. Hornell, who is a member of the Calcutta University Commission :—

"The existing educational system of India is an organic whole, no part of which can be modified without affecting vitally the other parts... .. It is impossible to attack the problem by compartments. Secondary education depends upon primary education and university education upon both."

We have therefore recommended the transfer of education as a whole, subject to the special provisions as to university legislation which are dealt with in paragraph 15, and to the further provisions proposed in the case of Bengal.

It will be seen, however, that we propose to exclude from the transfer European and Anglo-Indian education. Special considerations apply to this part of the educational system, which is organized on a separate basis of its own, and no serious administrative difficulties will arise owing to the reservation of this branch of the work of provincial Education Departments while the rest of their work is transferred.

It is further proposed that special duties in relation to educational matters shall be laid upon the Governor by his Instructions, for the purpose of safeguarding the interests of certain classes and institutions (*v.* paragraph 67).

With regard to technical education, it will be seen that we have assumed that the advice of the Industrial Commission to the effect that technical education should be dealt with by the Department of Industries will be adopted, and we have included it under the general head of 'Development of Industries' as a transferred subject.

(2) *Forests and Irrigation.*—There are two other subjects in regard to which suggestions have been made for a division of administration, namely Forests and Irrigation. Illustrative List II of the Joint Report proposes the transfer of "unclassified and some protected" forests and of "minor irrigation". In both these cases the division would involve placing one service under the control of two authorities in respect of different parts of its work between which no clear distinction is possible. In the case of both Forests and Irrigation, it is possible to detach part of the subject-matter and place it under the administration of a local authority. We contemplate the adoption of a plan whereby forests which mainly serve the needs of a village or group of villages may be placed under the management of a panchayat or other local authority (*vide* No. 10 Transfer List). In the case of Irrigation local authorities already in some places have powers regarding drainage and canals of merely local importance, and in Madras and the Punjab there is a recognised class of "minor irrigation works" which are controlled by the Revenue Department; but the distinction between major and minor works as known to the Irrigation Department cannot be accepted as a basis for division. The memorandum furnished to us by the Public Works Department of the Government of India deals with this point as follows: "This classification does not, as might be expected, bear reference to the size or importance of the works, but only to the source from which the funds are provided. All works constructed from loan funds or from the annual Government of India grant for famine relief and insurance are classed as major, all other works, financed from the general revenues of the country, are classed as minor." Thus

the Fuleli Canal in Sind, which irrigates 400,000 acres, is a minor work, while the Khairadatan tank in the Central Provinces, built at a cost of Rs. 90,000 to irrigate 2,500 acres, is a major work. Any division on these lines is therefore meaningless."

(3) *Industries*.—As regards Industries we have not found it possible to draw any clear line between "local" and other industries. Any distinction based on relative importance is rendered difficult by the inter-connection of all industrial matters. The only division we have found possible is between the development of industries (No. 24 Provincial List) and the administration of industrial laws (No. 25 Provincial List). The former is recommended for transfer, and the latter for reservation.

46. Several of our Members (Sir Chimanlal Setalvad, Dr. Sapru and Sir Rahim Bakhsh) urged that Land Revenue administration, and with it Irrigation, should be made a transferred subject in Bombay and pointed to the exceptional conditions surrounding the subject in that province. Sir Rahim Bakhsh urged such transfer in respect of the Presidency proper, but excluded Sind. The majority of the Committee could not support the suggested transfer, and, in order to secure unanimity, the minority decided not to dissent. The members of the minority wish, however, to record their desire for transfer in the special case of Bombay, and also an expression of their earnest hope that, in the next revision of the constitution, the whole question should be thoroughly investigated with a view to making Land Revenue administration a transferred subject not merely in Bombay but in the rest of the provinces.

47. It will be observed that we propose that Irrigation should be a reserved subject in all provinces.

Special considerations apply to Bengal. The intimate relation between land revenue and irrigation in other provinces has, apart from any other consideration, precluded us from recommending the transfer of irrigation, though the reservation of this subject involves the division of the Public Works Department, which may cause administrative inconvenience in provinces where the two branches of that department—Roads and Buildings and Irrigation—have hitherto worked with a joint establishment. In Bengal the existence of the permanent settlement fundamentally alters the situation, and irrigation work properly so-called is on a comparatively small scale. The Irrigation Department of the Presidency is mainly concerned with drainage embankments and waterways, and these have a very close connection with problems of sanitation and local self-government. The control of waterways, however, in the network of rivers and channels that spreads over a great part of Bengal raises questions of the greatest difficulty, and mistakes made in comparatively small matters may have far-reaching consequences. The question of control has been under discussion for many years, and proposals, not yet formulated in detail, have been made for the formation of a Waterways Trust, which would probably have its own staff of engineers, and the Government of Bengal consider that if such a Trust were constituted it should be directly under the Government of India. This contemplated Trust would necessarily involve great administrative changes. Notwithstanding, therefore, the separation of irrigation from land revenue in Bengal, and its connection with sanitation and local self-government, we have not been able to recommend the transfer of irrigation in that Presidency.

48. There are certain subjects included in the Provincial List which cannot in themselves be either reserved or transferred, and to these we must briefly refer :—

- (1) Public Services (No. 43 in Provincial List). The Section on Public Services defines the position with regard to the authority of Ministers over members of the public services employed in transferred departments.
- (2) Financial matters.—Additional provincial taxes, and provincial borrowing (Nos. 44 and 45 in Provincial List). The position with regard to these matters is stated in the Section on Finance (paragraphs 75—80).

- (3) Imposition of punishments by fine, penalty or imprisonment for enforcing any law of the province relating to any provincial subject, but subject to Indian legislation where that limitation otherwise applies to such subject (No. 46 in Provincial List).

This subject is included in the list for the purpose of defining the legislative powers of the province, but will not form a separate subject for purposes of administration.

- (4) Any matter which, though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province (No. 47 in Provincial List).

Any new subject allotted to the province under this general provision will be assigned by the Governor either to a reserved or to a transferred department under the power to be given to him in accordance with paragraph 239 of the Joint Report.

49. It is necessary to refer to certain features which in the two provinces of Assam and Bihar and Orissa complicate the questions we have to consider.

In Assam, two-thirds of the whole province are included in hill and frontier tracts, inhabited by simple tribes, governed in patriarchal fashion. These tracts are not represented in the Legislative Council, and local self-government is unknown, except in the municipality of Shillong. At the same time, as the Chief Commissioner points out in paragraph 5 of his note, the Legislative Council has power at present to pass laws which may be applied to the hill tracts, the administration of the hills must be financed from the plains, and the Legislative Council has in the past discussed the budget provision for the hills. He is unwilling to deprive the Council of such rights as it has hitherto enjoyed, and therefore proposes a solution which leaves the Council some semblance of power in respect of these areas, but at the same time he would maintain the existing special methods of control over legislation which appear to us to be inconsistent with any real recognition of the Council's authority.

In our view, if these special methods of control are necessary (and we do not question the opinion of the Chief Commissioner on this point), it is better not to make the pretence of bringing the tracts in which they are required within the scope of the Reform scheme. We have not been able to find any satisfactory *via media* between inclusion and exclusion, and it is not clear that the reservation of all subjects in particular areas is a course which was contemplated by the authors of the Joint Report. We recommend therefore that the tracts in question should be excluded from the jurisdiction of the reformed provincial Government. If our recommendation is accepted, they will be administered by the Governor himself, as proposed in paragraph 199 of the Joint Report.

The exclusion of these hill tracts has an important bearing on our recommendations for transfer in the Assam and Surma Valleys. The question of the transfer of Forests, for example, hardly arises in a province where the greater part of the work of the department lies in excluded areas.

It is much the same with Public Works. Among the most important duties of this department are the construction and maintenance of hill and frontier roads, while, if the proposals of the Public Works Department Re-organization Committee are accepted, the work in connection with roads and buildings in the valleys will be entrusted even more fully than at present to local boards and municipalities.

In the case of Excise, too, the existence of these excluded areas is a determining factor. The opium habit is strong in the population of the Assam Valley, and there is a large consumption of liquor among the coolies of the tea gardens. Both these habits are unfortunately spreading among the hill tribes. Government has done all that it can to check them, but the success of its efforts depends largely on unified control of policy throughout the province. Any weakening of the policy in the plains would necessitate a tightening of control in the hills, where restrictions are difficult to enforce and apt to be

resented. Apart from this, the liquor problem in the tea gardens presents special difficulties. Even as it is, constant complaints are received from the managers of gardens in regard to the location of shops, and it is thought that the difficulties might be increased if the subject were transferred.

It should be noted that in view of the difficulties of communication between the two valleys—the Assam Valley and the Valley of the Surma—their lack of common interests and the different characteristics, religious and racial, of their respective populations, the Chief-Commissioner thought it advisable to provide in the scheme he submitted for what almost amounts to a separate administration for each valley. We do not regard it as possible to give effect to this scheme, but we understood from the Chief Commissioner that his recommendations as to transfer were not dependent on its adoption.

50. The position in Bihar and Orissa is somewhat similar. It is fully explained in two letters from the Government of that province, which are printed in Appendix V. The first of these, No. 4097-P., dated the 9th November 1918, was addressed to the Government of India in the Home Department. The second, No. 33-C., of the 6th January 1919, was written in reply to certain enquiries made by us after we had heard the provincial evidence. The backward areas comprise 8 districts out of a total of 21. Their extent is rather less than half the total area of the province, and they contain about a quarter of the whole population.

The proposals made by the local Government in the earlier of their two letters are (1) that the Santal Parganas and Angul, which are the most backward of all the districts in question and are now outside the pale of the ordinary administration, should be excluded altogether from the scope of the Reform scheme and the jurisdiction of the Legislative Council, and should continue to be administered by the Governor in Council, and (2) that “no hard and fast distinction between ordinary districts and the scheduled districts of Chota Nagpur and Sambalpur” should be made “in respect either of legislation or of administration,” but that authority should be conferred “by statute on the Governor in Council

- (1) to prescribe by notification the portions of the scheduled districts, if any, to which any Act or portion of an Act passed by the Legislative Council shall apply; and
- (2) to decide to what portions of the scheduled districts, if any, the jurisdiction of the Minister in respect of any of the transferred subjects or any portion of them shall extend, and when such jurisdiction has been extended, to exclude any portion of the scheduled districts from the application of any order passed by the Minister.”

The enquiries in reply to which the second letter was written related to the special purposes for which the Governor in Council should have power to intervene in transferred subjects, with a view to the protection of the primitive inhabitants of the Chota Nagpur and Sambalpur areas, which the local Government proposed to include within the scope of the Reforms scheme, subject to the above safeguards.

The local Government in their reply state that these purposes are general rather than special, and that it is their intention that the power to intervene should be purely discretionary. If such power cannot be given, all the backward areas should be excluded, without exception.

We have been much impressed by the arguments which have been put forward; but, as we have stated in the preceding paragraph, we can find no *via media* between inclusion and exclusion.

At the same time, the exclusion of Chota Nagpur and Sambalpur is open to one objection which does not apply in the case of the hill tracts of Assam. They have representatives in the present Council and will have more in the reformed Council, if the recommendations of the Franchise Committee are accepted. Their presence may perhaps be justified by the fact that the policy pursued in the more advanced areas will necessarily react on these districts, even if excluded. The question as to whether there are portions of the latter

which are in themselves fit for inclusion in the scheme, and could therefore be made the subject of separate treatment, will no doubt receive consideration from the local Government.

In the case of Assam, we found that the problems connected with the backward areas had an important bearing on our recommendations for transfer in the rest of the province, and we have in consequence been unable to advise the transfer either of Excise or Public Works. In Bihar and Orissa we have not been asked by the local Government to make any such allowances in framing our recommendations for transfer of subjects in the more advanced portions of the province, nor have we thought it necessary to do so.

51. Mr. Couchman, after examining the proposals of the Franchise Committee for Madras, which were supplied to him on the 22nd February, feels unable to recommend the transfer of any subject in Madras. He feels that without—

- (1) communal representation for non-Brahman caste Hindus,
- (2) adequate representation of Panchamas and rural areas, and
- (3) residential qualifications for candidates,

it is inevitable that the Brahman minority will capture a large majority of the seats, and that the interests of the masses would not be safe in their hands.

He is prepared to give detailed arguments in support of his views to the Government of India or to the Right Honourable the Secretary of State if so desired.

PART 2.—POWERS OF THE GOVERNOR IN COUNCIL IN RELATION TO TRANSFERRED SUBJECTS.

52. Clause III (2) of the Reference to the Committee requires us to advise as to 'the powers which should be exercised by the Governor in Council in relation to transferred subjects and the grounds on which, and the manner in which, these powers should be exercised', and refers to paragraph 240 of the Joint Report. This paragraph is also referred to in clause I of the Reference as enunciating principles by which the Committee is to be guided.

53. The question of the authority of the Governor himself in regard to transferred subjects is not expressly referred to the Committee, but it is impossible for the Committee to deal with the position as regards intervention by the Governor in Council without making some assumption as to the power to be exercised by the Governor himself. This question therefore arises incidentally.

54. Paragraph 221 of the Joint Report has an important bearing on the questions which we are now considering. This paragraph says—"There are questions upon which the functions of the two portions of the Government will touch or overlap, such, for instance, as decisions on the budget or on many matters of administration. On these questions, in case of difference of opinion between the Ministers and the Executive Council, it will be the Governor who decides." Some of the cases of intervention specially contemplated in paragraph 240, that is to say, intervention in matters which concern law and order, or which raise religious or racial issues, or where the interests of existing services require protection, will certainly fall under the head of cases in which the functions of the two portions of the Government touch or overlap.

55. Paragraph 240, if taken literally, might seem to involve an arrangement whereby the Governor in Council would, in such cases, sit as a sort of Court of Appeal or Review on decisions of the Governor and Ministers, with power, if necessary, to take direct action in the administration of transferred departments for the purpose of giving effect to the conclusions arrived at on such appeal or review. Such a plan is not easy to reconcile with the proposals contained in paragraph 221, and would seem to involve an open interference with a Minister in the conduct of the transferred department, of which he still remained nominally in charge. Some of the objections to this plan are indicated in the Government of India Memorandum on the services (Annexure IV, paragraph 17).

56. It will be well to consider at this stage more closely what is to be the list of matters as to which some special safeguard is to be required on the lines indicated in paragraph 240, by action either of the Governor, or of the Governor in Council. The paragraph mentions—

Law and Order,

Religious and racial issues,

Interests of existing services.

Subsequent paragraphs of the Report suggest that special safeguards should also be provided for protecting missionary institutions (paragraph 345), for protecting the position of the Anglo-Indian community (paragraph 346) and for securing industries against unfair discrimination (paragraph 344). We think that clauses should be inserted in the Governor's Instructions dealing with the various points on which special safeguards are required. Draft clauses on the different points referred to are contained in a later paragraph (*vide* paragraph 67).

57. Paragraph 240 refers only to questions of administration, but in dealing with this matter it is necessary to bear in mind the proposals in paragraphs 252-254 as to legislation and in paragraphs 255-257 as to the budget. The proposal as to the Governor's power of certifying legislation in paragraph 252 suggests that his certificate should refer to his "responsibility for the peace or tranquillity of his province or any part thereof", and to his "responsibility for the reserved subjects."

58. Taking the situation as a whole, it is apparent that the questions arising in relation to matters intended to be safeguarded under some plan to be devised under paragraph 240 will sometimes be questions which, owing to their contact with reserved subjects, must be treated as mixed questions, and might therefore be held to fall under the provisions of paragraph 221 above referred to, and will sometimes be matters not affecting in any definite way the functions of reserved departments, but involving the Governor's special responsibility under his Instructions. It is necessary to distinguish in any plan proposed between these two classes of cases.

59. We will deal first with cases affecting both reserved and transferred departments, to which it will be convenient to refer throughout as "mixed cases" or "mixed questions." These must be considered in the light of paragraph 221 as well as of paragraph 240. It seems desirable to lay down the general principle that the rule with regard to "mixed cases" should, as far as possible, be uniform. It would be difficult, if not impossible, to draw any clear line of distinction between cases arising in a reserved department which affect the administration of a transferred department and cases arising in a transferred department which affect the administration of a reserved department, or to frame a satisfactory and workable rule based on such a distinction.

60. Our proposal, based on this principle, is that, where the functions of reserved and transferred departments touch or overlap, or where the action taken in one department is of such a nature as to affect the interests of the other, the following procedure should be followed :—

(1) The Minister or Member of Council may ask for papers on action taken or proposed to be taken in matters affecting his department.

(2) The matter will be discussed between the Member of Council and the Minister concerned.

(3) If they fail to agree, one or the other will refer the matter to the Governor.

(4) The Governor will see both Member and Minister, either separately or together.

(5) If he fails to settle the matter between them, he will summon a joint meeting of the two sections of the Government, where the matter will be discussed but no vote will be taken.

(6) If, after the discussion, there is still disagreement, the Governor will decide the matter. If his decision involves action by a reserved department, he must obtain the concurrence of his Council in such action or override his Council

under section 50 of the Government of India Act. If the decision taken requires action by the transferred department, the Governor must require the Minister to comply with the decision and to take the action decided on.

(7) If the Minister yields at this stage to persuasion, the action will be taken in the ordinary way by the Governor and the Minister, and the Minister will be responsible for the action taken and will have to defend it in the Legislative Council. If, however, the Minister is obdurate, the Governor will have to dismiss him and find another Minister.

(8) Provision must be made for emergencies in which it will be necessary for immediate action to be taken in relation to a transferred department before another Minister is found to take office. If such an emergency exists, the Governor will certify that the emergency does exist and that immediate action is necessary. On such certificate being given, the Governor in Council will have authority to take action, subject to the obligation of reporting to the Governor-General in Council. If, however, action can be postponed till a new Minister has accepted office, the Governor will appoint the new Minister on the understanding that he will concur in the necessary action, and the action will be taken after his appointment in the ordinary way by the Governor and Ministers.

If this plan is accepted it will be observed that the Governor in Council will only take action in a transferred department in the event of there being an emergency which necessitates action during a ministerial vacancy. That will be the only case of re-entry as long as the department remains a transferred department. Such re-entry will be for a temporary and limited purpose during an interregnum when there is no Minister. Such an interregnum will not normally be long.

61. It is necessary to note that this proposal involves a departure from paragraph 218 of the Joint Report, which proposes that Ministers shall hold office for the lifetime of the Legislative Council. Our proposal assumes that Ministers will hold office during the Governor's pleasure, and that he will have power to dismiss them. This seems essential if deadlocks are to be avoided.

62. There appear to be three main advantages in the plan above proposed—
 (1) The Minister will never be in the position of being formally overridden by the Governor in Council. If he yields on a point on which his policy comes into conflict with the Governor in Council, he will yield, not to a resolution passed by the official section of the Government, but to the personal judgment of the Governor who is associated with both sections of the Government. (2) The Minister will always be responsible for action in the transferred department in his charge even where such action is deflected by considerations affecting reserved departments. There is a vast difference between responsibility for action in the transferred department, as deflected by such considerations, and direct responsibility for the conduct of the reserved departments, from which it is of the essence of the scheme that the Minister shall be kept free. It is difficult to contemplate such an intermittent responsibility for a transferred department as is involved in the conception of a Minister in his own department being overruled by another authority, and repudiating any responsibility for the action taken, while still continuing to hold office. (3) The overruling of a Minister will always depend in the last resort on the Governor's personal judgment of the situation. The Governor, it may be assumed, will practically never force a view upon a Minister in a matter affecting a reserved subject unless he knows that he has the support of his Executive Council. At the same time he will never be bound, at the bidding of his Executive Council, to take up a position which may force his Minister to resignation, break up his Government and produce a crisis in the Legislative Council.

It may be noted that, in the case of legislation, the Governor alone has to certify under the scheme of the Joint Report, so that this proposal may be said to give him responsibility as to administration similar to that already proposed in the case of legislation.

63. In pursuance of the plan outlined above we propose that, for the purpose of regulating the relations between the two portions of the Government and defining the authority of the Governor, rules should be laid down to the following effect :—

(1) It shall be the duty of the Governor in Council in the case of reserved departments, and of the Governor and Ministers in the case of transferred departments, to take care that the administration is so conducted as not to prejudice or occasion undue interference with the working of any department falling in the other category, and so as not to cast any undue burden upon officers serving under the other department.

(The object of this clause is to lay down a general rule of a reciprocal character as to the relations between the two sections of the Government.)

(2) It shall be the duty of the Governor—

(a) to decide any question which may arise as to whether a particular matter falls within the scope of a reserved or of a transferred department (*cf.* paragraph 239 of the Joint Report) :

(b) to take care that any order given by the Governor-General in Council is complied with by the department concerned, whether such department is reserved or transferred ; and

(c) in the case of disagreement between the Executive Council and Ministers as to action to be taken in any matter which appears to the Governor to affect both a reserved and a transferred department, to give, after due consideration of the advice tendered to him, such decision as the interests of good government may seem to require, provided that, in so far as circumstances admit, before such decision is given, the matter shall be considered by both sections of the Government sitting together.

(3) The Governor's decision in such cases shall be duly recorded and thereafter the matter shall be dealt with in accordance therewith, in the case of action required in a reserved department by the Governor in Council, subject to the provisions of section 50 of the Government of India Act, and in the case of action required in a transferred department by the Governor and Ministers.

(4) If, owing to a vacancy, there is no Minister in charge of a transferred department, and it shall appear to the Governor that it is necessary, by reason of some emergency, to take action in regard to such department notwithstanding such vacancy, the Governor shall certify accordingly, and thereupon it shall be competent for the Governor in Council to take action in regard to such transferred department in the same way as if the department were a reserved department, but only while such emergency continues and such vacancy remains unfilled, and a copy of the Governor's certificate and the particulars of any action so taken shall be forwarded forthwith for the information of the Governor-General in Council.

64. The effect of the Committee's proposals as to the Public Services contained in paragraph 70 will be that the special matters affecting the services on which joint deliberation is to be required will be treated as if they all were, as many of them in fact will be, matters which affect both reserved and transferred departments. Certain other matters referred to in the same paragraph, *e.g.*, the control of services whose pay is debited to more than one head, and alteration in the rules for recruitment when they affect a transferred department, will also fall to be dealt with as "mixed cases."

65. Paragraphs 77, 79 and 80 of the section on Finance contain proposals as the extent to which the rules above suggested for dealing with "mixed cases" should apply to financial matters.

66. The other class of cases contemplated by paragraph 240 remains to be considered, namely cases which are not regarded by the Governor as

affecting both reserved and transferred departments, and therefore do not rank as "mixed cases," but which involve matters which the Governor is specially required to safeguard.

In these cases the necessity for joint deliberation will not arise. It will be for the Governor to discharge the responsibilities specially laid upon him by his Instructions, and, if necessary, for this purpose to overrule either his Executive Council or his Ministers. The position as to giving effect to his decision will be the same as in "mixed cases," that is, it will have to be carried out by that portion of the Government which is immediately concerned. It will always be open to the Governor to submit the matter for joint deliberation, if he so chooses, but there will be no rule requiring him to do so. Should he unfortunately find himself in disagreement with a Minister in some matter in which, in view of his special responsibility under his Instructions, he felt it his duty to insist on his own opinion even at the cost of losing his Minister, and should the Minister resign, then the work of the transferred department during any interval that ensued before a new Minister was appointed would, if the emergency required it, have to be carried on under the authority of the Governor in Council pending the appointment of the new Minister, in accordance with the provisions suggested in paragraph 63 (4) of this Report.

67. We recommend that clauses to the following effect should be inserted in the Governor's Instructions. We have already referred to the various matters as to which it has been suggested in the Joint Report that special safeguards are required, and have indicated the manner in which effect may be given to such Instructions (*vide* paragraphs 56, 66) :—

- "(1) The Governor shall be specially charged with the responsibility of maintaining peace and tranquillity within his province, and of preventing occasions of religious or racial conflict (*cf.* paragraph 240 of Joint Report).
- (2) The Governor shall not sanction the grant of monopolies or special privileges to private undertakings which are inconsistent with the public interest, nor shall he permit any unfair discrimination in matters affecting commercial or industrial interests (*cf.* paragraph 344 of Joint Report).
- (3) The Governor shall be charged with the duty of safeguarding the legitimate interests of the Anglo-Indian or Domiciled Community (*cf.* paragraph 346 of Joint Report).
- (4) It shall be the duty of the Governor to protect all members of the Public Services in the legitimate exercise of their functions and enjoyment of all recognized rights and privileges (*cf.* paragraphs 240 and 325 of the Joint Report)."

It is recommended that, in order to provide for the protection of special interests in educational matters, clauses should also be included in the Governor's Instructions, requiring him—

- (1) to secure that any existing educational facilities specially provided by the provincial Government for the benefit of Muhammadans shall not in the aggregate be diminished :
- (2) to take care that no change of educational policy, affecting adversely Government assistance afforded to existing institutions maintained or controlled by religious bodies, is adopted without due consideration (*cf.* paragraphs 240 and 345 of Joint Report); and
- (3) (in the case of Madras only) to secure that due provision is made for the educational advancement of depressed and backward classes.

Note.—Mr. Couchman and Mr. Thompson agree with the greater part of Section III, Part 2. They are of opinion, however, that the correct interpretation of those portions of paragraph 221 and paragraph 240 of the Joint Report which are referred to in paragraph 54 is that, while in all ordinary cases

of overlapping paragraph 221 would apply and the Governor would decide, it is not impossible that extreme cases might arise which would justify the exceptional procedure suggested in paragraph 240. In these cases, the Governor in Council would have power to intervene with full effect.

Mr. Couchman and Mr. Thompson think it most important that the Governor in Council should have this power in extreme cases where the maintenance of law and order is at stake, and would therefore entrust the final decision in such cases to the Governor in Council rather than to the Governor personally. They would add at the end of the first sentence of paragraph 60 (6) the words "unless a member of Council asks that the matter should be decided by the Governor in Council, on the ground that the maintenance of law and order is seriously imperilled." If the Minister, after full consideration, declined to identify himself with the orders, they would issue in the name of the Governor in Council.

PART 3.—LIST OF PROVINCIAL SUBJECTS FOR TRANSFER.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
1	1	Local self-government; that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, and subject to Indian legislation (<i>a</i>) as regards powers of such authorities to borrow, otherwise than from a provincial Government, and (<i>b</i>) as regards the levying by such authorities of taxation not included in the schedule of municipal and local taxation (paragraph 82).	In all provinces	It is contemplated that other matters will from time to time be entrusted to local authorities by legislation; where such matters form part of "reserved subjects" the Bill will be reserved for the consideration of the Governor-General (<i>vide</i> paragraph 36). The question of control, if any, to be exercised over policemen or watchmen by local authorities should be left to be determined by provincial legislation relating to local self-government. Pounds, where they are managed by local authorities, will come under local self-government.
2	2	Medical administration, including hospitals, dispensaries and asylums and provision for medical education.	In all provinces	It will be noted that it is proposed to reserve "Regulation of medical and other professional qualifications and standards," and to make this matter subject to Indian legislation (<i>vide</i> Provincial List, item 42). The administration of the Medical Registration Acts will thus be reserved, and the power of securing uniformity of standards will remain with the Indian legislature.
3	3	Public health and sanitation and vital statistics.	In all provinces	"Port quarantine and marine hospitals" is an All-India subject. The Sanitary Department will be responsible for the compilation of vital statistics, but at present in most provinces will have to rely on the services of other departments for their collection.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
4	4	Education, other than European and Anglo-Indian education, (excluding— (1) the Benares Hindu University, and (2) Chiefs' Colleges) subject to Indian legislation— (a) controlling the establishment, and regulating the constitutions and functions of new universities; and (b) defining the jurisdiction of any university outside its own province; and, in the case of Bengal, for a period of five years from the date when the reforms scheme comes into operation, subject to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.	In all provinces	Reformatory schools which are controlled by the Education Department should, subject to the concurrence of the Governor in Council in the continuance of this arrangement, be included in the transfer. It is suggested that the Governor shall be required to have special regard to certain interests in education (<i>vide</i> paragraph 67). As to the special provisions made regarding universities, <i>vide</i> paragraph 15.
5	5	Public Works included under the following heads :— (a) Provincial buildings : (b) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance : (c) Tramways within municipal areas ; and (d) Light and feeder railways, tramways, other than tramways within municipal areas, in so far as provision is made for their construction and management by provincial legislation in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council	In all provinces except Assam.	As to Assam, <i>vide</i> paragraph 49. <i>Vide</i> note to item No. 6, All-India List.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
6	9	Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.	In all provinces.	<i>Vide</i> note to item 9, Provincial List.
7	10	Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases.	In all provinces.	<i>Vide</i> note to item 10, Provincial List.
8	11	Fisheries	In all provinces except Assam.	In Assam the restrictive measures taken for the protection of fish have been unpopular, and the administration of fisheries is closely connected with the Land Revenue Department. Mr. Couchman would reserve Fisheries in Madras. He feels that this subject, which is of great importance to the poorer classes of the population, would, if transferred, not receive sufficient attention in Madras, as the higher castes, who take the leading part in political life in that Presidency, do not themselves eat fish and have so far displayed little interest in the subject of Fisheries. The Committee consider that this subject should not be separated from the subjects of Industrial Development and Co-operative Credit, with which in Madras it is intimately connected.
9	12	Co-operative Societies, subject to Indian legislation.	In all provinces.	
10	13	Forests, including preservation of game therein.	In Bombay only	The existing powers of the Governor-General in Council under the Forest Act will remain, and any provincial legislation affecting them will be subject to previous sanction.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
				The Committee consider that any division of the work of the Forest Department is undesirable, but, in places where the main purpose of a forest is to supply the needs of a village or a group of villages, the plan of entrusting the control of the forest to a village committee, panchayat or other local authority, on lines similar to those on which the experiment has been tried in Madras, might be adopted. It will be open to a provincial legislature by amendment of provincial laws relating to local self-government to provide for the adoption of this plan where circumstances render it suitable (<i>vide</i> paragraph 45). The Committee's general conclusion is that this subject, Forests, is not suitable for transfer at the outset. In Bombay, however, the Government have proposed the transfer of Forests. The Committee have taken this proposal into account, and also the special circumstances of Bombay, among which may be mentioned the fact that there are no large tracts of forest in excluded areas. They think there is some advantage in trying the experiment of transfer in one province, and regard Bombay as the most suitable province to select.
11	15	Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	In all provinces except Assam.	As to Assam <i>vide</i> paragraph 49. With reference to the proposed restriction of the purposes for which the Government of India will exercise their power to intervene in transferred subjects (<i>v.</i> paragraphs 16-17), the following points affecting Excise require special mention:— (1) The power of the Government of India to safeguard

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
				the administration of customs revenue will involve power to control the incidence of excise revenue (i) on any liquor which is likely to compete directly with imported liquor, and (ii) on any article imported into British India which is liable on importation to the payment of customs duty. (2) With regard to provincial action restricting the introduction into a province of excisable articles the position will be as follows:— The Government of India will be entitled to intervene, in the case of excisable articles imported from outside British India, to protect their customs duties, and, in the case of excisable articles in transit from or to other provinces, territories and States of India, for the purpose of protecting the interests of such other provinces, territories or States. (3) The Government of India will be entitled to intervene in matters affecting the supply of excisable articles to His Majesty's forces. In Madras and Bombay, Excise, Salt and Customs are dealt with under a unified system of administration. Salt and Customs are All-India subjects, and the question of making arrangements for the separate administration of these subjects when the transfer of Excise takes effect will require consideration by the Government of India. Mr. Couchman would not transfer Excise in Madras in view of the importance

Serial No.	Number in Provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
				of Excise as a source of revenue in Madras, he thinks it would be unwise to jeopardize it. He is also apprehensive that popular control of the liquor traffic may lead to an increase in drunkenness and crime in Madras, and points to the experience of Pondicherry, where the consumption per head of population is nearly fifteen times that of the adjoining portions of the Madras Presidency. The Committee do not consider that the position in Madras is such as to justify the reservation of this subject.
12	20	Registration of deeds and documents, subject to Indian legislation.	In all provinces.	
13	21	Registration of births, deaths and marriages, subject to Indian legislation for such classes as the Indian legislature may determine.	In all provinces	<i>Vide</i> note to item 21, Provincial List.
14	22	Religious and charitable endowments.	In all provinces	<i>Vide</i> paragraph 15.
15	24	Development of industries, including industrial research and technical education.	In all provinces	The Committee have been unable to draw any dividing line between "local" and other industries (<i>vide</i> paragraph 45).
16	26	Adulteration of food-stuffs and other articles, subject to Indian legislation as regards export trade.	In all provinces	It is considered that the functions of the provincial Government under this head will mainly be discharged through or in conjunction with local authorities.
17	27	Weights and measures, subject to Indian legislation as regards standards.	In all provinces.	
18	39	Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and zoological gardens.	In all provinces.	

Section IV—Public Services.

68. We propose to deal in this section of our Report with the following points affecting public services which fall within our reference, *viz.*:—

- (1) The functions which should be discharged by provincial Governments in relation to the public services,
- (2) The control that should be retained by the Government of India, and
- (3) The powers which should be exercised by the Governor in Council in regard to members of the public services employed in transferred departments.

69. We have received from the Government of India a Memorandum on "The Public Services under Reforms," which has been of great assistance to us in considering this question. This Memorandum, which forms an annexure to our Report (Annexure IV), has afforded the basis for our consideration of the subject, and we think that our views can most conveniently be stated in the form of a commentary on this Memorandum, with which we are in general agreement in so far as the proposals which it contains relate to matters falling within our reference. The points on which we suggest some modification of these proposals will be dealt with in relation to the paragraphs of the Memorandum in which they appear.

70. For the purpose of dealing with the subject we accept the classification set out in paragraph 3, *viz.*, Indian (which we shall call All-India services), provincial and subordinate. Classification. Para. 3.

No service should be included as an All-India service without the sanction of the Secretary of State, while the demarcation between the provincial and subordinate services should be left to the provincial Governments.

The professional division is, it is assumed, intended to include professional officers recruited on special contracts who do not fall within any of the other three classes. Para. 5.

We consider that any variation in the provincial cadre of an All-India service, whether by way of increase or decrease, should require the sanction of the Secretary of State. The proviso that every new permanent post created in the provinces must be added to the cadre of the service to which its duties most closely correspond does not appear to us to be workable, and for practical purposes the object sought can be attained by requiring previous sanction to the creation of new provincial appointments on a pay of Rs. 1,000 or over, as proposed by the Government of India in paragraph 24. Pay. Paras. 9 and 10.

The temporary additions to the cadre of All-India services should be on salary and allowances not exceeding those permissible for appointments of a similar nature or status within the regular cadre. Para. 11.

We think that it will tend to avoid conflict with the audit authority if the allowances other than acting or exchange compensation allowances are governed by rules made by the local Governments subject to the control of the Government of India. Regulations regarding house rents should be dealt with in the same way. Allowances. Paras. 12-13.

It is assumed that the rules regulating foreign service in Native States will be made by the Government of India. Foreign Service. Para. 15.

We agree that the Governor in Council should not be brought in as a formal agency of arbitration in the grievances of public servants and recommend that the following procedure should be adopted. The statutory rules should provide that no orders affecting adversely emoluments or pensions, no orders of formal censure and no orders on memorials shall be passed with regard to officers of All-India services in transferred departments without the personal concurrence of the Governor. If, as we propose, the Medical Department is transferred, the statutory rules should provide that the private practice of the Indian Medical Service shall be regulated only by the Secretary of State, and that the Governor's personal concurrence shall be obtained to any order Administration and Discipline. Paras. 17-19.

of transfer of an Indian Medical Service officer, because, owing to variations in the value of private practice in different appointments, an order of transfer may seriously affect emoluments. The Instrument of Instructions to the Governor should, in addition to the general provision proposed by the Government of India, provide that, before any order belonging to any of the classes described in the preceding part of this paragraph is passed to the disadvantage of any officer of an All-India service, whether serving in a transferred or reserved department, the Governor shall submit the matter for joint deliberation by both sections of the Government.* Appeals should lie to the Government of India and the Secretary of State against all such orders, except those relating to transfers of Indian Medical Service officers. No officer of an All-India service should be dismissed except by order of the Secretary of State.

Para. 21.

When an officer's pay is debited to more than one head and one of these heads is transferred the question of his control for the purpose of posting, promotion and discipline should be dealt with in accordance with the general rules regulating cases where both reserved and transferred departments are affected.

PROVINCIAL
SERVICES.
Para. 22.

Pending legislation, the existing rules regarding conditions of service should *mutatis mutandis* be binding on the Ministers as regards transferred departments.

Recruitment.
Para. 23.

Where alterations of rules for recruitment affect a transferred department the matter should be dealt with in accordance with the general rules regulating decisions in cases where both reserved and transferred departments are affected.

Administration
and discipline.
Para. 30.

We consider that in the case of existing members of provincial services the procedure suggested in the case of members of All-India services should apply, with the proviso that there should be no appeal to the Secretary of State where the present rules do not allow such an appeal. In the case of future entrants to the services there need be no provision for joint deliberation before the passing of orders of the kind described, but all such orders, and an order of dismissal, should require the personal concurrence of the Governor, and an appeal should lie only to the Government of India.

Summary.
Para. 36 (1).

It is suggested that as far as possible the members of All-India services should be secured in the benefits of the conditions under which they were recruited. It is recognised that the Secretary of State reserves the right to alter those conditions, but in practice the principle is accepted that such alterations shall not press harshly on the members of the services and we consider that this principle should be formally recognised in the future.

Paras. 18
and 30.

We are of opinion that it would not be within the terms of our reference to consider the proposal that in certain circumstances officers of the public services should be granted permission to retire on proportionate pensions.

Para. 34.

As the proposal for a Public Service Commission is only in its initial stage we do not feel able to express an opinion upon it.

71. There are two further questions to which we wish to refer here. There are certain medical appointments which are in the gift of the Government of India; we do not intend that our proposals should be taken as altering this arrangement, any modification of which should rest with the Government of India. Similarly, though the post of Director of Public Instruction is not included in the provincial cadres of the Indian Education Service, the position is made clear by the following quotation from the Government of India Resolution No. 679 of the 12th September 1906: "The latter Resolution (of 4th September 1886), while not giving members of the Education Service an absolute claim to succeed to the post of Director, contemplated that, before appointing a person not belonging to the service, local Governments should, in the event of their considering it desirable to fill the post otherwise than from the local educational staff, seek the assistance of the Government of India, with a view to procuring a suitable selection from the Educational Department of some other province." This position we do not desire to disturb.

*Mr. Couchman and Mr. Thompson are unable to support this recommendation so far as it affects officers serving in reserved departments, except where a transferred interest is concerned. They consider that the Committee should not enter into the question of the right of Ministers to influence the administration of reserved subjects, and they regard the recommendation in so far as it affects the officers referred to, where transferred interests are not concerned, as uncalled for.

Section V—Finance.

72. In regard to the subject of Finance we found it necessary to limit the scope of our inquiries. We have assumed that the finances of the Government of India and of provincial Governments will be separated on the lines proposed in paragraphs 200 to 208 of the Report, and have taken the view that it was not within our scope to consider any modification of these proposals. Again, the control of the Government of India over provincial Governments is at present exercised largely through the rules in the financial codes, but the relaxation of these restrictions will, we understand, be separately considered (*vide* paragraph 292 of the Report), and we have not attempted to deal with the subject. Apart from these important questions, however, we felt that it was part of our duty under the terms of our reference to define as far as possible in the sphere of finance the control to be retained by the Government of India, and to indicate how the functions of the provincial Government as regards finance should in our opinion be apportioned between the Governor in Council and the Governor and Ministers. In doing so we have carefully considered a Memorandum on Finance (*vide* Annexure V), with which we were furnished by the Government of India, containing their views on certain changes which will be required in the financial organization, particularly of provincial Governments, under the Reforms scheme. The portions of the Memorandum which we have specially considered fall under the following heads :—

- (1) Accounts and Audit (Paragraphs 14, 28 and 29) ;
- (2) The position of the Finance Department in the provincial Government (Paragraphs 24 to 27) ;
- (3) Taxation for provincial purposes (Paragraph 20) ;
- (4) Borrowing on the sole credit of provincial revenues (Paragraph 21) ;
- (5) Control over the provincial balances (Paragraph 22).

As will appear from what is said in the following paragraphs we are in general agreement with the proposals contained in the Memorandum under these heads. We may add that we have found it convenient to include in this Section our recommendations regarding the control of the Government of India over taxation and borrowing by local bodies.

Accounts and Audit.

73. The proposals in the Memorandum regarding accounts and audit affect both what may be called "Parliamentary" control over expenditure and the relations of the Government of India with the provincial Governments. In this matter we can only express our concurrence with what is stated in the Memorandum. The procedure proposed in paragraph 29 will enable the Legislative Council to exercise an effective control over expenditure and for the present the existing system of accounts and audit will continue. Under that system—

- (1) The provincial accounts will be compiled and audited by a staff appointed, paid for and controlled by the Government of India :
- (2) The main framework of the provincial accounts will be settled by the Government of India and the Secretary of State, though the details will, in large measure, be left to the provincial Governments :
- (3) The Treasury Officer, though appointed and paid by the provincial Government, will, in matters of accounts procedure, the remittance of treasure and the transfer of funds to and from the currency balance, be bound by the general rules and instructions of the Government of India and by orders issued to him by Accounts Officers.

We note, however, that the Government of India contemplate that with complete provincial autonomy the provincial accounts will be compiled and audited by an entirely separate staff, paid for by the province and for audit purposes subordinate to a provincial Auditor-General.

Position of the Finance Department in the provincial Government.

74. In accordance with the proposals contained in paragraphs 24 to 27 of the Memorandum the Finance Department will be a reserved department and will not be transferred to the control of a Minister (as regards new taxation and borrowing see paragraphs 75—80 below). In relation to transferred departments, however, the functions of the Finance Department will be to advise and criticise, and the final decision will rest with the Minister, subject to the assent of the Governor, which would only be refused "when the consequences of acquiescence would clearly be serious" (paragraph 219 of the Joint Report). We agree that this is the best arrangement. The only comments that appear necessary are the following:—

- (a) Paragraph 27 (2).—We consider that the report of the Finance Department on the scrutiny proposed in this paragraph should be placed before the Governor in Council or Governor and Minister, as the case may be, but should not be laid before the legislature unless the Governor so directs.
- (b) Paragraph 27 (2).—We consider that the statement that it will be part of the duty of the Finance Department to discuss the necessity of the expenditure and the general propriety of the proposals put forward calls for the following comment. It is understood that general propriety means in this context general propriety from the financial point of view. There must obviously be limits to criticism by the Finance Department in matters of policy, but these limits must be left to be settled by convention.
- (c) Paragraph 27 (3).—We consider that the Government of India rule quoted in paragraph 11 of the Memorandum should be adopted in all provinces, *mutatis mutandis*.
- (d) Paragraph 27 (6) (b) and (c).—We understand that by the "authority which passed the budget" is meant the Legislative Council. We assume that the Governor by exercise of his special authority under Section 50 of the Government of India Act will still be able in exceptional cases to override the Finance Department in matters falling under (b) and (c), and we think the position on this point should be made clear.

Taxation for provincial purposes.

75. In paragraph 20 of the Memorandum a list is contained of the additional taxes which provincial Governments might be allowed to impose without the previous sanction of the Government of India. According to the proposals these taxes are to be included in a schedule, which would be established by rule and not by statute, and might therefore be corrected or enlarged in the light of experience. The schedule proposed by the Government of India is as follows:—

Any supplement to revenues which are already provincial, *e.g.*, cesses on the land, enhanced duties on articles that are now excoisable, higher court-fees, increased charges for registration etc.

Succession duties.

Duties upon the unearned increment on land.

Taxes on advertisements, amusements (including totalisators) and specified luxuries.

In one point only the schedule appears to us to require modification. It is not clear exactly what forms of land taxation would be covered by the entry "Duties upon the unearned increment on land," and it seems to us desirable that the entry should be so framed as to make the provincial powers of land taxation as wide as possible. We may point out, however, that some forms of land taxation, *e.g.*, a tax on successions or transfers, might be most conveniently collected by means of a stamp duty, and in that case the tax would affect a source of revenue reserved to the Government of India. It ought, we think, to be made clear whether, in such cases, the inclusion of a land tax in the schedule is to exempt provincial Governments from obtaining the previous sanction of the Governor-General under section 79(3)(a) of the Government of India Act.

76. In paragraph 257 of the Report it is proposed that, if the residue of the provincial revenues (after the contribution to the Government of India and the allotment for reserved services have been set aside) is not sufficient, it should be open to Ministers to suggest fresh taxation. This feature of the scheme appears to us to fix on the Ministers the responsibility of devising means whereby any deficiency in the public revenues may be made good. It must, therefore, be open to Ministers to initiate within the Government such proposals as may seem suitable for this purpose, and it will be the Minister who will be responsible for placing taxation proposals before the legislature. It seems to us to follow that, when any new tax or any proposed addition to an existing tax requires legislation to give effect to it, the decision whether that legislation should be undertaken must rest with the Governor and Ministers. Further, inasmuch as the whole balance of the revenues of the province (after deducting the contribution to the Government of India, the sums required for the service of the provincial debt and the sums allotted to the reserved services) will be at the disposal of the Ministers for the administration of the transferred departments, we think that, when an existing tax cannot be reduced or remitted without legislation, the decision whether such legislation should be undertaken must also rest with the Governor and Ministers. To the extent indicated above, therefore, taxation for provincial purposes should be regarded as a transferred subject.

It would not necessarily follow, however, that the collection of a new or additional tax would rest with the Ministers. That would ordinarily depend on the agency to be employed in assessing or collecting the tax, a matter which would presumably be settled by the legislation authorising its imposition. The assessment or collection of the tax would, therefore, be reserved or transferred, according as the agency employed belonged to a reserved or to a transferred department.

77. We have considered how far the transfer of provincial taxation discussed above would be affected by the plan proposed for dealing with mixed questions (*vide* paragraph 60). When a taxation Bill is proposed by Ministers, it may appear that some interest, the care of which is entrusted to the Governor in Council, is likely to be prejudiced. In such cases if the Executive Council adhered to its objections it would be for the Governor finally to decide in accordance with the usual procedure. But when a reserved department is affected only because it is proposed to assess or collect the tax through its agency, we think that in that case the Executive Council should be entitled to press their objections only as to the use of the agency, and that the merits or demerits of the tax should be left entirely to the decision of the Governor and Ministers. This would not exclude joint deliberation, and indeed we take it for granted that in practice joint deliberation would invariably precede the introduction of a taxation Bill.

78. We consider that it should be duty of the Finance Department to prepare a report on every taxation Bill proposed to be introduced into the Legislative Council, and that this report should be placed before the Governor and Ministers, but should not be laid before the legislature unless the Governor so directs. The report of the Finance Department should, we think, be confined to the financial aspects of the proposed tax and should not deal with questions of policy.

79. In some departments under the existing law the assessment of revenue or the fixing of the rates of duty is left to executive action, and the question how in these cases variations in the rates of taxation are to be dealt with must be separately considered. Land revenue, for example, is assessed according to certain established principles, and the amount of the assessment does not depend on the financial exigencies of the moment. In the Excise Department, again, the declared policy of Government has been to raise the maximum revenue from the minimum consumption, and, when a higher duty can be imposed without unduly stimulating illicit practices, it may be proper to raise the duty even though no increased revenue is required. In cases such as these it is through the assessment of revenue and the fixing of the rates of duty that the policy under which the department is administered finds its concrete expression, and it is only those responsible for determining policy who can properly

decide. We are of opinion, therefore, that, when alterations in taxation can be effected without any change in the law, the decision whether any alteration should in fact be made must be recognized as resting with the Governor in Council if the department is reserved, and with the Governor and Ministers if it is transferred. It is no doubt true that decisions such as these, as well as the general administration of a law authorizing taxation, must affect the joint financial resources of the Government, but it cannot be admitted that merely on that account both reserved and transferred departments are affected in the sense that a Minister or a Member of Council would be entitled to press his views upon the department directly concerned, and, if his view were not accepted, to ask the Governor to deal with the matter in accordance with the plan proposed for 'mixed cases' (v. paragraph 60).

Borrowing on the sole credit of provincial Revenues.

80. The effect of the proposals in the Memorandum appears to be as follows. The provincial Governments must ordinarily borrow through the Government of India; but, subject to the approval of the Government of India as to the method of borrowing, including the rate of interest and the time of borrowing, provincial Governments would be at liberty to borrow in the Indian market in the following cases, *viz.*:—

- (1) if the Government of India found themselves unable to raise in any one year the funds which the province required; or
- (2) if the province could satisfy the Government of India that there was good reason to believe that a provincial project would attract money which would not be elicited by a Government of India loan.

The funds raised by provincial borrowing should be devoted only to—

- (1) expenditure on famine relief and its consequences;
- (2) financing of the provincial loan account; and
- (3) capital purposes, *i.e.*, expenditure which produces permanent assets of a material character.

When a province borrowed for non-productive purposes it would be required to establish a sinking fund on a basis to be approved by the Government of India.

To these proposals, with which we agree, we have only one addition to make. We are of opinion that borrowing is a matter in which both sides of the Government must be considered to be interested, since the security of the loan will be the whole revenues and assets of the provincial Government. We consider, therefore, that, if after joint deliberation there is a difference of opinion between the Executive Council and the Ministers, the final decision whether a loan should be raised and as to the amount of the loan must rest with the Governor.

Control over provincial balances.

81. In paragraph 22 of the Memorandum certain proposals are made regarding the control of the Government of India over provincial balances. It is suggested that the allowance made for famine expenditure in the new provincial settlements should be earmarked in the provincial balances or invested, unless it is spent on purposes which, in the local Government's recorded opinion, would have a direct and calculable effect in palliating the consequences of drought. Each local Government would also be required to give timely intimation in each year of its intentions as regards drawing on its credit with the Government of India, and would, in the absence of famine or other grave emergency, be obliged to adhere to its programme. On the other hand the existing rules which require a local Government to maintain a certain minimum balance and not to budget for a deficit without higher sanction would be abrogated. These recommendations have our entire concurrence.

Control of the Government of India over local and municipal finance.

52. We have considered how far the Government of India should reserve control over taxation by municipalities and other local bodies. If the matter were left entirely to provincial legislation it might easily happen that local taxes would affect the sources of revenue reserved to the Government of India. Thus for example in several provinces municipalities may impose a tax on persons following professions, trades and callings, including those who hold appointments remunerated by salaries or fees. Such a tax is clearly of the nature of an income-tax, and the Government of India should have full power to protect their own revenues. Again, under the Calcutta Improvement Act three special taxes are imposed, the revenues from which are received by the Improvement Trust, *viz.* :—

- (1) A terminal tax on passengers arriving at or departing from Calcutta,
- (2) An export tax on jute, and
- (3) A duty on all transfers of real property within the municipality of Calcutta.

The first of these taxes, in so far as it takes the form of a surtax on railway tickets, and both the other two, are obviously within the sphere of taxation reserved to the central Government, and in the case of such taxation the previous sanction of the Government of India ought to be required. We are of opinion that a schedule of municipal and local taxation should be prescribed by the Governor-General in Council. The schedule might include all taxes admissible under the existing law of the various provinces, so long as they do not trench on the sphere of the central Government, and should also include all taxes contained in the provincial schedule (*vide* paragraph 75). The previous sanction of the Government of India would then be required to the imposition of any tax not covered by the schedule, or to provincial legislation which empowered local bodies to impose such a tax.

53. We have also considered how far borrowing by local bodies should be subject to the control of the Government of India. Where a local body borrows, as is commonly the case, through the provincial loan account, no special control appears necessary, since either the funds will be provided from provincial balances or the local demand will be incorporated in the provincial loan for the year. Where a local body desires to borrow in the Indian market the Government of India are entitled to exercise control to the same extent and for the same reasons as they control provincial borrowing, though this control may well be relaxed when the loan proposed to be taken is not large in amount. Where the control of the Government of India is reserved by any existing law, the relaxation of that control by legislation would require the previous sanction of the Governor-General.

Proposals of Sir James Meston.

54. We have received from the Government of India two additional memoranda containing important proposals by Sir James Meston as to a plan of dealing with provincial finance different from that set forth in paragraph 257 of the Joint Report. These proposals involve a substantial departure from the scheme outlined in the Report, and necessarily affect some of the points discussed in the foregoing paragraphs. In view of the late stage at which these proposals reached us we are not in a position to express any opinion upon them.

Section VI.—Conclusion.

55. We desire to record our special obligations to the many officers of Government who have assisted us by their expert knowledge, and by rendering available in convenient form the detailed information which it was necessary to obtain for the purpose of enabling us to conduct our enquiry.

The work falling upon the Secretary to the Committee has been unusually exacting. We wish to express our thanks to Mr. J. D. V. Hodge, I.C.S., for the great care and ability which he has devoted to his work in this capacity.

We have the honour to be,

Your Excellency's most obedient servants,

RICHARD FEETHAM,

Chairman.

M. E. COUCHMAN.

RAHIM BAKHSH.

TEJ BAHADUR SAPRU.

C. H. SETALVAD.

H. L. STEPHENSON.

J. P. THOMPSON.

Members.

J. D. V. HODGE.

Secretary.

Delhi, the 26th February 1919.

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ANNEXURE I.

SCHEDULE OF THE RECOMMENDATIONS OF PROVINCIAL GOVERNMENTS REGARDING RESERVATION OR TRANSFER OF PROVINCIAL SUBJECTS.

Note 1.—The recommendations of the provincial Governments summarised in this schedule are to be read, in the case of those made by the Governments of Madras, Bombay, the Punjab, the Central Provinces and Assam, subject to the reservations stated in paragraph 43 of the Report.

Note 2.—*Madras.*—The following general reservation applies to every item in the "List of transferred subjects" prepared by the Government of Madras, *vis.*, that the exercise of provincial powers of taxation and legislation in all subjects, whether transferred or not, should require the sanction of the collective Government.

Note 3.—*The Punjab.*—The recommendations of the Punjab Government will, in certain cases be found to be qualified by the note "full Government". His Honor the Lieutenant-Governor fears that the overlapping of particular subjects between reserved and transferred departments will give occasion for friction between the two sides of Government. The solution suggested is that matters arising in the administration of a transferred subject which touch the reserved sphere should be referred to the whole Government, the Executive Councillors as well as the Ministers taking part in the decision.

Note 4.—*The Central Provinces.*—The Chief Commissioner's position is stated in paragraph 43 of the Report. The subjects he has specified as "least suitable for transfer" are entered in the schedule as "reserved"; no entry is made in the case of other subjects.

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1.—FINANCIAL WORK ON BEHALF OF GOVERNMENT OF INDIA.

Name of Province.	Recommendation.	REMARKS.
(a) INCOME-TAX.		
Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

(b) CUSTOMS.		
Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

2.—APPOINTMENTS, ETC., OF PROVINCIAL SERVICES.

Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa . . .	Transferred . . .	Saving power intervention to Governor in Council as in paragraph 240.
Punjab . . .	Reserved.	
United Provinces . . .	Transferred . . .	As regards provincial services, subject to the right of the Governor to protect interests of existing members
Assam . . .	Reserved.	
Central Provinces . . .	Reserved . . .	Except services connected with transferred subjects.

3.—CRIMINAL JUSTICE.

Bengal . . .	Reserved . . .	'Administration of the future village Self-Government Bill' to be transferred: this will include village benches.
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved . . .	Village benches non-existent.
Punjab . . .	Reserved . . .	Village benches, appointment to: transferred. Staff presumably appointed by District Magistrates.
United Provinces . . .	Reserved . . .	Including village benches.
Assam . . .	Reserved . . .	Village benches to be transferred eventually.
Central Provinces . . .	Reserved.	

4.—POLICE, INCLUDING RAILWAY POLICE.

Name of Province.	Recommendation.	REMARKS.
Bengal	Reserved	The Calcutta Alms House and other charitable institutions now administered by the Commissioner of Police, Calcutta, to be transferred. The Calcutta Workhouse to be reserved. Village police to be reserved.
Bombay	Reserved	Including village police.
Madras	Reserved.	
Bihar and Orissa	Reserved	Including village police.
Punjab	Reserved.	
United Provinces	Reserved	Including village police.
Assam	Reserved.	
Central Provinces	Reserved.	

5.—PRISONS.

Bengal	Reserved.
Bombay	Reserved.
Madras	Transferred.
Bihar and Orissa	Reserved.
Punjab	Reserved.
United Provinces	Reserved.
Assam	Reserved.
Central Provinces	Reserved.

6.—CRIMINAL TRIBES.

All provinces	Reserved.
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7.—EUROPEAN VAGRANCY.

Bengal	Reserved	Mendicancy in general to be transferred.
Bombay	Reserved.	
Madras	Reserved.	
Bihar and Orissa	Reserved.	
Punjab	Reserved.	
United Provinces	Reserved.	
Assam	Reserved.	
Central Provinces	Reserved.	

8.—SEDITIONS MEETINGS, INCITEMENTS TO CRIME.

All provinces	Reserved.
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9.—PRESS ACT.

All provinces	Reserved.
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10.—ARMS ACT.

All provinces	Reserved.
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11.—POISONS.

Name of Province.	Recommendation.	REMARKS.
All provinces . . .	Reserved.	

12.—GAMBLING.

Bengal . . .	Reserved.	
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab—		
(a) administration	Reserved.	
(b) legislation	"Full Government".	
United Provinces . .	Transferred.	
Assam . . .	Reserved.	
Central Provinces . .	Reserved.	

13.—CINEMATOGRAPHS AND DRAMATIC PERFORMANCES.

All provinces . . .	Reserved.	
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14.—CORONERS.

Bengal . . .	Reserved.	
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
United Provinces . .	Transferred.	

15.—LAND REVENUE.

Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . .	Reserved.	
Assam . . .	Reserved.	
Central Provinces . .	Reserved.	

16.—COURT OF WARDS.

Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Reserved.	
United Provinces . .	Reserved.	
Assam . . .	Reserved.	
Central Provinces . .	Reserved.	

17.—ENCUMBERED ESTATES.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Reserved.	
United Provinces . .	Reserved.	
Assam . . .	Reserved.	
Central Provinces . .	Reserved.	

18.—AGRICULTURE.

Bengal . . .	Transferred . . .	Cinchona to be an All-India subject.
Bombay . . .		Council not unanimous, but agrees that functions of local Government under Destructive Forests and Pests Act, II of 1914, may be transferred.
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Transferred . . .	On condition that Governor, Secretary or Head of Department is empowered to bring any matter before "full Government."
United Provinces . .	Transferred.	
Assam . . .	Transferred.	

19.— VETERINARY.

Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Transferred . . .	On condition that Governor, Secretary or Head of Department empowered to bring any matter before "full Government."
United Provinces . .	Transferred.	
Assam . . .	Transferred.	

20.—FORESTS.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . .	Reserved.
Punjab . . .	Reserved.
United Provinces . .	Reserved.
Assam . . .	Reserved.
Central Provinces . .	Reserved.

21.—FISHERIES.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Transferred.	
Punjab . . .	Transferred.	
United Provinces . . .	Transferred.	
Assam . . .	Transferred . . .	Eventually.

22.—PUBLIC WORKS, ROADS AND BUILDINGS.

Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Transferred.	(1) The programme of works for execution to be subject to the control of the collective Government. (2) Works costing over Rs. 2½ lakhs to require the administrative approval of the collective Government.
Bihar and Orissa . . .	Transferred.	
Punjab . . .	...	The reorganization scheme proposes that roads and buildings should be made over to local bodies. The Punjab Government considers that the small provincial department that will remain should be reserved.
United Provinces . . .	Transferred.	
Assam . . .	Reserved . . .	Except in so far as roads and buildings are transferred to the control of local bodies.

23.—TRAMWAYS, LIGHT AND FEEDER RAILWAYS.

Bengal . . .	Transferred.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . . .	Transferred.
Punjab . . .	Transferred.
United Provinces . . .	Transferred.
Assam . . .	Transferred.

24.—INLAND NAVIGATION.

Bengal . . .	Reserved . . .	Waterways Trust, if constituted, to be an All-India subject.
Assam . . .	Reserved.	

25.—PORTS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved . . .	Including sanitation of ports. Waterways Trust, if constituted, to be an All-India subject.
Bombay—		
Ports of Bombay, Karachi and Aden (under Marine Department) . . .	Reserved.	
'Continental ports' (under Land Revenue Department) . . .	Transferred.	
Madras . . .	Reserved.	

26.—IRRIGATION.

Bengal—		
Major Works (productive and protective) . . .	Reserved.	
The rest . . .	Transferred.	
Bombay . . .	Transferred . . .	The works are under the control of the Public Works Department; the Revenue Department is concerned with the collection of irrigation revenue. The Council is not unanimous as to the transfer of the functions of the Land Revenue Department in connection with irrigation.
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved . . .	One Member of Council would transfer minor works.
Punjab—		
(a) 'Major' . . .	Reserved . . .	The term is not used by the Punjab Government in the technical sense in which it is known to the Irrigation Department (<i>vide</i> paragraph 45).
(b) 'Minor' . . .	Transferred . . .	The Executive Council to have a vote on the question whether a minor canal should be undertaken.
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	
Central Provinces . . .	Reserved.	

28.—DRAINAGE AND EMBANKMENTS.

Bengal . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved . . .	One Member of Council dissents.
Punjab . . .	Transferred . . .	New schemes to be voted on by "full Government."
		Irrigation Department's schemes to be a reserved subject.
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

28.—EDUCATION.

Name of Province.	Recommendation.	REMARKS.
Bengal	Transferred . .	(a) European education to be reserved. (b) Collegiate, including Calcutta University, to be reserved pending decision as to the future of the University.
Bombay	Transferred.	
Madras	Reserved.	
Bihar and Orissa—		
(a) Primary . .	Transferred . .	 vernacular education.
(b) Other	Reserved	 Including reformatories.
Punjab—		
(a) Primary and middle schools.	Transferred . .	 Provided conditions suggested as to Local Self-Government (item 31) are accepted.
(b) High schools .	Transferred.	
(c) Technical and industrial schools.	Transferred . .	 Medical schools to go with medical college (transferred). Engineering schools to go with Public Works Department.
(d) University and colleges.	Transferred . .	(i) His Honor the Lieutenant-Governor would prefer to reserve the four Government colleges: if this is not done, he suggests that the Governor should have the power to bring questions affecting them before the "full Government." (ii) Questions affecting members of the Imperial Educational Service to be referred to the "full Government." (iii) Aitchison College, if provincialized, to be reserved.
United Provinces .	Transferred	 The Indian Educational Service to be reserved.
Assam	Transferred	 Excluding collegiate.

29.—MEDICAL.

Bengal—		
Medical officers . .	Reserved.	
State medical institutions.	Reserved.	
Bengal Medical Act, 1914.	Reserved.	
Medical Degrees Act, 1916.	Reserved.	
Leper asylums . . .	Reserved.	
Lunatic asylums . .	Reserved.	
Charitable hospitals and dispensaries under local bodies	Transferred.	
Medical education .	Reserved.	
Bombay	Transferred . .	 Including lunatic and leper asylums.
Madras	Reserved.	
Bihar and Orissa . .	Transferred . .	 Except medical schools.
Punjab	Transferred . .	 Following matters to be dealt with by "full Government":— (1) Indian Medical Service. (2) Medical Registration Act. (3) King Edward Hospital. (4) Medical Faculty. (5) Additions to cadre of assistant and sub-assistant surgeons for institutions under Executive Council.
United Provinces . .	Transferred	 Including medical education.
Assam	Transferred	 Eventually.

30.—SANITATION.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Transferred . .	Sanitation of ports and shipping to be reserved.
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Transferred . .	Questions concerning officers of reserved services to come before "full Government."
United Provinces . .	Transferred.	
Assam . . .	Transferred . .	Eventually.

31.—LOCAL SELF-GOVERNMENT.

Bengal . . .	Transferred . .	Including Calcutta Improvement Trust.
Bombay . . .	Transferred . .	Including Bombay Improvement Trust.
Madras . . .	Transferred . .	Following powers to be reserved to collective Government:— (1) Power to suspend defaulting local bodies. (2) Control of the borrowing powers of local bodies.
Bihar and Orissa . .	Transferred.	
Punjab . . .	Transferred . .	But (1) all questions of taxation, (2) all proposals imposing duties on members of the reserved services, (3) all questions as to the discharge of their duties by such officers, (4) irrigation, embankments etc., and (5) police, and possibly other matters involving questions of law and order or contact with reserved subjects, to be dealt with by the "full Government."
United Provinces . .	Transferred.	
Assam . . .	Transferred.	

32.—FRANCHISE, ETC.

Bengal . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Reserved.	
Punjab . . .	Reserved . .	Not to be transferred until Commission has reported.
United Provinces . .	Reserved . .	Do.
Assam . . .	Reserved . .	(Governor's portfolio).

33.—CIVIL JUSTICE.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved . . .	"Administration of the future Village Self-Government Bill" to be transferred; this includes village courts.
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved . . .	Village courts non-existent. Private trusts transferred.
Punjab . . .	Reserved . . .	Village courts transferred, but legislative rules in regard to them to come before "full Government."
United Provinces . . .	Reserved . . .	Including village courts and private trusts.
Assam . . .	Reserved . . .	Village courts to be transferred eventually.
Central Provinces . . .	Reserved.	

34.—REGISTRATION OF DEEDS AND DOCUMENTS.

Bengal . . .	Transferred . . .	Appointments which now require the sanction of the Governor to continue to do so.
Bombay . . .	Transferred.	
Madras . . .	Transferred.	
Bihar and Orissa . . .	Transferred.	
Punjab—		
Legislation . . .	All India.	
Administration . . .	Transferred . . .	Questions of discipline affecting reserved services to come before "full Government."
United Provinces . . .	Transferred.	
Assam . . .	Transferred . . .	Eventually.

35.—EXCISE.

Bengal . . .	Transferred.	
Bombay . . .	Transferred . . .	Subject to the remark that the amalgamated service dealing with salt, customs and excise should be reserved.
Madras . . .	Reserved.	
Bihar and Orissa . . .	Transferred.	
Punjab . . .	Reserved . . .	Ministers to be associated with Executive Council, and all proposals for legislation involving penal clauses or taxation to come before "full Government."
United Provinces . . .	Transferred.	
Assam . . .	Reserved.	

36.—OPIUM.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Punjab . . .	Reserved.
Assam . . .	Reserved.

37.—SCHEDULED DISTRICTS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	...	Special proposals, <i>vide</i> para. 50 of the Report.
Punjab . . .	Reserved.	
United Provinces* . . .	Reserved.	
Assam . . .		Special proposals, <i>vide</i> para. 49 of the Report.
Central Provinces . . .	Reserved.	

38.—LAND ACQUISITION.

Bengal . . .	Reserved.	
Bombay . . .	Reserved . . .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

39.—FACTORIES.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . . .	Reserved.
Punjab . . .	Reserved.
United Provinces . . .	Reserved.
Assam . . .	Reserved.
Central Provinces . . .	Reserved.

40.—MINES.

Bengal . . .	Reserved.
Madras . . .	Reserved.
Bihar and Orissa . . .	Reserved.
United Provinces . . .	Reserved.
Assam . . .	Reserved.
Central Provinces . . .	Reserved.

41.—EXPLOSIVES.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	
Central Provinces . . .	Reserved.	

42.—PETROLEUM.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . . .	Reserved.
Punjab . . .	Reserved.
United Provinces . . .	Reserved.
Assam . . .	Reserved.
Central Provinces . . .	Reserved.

43.—DEVELOPMENT OF ARTS, CRAFTS AND LOCAL INDUSTRIES.

Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Transferred .	i.e., "cottage industries."
Punjab . . .	...	Judgment suspended pending examination of Industrial Commission's report.
United Provinces . . .	Transferred .	"Industries" substituted for "local industries." It is their development only which is to be transferred.
Assam . . .	Transferred.	
Central Provinces . . .	Reserved.	

44.—CO-OPERATIVE CREDIT.

Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Transferred.	
Bihar and Orissa . . .	Transferred.	
Punjab . . .	Transferred .	On condition that Governor, Secretary or Head of Department empowered to bring any matter before "full Government."
United Provinces . . .	Transferred.	
Assam . . .	Transferred	.. Eventually.

45.—BUSINESS CONCERNS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved . . .	Registration of assurances and companies to be transferred.
Bihar and Orissa . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

46.—GOVERNMENT PRESS.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . . .	Reserved.
Punjab . . .	Reserved.
United Provinces . . .	Transferred.
Assam . . .	Reserved.

47.—REGISTRATION OF BIRTHS, ETC.

Bengal . . .	Transferred . . .	General superintendence to be reserved.
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved.	
Punjab—		
(a) By local bodies . . .	...	Part of Local Self-Government.
(b) By village watchmen.	...	To be dealt with by "full Government."
(c) By chaplains, etc.		Reserved.
United Provinces . . .	Transferred.	
Assam . . .	Transferred . . .	Eventually.

48.—EMIGRATION.

Bengal . . .	Reserved . . .	Both to colonies and between provinces.
Madras . . .	Reserved.	
Bihar and Orissa . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces . . .	Reserved.	
Assam . . .	Reserved.	

49.—CRUELTY TO ANIMALS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Transferred.	
Punjab . . .	Reserved.	
United Provinces . .	Reserved.	
Assam . . .	Reserved.	

50.—PROTECTION OF WILD BIRDS AND ANIMALS.

Bengal . . .	Reserved.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . .	Transferred.
Punjab . . .	Transferred.
United Provinces . .	Transferred.
Assam . . .	Reserved.

51.—ESCHEATS.

All Provinces . . .	Reserved.
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52.—CHARITABLE ENDOWMENTS.

Madras . . .	Transferred	As apart from religious endowments.
Bihar and Orissa . .	Transferred.	
Punjab . . .	Transferred.	
United Provinces . .	Transferred.	
Assam . . .	Transferred	Eventually.

53.—MOTOR VEHICLES.

Bengal . . .	Reserved.
Bombay . . .	Reserved.
Madras . . .	Reserved.
Bihar and Orissa . .	Transferred.
Punjab . . .	Reserved.
United Provinces . .	Transferred.
Assam . . .	Reserved.

54.—ARCHÆOLOGY.

Bengal . . .	All-India.
Bombay . . .	Transferred.
Madras . . .	Reserved.
Bihar and Orissa . .	Reserved.
Punjab . . .	Reserved.
United Provinces . .	Reserved.

ANNEXURE II.

MEMORANDUM FOR THE SUBJECTS COMMITTEE.

This memorandum is an attempt to state the views of the Government of India upon the general principles involved in the questions which the Subjects Committee will have to consider. On the basis of these views the Government of India are now dealing separately with cases of the different departments, supplementary memoranda upon which will be transmitted to the Committee. The Government of India hope to discuss further with the Committee the views now put forward after the opinions of the provinces have been received. In this connection the Government of India would find it of great assistance to them if they could receive from the Committee statements showing the substance of the material on which the Committee propose to base their own conclusions.

2. The first basic fact with which the Government of India start is that both the Government of India and the provincial Governments in India are subordinate governments, and the Indian and provincial legislatures are subordinate legislatures. The Imperial* Government and Parliament are alone supreme. A practice of non-intervention may gradually grow up, as it did in the case of the Dominions; but this is not the position at present; and the governments and legislatures in India do not possess uncontrolled power in any respect whatsoever.

3. The second basic fact is that legislative and executive authority must go hand in hand. If a Government, central or provincial, has power to legislate on any matter, it must have a corresponding power to carry out its laws. Wherever there is an overriding power of legislation, there must be a corresponding overriding executive power, with unquestioned capacity to make the overriding legislation effective.

4. The third basic fact is that the Government of India are responsible to the Imperial Government and Parliament for the administration of India. They cannot be divested of that responsibility except by the consent of the Imperial Government and Parliament; and so long as that responsibility attaches to them, they must have the power to enforce it; and such power must be both legislative and executive.

5. Assuming these axioms, the problem before us is to divide the whole field of Indian administration into two classes, central and provincial, in such a way that the Government of India will be directly responsible for the administration of the first, while in regard to the second they will retain only a general responsibility to be exercised under conditions to be discussed later on.

6. The Government of India cannot at present deal with the further question whether any provincial subject is to be administered by the Governor in Council or by Ministers. That is a matter to be considered in the provinces first and by the Government of India only when they have received the views of the provinces. Conditions will vary between provinces, and for this reason alone apart from other considerations it is not practical for the Government of India at this stage to deal with the division of provincial subjects into the categories of reserved and transferred. Their immediate object is merely to arrive at the principles which should regulate the classification of functions into central and provincial.

7. There are certain subjects which are at present under the direct administration of the Government of India. The Government of India maintain separate staffs for their administration and the provincial Governments have no share in it. The category is easily recognisable, and for the most part there will not be much room for doubt as to the subjects to be included in it. At the other end of the line are matters of predominantly local interest which, however much conditions may vary between provinces, will generally speaking be recognised as proper subjects for provincialization.

*NOTE.—The Government of India suggest that the term Imperial should be reserved in this discussion for His Majesty's Government and Parliament.

8. Between these extreme categories, however, lies a large indeterminate field which requires further examination before the principles determining its classification can be settled. It comprises all the matters in which the Government of India at present retain ultimate control, legislative and administrative, but in practice share the actual administration in varying degrees with the provincial Governments. In many cases the extent of delegation practised is already very wide. The criterion which the Government of India apply to these is whether in any given case the provincial Governments are to be strictly the agents of the Government of India, or are to have (subject to what is said below as to the reservation of powers of intervention) acknowledged authority of their own. In applying this criterion the main determining factor will be not the degree of delegation already practised, which may depend on mere convenience, but the consideration whether the interests of India as a whole (or at all events interests larger than those of one province), or on the other hand the interests of the province essentially preponderate. The point is that delegation to an agent may be already extensive, but that circumstance should not obscure the fact of agency or lead to the agent being regarded as having inherent powers of his own.

9. Applying this principle, the Government of India hold that where extra-provincial interests predominate the subject should be treated as central. This category as already noted also includes matters which the central Government administer directly by means of their own staff. But confining themselves in this paragraph to cases in which central subjects are partly administered by provincial Governments acting as agents for the central Government, the Government of India wish to emphasize two points. They propose to examine existing conditions with a view to relaxing as far as possible the central control over the agency and to getting rid of any unnecessary limitations on the agent's discretion. They distinguish this process as one of decentralization, not to be confused with the larger purpose of devolution. At the same time the Government of India think it should be recognized that it is within the principal's power to restrict the agency or even to withdraw it altogether, substituting for it direct administration by the central Government; and that if and when it is proposed to transfer the functions of the provincial agency to the hands of Ministers this particular question will need careful reconsideration.

10. On the other hand, all subjects in which the interests of the provinces essentially predominate should be provincial; and in respect of these the provincial Governments will have acknowledged authority of their own. At the same time, as is recognised in the Report, the Government of India's responsibilities to Parliament necessitate the retention of some powers of intervention in provincial subjects. The Government of India propose to state their views upon the question of the grounds on which and methods by which such powers should be secured and exercised, in the hope that they may be of assistance to the Committee.

11. Among provincial subjects some will be transferred. Taking the case of these first the Government of India think that the exercise of the central Government's power to intervene in provincial subjects should be specifically restricted to the following purposes:—

- (i) to safeguard the administration of Government of India subjects;
- (ii) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province;
- (iii) to safeguard the public services to an extent which will be further determined subsequently;
- (iv) to decide questions which affect more than one province.

So far as legislation is concerned the Government of India think that the exercise of the legislative powers of the central Government should be by convention restricted in the manner proposed in paragraph 212, to the above-named grounds.

So far as administration is concerned, section 45 should be so amended as to empower the Secretary of State to make rules restricting the exercise of

the central Government's powers of administrative control over provincial Governments in transferred subjects to the same specified grounds. This proposal is subject to the following qualification. In the past a very important element in the administrative control exercised by the central Government has been the element of financial control. The Government of India have not yet concluded their examination of the character and extent of the control to which public expenditure in the provinces should under the new arrangements be subjected, and with this aspect of the question they will deal separately. Their proposals in this paragraph should be regarded as relating to control which is not based on financial considerations.

12. A word may be added as to the methods by which the central Government should intervene when necessary in the case of transferred subjects. A suggestion which seems well worth consideration has been made that in such cases control by the central Government may be better exercised by the Governor acting under the central Government's orders, and enforced in the last resort by resumption of the transferred subject, than by the direct interference of the central Government in the form of orders addressed to the provincial Government, as would be the appropriate course in the case of reserved subjects.

13. Coming now to the more difficult question of the grounds justifying intervention in the case of reserved subjects, which is referred to in paragraphs 213 and 292 of the Report, the Government of India accept the proposition that the justification for relaxing control which exists in respect of transferred subjects is in the case of reserved subjects lacking. They take note also of the possibility that public opinion may be critical of any general relaxation of their authority over official subordinates. At the same time they consider that the new situation requires greater relaxation of control than is suggested by the expression "getting rid of interference in minor matters which might very well be left to the decision of the authority which is most closely acquainted with the facts" (paragraph 213).

In coming to this conclusion they take into account first the changed character of the provincial Governments and the more representative character of provincial Councils. They also note that, so far as financial considerations have entered into the control practised in the past, when the provinces have separate revenues the main motive for interference will disappear, and in so far as the expenditure codes are curtailed or abolished (upon which question as already indicated they have not yet been in a position to formulate their proposals) the ordinary everyday means of exercising control will also vanish. Above all they take account of the new situation in respect of legislation. They accept the proposal made in paragraph 212 of the Report that in all provincial subjects the Government of India will by convention not legislate except on specified grounds which may be taken as those already set out in paragraph 11 above. They also take it that on all subjects, whether provincial or not, provincial legislatures will retain their existing power of legislation subject only to such statutory restraints as it may be decided to retain or to impose. This will involve an amendment of section 79 of the Government of India Act, 1915, which will in future require the previous sanction of the Governor-General to legislation by a provincial Council which is not purely on a provincial subject. There will henceforth be no control over provincial legislation exercised by the Government of India in the form of purely executive orders.

For all these reasons the Government of India look forward in future to very different relations between the central and provincial Governments, even in reserved subjects, from those which have obtained in the past.

14. Nevertheless, as they have already said, the Government of India accept the principle laid down in paragraph 213 that an official Government which is not subject to popular control cannot properly be legally exempted from superior official control. Bearing in mind the further fundamental principle that saving its responsibility to Parliament the central Government must retain indisputable authority in essential matters, and also the practical danger that the specification of certain grounds for the exercise of powers of control may

be taken to imply the exclusion of others, they hold that it would be unwise to lay down any specific limitations upon their legal powers of interference with provincial Governments in reserved subjects. In respect of these therefore they propose no amendment of section 45 of the Government of India Act.

At the same time the Committee may find it useful to have some indication of the extent to which the Government of India consider that such control will generally be exercised in future; and for this purpose the Government of India take first the four grounds already mentioned in paragraph 11 in the case of transferred subjects. In addition they think that intervention would be required in cases where it was necessary to enforce any standing or special orders of His Majesty's Government conveyed by the Secretary of State, or in exceptional cases, where the Government of India considered that the interests of good government were seriously endangered. But in suggesting these grounds by way of explanation the Government of India wish to make it clear that they do not intend that their specification of certain matters should be made the basis of any formal limitation of their legal powers.

15. In cases where the Governor in Council exercises his powers of intervention in relation to transferred subjects under section 240 of the Report the Government of India think that the central Government should have the same powers of control as if the Governor in Council's decision had been taken in a reserved subject.

16. A minor point worth mention is that the Government of India contemplate that the central Government should have an unquestioned power, to call for any information, statistical or otherwise, and in any form they desire, from provincial Governments, whether such information relates to a transferred or to a reserved subject, and that section 45 of the Act should, if necessary, be amended so as to place their powers in this respect beyond question. It may be covered by their proposals in paragraph 11 (i) above read with paragraph 291 of the Report.



ANNEXURE III.

SUPPLEMENTARY MEMORANDUM FOR THE SUBJECTS COMMITTEE.

The Government of India have taken into further consideration the questions which arise in connexion with the proposed demarcation of the field of provincial administration, and have recorded the following conclusions:—

(1) They recognize that those subjects or departments which are to be transferred to Ministers come within the field of provincial administration. In respect of these the Government of India have stated their intentions in paragraph 11 of their memorandum of November 29, 1918.

(2) At the other end of the scale they recognize that there are certain subjects which cannot go into the field of provincial administration, but must be administered centrally.

(3) As regards the treatment of subjects lying in between these categories the Government of India think that—

- (i) the subjects which appear in the provincial budget should be described as the subjects which a province administers,
- (ii) there should in respect of these be no statutory restriction of the Government of India's power of superintendence, direction and control,
- (iii) in respect of these same subjects the Government of India will undertake a formal and systematic scheme of devolution of their authority, such scheme to be compatible with the exercise of their control in matters which they regard as essential to good government,
- (iv) the Government of India do not contemplate that the administration of such subjects should become amenable to the control of the legislature, otherwise than by their formal transfer at the date of the periodic commission; and they recognize that in the exercise of their control over such subjects the Government of India should have due regard to the purposes of the new Government of India Act, as they anticipate that these will be declared in the preamble.

February 19, 1919.

ANNEXURE IV.

THE PUBLIC SERVICES UNDER REFORMS.

The Report deals in various places with the position of the public services (paragraphs 128, 156, 240, 259, 318—327), but two passages are of outstanding importance. On the one hand it is laid down (paragraph 259) that there is to be no duplication of the services:—"To require Ministers to inaugurate new services for their own departments would be to saddle them with difficulties that would doom the experiment to failure". On the other hand, it is declared (paragraph 325) that "any public servant, whatever the Government under which he is employed, shall be properly supported and protected in the legitimate exercise of his functions"; and the Government of India and the Governor in Council are to have unimpaired power to "secure these essential requirements". The Government of India accept these propositions. They take it that the machinery of the public service, as it exists to-day, is to be used by Ministers, and the service is to be given adequate protection in its new situation. Means must be found of fulfilling these requirements.

2. Hitherto the regulation of the public services has been to a great extent uncodified, or codified only by executive orders. The position will be altered now, with the public services coming, in an increasing measure, under popular control. It will be only fair both to ministers and to public servants that they should be supported by a clear regulation of their formal relations to each other. And it is eminently desirable that they should find this regulation established from the outset of the new conditions. Moreover, there ought not to be one law for public servants working under Ministers, and another for those who remain under the official part of the Government. So far as may be, the public employé should find himself under a similar régime in whatever branch of the administration he may serve. So also the claims of Ministers upon the public service and their duties towards it should be closely comparable with those of the official members of the Government. The whole machinery ought to be arranged so that the transfer of a department from one part of the Government to the other should cause the least possible dislocation, or change in the conditions of their service, among the permanent officials employed in the department. The most hopeful way of arriving at the basis of the necessary law and rules seems to be to consider in relation to each class of service how the operations which are necessarily involved in running a service ought in future to be performed when the new constitution is in operation.

CLASSIFICATION.

3. The Government of India think that all public servants working in the provincial field of administration should be classified in three divisions, Indian, provincial and subordinate. Such a step has invariably been found necessary in the Dominions; it seems necessary in India for the purpose of distributing authority in future; and it has the advantage of enabling greater simplicity to be introduced into the rules or regulations.

4. The chief criterion will be the appointing authority. Broadly speaking, the Indian division would include services for which the Secretary of State recruits the whole or a considerable part of the members—the services, in fact, in which it is desired to retain a definite proportion of Europeans or Indians educated in Europe. The provincial division would embrace posts with duties of a responsible character, and not of a merely clerical type, for which the local Government ordinarily recruits. Posts for which the Government of India at present recruit could be treated as Indian or provincial, according to the nature of their duties. All subordinate and clerical posts would come into the third division. It will probably be found that the classification will entail considerable changes in existing nomenclature. Again, a number of grades do not now receive provincial status, although their officers are recruited on uniform qualifications for the whole province and may be liable for service in any part of the province. From this point of view, such classes as the naib-tahsildar, the sub-assistant surgeon, and the like, may

be, conveniently placed *ad hoc* in the provincial division. Similarly, all miscellaneous posts, not being of a purely subordinate character, which are not at present in either the Indian or provincial category, would be treated as belonging to one or the other if they are of similar status, or recruited for in a similar way, to those branches respectively. The third division would take in all appointments of lower than provincial status. They would usually be the posts which are filled departmentally, or by district officials, without reference to a central authority.

5. It is probable, however, that in all provinces there would be certain posts of importance which would not conveniently fall into either the Indian or the provincial category. Some of the technical educational posts are a case in point. For these it may be necessary following the usual Dominion practice to create a separate professional division.

6. The proposed classification should at present be undertaken only, to use the phrase of the report (paragraph 238), in the "field of provincial administration". The division into Indian and provincial classes might not be easy in services like the railways, post office or customs; and it is not necessary for present purposes, though power may suitably be taken to make it when the necessity arises.

7. The dominant considerations are that Ministers coming new to office should be provided with an efficient staff and not have to rely on what they can get; and that it is of the utmost importance to India to have in the highest services, which are to set a model to the rest, an Indian as well as a European element on which the seal of the existing system has been definitely impressed. The Government of India think that—

(1) recruitment whether in England or India for the India services should be according to the methods laid down in statutory orders by the Secretary of State;

(2) all persons recruited to the India services whether in England or in India (whether by examination, promotion or direct appointment) should be appointed by the Secretary of State.

Pay.

8. (a) *Rates of pay.*—After weighing the opposing considerations, the Government of India think that, if the India services are to be kept together on more or less one plan and the Secretary of State is to feel his responsibility for them, it is practically necessary that he should fix their rates of pay.

9. (b) *New appointments.*—The Government of India think that the addition of any new post to the India services should require the sanction of the Secretary of State.

10. It is, however, necessary to prevent the intention of the last proposal from being defeated by the device of creating appointments similar in purpose to those ordinarily filled by the India services, but keeping them technically outside the cadre. For this purpose a proviso on the following lines seems needed :—

Every new permanent post created in the provinces must be added to the cadre of the service to which its duties most closely correspond.

11. (c) *Temporary appointments.*—The Government of India consider that local Governments should have power to sanction, without any limit of pay, any temporary additions to the cadre of India services, either up to a limit of two years' duration, or else without any such limit, on the understanding that the audit will check any evasions of the rule about permanent posts.

Allowances.

12. These are known by several titles, but can probably all be brought within a few generic names—acting, exchange compensation, duty, local, travelling and personal and honoraria. Acting allowances are included in salary and are part of the emoluments attaching to a particular office. The introduction of a time scale will to a great extent do away with them: but where they are still required the Government of India think that the Secretary of State

should lay down the rules under which they may be granted. The Government of India hope that these may be simplified and that it will not be necessary to keep all the existing bases of calculation. The same authority should lay down the basis on which exchange compensation may be granted and details would be settled by local Governments.

13. All other allowances, however, are clearly distinct from pay, and ought to be given for reasons which can only be fully known to the local Governments; and the Government of India propose that, subject to very general directions by the Secretary of State, the grant should be left to them. Thus the Secretary of State would lay it down that travelling allowance was not to be a source of profit: that local allowances in all their forms should bear some reasonable relation to the extra expenses of the locality; and that duty allowances, deputation allowances and personal allowances should bear some reasonable relation to the officer's pay.

Leave.

14. Leave is one of the great amenities of the services, and ought to be maintained on generally uniform lines: but it has long been recognized that the leave code is needlessly rigid and restrictive and that greater latitude is desirable. The Government of India think that the Secretary of State should determine (a) the total amount of leave of every kind admissible, (b) the scale of allowances admissible for each, (c) the maximum to be taken at any one time, (d) the minimum interval between two periods, (e) the terms of commutation of one kind for another, and that within these limits all leave questions should be determined by local Governments.

Foreign Service.

15. The only matters in which it seems necessary for the Secretary of State to frame fundamental regulations are in regard to contributions to leave and pension by an officer on foreign service, and the calculation for purposes of subsequent leave of his foreign service pay. All other matters should be left to local Governments.

Pensions and Superannuation.

16. The Government of India think that the age of superannuation and the scale of pensions for the India services should be fixed by statutory orders of the Secretary of State made under the new Government of India Bill.

Administration and discipline.

17. These appear to be all the matters connected with India services for which it is possible to make provision by rule. In all these cases where the local Government has been spoken of, the authority will be that of the Governor in Council in the case of reserved departments, and that of the Governor acting with Ministers in the case of the transferred services. But there remain to be still considered the day to day matters of administration which raise the question of the Governor's responsibility in all service questions.

While they plainly realize the difficulties involved the Government of India think that to give any formal option of serving or declining to serve under Ministers at the outset seems unwise. They prefer to abide by the ordinary rule that a public servant is required to fulfil any duty imposed upon him. It is, however, necessary to face the possibility that difficulties of various kinds may arise, and to consider how far these can be mitigated, and, when they get beyond mitigation, how they can be disposed of.

In all matters, both of ordinary administration and of discipline, where no rules can afford immunity, the task of making the new arrangements a success must fall largely on the Governor. The Government of India consider that this duty should be definitely and formally laid upon the

Governor ; and that his rôle as protector of the public services should be known and recognized both by Ministers and the services. They suggest, therefore, that the matter should be incorporated in the regular instructions to Governors, and that a declaration to the same effect should be made in the course of presenting the reforms scheme to Parliament. The Governor will have every opportunity of watching the situation. He may be able to remove trouble by a few words of advice or persuasion. If the difficulty is acute or widespread, he may have to investigate it with the help of the joint advice of his Council and Ministers. But the Government of India think that the Governor in Council should not be brought in as a formal agency of arbitration in the grievances of public servants. Such a course, they fear, would generate difficulties between Ministers and the Executive Council.

18. But in case the Governor's intervention fails, it seems necessary to provide a final safeguard : and the Government of India think that, though no officer should have the option to decline to serve under the new conditions, they should have power at their discretion to grant any officer of the existing establishment for adequate reason permission to retire on proportionate pension. If the Government of India refused the application an appeal would lie to the Secretary of State. In the case of any disciplinary orders passed by Ministers which affected an officer's emoluments or pension there seems no choice but to allow a direct appeal to the Government of India and, if need be, to the Secretary of State. No officer of the India services should be dismissed without the orders of the Secretary of State, and all existing rights of appeal should be maintained.

19. The Government of India conclude that in two respects the Report cannot be literally translated into practice. In paragraphs 240 and 325 the protection of the interests of the public services is made the duty of the Governor in Executive Council. This, it is feared, would defeat the object which the Report intends to secure ; for the work of the public services cannot be formally made a reserved subject, and any less drastic measure of general protection would inevitably lead to friction between the two parts of the Government. Again, in the same paragraphs and in paragraphs 156 and 259, expressions are used which will be read as promising detailed support and protection to a public servant in the discharge of his duties. This, however, seems to involve too frequent intervention for working purposes. The Government of India think that all that can safely be guaranteed is in the last resort a right of retirement on fair terms, a generous right of appeal in clearly defined circumstances, and the steady influence of a vigilant Governor in the direction of harmonious working and good feeling. They think it necessary to make the position clear in this respect both to the Secretary of State and to the services.

20. The Government of India will now briefly review the proposed position as regards the India services. The basic idea is that the structure of the service, its duties and the general conditions of its employment should remain as far as possible untouched by political changes, at all events until the advent of the first statutory commission. When a Minister is placed in charge of a transferred department he will take it over as a going concern with its staff intact. The Indianization of the services is an entirely separate matter and will be regulated in accordance with the general policy prescribed by the Secretary of State. The actual recruits, whether European or Indian, and in whatsoever proportion, will come into a service regulated on uniform lines and as little concerned with political controversy as possible. As in the past, rules of conduct should be maintained for all public servants, however employed, under standing orders of the Secretary of State. The services will be required to show the same diligence and fidelity to Ministers as to the official part of the local Government. The general conditions of their service will continue to be ordered by the service regulations (or by any special contract of recruitment), no difference being made wherever they are employed. And they will be amenable to the Minister's orders and discipline just as they will be in a reserved department to the orders and discipline of the Governor in Council. On the other hand, while Ministers will be supported in requiring their staff to carry out their policy, their employes will be protected, as now, against arbitrary or unjust treatment. To this end they will be given

reasonable access to the authority by which they were recruited and they may not be dismissed without at least the order of that authority—a rule universally accepted at present. But the power of intervention between them and the public servants under their control should be kept down to the minimum, and the right of appeal from Ministers should be as little in evidence as possible. Appeals should lie only where emoluments or pensions are affected, but where they do lie they should lie up to the Secretary of State.

21. It will frequently occur that a public servant will have duties in both a reserved and a transferred department; the district officer will be the most prominent instance of this type. It will make for simplicity and avoid improper conflict of jurisdiction if for purposes of posting, promotion and discipline such officers are kept entirely under the control of that part of the Government which is concerned with the budget head from which their pay is met. It may have to be arranged that Ministers will contribute to the emoluments of officers partly employed under them in a ratio to be fixed by the Governor (ultimately by rule), and similarly to their pensions on retirement. On the side of their work which concerns the transferred departments, such officers will have to take and carry out the directions of Ministers exactly as if they were whole-time officers in those departments. But they cannot be subjected to the discipline of two different authorities; and if either part of the Government is dissatisfied with the execution of its orders there seems no other course than for it to represent the matter to the Governor. It will be one of the most important duties of the Governor to deal with a delicate situation of this kind.

PROVINCIAL SERVICES.

22. It is recognized that the time must come, and may come soon, when Ministers will wish to take the provincial services of their departments entirely into their own hands, and to regulate their recruitment, pay, pensions, etc. The Government of India think that they should not do so until they have put these matters on a legal basis by legislation. They suggest that such legislation may reasonably be expected:—

- (a) to secure selection, over the widest possible field, on merits and qualifications, and to reduce the risks of nepotism;
- (b) to ensure efficient training for the higher and more responsible duties;
- (c) to guarantee discipline and integrity on the part of the employees; and
- (d) to provide adequate pay, security of tenure, and satisfactory conditions of work in regard to such matters as pensions, promotion, and leave.

But pending the passage of such legislation, they consider that the determination of the conditions of the provincial service even in transferred departments must be left in the hands of the Governor in Council.

Recruitment.

23. The Government of India think that all existing rules for recruitment should be maintained unless altered by the Governor in Council. The requirements of different services differ, and it will not be possible to establish any uniform system. But the aim should be to eliminate the element of patronage, and to establish a system of appointment by examination before or after selection, or, where appointments are made direct, to set up some external authority for the purpose of advising. The actual appointment must in any case be made by the local Government, by the Governor in Council in the case of reserved subjects and by the Governor on the advice of Ministers in transferred subjects.

Pay.

24. The proposal which holds the field is that the Secretary of State's sanction should not be required to any new appointment or the raising of the pay of any appointment above Rs. 1,450, outside

of certain scheduled services which would closely correspond with the India services contemplated in this note. That limit would have the effect of removing from the Secretary of State's cognizance practically all questions of the pay of appointments in the provincial services. But on grounds of expediency the Government of India think that their own sanction, though not that of the Secretary of State, should be required in the case of posts on Rs. 1,000, the rate suggested for selection grades by the Islington Commission.

25. The only other limitation which it seems necessary to consider is the limit of cost of service reorganizations. At present if the additional cost exceeds Rs. 25,000 the Government of India's sanction is required and if it exceeds Rs. 50,000 the case must go to the Secretary of State. It has been proposed to give local Governments freedom of action up to Rs. 5,00,000, a limit sufficiently high to provide for all reasonable reorganizations of the most costly services. On one minor point it has hitherto been thought necessary to retain the Government of India's sanction, *viz.*, if the revision involves the grant of local allowances as compensation for dearness of living in any locality in which officers paid from India revenues are employed. The Government of India think it unnecessary to maintain this restriction.

Allowances.

26. There need apparently be no difficulty in treating this question on the same lines as for the India services. Local Governments would accept the guiding considerations laid down for each class of allowance by the Secretary of State and would use their discretion in applying them in particular cases. It may probably be assumed that there would grow up under the hand of the provincial Finance Departments provincial regulations on the subject which would, it is to be hoped, be of a simpler nature than existing codes.

Foreign Service.

27. This appears also to admit of the same treatment as in the case of the India services.

Leave.

28. As regards leave the desiderata seem to be—(1) to secure that the rules shall not be altered to the detriment of existing officers, (2) to enforce a certain similarity in the conditions of leave among officers of equal status, and (3) to admit of special variations on account of special conditions of work (civil courts) or possibly, for special remote areas, unhealthy conditions. The Government of India propose that they should frame fundamental rules as it has been suggested that the Secretary of State should do in the case of the India services.

Superannuation and pensions.

29. It has been suggested above that before Ministers take over a service entirely they should embody among other standing provisions for the conduct of such service some provision for its pensions in the law. The Government of India think that from the inception of the reforms the central Government should set Ministers an example in this matter by legislating to secure the pensionary rights of the provincial services.

Administration and discipline.

30. It seems to the Government of India that these matters can only be treated on the same general lines as for the India services. The Minister must control the administration of transferred subjects, including such matters as postings and promotions. The Governor must be instructed to control him with a watchful eye to the well-being and content of the services. Officers cannot be given any option as to the transfer, but officers finding their position intolerable should be able to ask for a proportionate pension. Such applications should go to the Governor and an appeal should lie from his decision

to the Government of India. Only in disciplinary cases affecting emoluments or pensions should there be a regular appeal, and it should lie to the Government of India and from them if necessary to the Secretary of State.

31. The general conduct rules in respect of borrowing, presents, indebtedness, buying property, political activity, etc., should be maintained in respect of provincial no less than in respect of India services by standing orders of the Secretary of State.

THIRD DIVISION.

32. This would embrace the minor executive posts, the bulk of the ministerial establishments, the menial servants and the like. Some superior ministerial establishments would probably rank in the provincial division. In respect of the third division there is an obligation to see that the rights and privileges of present incumbents are maintained and that in particular their pensions and provident funds are secured. This object can, perhaps, be secured by directions to the Governor in Council as regards reserved and instructions to the Governor as regards transferred subjects. The Government of India recognise that present incumbents would probably greatly prefer to see their pension and provident funds secured by legislation by the Government of India. As regards future incumbents, they think that, subject to what is said below as to a Public Service Commission, it can only be left to the Governor in Council and to the Governor and Ministers to regulate the entire working of the service.

PUBLIC SERVICE COMMISSION.

33. In most of the Dominions where responsible government has been established, the need has been felt of protecting the public services from political influences by the establishment of some permanent office peculiarly charged with the regulation of service matters. The foregoing proposals have assumed that every effort must be made to fulfil the pledge given to the services, and indeed to secure the main services firmly on their present lines. For this purpose, indeed, it cannot be said that any organization, other than the official Governments, is at present required; or that its introduction will be felt as otherwise than embarrassing to local Governments and Ministers. Nevertheless the prospect that the services may come more and more under ministerial control does afford a strong ground for instituting such a body in the beginning, while such a step would be entirely in keeping with other features of the scheme like the proposals for treasury control and audit. The Government of India have accordingly considered whether there are any concurrent grounds for taking the matter further.

34. The Public Services Commission have proposed not merely that for certain services examinations should be held in India, but that to a great extent direct appointments, on the advice of selecting Committees, should also be made. For the former purpose no agency exists and some agency must be set up. As regards nominations the need for regulation is obvious. The present distribution of patronage, however conscientious, does not escape criticism, and is extremely laborious, for which reason it is very desirable to set up without delay some more impersonal method of selection. It is, moreover, clear that the reconstitution of the public services will involve much re-classification, and much reshaping of rules and regulations, as well probably as legislation in India. A Public Service Commission could give valuable help to the Home and Finance Departments in settling these matters. It seems likely that an efficient office would establish its position both with the Government of India and local Governments. It would come to be regarded as the expert authority on general service questions (as distinct from cases of discipline in which the desirability of allowing it to intervene requires further consideration). The following list of duties suggest itself for it :—

(i) to hold the examinations and to arrange for the selection in India of entrants into the India services under the orders of the Secretary of State ;

(ii) to perform the same functions for provincial services in accordance with the policy of local Governments ;

(iii) to advise upon and arrange for recruitment for the Government of India offices;

(iv) to advise local Governments, if required, on the qualifications to be laid down for their subordinate services;

(v) to advise, if required, on all general questions of service reorganization, and especially on proposed legislation or changes in the regulations;

(vi) to advise educational authorities as to the educational requirements of the public service;

(vii) to conduct departmental examinations and perhaps language tests possibly absorbing the existing Board of Examiners;

(viii) to act as an advisory authority in cases where the interpretation of service rules is in dispute.

35. Although at this stage it is not possible to define the utilities of the office with precision, there seems reason for thinking that the value of a Public Service Commission would outweigh the objections to it. The Commission should be appointed by the Secretary of State, whose responsibility for the maintenance of the services would by this means be made manifest. It would, of course, have provincial agencies in the provinces. Provision for the appointment would be made in the new statute, and the duties of the office would be regulated by statutory orders of the Secretary of State.

Summary.

36. The general scheme may be summed up as follows :—

(i) Concurrently with reforms, legislation should be undertaken in Parliament to declare the tenure and provide for the classification of the public services. It should secure the pensions of the India services and should empower the Secretary of State to make rules for their conduct and rights and liabilities, and to fix their pay and regulate their allowances. The Bill should also provide for the establishment of the Public Service Commission and its duties.

(ii) The Government of India should pass a Public Service Act providing for the tenure and pensions of all provincial public servants and empowering the Governor-General in Council to define their other rights and liabilities by rule and leaving all other matters not so regulated to the Governor in Council. The Act should also secure the pension rights of existing members of the subordinate services and should empower the local Governments, herein including the Governor and Ministers, to make rules for them in all other respects. It would then be necessary for a Minister who wished to take over complete control of the services in transferred departments to introduce provincial legislation amending the Act, to which under section 79 (2) of the existing statute the previous sanction of the Governor-General would be necessary.

ANNEXURE V.

The attached memorandum is transmitted to the Subjects Committee as an indication of the views of the Government of India on certain changes which will be required in the financial organization, particularly of provincial Governments, under the Reforms Scheme. The memorandum does not include a number of points relating to the finance of transferred subjects, including the methods of making budget provision for them, raising loans and fresh taxation for them and allowing them access to the existing provincial balances. On these points it is hoped that a subsequent note may be presented.

31st December 1918.

MEMORANDUM ON FINANCE.

I.—THE EXISTING SYSTEM (CENTRAL).

The financial system of India may be considered under the following heads:—

- (1) Pure finance;
- (2) Control of revenue, including taxation and loans;
- (3) Control of expenditure;
- (4) Accounts and audit.

All these, with the exception of audit, which is given an acknowledged, though not a statutory, independence, are under either the direct or the general administration of the Finance Department of the Government of India. That department is also entrusted with the detailed administration of certain heads of revenue, its functions in this matter having been explained in the separate departmental memorandum recently submitted to the Subjects Committee.

(a) *Pure finance.*

2. Pure finance is an expression which, for want of any better description, may be taken as covering the control of currency, including the mints; the service of the public debt; and the complicated mechanism for maintaining a gold standard in a silver country, which involves the regulation of the sterling exchanges. The Finance Department is also closely associated with the banking and credit system of the country. On all these points, however, the reforms scheme does not touch, and no detailed description of this side of the work will be prepared unless the Committee desire it.

(b) *Provincial settlements.*

3. In dealing with the public revenue and expenditure, the financial system has been to a large extent decentralised. Provincial Governments have been given control, which had small beginnings but has been steadily enlarged, by the device of financial settlements or contracts. It would require a whole treatise to describe the complexity of these provincial settlements. They have been clearly pictured in paragraphs 104 *et seq.* of the Report; but the underlying idea may briefly be recapitulated as follows. The accounts of India are divided into two sections, known as Imperial and Provincial. The division is partly natural, but also in part highly artificial. In the Imperial section are classed the receipts and charges of certain departments which as a rule are All-India in their character:—Army, Railways, Post Office, etc., etc. All other departments figure in the Provincial section; but in some cases a share, it may be of the gross revenue, or it may be of the net revenue, is credited in the Imperial account. The heads of receipt and expenditure which are shared in this way are known as “divided heads”; and the method of division has been determined in making the settlements or contracts with the different provinces. These settlements used to be made for five years; they are now supposed, in most provinces, to be permanent. The theory of the settlement is firstly to decide what departments each local Government is going to finance, and then to give the Government such a share of the revenues which it collects as will cover the outlay in those departments and will meet their growing needs. Deeper-seated than this theory, it may be argued, was the paramount necessity of providing the central Government with adequate funds for the expenses of

its large spending departments; the proceeds of the purely Imperial heads of revenue would never have sufficed without taking from the provinces some part of their provincial collections.

4. Under this system there has always been a competition between the growing needs of the central Government and the equally growing needs of the provinces; and from that competition there arose, in our past history, inequalities of treatment, sacrifices by the thriftier provinces, and relative extravagances by the more powerful provinces, which lie at the root of the chief difficulty in provincialising revenues to-day. This point will be adverted to again at a later stage in the memorandum. For the present it will be sufficient to note that the effect of these provincial settlements was to keep the powers of taxation centralized. So long as the settlements were revisable at short intervals, the growing needs of the provinces could be met by ceding further shares in the divided revenues, and the provinces were thus rarely required to impose taxes of their own. Since the settlements became permanent, there has been a period of prosperity that has rendered provincial taxation unnecessary. Taxation thus has been left in practice, except for purely local purposes, almost wholly a matter for the central Government.

5. In the foregoing rapid account of the provincial settlement system, no reference has been made to the many qualifications attaching to individual provinces. In some provinces, for example, where droughts are frequent, the central Government has guaranteed a minimum revenue under certain heads; there is also an elaborate scheme of famine insurance. These and similar points can be further developed if the Committee require the information.

6. From the above it will be apparent that the control of revenue and expenditure in the Imperial section of the accounts rests with the central Finance Department, while in the provincial section it is largely in the hands of the Finance Departments of the various local Governments. The system of divided heads, however, allowed the central Department to interfere, on the plea of safeguarding its own interests, with provincial operations. The fact that the provincial figures are carried into the Imperial budget also provided an opportunity of intervention in the interests of accurate estimating. Apart altogether, therefore, from the Secretary of State's supervision over Indian revenues and their expenditure, there were inherent in the system itself certain obstacles to the financial independence of local Governments, which the Report has set itself to remove. Its proposals on this subject will be discussed later.

(c) Control of central revenues.

7. This narrative may now proceed with the working of the central Finance Department in connection with central subjects. Its concern with the revenue-producing departments is universal; but its intervention varies largely with the agency of assessment and classification. In the working of the railways, for example, it is rarely invoked except in broad matters of policy, and in settling the annual estimates and the programme of development loans. In connection with opium and salt, on the other hand, its grip on the administration is very much tighter. With this aspect of the work, however, the Committee is possibly not greatly interested, and no details are, therefore, elaborated. Some allusion, however, is necessary to the functions of the Finance Department in connection with taxation, borrowing and the disposal, when it occurs, of a large revenue surplus.

(d) Control of taxation.

8. As has been already explained, the past relations between the central and the provincial Governments have led to the former making itself responsible for all fresh taxation that is required by the needs of the country as a whole. The penury of any one province might indeed drive—and has in fact helped to drive—the central Government to impose general taxation; but the provincial settlements were based on the theory that they left the provinces with adequate resources, and thus under no necessity to raise taxation of their own. This centralisation of taxing powers was justifiable while the central Government continued to emphasize the financial subordination of the provinces, and held an arbitrary power to keep the provinces within the four walls of their settlements. As soon as local Governments are given a greater

measure of independence over their own funds, the position will obviously change and the right of a province to impose its own taxation must be recognised.

(e) Control of borrowing.

9. In the matter of borrowing, the policy of the Government of India has always been cautious and conservative. Before the war the loans raised in India were extremely small (£3 millions used to be regarded as a dangerously large issue in one year); the rate of interest was rigidly kept down; and except in regard to emergencies, there was no borrowing save for productive works. The central Government was then able to secure the cream of the market; and it adhered very firmly to this privileged position. Local authorities, such as port trusts and the larger municipalities, were allowed, under very definite restrictions, to float small loans of their own on local security; but a corresponding privilege was never accorded to the provinces. All our loans issued on the security of the whole revenues of India. If a province required loan money, the central Government found it and the province had to pay interest. The position obviously gave the central authority a powerful lever for insisting upon provincial solvency, and for continually interfering in detail for that purpose. This tutelage extended even to what is known as the provincial loan account: The account in question is that from which a province makes agricultural advances, loans to estates under the court of wards, and the like. The procedure is that the whole of the capital required is handed over by the central Government to the province, which administers the loans and pays back the net recoveries to the Government of India each year, along with interest calculated upon the mean of the capital in its hands during the year. The province is authorised, but here again only under the orders of the central Government, to charge rates of interest higher than it pays for the accommodation; the understanding being that the difference is left to it in recognition of its services in managing the account, as well as to cover bad debts.

(f) Control of the revenue surplus.

10. When the Government of India found themselves, towards the close of a financial year, faced with a much larger surplus than they had budgeted for, it was the practice before the war to distribute some part of the windfall among the provinces. This policy was particularly active during the years before the opium trade with China was shut down, when enormous prices were being paid for our opium, and the money was utilised for what it was then hoped would be the beginnings of a more active educational programme. These grants, or "doles" as they were opprobriously called, out of the revenue surplus fell into very bad odour. The Government of India were accused of pushing money out of their account in order to avoid charges of defective estimating; and the money sometimes fell to local Governments so unexpectedly that they were unable to prepare sufficiently careful schemes for its economical employment. The critics hardly did justice to the Government of India. With a debt which is almost wholly productive, there had not grown up the practice of employing the surplus of the year in the purchase of Government stock. It was also perfectly proper that the central Government should allow the provinces to share in its own good fortune, especially as most of the settlements were recognised to be tight. All this, however, savours of past controversy. What remains an important lesson is that these doles afforded another opportunity to the central Government to be inquisitorial about the methods of provincial expenditure. The temptation to pursue a dole until it was finally spent and to criticise its expenditure was repressed so far as possible; but at one time it had not been resisted, and local Governments may still be suspicious of its revival.

(g) Control of central expenditure.

11. In controlling the expenditure of central subjects, the Government of India are now largely in the position of enforcing, on behalf of the Secretary of State, restrictions which he has imposed. These restrictions are contained in the vast complexity of the Civil Service Regulations and various

departmental codes; and also in a series of general standing orders, which have been brought together in a convenient compendium known as the Book of Financial Powers; and some description of the latter will be given below. Besides being responsible for obedience to these orders, the Finance Department of the Government of India is the custodian of the interests of economy and general financial propriety. It is placed in a position to give effect to this responsibility, by rule 13 of the rules of executive business made by the Governor-General, which runs as follows :—

“No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure which has not been provided for in the budget, or which, though provided for, has not been specifically sanctioned, shall be brought forward for the consideration of the Governor-General in Council, nor shall any orders giving effect to such proposals issue, without a previous reference to the Finance Department.”

The rule is subject to certain exceptions relating—

(a) to cases requiring great secrecy or despatch, in which the Governor-General is empowered to waive the necessity for a previous reference to the Finance Department, and

(b) to certain delegations to the great spending departments, namely, the Army Department, the Commerce and Industry Department (for the Post and Telegraph Department), the Public Works Department (for civil works and irrigation works) and the Railway Department, provided that the expenditure proposed is not of a character for which the sanction of the Secretary of State is required, and subject also to certain conditions with regard to budget provision and reappropriation.

12. The effect of this procedure is to give the Finance Department an opportunity of criticising all new expenditure of any importance, and of also inviting the department in the Government of India which is interested in the purpose of the expenditure to examine the project in its administrative aspects. It can challenge the necessity for expenditure; it can bring to notice obvious objections or extravagances; it can call for facts to which it considers that sufficient weight or sufficient publicity has not been given. But it cannot, as a Department, overrule either a local Government or another Department of the central authority. Stress is laid upon this statement of fact because it has an important bearing on certain proposals which are made below regarding financial control in the provinces. If the central Finance Department has to combat unnecessary or extravagant outlay, its success depends upon the support of the Governor-General in Council. In questioning expenditure which is improper rather than excessive it can always demand a reference to the Secretary of State under the standing order which requires his sanction to charges which are “of an unusual nature or devoted to objects outside the ordinary work of administration.” This defence, however, is rare, and the real strength of financial control lies in the ability of the Finance Department to ask the Governor-General to take any proposal for expenditure into consideration, if necessary, in full Council. The procedure has worked well, and no change in it is now recommended. As regards the functions of the Finance Department in the matter of excesses over budget grants and reappropriation of savings for other expenditure, the Department has to assume a position which in other countries is taken up by the legislature itself. This is inevitable under the present constitution and it is rendered effective by the general official training and traditions of financial propriety. Here also no alteration in our existing methods is proposed.

(h) *Control over provincial expenditure.*

13. Thus far the memorandum has dealt entirely with central receipts and expenditure. It has now to discuss the relations between the central Finance Department and the provinces. The mainspring of control over provincial expenditure lies in the the orders of the Secretary of State to which allusion has already been made. Under the general standing orders the sanction of the Secretary of State is required before any new post is created

which would ordinarily be filled by a gazetted English officer; before any post is created on pay of over Rs800 a month; before any honorarium can be given to a public servant exceeding Rs1,000. No grants of land may be made except on special conditions; no charitable grants exceeding Rs10,000 a year are permissible; no motor-cars may be purchased for public business; and so on. These are some of the more general orders, and give no index to the multiplicity of directions in the various codes. There are other restrictions which the Government of India are instructed by the Secretary of State to impose upon provinces; without the central Government's permission, they may not undertake fresh taxation, they may not alter the rate of discount upon the sale of stamps, they may not raise a loan, they may not delegate their own powers to any subordinate authority, and so on. All these regulations give the Finance Department an infinite power of putting its finger into provincial affairs. A provincial project has to come to the Finance Department under one of these many orders; that department sends it to the administrative department concerned, and asks its advice on the necessity for the projected outlay. Hence follow delays, further inquiries, and much vexation to the province which has been anxious to get the business pushed through. Much of this is inevitable so long as financial sanction is used as the gateway to administrative control. There used to be sound reason behind the procedure, in the absence of any popular opinion to influence official schemes, and the honest determination of the Government of India to look at every project of expenditure from the point of view of the taxpayer. With the growing strength of public criticism and the increasing influence of legislative councils, this attitude may well be modified. The Government of India have recently asked for wide relaxations of the Secretary of State's authority; but a more radical remedy seems desirable, and the Report has shown where it is to be sought for.

(d) *Accounts and audit.*

14. On the fourth head mentioned at the outset of this memorandum, the Auditor General, Mr. M. F. Gauntlett, has been good enough to prepare a separate note which accompanies this paper. It is unnecessary for the Government of India to do more than give Mr. Gauntlett's proposals their general endorsement; there are indeed certain details upon which they must reserve judgment. They accept his description of his ideals for the future and of the methods of working towards them. The step which the Government of India regard as an essential preliminary to any change is that the Auditor General should be made a statutory officer and that the Bill, or the rules made under it and presented to Parliament, should confer statutory powers upon him and his audit officers. The separation from the accounts offices of currency work and other incidents of general finance is on the merits desirable, and can be worked out at leisure. The more responsible auditors are already over-worked. A good deal of their labour can be abolished by simplifying the codes, and possibly also the form of accounts; but on the other hand a far greater degree of responsibility will be laid upon them if a more progressive system of audit is accepted, for a larger strain will be imposed upon their discretion and judgment, and less upon their mechanical industry. It is also most advisable that the superior audit officers should be able to move about and see for themselves the working of the establishments whose accounts they inspect. Further examination of this subject, however, will have to be made before definite proposals can be laid before the Secretary of State; and it may be that the Committee will be satisfied by an assurance from the Government of India that the matter will be pursued. Meanwhile, the audit should be under the independent control of the Auditor-General and the accounts under the central control of the Government of India.

II.—THE EXISTING SYSTEM (PROVINCIAL).

15. In the provinces the Finance Department is a microcosm of the central finance organization. Its powers under a council government cannot be confidently discussed in this memorandum, as the rules which a Governor makes for the conduct of his executive business do not require the assent of the Government of India. The Committee, however, will easily elicit the procedure in

evidence. Generally speaking, the control of the provincial finance department is acknowledged in theory ; but in practice its strength varies greatly with the disposition of the executive government, and depends largely upon personal influence and the amount of backing received from the head of the province. In the *quasi-commercial* branches of the administration, particularly irrigation, it is believed that the financial control and the observance of strict economy are almost entirely at the discretion of the departmental officials. Other branches are more closely watched, but the power of the Finance Secretary to a local Government is far from always being as definite as it ought to be. This is especially the case in connection with excesses over budget grants and the unduly wide liberty of reappropriating funds from one grant to another and entirely separate purpose. There is also a tendency for the spending departments to budget for expenditure of which the details have not been presented to the Finance Department for the necessary criticism. In all these respects the Government of India apprehend that the system will require to be tightened up before the introduction of the new régime.

III.—THE REFORMS PROPOSALS.

16. It is now time to turn to the changes of system advised in the Report. These are based upon the intention of "giving the provinces the largest measure of financial independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." The Report proposes to approach this independence by two methods: (a) radical changes in the basis of the provincial settlements (paragraph 201), and (b) the relaxation of the powers of control (paragraph 292) which vest in the Secretary of State. Under the first head it is proposed to abandon the system by which a province is given just enough for its needs, while the central authority becomes, so to speak, the residuary legatee of all the revenues. In place of this the central services will have adequate resources secured for them and all the other revenues will be handed over to provincial Governments. Under the second head it is proposed to delegate financial powers by detailed modifications of the Codes and Standing Orders. With these principles of action the Government of India are in full accord ; but they would like it to be perfectly clear that their own responsibility will now stand on correspondingly narrow ground. They recognise that, with the invaluable help of the audit, they have a general responsibility for the observance of financial propriety and the avoidance of waste. They recognise also that they cannot avoid the liability of preventing a province from becoming insolvent or from being unpunctual in paying its debts. These duties rest upon the Government of India so long as they are responsible to Parliament for the good administration of the country. They conceive, however, that, with the grant of this new financial liberty to the provinces, they are no longer required to watch the financial proceedings of local Governments in detail, or to enforce from day to day measures which they consider necessary to keep the finances of a province in a healthy condition. Their intervention in future will take the form first of advice and caution, and finally, if caution is neglected, of definite orders which a province has to obey if it wishes to retain its constitution.

17. The relaxation of Codes and Standing Orders which the Government of India will recommend to the Secretary of State will involve much detailed labour of a highly technical kind ; and it is probable that the Committee may not be disposed to examine this part of the case with any closeness. Put very briefly, the suggestions of the Government of India would be that the Secretary of State should be invited to lay down certain broad canons of financial propriety, to schedule the precise classes of expenditure to which his prior sanction is required, to formulate certain fundamental rules for the conditions of public service and probably several cognate matters, and then to leave all other powers to the authorities in India. In purely financial matters the Government of India would, in pursuance of their ordinary policy, pass on to the provinces whatever powers they get in dealing with the non-central subjects, except in so far as the Secretary of State may, in any specified subject, make his delegation conditional on special surveillance being exercised by the central Government in India. The devolution of any part of a

provincial Government's own financial powers to authorities subordinate to it forms another branch of the question, about which local Governments will obviously have to be brought into consultation before even any general principles can be enunciated.

18. The new arrangement, pivoted on the abolition of "divided heads," for distributing the financial resources and liabilities of the central and the provincial Governments is, as has been said, accepted by the Government of India in principle. Of the actual figures a further analysis will have to be made. It seems probable that certain charges, particularly in the Home account, which have hitherto been taken as central can properly be transferred to the provinces; the payment of pensions in England is a case in point. It may also be desirable to eliminate some of the abnormalities due to war from the budget figures of 1917-18, upon which the calculations in the report are based. The provincial contributions tabulated in paragraph 206 may, therefore, have to be modified, in consultation again with the local Governments concerned; but the principle of assessing them by an all-round ratio of the gross provincial surplus will be maintained. The patent inequity of the result, however, is a matter of grave anxiety to the Government of India. It is due, as the report explains, to historical causes. Chief among these is the Permanent Settlement, which prevents certain provinces from yielding the same proportion of the agricultural rents to the public exchequer as others in which the land revenue assessment is periodically revised. Another cause has been alluded to above—the different pace of the growth of expenditure in different provinces in the past. In some the standard was much more progressive than in others; in some it was deliberately kept back in order to help the central Government in its days of financial stress after the last Afghan war and before the closing of the mints. The disproportionate share of their revenues which the central Government thus got into the habit of taking from the provinces has hitherto been obscured by the existing settlement system; and of the new arrangements nothing worse can be said than that they bring into prominence what had formerly been disguised; they impose no fresh burdens.

19. Nevertheless, they show that it is impossible to perpetuate the present inequality. Critics will tell us that the provinces which have rendered the greatest financial aid to the Empire of India in the past are now being penalised for their loyalty. It will also be urged that one of the first duties of a responsible Government is that it should be responsible for paying its own way. To meet these objections it is desirable to lay down, not only the immediate scale of contributions, but also a standard scale towards which the provinces will be required to work as a condition of the new arrangements. The Government of India cannot advise that the first step towards the standard should be deferred until the matter is investigated by the statutory commission (paragraph 207). They recommend that the first alteration of the contributions in the direction of the standard scale be effected six years after the new arrangements come into force, and that definite provision be made for reaching an equitable ratio of contributions in definite stages. What particular ratio should be regarded as most equitable is a matter of opinion, on which Local Governments would wish to be heard. The Report discarded the idea of an assessment on the gross provincial revenue; and this would clearly be inadvisable as tending to discourage the growth of revenue which must be aimed at in every province where the contribution has to be enhanced. The Report also condemned an all-round contribution on a *per capita* basis, the objection being that the rate could not, in present circumstances, be the same for all provinces. Though this is true at the moment, it would not be a valid argument against accepting a *per capita* basis as the ultimate standard, for which there is much to be said in view of the fact that the services rendered by the central power to a province (particularly the service of defence) may quite fairly be valued by the measure of population. An even more satisfactory basis for the ideal standard would be the gross provincial expenditure; for the gauge of each province's capacity to contribute to the central authority may very reasonably be taken to be its capacity to spend for its own purposes, famine charges or the outlay on any wholly abnormal and unusual emergency being of course excluded from the calculation.

20. Provincial Governments will now, the Report advises, be given the right to impose taxes of their own within the limits of a schedule of permissible classes of taxation. If they wish to go outside this schedule, the prior sanction of the Governor-General must be obtained to the proposed legislation; and this restriction will presumably be added to those already catalogued in section 79 (3) of the Government of India Act. To this part of the scheme the Government of India readily agree, but they do not think it necessary that a Bill propounding a tax which is within the schedule be forwarded to them before introduction. The reason for this suggestion in the Report was presumably that a local tax may encroach on the sphere of central taxation without infringing the letter of the permitting schedule; a license-tax, for example, might virtually be an income-tax, or a dock duty an addition to the Customs tariff. The law, however, would appear already to provide sufficiently against such encroachment (section 79 (3) (a) of the Act), and the veto could reasonably be employed in case of doubt; the less executive interference there is with provincial legislation, the better. The schedule of provincial taxes which may be imposed without further sanction, might include the following:—

- any supplement to revenues which are already provincial; *e.g.*, cesses on the land, enhanced duties on articles that are now excisable, higher court-fees, increased charges for registration, etc.;
- succession duties;
- duties upon the unearned increment on land;
- taxes on advertisements, amusements (including totalisators), and specified luxuries;

but it should not include any increment to the revenues of the central Government, any addition to the list of articles which are now excisable, or any duty (except as allowed above) on imports from without the province. The schedule should be established by rule, and not by statute, so that it can be corrected or enlarged in the light of experience.

21. On the subject of provincial borrowing the proposals in the Report have the entire concurrence of the Government of India. There has been some criticism from the provinces. Some local Governments apparently desire an unfettered power of raising loans for provincial purposes; several of them demur to any scrutiny by the central Government of the purposes for which a provincial loan is raised or required. In dealing with these claims the financial situation of India as a whole must be regarded. There are the following liabilities for redeeming or funding temporary unproductive debt in the near future:—

	£.
1919 Treasury Bills as on 16th November 1918.	19 millions.
1920 Three-year war bonds	13 "
1921 Ditto	15½ "
1922 Five-year war bonds	8 "
Cash certificates, say	5 "
1923 Five-year war bonds	1½ "
1925 Seven-year war bonds	2½ "
1928 Ten-year war bonds	10½ "

These are big figures for the Indian market. There is also the certainty of having to borrow heavily for railway development. The Government of India must, therefore, keep a tight hold upon the market, and cannot afford to be embarrassed by unrestricted competition from the provinces. Again, when the demand for loan funds exceeds the supply which the Government of India can make available in any year, there must be some rough measuring of the relative merits of the proposed expenditure before the central authority makes the final allotment. It goes without saying that the Government of India will

have to give priority to loans required by a province either (a) for famine relief and its consequences, or (b) to finance its own Provincial Loan Account, which, it may incidentally be mentioned, will now in each case be taken over by the local Governments from the central exchequer. Apart from those special cases the general rule may with propriety be laid down that a province is not to borrow except for capital purposes: this term is capable of more precise definition, but may be provisionally taken as debarring a loan for an object which is not virtually a permanent asset of a material character. The establishment of sinking funds might also be prescribed, at least in the case of unproductive debt. If a province which has been permitted to borrow in the open market infringes these rules, its action will be challenged in audit, and would ordinarily be regarded as detrimental to the solvency of the provincial Government.

22. The hold previously retained over the balances of a province by the Government of India had two lines of justification. In the first place, the central authority is the banker of all public funds, and has to take precautions against withdrawals which may disturb its often fine-drawn calculations of ways and means. In the second place, it had to be vigilant against action by a local Government which might break down the provincial settlement and leave it a claimant for help from central revenues. There is in consequence a standing order that local Governments must, apart from famine requirements, retain minimum balances of the following amounts:—

Madras, Bombay, Bengal and the United Provinces	20 lakhs each.
Burma and Bihar and Orissa	12 " "
Punjab, Central Provinces and Assam	10 " "

There are certain other rules controlling the operation of provincial Governments on their own balances. Furthermore a province is not supposed to budget for a deficit unless it satisfies the Government of India that the excess expenditure is exceptional and non-recurring. In these respects several changes will ensue from the financial emancipation of the provinces. The report advises (paragraph 208) that there be "no more ear-marking of any portion of provincial balances"; but this statement needs, in the Government of India's opinion, some modification and extension. To begin with, definite regulations are desirable for the famine assignment made in the settlement with a province (paragraph 204). This annual assignment is cumulative, and should either be earmarked in the provincial balance or invested, in so far as it is not spent on purposes which, in the local Government's recorded opinion, will have a direct and calculable effect in palliating the consequences of drought. Secondly, the rules as to minimum balances and sanction to a budget deficit should be abrogated, and local Governments left to their own responsibility in these matters. Thirdly, a regulation will be needed to the effect that a local Government must give timely intimation of its intentions regarding drawing in each financial year on its credit with the Government of India, and that it be required, in the absence of famine or other grave emergency, to adhere to its programme. This information would provide the central government, in case of war or similar crisis, with the opportunity for inviting local Governments to co-operate (which in the last resort it could require them to do) in conserving the financial resources of the State.

23. The reference to ear-marking in the report has a special significance in regard to "doles". It would, in the Government of India's judgment, be inconsistent with the greater financial independence of provinces that grants should be made in future from the central exchequer for the purpose of imposing a particular line of policy upon local Governments, who would in turn have to account for the employment of the moneys. There is, of course, no reason against a business arrangement with a local Government by which it will take a subsidy from central funds for carrying on some work in which the central and the provincial authorities are jointly interested. But, generally speaking, when the Government of India find that their revenues are becoming in permanent and substantial excess of their requirements, their usual course will be, it is conceived, either to remit central taxation or to make a rateable all-round reduction in the contributions which they take from the provinces. Against this there must be set a corresponding liability on the part of local Governments. One province has made the impossible claim that the scale of

provincial contributions, once fixed, shall never be raised. Obviously the Government of India retain the right, in case of war or grave financial trouble and if they have to decide against adding to the central taxation, of taking a rateable temporary increase on the provincial contributions, subject to a fair understanding with the local Governments as to the remission or even the repayment of the enhanced levy when the situation of central finance permits.

IV.--PROVINCIAL FINANCE UNDER THE NEW SYSTEM.

24. In an earlier part of this memorandum it has been suggested that the control of central finance may safely be left to the same agency, and pretty much on the same footing, as at present. In the provincial sphere, however, large changes will be necessary, and an attempt to forecast them briefly will now be made. The wide relaxation, which is expected in the Secretary of State's control, and the release of local Governments from much of the present central surveillance over their financial proceedings, will unite in casting a very much heavier burden of responsibility upon the Finance Departments in the provinces. This will certainly be enhanced by the dual character of the spending power in the province. Whatever view be taken of the proposals in the Report for financing "transferred" subjects, it seems clear that the introduction of two final authorities for the preparation of projects to be inserted in the same budget, and for the sanction of expenditure from the same budget, must make the finance more complex and decidedly more delicate than it is to-day.

25. Before the functions of a provincial Finance Department can be discussed with any confidence, it is necessary to decide one most important preliminary. The provincial Government of the future will consist of two parts. The Governor in Council is to retain certain of the sources of revenue and certain of the chief spending departments. Ministers will virtually be responsible for collecting certain other classes of revenue and for controlling certain other spending departments. Is each of these authorities to have a separate Finance Department of its own? Are there to be two agencies of financial control, one for the reserved subjects under the Governor in Council, and another for the transferred subjects under the Governor with his Ministers? In favour of this solution there is the argument that each part of the provincial Government should be a self-contained unit, and the fear that a combined Finance Department would thwart the independence of Ministers in dealing with the subjects for which they will be responsible. On the other hand, there is no argument of method in support of the idea of separate Treasuries. As between reserved and transferred subjects there may be slight differences of procedure; but the standards of propriety in collecting and spending public revenue, and the ideals of financial probity, must be identical in every branch of the administration. Nor is there any argument of convenience, as it will be more advantageous to have the whole financial control under one roof. And of course, there would be no economy in having two full and separate financial staffs, especially as the work on the transferred subjects will at the outset be only a small part of the total provincial finance. In the opinion of the Government of India the need for unity and strength of financial control is decisive, and they unhesitatingly recommend that there be one undivided Finance Department in each province. It would be a reserved department, as by far the greater share of its work would be on reserved subjects; its duty will be the all-important duty of helping both parts of the Government to insist on a high standard of probity in handling the money of the tax-payer; and its functions, if properly administered, will bear some analogy to those of the judiciary.

26. A suggestion has been made that, in order to mark the relations of the Finance Department with both parts of the Government, it should be placed under a sort of Treasury Board, consisting of one Member of Council and one Minister. The idea is impracticable, as it would lead to delays, divided decisions, and unnecessary opportunities for friction. But the dual interests of the Finance Department can be effectively safeguarded in another and more helpful manner. The Government of India consider that, at least in all the larger provinces, there should be, in addition to the regular Finance Secretary,

a second or Joint Secretary, whose business it will be to deal with all cases coming from departments under the control of Ministers. The selection of the officer to fill this appointment would be made by the Governor in deference, whenever possible, to any choice expressed by Ministers. He would be Financial Adviser in all transferred subjects; he would be wholly at the disposal of Ministers, to help and advise them on the financial side of their work; he would prepare their proposals of expenditure and the like for presentation to the Finance Department, and he would see that their cases were properly understood in the department and promptly dealt with. He would act in liaison between the Finance Member of Council and Ministers, and would ensure that transferred subjects get the same technical assistance and care in their financial bearings as reserved subjects. This arrangement, it is hoped, will dispel any apprehension that a unified Finance Department will detract from the authority of Ministers in managing their own portfolios. The function of the Finance Department in truth is not an over-riding power. It is not a body that either dictates or vetoes policy. It watches and advises on the financial provisions which are needed to give effect to policy. It criticizes proposals and can ask for further consideration. It points out defects in methods of assessment and collection; it can demand justification for new expenditure; it can challenge the necessity for spending so much money to secure a given object. But in the last resort administrative considerations must prevail. If there is a dispute regarding expenditure on a reserved subject, the Finance Member may urge that it is wrong or wasteful or that it will entail fresh taxation. But he can be overruled by the Governor in Council. If the dispute relates to expenditure on a transferred subject, the Finance Department may similarly expostulate. But the Minister in charge of the particular subject can overrule it and its objections, taking the full responsibility for so doing. In England he would, in theory, have to get the Cabinet to endorse his view in such a case; in an Indian province he would need only the concurrence of the Governor. As practice crystallizes and grows familiar, Ministers will find friendly and valuable help from the Finance Department in developing their schemes of expenditure on sound and economical lines.

27. It is now possible to examine briefly the duties of a provincial Finance Department thus organized; its relations to both parts of the local Government being precisely the same, under the system of provincial finance set out in the report.

(1) In its association with the revenue departments the Finance Department will exercise steady pressure in the direction of efficient assessment and collection of every kind of State receipt. There is little more to be said on this branch of the subject; the department will consolidate its position with experience.

(2) It will examine all schemes of new expenditure for which it is proposed to make budget provision; and an invariable rule should be established that no new entry may be inserted in the Budget until it has been scrutinized in the Finance Department and unless the department's opinion upon it is available to the legislature. At this stage the duty of the department is to discuss the necessity for the expenditure and the general propriety of the proposals. It has also to advise as to the provision of the requisite funds; whether they can be met from the existing resources of the province, or whether they will involve new taxation; or in the alternative whether they constitute a proper purpose for borrowing. Should new taxation be contemplated, it would be the Department's duty to criticize the proposals, to advise and estimate. This duty of the Finance Department is a preliminary to *Budget sanction*.

(3) The next duty of the Finance Department relates to the entirely different matter of *Expenditure sanction*. Here it is important that each province should have a rule of the same purport as the existing Government of India rule quoted in paragraph 11 of this memorandum. Insertion of a project in the Budget means that the legislature gives the proper executive authority a power to sanction the expenditure; it is not an order to disburse the money. That order must be given separately by the duly empowered authority; and it should not be given without prior consultation with the Finance Department. At this stage that department can scrutinize and advise on details which were

probably not available at the Budget stage ; it has also to see that funds allotted in the estimate for non-recurring expenditure are not employed so as to involve recurring expenditure that has not been foreseen.

(4) An important side of the last two branches of the department's work is that which relates to the public services. There are few greater dangers to a country than the unchallenged growth of the number of functionaries. And in particular there are few occasions on which an executive based on a popular assembly is more vulnerable than when it is pressed to add to the list of appointments paid from the public exchequer. A strong Finance Department is a powerful safeguard against these influences, and it should be definitely laid down by law that no public office should be created, or its emoluments determined, without prior consultation with that department. This will at least ensure publicity ; and of course it need not debar delegation of minor powers of appointment.

(5) A prominent duty of the Treasury in England and certain other countries is the control of the issues of money from the exchequer. The Auditor-General, however, in a note appended to this memorandum, considers that this system would be impracticable in India at present, and the Government of India accept his view.

(6) This renders it all the more imperative that the Finance Department should be in a position to check expenditure for which there is no Budget provision, or which is in excess of the Budget provision, whether it is covered by the appropriation of savings from a Budget grant or not. The information about any such irregularity will reach the Finance Department through the accounts and in the course of audit. But an obligation should also rest upon the executive authority concerned to give the department timely intimation ; and the Government of India recommend the following rules :—

- (a) budgetted funds may not be transferred between minor heads of the same major head without prior consultation with the Finance Department ;
- (b) funds may not be transferred between major heads without either the concurrence of the Finance Department or the approval of the authority which passed the Budget ;
- (c) unless covered by transferred savings, no unbudgetted expenditure or expenditure in excess of the Budget provision for it may be incurred without either the concurrence of the Finance Department or the approval of the authority which passed the Budget.

The general effect of these rules will be to ensure that the intentions of the legislature are not seriously departed from without the knowledge of the Finance Department, which will be responsible for interpreting those intentions in a reasonable spirit. Convenience and commonsense will suggest some pecuniary limits below which the rules will not operate. Above those limits, however, it will be the function of the Finance Department either (i) to condone the unauthorized charges where it does not consider that they depart materially from the purposes of the Budget, or, (ii) where it regards the departure as serious, to report the matter to the legislature for its orders. A model set of detailed rules can be drawn up for the guidance of the provinces, but the main principles ought to be embodied in regulations under the constitutional law.

(7) Finally, the Finance Department must be in intimate relations with the Audit. It will have to advise the auditor regarding the scope and intentions of schemes of expenditure, having itself been apprised of these in its discussions with the executive authority at the preliminary stages. It will be consulted by the auditor about the detailed application of financial principles and the interpretation of financial rules. It will keep him informed about prices, local rates of labour, and many other facts which are relevant to his audit but of which he has no other source of knowledge.

V.—AUDIT IN THE PROVINCES.

28. This leads to the last topic in the memorandum, the manner of auditing the provincial accounts under the new system. Here, again, the work will be conducted on exactly the same principles for the reserved and for the trans-

ferred subjects. It will be carried out by the provincial Accountant-General acting as the Deputy of the Auditor-General, in complete independence of both the Governor in Council and the Ministers. The Government of India need not labour the supreme value of an efficient and independent audit. In relation to the revenue departments its duty will be to see that the methods of assessment accord with the law, and that the collections are prompt, impartial and businesslike. In relation to expenditure, it will have regard to the financial regulations of the province, and also to the broad principles of legitimate public finance. It will not only see that there is code authority for all outlay, but also investigate the necessity for it. Was this item in furtherance of the scheme for which the Budget provided? Could the same result have been obtained otherwise with greater economy? Was the rate and scale of expenditure justified in the circumstances? If purchases were made, were they effected with due publicity of tender, etc? The Audit will constantly be asking such questions as these—in fact, every question that might be expected from an intelligent tax-payer bent on getting the best value for his money. At present the audit department generally is tied too much to formalities—the codes, and their cumbersome details, rather than their spirit. Until recently it very rarely challenged the wisdom of any public expenditure, or its economy, or its conformity with policy. It was usually content with proof that the money was actually spent on its declared purpose, and that there was proper formal authorization under the codes for its outlay. All this will have now to be replaced by a spirit of greater inquiry.

29. In dealing with audit reports, the procedure recommended by the Government of India is as follows. Each report will be submitted to the Governor, for communication to the executive authority concerned, whether Member of Council or Minister. Copies will simultaneously go to the provincial Finance Department and to the Auditor-General. The Finance Department will take orders upon the report. In the case of reserved subjects, the Governor in Council will dispose of the report and have power to condone surcharges and disallowances, except where they relate to definite infringements of orders of the Secretary of State or the Government of India. In the case of transferred subjects, Ministers will have an exactly corresponding position. But, in each case, the Finance Department will place the report and the orders upon it before the legislative authority which passed the Budget. As part of the constitutional scheme, that body should be expected to appoint a Public Accounts Committee, before whom would come all audit reports, and all cases of unauthorized expenditure and transfers which the Finance Department decides to submit to them. Cases where orders of the Government of India or of the Secretary of State have been infringed will be referred to those authorities respectively through the Auditor-General. Otherwise the legislature will have final power to condone or enforce any audit objection and to vary whatever executive orders may have been passed on it. But before the Public Accounts Committee the Finance Department will be the champion of the audit. It will bring all irregularities into the light of day, and will move the Committee to accord them full consideration and to deal adequately with the offenders. For this purpose it must have full right of access to the Committee, and should be represented at every sitting held in connexion with the audit reports and the annual statement of excesses and re-appropriations. In this sketch of procedure there is, it will be understood, nothing that derogates from the right of an Accountant-General to bring financial irregularities immediately to the notice of his local Government, or of the Auditor-General to bring to the notice of the Secretary of State any matter in which he considers the action of a local Government to have been perverse or contrary to public interests.

AUDIT AND ACCOUNTS UNDER THE REFORM SCHEME.

[NOTE 1.—Throughout this memorandum whenever the word "Indian" is used in contradistinction to "Provincial", it is adopted in place of the word "Imperial" in the technical sense in which that word is now employed in relation to Indian Finance.]

[NOTE 2.—In the brief preliminary explanation of the existing system, there is no reference to the arrangements for the audit and accounting of transactions of certain Indian Departments which are undertaken by departmental Accountants-General working directly under the Comptroller and Auditor-General, as these arrangements need not come under consideration in this connection.]

1. The unit of administration in India is the district, of which there are more than 200, and at the headquarters of each district is a Government treasury into which and from which all Government receipts and expenditure within the district, whether Indian or provincial, are paid. There is a strict demarcation in the treasury between the maintenance of the accounts and the receipt and issue of money. A gazetted officer, called the Treasury Officer, who is always a member of the Provincial Civil Service, is responsible to the Collector for all the work done at the treasury. The accounting work is supervised, under the Treasury Officer, by the Accountant and the monetary transactions by the Treasurer. The Treasury Officer is responsible for a rough verification of the accounts balance with the cash balance at the end of each day while the Collector is responsible for a strict verification of the cash balance at the end of the month and for a certificate as to the agreement of the cash and account balances. On the 11th day of each month the bills presented and paid during the first ten days are forwarded to the Account Office, while at the close of the month the remaining bills are forwarded with a cash account for the transactions of the month and also a report as to the cash balances. Except in Madras, the treasury staff make little attempt to classify under various heads of account the receipts and the payments at the treasury.

2. On arrival at the Accounts Office of the province, these documents pass into the hands of a district auditor, who is generally responsible for the audit and classification of all the transactions and for the posting of these transactions into the "district classified abstract", which is the first stage in the preparation of the final Government accounts. Some of the bills, the audit of which requires specialised knowledge, are sent to other audit sections. After audit these bills are returned to the district auditor for entry in the classified abstract. The classified abstracts on completion and check are sent to another section of the Account Office, in which the transactions are reposted so as to bring together under each head of account the transactions in each district, thus working up to a total of all the transactions within the province under each head of account.

3. It is important to notice at this stage that these accounts include both Indian and provincial transactions and that the working out of provincial balances apart from the Indian balances is solely a matter of accounting and is accompanied by no corresponding separate cash balance.

4. The head of the Account Office, called usually an Accountant-General, in addition to his work in connection with audit and account within the province, exercises other functions in respect of—

- (1) Budget work, and
- (2) Currency and resource.

5. At present the responsibility for the initial preparation of the provincial budget rests with the local Government, which forwards the budget to the Government of India for its acceptance.

Before framing the budget, the estimates, which have been prepared by various departmental heads, are nearly always sent to the Accountant-General for check and comment. These comments are based mainly on a comparison of the anticipated expenditure with the expenditure under the same head in previous years, while the Accountant-General also brings to the notice of the local Government any entries in the estimate for which no sanction has yet been obtained. A revised estimate is prepared during the course of the year

and the primary responsibility for advising the Government of India as to the receipts and expenditure that they may anticipate rests with the Accountant-General and not with the local Government.

6. The natural comment in respect of the Accountant-General's budget work is that he is exercising a function which pertains properly to the Finance Department of the local Government or of the Government of India. The explanation of the existing arrangement is that the duties now performed by the Accountant-General necessitate constant reference to the latest available figures as regards the progress of receipts and expenditure and to the sanctions accorded by the various sanctioning authorities. The former are immediately available only in the Account Offices and in practice Account Offices work during the budget season at very high pressure so as to make these figures available up to the latest possible date. The transmission of these actuals to any other authority, to be utilised by them, would delay the preparation or the revision of the budget. Sanctions are also brought together more systematically in Account Offices than elsewhere.

7. The manner in which the Government of India administer the currency and resource operations of the country will be described, if necessary, in a separate note. For the purpose of this note, it is sufficient to explain that in every important province there is a Currency Office in which is kept the greater part of the Government cash balances. At every treasury, however, sufficient cash is retained in order to meet immediate demands, while the surplus receipts at most treasuries are set aside in separate receptacles as part of the currency balance of the country. A demand of a treasury for additional cash to meet anticipated expenditure is usually met by a transfer of money from the currency chest to the treasury against a corresponding transfer in the reverse direction at another currency chest. The officer responsible to the Government of India for these and all other currency transactions throughout India is the Controller of Currency, but he acts through the Accountant-General, who issues detailed orders for the transactions within his own province. Thus the Accountant-General works under two masters. As regards accounts and budget he is responsible to the Government of India through the Comptroller-General, who is the head of the Department. As regards audit he is responsible to the Auditor-General, who is also the Comptroller-General. His work in connection with currency and resource is executed under the instructions of the Controller of Currency, who works under the Government of India in the Finance Department.

8. Expenditure on accounts and audit throughout India is an Indian charge (neglecting the cost of a small establishment in each province engaged in auditing the accounts of local bodies).

9. The officers in these Account Offices belong to the Indian Finance Department and, in view of the similarity of names, it may be desirable to explain the essential difference between this Department and the Finance Department of the Government of India. The latter is an integral portion of the Government of India itself—like the Home Department. The former is a service of officers performing financial duties throughout India and subject directly and solely to the authority of the Government of India in the Finance Department.

10. The Indian Finance Department is recruited—as to one-sixth of the appointments, by the promotion of subordinates—and as to the remainder, by recruitment in England and in India in such manner as to ensure that one half of the vacancies are filled by Indians. In connection with the report of the Public Services Commission, the Government of India have recommended to the Secretary of State that hereafter two-thirds of the vacancies shall be filled by Indians. The officers of the Department are on a time-scale of pay, *viz.*, Rs. 300—50—1,250—1,500. Above that there are, in addition to posts reserved for Indian Civil Service, 9 appointments in Class I on a pay of Rs. 1,500—60—1,800, 3 appointments of Chief Auditors of Railways on Rs. 1,800 and Rs. 2,000 per mensem and 6 appointments of Accountants-General on Rs. 2,250, 2,500, and 2,750. All appointments to the Department in India, all promotions to Class I and all appointments as Comptroller, Chief Auditor or Examiner,

Military Works Services, are made by the Government of India in the Finance Department, while appointments as Accountants-General have to be approved by the Viceroy. In the same way the grant of leave to, and the transfer of, Accountants-General, Comptrollers, Chief Auditors, Examiner, Military Works Services, and officers of Class I, and any disciplinary action in respect of such officers, require the sanction of the Government of India. The Government of India also pass orders on the results of departmental examinations, grant extensions of service and sanction pensions. In all these matters the Comptroller-General exercises all the powers not expressly reserved, as indicated above, for the Government of India or the Viceroy.

In respect of other matters connected with the administration of the Department, the Comptroller-General has been vested with the powers of a Head of a Department under the Government of India. This gives him very little power to sanction permanent appointments, but a fairly free hand in sanctioning temporary appointments and miscellaneous expenditure generally.

11. The title of the head of the Department—Comptroller and Auditor-General—connotes his dual functions. As Comptroller-General he is the administrative head of the Department and is also responsible for the compilation of the accounts of India as a whole. In this capacity he is subordinate to the Government of India, while as Auditor-General he is responsible to the Secretary of State alone. On an audit question he can insist on a reference to the Secretary of State and his annual Audit and Appropriation Report has to be forwarded by the Government of India to that authority. To enhance his independence, the Comptroller and Auditor-General is appointed by the Secretary of State on the recommendation of the Viceroy and he is given to understand that he cannot ordinarily expect to receive any higher appointment under the Government of India.

12. When complete provincial autonomy has been attained, it may be assumed that the provincial Account Office will no longer be required to bring to account Indian transactions occurring within the province, and that the preliminary record of any Indian receipts or expenditure paid into, or from, a provincial treasury will be sent to an Indian Account Office either direct from the treasury or through the provincial Account Office, which will merely act as a post office. The provincial Account Office will then deal with nothing but provincial transactions and its cost can appropriately become a provincial charge and the officers serving therein can belong to a provincial service.

The provincial Auditor-General will then be the officer on whom the Legislature will depend for ascertaining whether the financial orders passed by them have been complied with and for bringing to their notice any violations of those orders. He must then be in a position of the utmost independence and his appointment should be on a statutory basis. He should be empowered to bring to light, in regard to public expenditure, violations not merely of rule but also of the canons of financial propriety. One may anticipate that the Legislature on receipt of his report will appoint from among themselves a committee to enquire into the irregularities brought to notice and to advise as to the action to be taken against the offenders and to prevent the perpetration of similar irregularities in future.

13. It is premature yet to foreshadow whether this officer should then continue to be the head of the Account Department. This must depend on the result of any changes which may be made in the near future in the position and functions of the Comptroller and Auditor-General, a question which is discussed later in this note.

14. This picture of the ultimate goal is presented as a guide in determining what progress it is possible to make at present towards that goal. In discussing this question due regard must be paid to the system and degree of Financial control to be introduced in the near future, a matter which is discussed in detail in another note. For the purpose of this discussion, it may be accepted that financial control, as exercised by the Finance Department of a provincial Government, will be for the present a reserved subject and will be one of the last of those subjects to be transferred. Financial control depends very largely

upon an efficient system of audit and account and the handing over of the supervision of audit and accounts to the Ministers should be simultaneous with the transfer to them of financial control.

15. It does not necessarily follow, however, that it may not be possible before that date to set up separate agencies for the auditing and accounting of Indian and provincial transactions respectively. But the difficulties which would then arise must be weighed.

16. One practical difficulty will be that each Treasury Officer will come under the orders of two accounting officers in respect of Indian and provincial transactions respectively. Hereafter a recommendation will be made that Accountants General shall no longer remain responsible for currency and resource operations, those duties being transferred to other officers working directly under the Controller of Currency. If that recommendation is accepted and given effect to, the position of the Treasury Officer in a district will then be as follows. In respect of resource operations, he will have to obey the orders of an officer subordinate to the Controller of Currency. In respect of audit and accounts he will have to obey the instructions of the Accountant-General. As a member of the provincial service, and also, in many cases, in respect of other branches of work allotted to him, he will be under the orders of the Collector. It will be a little difficult to require him, in respect of the audit and accounting of Indian transactions, to come under a fourth officer. This difficulty may not be insuperable, but at present it is undoubtedly serious. If ever the time comes when there is a State bank with a branch in each district responsible for all currency and resource operations in India, the difficulty arising from the multifarious duties of the Treasury Officer will be diminished. The time may even come when Treasury Officers will be chosen, not from the Provincial Civil Service, but from the Provincial Accounts Department.

17. A more serious difficulty will be the diminution of independence which will be the probable consequence of the substitution of numerous small audit departments for the existing Indian Finance Department, which now performs these duties of audit and account throughout India. The officers of the department number over two hundred. The traditions of the department, its numerical strength, its prestige as an Indian department, the constant transfers of the officers from one office to another throughout India, all contribute towards the honesty and independence for which the department has a high reputation. Prior to 1910, the auditing and accounting of Public Works transactions were the duty of a separate Public Works Accounts Department, which formed a portion of the Public Works Department and worked under the orders of the Government of India in the Public Works Department. In that year that Accounts Department was amalgamated with the Indian Finance Department and one of the main reasons for the amalgamation was the feeling that officers of the Public Works Accounts Department, in the performance of their audit functions, were not so independent as the officers of the Indian Finance Department. There can be little doubt that the amalgamation has effected a considerable improvement in this respect. If the Indian Finance Department were split up into different cadres—one for each province—the number of officers working in each province would be very small, while, remaining for the whole of their service in the same province, they would be more subject to local influence and would lose that breadth of outlook which comes by transfer from one office to another.

18. The arguments in favour of an increase, rather than a diminution, in the near future of the independence and breadth of outlook of audit officers are overwhelming. On this point and on the relations between audit officers and a provincial Financial Secretariat in future I am in entire agreement with the views expressed in paragraphs 27 and 28 of the memorandum. The work of audit officers will inevitably increase in importance as the Reform Scheme comes into effect. In paragraph 260 of the report the authors state "on the other hand it should be made plain to them (i.e., the Government of India) that, if certain functions have been seriously maladministered, it will be open to them with the sanction of the Secretary of State to retransfer subjects from the transferred to the reserved list, or to place restrictions for the future

on the Ministers' powers in respect of certain transferred subjects." If ever such action has to be taken, its need will have been proved by the records of the local Finance Department in their relation with the Ministers and by serious financial irregularities, perpetrated in connection with transferred subjects, brought to light in the appropriation reports of the Auditor-General and of the local Accountants-General.

Moreover, it may reasonably be contemplated that one measure of financial control will be the creation of various Accounts Committees who will be entrusted by the various legislatures with the duty of investigating financial irregularities brought to light in the various appropriation reports. It will then be the duty of the authors of those reports to appear before those Committees and explain to the members the facts of each case.

At first Ministers will be peculiarly susceptible to public opinion and should, therefore, welcome the maintenance of a strong and independent audit department, the existence of which will enable them to refute an accusation of financial impropriety in the exercise of their official duties. This argument will be all the stronger if the audit department regards itself as empowered to report not merely those cases in which definite rules have been violated, but also those cases which, though not contrary to any particular rule, yet contain elements of financial impropriety.

19. For all these reasons, while the formation of separate provincial Account Offices must be regarded as eventually inevitable, I am strongly of opinion that the department should remain an Indian department as long as possible. There is no objection, however, to each province meeting that portion of the cost of the Civil Account Office of the province, which represents the share of the work done in that office in respect of provincial audit and accounts.

20. I am also of opinion that it will not be practicable to divest the existing Account Offices in each province of their responsibility for the audit and accounting of Indian transactions within the province until the number of transactions thus brought to account is considerably reduced, or until Local Governments become, to a smaller extent than at present, the agents of the Government of India in such matters.

21. It has already been urged that, when the Accountant-General in each province becomes an independent audit officer, his position should be regulated by statute. Meanwhile, for the same reasons, it is of even more importance that the final audit authority in India, *i.e.*, the Auditor-General, should also have his position fixed by statute.

22. It has already been explained that the Auditor-General and the Comptroller-General are one, and that, while the Comptroller-General as the administrative head of the Indian Finance Department is subordinate to the Government of India, as the Auditor-General he is responsible to the Secretary of State alone. The manner in which he exercises his duties as Auditor-General needs explanation. He performs no independent audit work. All the audit is done by and under the supervision of various heads of Account Offices. The Auditor-General, however, has a staff of inspecting deputies, who examine, once every two years, the work done in each Audit Office and report thereon to the Auditor-General. He also receives copies of the appropriation reports, prepared by each Accountant-General in respect of provincial transactions, which are forwarded by them to local Governments for information. Outside these appropriation reports, the Auditor-General is also kept informed periodically by his officers of all important irregularities brought to light. From the information thus compiled throughout the year, the Auditor-General prepares his annual appropriation report in which he exhibits the result of the audit against the appropriations made in the budget—increased or diminished by fresh grants, withdrawals or reappropriations during the year—and also the more important financial irregularities detected by audit in the course of the year. This report is submitted to the Government of India, who have to forward it, as it stands, to the Secretary of State. At the same time the report is circulated to every local Government, which is under obligation

to send to the Auditor-General any further explanation it may desire to offer in respect of any irregularity brought to light and to state the action, if any, which has been taken against the officer responsible for the irregularity. The Auditor-General may then call for any further explanation he desires and may state whether he considers the action taken adequate or the reverse. The Auditor-General is responsible for stating in each report how far he is satisfied with the explanations which have been offered by local Governments, or with the action taken by them, in respect of irregularities previously reported, and this opportunity of returning to the charge enables him to express with considerable force his views to local Governments in respect of any irregularity mentioned in his report. (It may be noted here that the local Government is not under any obligation to consider in detail the irregularities brought to light by the Accountant-General in the local appropriation report, though in practice most of them do so.)

23. It is now possible to consider whether any immediate alterations are desirable in the status and functions of the Comptroller and Auditor-General and in the duties imposed upon the heads of Account Offices. It is convenient to consider first the functions of the Comptroller and Auditor-General. It is of the utmost importance that an audit officer should be in as independent a position as possible. There cannot be complete independence of audit in India so long as the Accountants-General, who are responsible for the initial audit, are directly subordinate to the Government of India, seeing that some orders, which they have to apply in audit, are orders issued by the Secretary of State defining and limiting the powers of the Government of India. It is no answer to this argument to say that the supreme audit authority is vested in the Auditor-General, because the Accountant-General is responsible for framing his own conclusions as to the sanction required for any item of expenditure, and the intervention of the Auditor-General is secured only by way of appeal against his decisions. Again, it cannot be said that the Auditor-General is in complete independence so long as the position is that the officer, who as Auditor-General is supreme in audit matters, is, at the same time, subordinate as Comptroller-General to the Government of India in the administration of the department.

24. If the independence of the Auditor-General is to be enhanced, two alternative modifications of the existing arrangements may be considered. The first is to retain one officer with dual functions and to hand over to him complete control of the department, the Government of India in the Finance Department absolving themselves of all responsibility and authority in that matter.

25. The second alternative is to separate the two functions and to have a Comptroller-General who shall administer the whole department as at present but be relieved of final authority in audit matters, that authority being vested in an Auditor-General with his own staff permanently working in the various Account Offices and checking on behalf of the Auditor-General the audit which has been undertaken therein.

26. I may mention that considerable thought has been devoted to the consideration of the question whether it will be possible to separate in Account Offices in India the audit duties from the other duties performed therein. A change in procedure which would inevitably be the first change, if any such modification were to be introduced, has been under trial in one provincial Account Office for the last 7 or 8 years. The results have been condemned by every Accountant-General who has watched it. I am convinced that such a separation is impracticable.

27. As regards the alternative proposals mentioned above, I prefer the former, inasmuch as the whole of the audit will then be performed by officers who are immediately responsible to the Auditor-General and to no other authority. Under the second proposal the actual audit will be performed by officers not subject in any way to the Auditor-General, who would obtain his information merely from a recheck of a small part of the audit. After mature consideration, I have come to the conclusion that in practice the existing arrangement, under which the audit officers are directly subordinate and responsible to the Comptroller and Auditor-General, even though it involves the

subordination of that officer to two authorities, gives better results than could be anticipated from a system under which the actual audit is performed by officers not subordinate to the Auditor-General. It follows, therefore, that I recommend the adoption of the former alternative, *viz.*, the abolition of the control of the Government of India over the Indian Finance Department and the vesting in the Comptroller and Auditor-General of all the powers of the Government of India regarding the Department. I also consider that the Comptroller and Auditor-General should have powers of surcharge and of calling for papers.

28. I am bound to state, however, that since the creation in 1914 of the post of Comptroller and Auditor-General on its new basis the control of the Government of India over the Department has not reduced audit independence. My recommendation, therefore, is based on the theoretical desirability of audit independence and on the possibility, very remote it is admitted, of interference therewith if the existing system continue, rather than on any case in which audit independence has suffered.

29. As regards the functions of Accountants-General, I have already expressed the opinion that they should be relieved of duties connected with currency and resource work in respect of which they come directly under another officer. The importance of the currency and resource work, which has to be undertaken by various Accountants-General, varies considerably, so that at any moment a situation may arise in which the Controller of Currency may desire the removal of an Accountant-General to a station where the currency work is less important, because he has shown himself unfit to perform the currency work in a province where such work is of considerable importance. The duty will then devolve on the Comptroller and Auditor-General as head of the Finance Department of recommending to the Government of India in the Finance Department the transfers which will be necessary in order to accede to the request of the Controller of Currency. The Comptroller and Auditor-General, in the interests of the account and audit work, may desire to leave that officer where he is or he may find it difficult to suggest arrangements which will satisfy both the Controller of Currency and himself. I wish it to be understood that these remarks are made purely from a theoretical standpoint. Since the separation of the functions of the Controller of Currency, I know of no case in which such a situation, as is apprehended above, has arisen between the Comptroller-General and the Controller of Currency, but existing arrangements render possible such conflict of opinion, and I think it is desirable that these duties should be separated if the separation can be effected without serious administrative difficulty, specially as many of the Accountants-General are at present seriously overworked. I do not think that it will be found difficult to make the separation.

30. The Accountant-General at present advises the Controller of Currency as to some of the figures to be adopted in his forecasts. Inasmuch as his advice is based on accounts figures this assistance must continue. I do not consider that the duty of advising other officers as to the figures to be adopted in budget or currency forecasts is any real infringement on his independence as an audit officer.

31. The manner in which the Auditor-General's reports should be dealt with in future is more a matter of financial control than of audit. It is sufficient to remark here that, until there is a separate Auditor-General for each province, any appropriation report, which may hereafter have to be submitted to a local Government or legislature, should be issued by the Auditor-General, even though it may have been prepared for him by the provincial Accountant-General. In so far as such reports relate to "transferred" subjects it seems desirable that they should be considered by committees appointed by the legislature.

32. Every effort should be made to improve the efficiency of the audit and, as one measure to this end, I suggest that the rules contained in the existing codes, which have to be applied in audit, should be recast entirely. For nearly four years it has been my duty from time to time to ascertain the manner in which rules in these codes have originated and expanded and the growth of the accretions, by which the original rules have become overlaid

with exceptions and explanations and even in many cases with principles incompatible with those which the original rules desired to express. As such cases come to notice, endeavours have been made to redraft individual rules, but I am convinced that the time has now come for this matter to be taken up systematically with the avowed intention of evolving as simple as possible a set of fundamental rules within which local Governments may be given large powers, in the application of these principles to individual cases. It is desirable, however, to sound one note of warning. The Reform Scheme contemplates not merely devolution but also decentralisation, and any system of delegation of power involves the creation of a set of rules defining that power, which rules it will be the duty of the audit officer to apply. While, therefore, valuable work can be done in simplifying and harmonising the principles underlying the rules in various codes and in reducing those into a set of fundamental rules, it is inevitable that, subsidiary to those rules in each province, there will be a mass of other rules defining and limiting the power of subordinate authorities within each province. It is to be hoped that the experience of the Government of India will be a warning to the financial authorities in the provinces and an inducement to them to keep the subsidiary rules as few as possible.

33. It will also be the duty of the audit officers to relax their attention to details and to devote more and more of their time to a consideration of the manner in which the various executive officers are undertaking their more important financial responsibilities. There can be no advance in this direction, however, unless those authorities appreciate more clearly than they do at present, the position and duties of the audit officer. Any scrutiny of, or enquiry as to, the manner in which executive officers are exercising the financial responsibilities entrusted to them by Government is often resented by such officers and an important part of the functions of any Finance Department, and an important feature of financial control, will be the duty of explaining to authorities incurring expenditure on behalf of Government the duty which is imposed upon audit officers to scrutinise the manner in which those duties are performed.

34. In conclusion, a few minor changes require comment :—

The existing accounts are very elaborate. The first great division is into :—

- (i) revenue and service heads for the revenue and expenditure proper of Government ; and
- (ii) debt and remittance heads for the receipts and payments incurred, in respect of which Government acts as a banker or remitter or borrower or lender, or which are merely in transit from one place or head of account to another.

The main unit of classification is the major head, of which there are about 34 under revenue, 51 under service and about 70 on each side of the account for debt and remittance. The major heads are sub-divided into minor heads of which there are 200 under revenue and nearly 300 under service and several hundreds under debt and remittance, and finally there are detailed heads which run into thousands. The existing arrangement is that, while the main structure of the accounts remains under the complete control of the Government of India, local Governments are given full power to vary the detailed heads. The final record of account in India is the volume entitled the Finance and Revenue Accounts which is presented to Parliament. It is an essential feature of the Reform Scheme that the Secretary of State and the Government of India reserve full right to call for information in any form they require, and the main structure of the accounts will no doubt be decided by a request by the Secretary of State or the Government of India for the accounts to be submitted to them annually in a particular form. It may be anticipated that this form will not be in undue detail, and that within the form the local Government will have full power to amplify or modify the details. They will also no doubt be able to recommend to the requesting authority either an amplification or modification of the form in which the information is called for. But until the form is modified by either authority, the form required will determine the

structure of the accounts maintained by the Accounts Department. Inasmuch as accounts purport to be a statistical presentation of facts, any complete separation of provincial from Indian finance will necessarily be accompanied by a separation of provincial from Indian accounts. This will affect the whole structure of the accounts, but it is unnecessary to discuss at this stage the detailed consequential changes—a matter which can suitably be left over for future consideration.

35. Some of the general principles governing the classification of the accounts will require modification as the Reform Scheme develops. Thus at present the general rule is that inter-provincial adjustments are prohibited except with the concurrence of both Governments concerned. With the greater independence and isolation of provincial finances this rule will no doubt have to be reversed, inter-provincial adjustments being allowed unless both provinces agree to waive any adjustment in a particular case.

36. Another important fundamental principle is that "the classification in the public accounts has closer reference to the department in which the revenue or expenditure occurs than to the object of the revenue or expenditure or the grounds upon which it is sanctioned". As the separation between "reserved" and "transferred" subjects and between Indian and provincial expenditure becomes more and more complete, it will become more in accordance with facts to regard a department, which incurs expenditure on behalf of another, rather as an agent of that department than as a fellow servant of Government, both spending money from one fund. The modification of this rule, however, must be determined by the facts as they evolve and it is sufficient at present to note that this principle, simple and efficient though it has been in the past, may have to be gradually abandoned.

37. Any division of provincial subjects into "reserved" and "transferred" will accentuate the importance of the work of Account Offices in the classification of receipts and expenditure. At present the Accountant-General is enjoined to refer to the Comptroller-General all questions bearing on the classification of receipts and charges and other matters of account, such questions not being referred to the Government of India unless the Comptroller-General is in doubt or the local Government does not accept the Comptroller-General's view. In future the Governor will take the place of the Government of India as the final authority as regards the classification of a provincial receipt or expenditure as "reserved" or "transferred."

M. F. GAUNTLETT.

10th December 1918.

EXCHEQUER ISSUES.

Several authorities have recommended the introduction into India of some form of exchequer issues as a means of securing more complete and efficient financial control over payments.

2. It may be desirable to explain briefly the existing arrangements in India and the difficulties that may be anticipated if it is decided to extend those arrangements so as to constitute a complete system of exchequer issues.

3. The fundamental rule regarding the payment from a treasury in India is that "if a demand is presented at a treasury which is not provided for by the rules in the Account Code or is not covered by a special order received from the Account Office the duty of the Treasury Officer is to decline payment for want of authority." It is even stated that "a Treasury Officer has no authority to act under an order of Government sanctioning a payment unless it is an express order to him to make the payment, and even such orders should, in the absence of urgency, be sent through the Accountant-General." It would be difficult and would render this note unduly long to discuss the application of this rule to every form of payment at a treasury. It is sufficiently accurate to state, perhaps, that under this rule no salary or establishment or travelling allowance bill or any bill for ordinary contingent charges could be cashed at a treasury unless the Treasury Officer had received a copy of an order passed by competent authority sanctioning the entertainment of the officer or establishment in respect of, or by whom, the charge is incurred. In the same way a bill for a contingent charge of a special nature, such as a grant-in-aid, would not be passed until a Treasury Officer had received due authority.

4. These arrangements in practice prevent serious excesses over the grants for expenditure of a recurring character, such as on salaries, so that control by any system of exchequer warrant is unnecessary, while it is undesirable seeing that the expenditure, once it is sanctioned, is inevitable. But much expenditure is of a non-recurring type, and as the most important expenditure of this type is that on Public Works it may be desirable to explain in more detail the Indian system of check over the drawals for such expenditure.

5. Prior to the amalgamation of the two Accounts Departments in 1910, officers of the Public Works Department drew lump sums from the treasuries and made therefrom all disbursements of Public Works expenditure. These drawals were made against letters of credit issued by the Accounts Officers. As a result of the amalgamation, salary, establishment and travelling allowance bills are now in some provinces payable at the treasuries and from the 1st April 1919 this will be the practice everywhere. The drawings of Public Works Officers for the disbursements of other forms of expenditure will then no longer be checked against letters of credit. In Bengal they have been abolished since 1912. This course has been taken because after mature consideration it has been decided that the extra check imposed thereby is not worth the trouble entailed by the continuance of the system.

6. The procedure under this system was as follows:—

Each Executive Engineer had to estimate his expenditure, during the period covered by the letter of credit, on each individual work in progress and on other forms of expenditure such as salaries, establishment, travelling allowances and contingencies. He also had to estimate the balances left over from his existing letter of credit and deduct this from his estimated total grant so as to arrive at the amount required under the new letter of credit. The Chief Engineer in each province had to check all these demands from the Executive Engineers. If his check was to be of any real value he would have to take into account the personal equation of each Executive Engineer, and it is probable that his office also exercised a statistical check over these demands against the drawings during the same period in previous years. The Chief Engineer then prepared a consolidated statement for the province and sent it to the Accountant-General. He issued the letters of credit to individual treasuries and, at the same time,

posted the amounts of these letters of credit in the registers in which had been entered the grant under each major head concerned, so as to ensure that letters of credit were not issued in excess of the grant under each major head. At the close of the month, the Executive Engineer submitted his pass book to the account office together with his monthly accounts. The operations on the letter of credit, as indicated in the pass book, were then checked in the Account Office.

7. In forming a correct appreciation of the amount of work entailed, it has to be remembered that under this system a letter of credit had to be prepared for the transactions of an Executive Engineer under each major head of account at each treasury from which he drew funds. Excluding the heads exhibiting railway expenditure, there are six major heads which can be operated upon by an Executive Engineer. In the United Provinces, there are, I believe, 48 treasuries. One Executive Engineer may have drawing accounts at two or three of these treasuries, while in other cases four or five or even six Executive Engineers may have drawing accounts at one treasury. Thus the amount of work entailed was enormous.

8. It was fully recognised, moreover, that this check against letters of credit was the least important check applied to Public Works expenditure. Salary and establishment bills are always checked against sanctions: travelling allowance and many forms of contingent bills against grant. Special contingencies are also checked against grants and often against sanctions as well. In respect of expenditure on works proper, the main checks are against estimates and allotments and, having regard to the importance of these checks, it was decided after full consideration that the value of the further check against the letter of credit was incommensurate with the amount of work entailed.

9. The system still obtains in respect of expenditure on forests, but there its operation is simpler; as fewer major heads, treasuries and officers are involved. Its abolition in respect of such expenditure was proposed years ago, but the matter was held over until the result of the abolition in respect of Public Works expenditure became apparent.

10. A statement is enclosed showing the net grant and expenditure—Imperial and Provincial—during the last 4 years in 5 provinces under all the Public Works heads of expenditure. This statement gives 76 comparisons between actuals and net grant and in 11 cases only is there any excess, only one of which is of any importance. In no year has the total grant of these 5 provinces been exceeded. It is noteworthy that Bengal is the only province in which during this period there has never been an excess over the grant and also the only province in which letters of credit were not in existence. There will be more danger, however, of excess drawals in future if, as seems probable, the powers of re-appropriation are reduced considerably.

11. On the whole I do not recommend the introduction of any general system of letters of credit, and I gather that those authorities that have put forward this recommendation have agreed that its application to routine payments would involve unnecessary labour. As regards its introduction as a check on the drawings in respect of large items of expenditure, it may be more convenient to discuss the question in the first place as regards Public Works expenditure only. It would not be difficult to apply this system to those works which are so important as to require the sole attention of an Executive Engineer, as then the check could be applied to the whole of the financial operations of that Executive Engineer. Difficulty would arise, however, in the case of an Executive Engineer who combines with numerous petty duties the supervision of a work so important as to require control by letters of credit. In that event the Executive Engineer would have to specify when drawing a cheque on a treasury whether the cheque was to be taken against the letter of credit or whether it was for work to which that check had not to be applied. I am of opinion that such a procedure is impracticable and that if any work supervised by an Executive Engineer is so important as to require control by a letter of credit, then the letter of credit should cover all the operations of that Executive Engineer under the check of the letter of credit.

12. The conclusions of this note may be summarised as follows :—

- (1) The introduction of a system of letter of credit for ordinary civil expenditure is unnecessary.

(2) As regards Public Works expenditure :—

- (i) The experience of the past few years does not indicate that excess drawals constitute a serious evil :
 - (ii) A reduction of the power of reappropriation may lead to an increase of excess drawals under individual heads though the net provincial balances will remain unaffected :
 - (iii) In view of the decentralisation of payments in India it is undesirable to introduce a system of letters of credit in respect of the drawings for all works expenditure :
 - (iv) If it be thought necessary, such a check may be introduced on the drawings in respect of important works, that phrase being defined as meaning any work the estimated expenditure on which exceeds, say, one lakh (the limit, of course, being subject to further discussion with the technical authorities) :
 - (v) Whenever an Executive Engineer has to draw funds from a treasury for expenditure on an important work, as so defined, the whole of his drawals from that treasury for works expenditure, whether on that or on any other work, will come under the operation of a letter of credit.
- (3) If it be decided to control expenditure on important Public Works in the manner indicated in sub-clauses (iv) and (v) of clause (2) above, it should then be considered whether it is practicable to introduce a similar system of control at the treasuries over drawals for other important classes of non-recurring expenditure either by a system of letters of credit or by an elaboration of the existing system of check against grant.

M. F. GAUNTLETT.

The 11th December 1918.

	IMPERIAL.								PROVINCIAL.							
	1913-14.		1914-15.		1915-16.		1916-17.		1913-14.		1914-15.		1915-16.		1916-17.	
	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.
<i>Public Works Department charges except 45— Civil Works—Imperial and 49—Irrigation.</i>																
Bengal	1,130	1,118	1,544	1,501	1,289	1,245	1,108	1,094	9,020	8,755	11,908	11,580	8,346	8,027	6,900	6,749
Bombay	6,618	6,664	6,749	6,743	6,127	6,013	5,045	4,920	13,178	13,126	12,940	12,809	9,929	9,919	9,738	8,737
Madras	1,573	1,539	1,716	1,650	1,523	1,502	1,276	1,255	11,932	11,669	13,808	13,338	10,452	10,699	10,493	10,370
Punjab	5,286	5,098	5,425	5,396	6,058	6,086	6,067	5,980	12,113	11,738	11,760	11,585	10,666	10,503	9,571	9,234
United Provinces	1,844	1,929	1,763	1,779	2,040	2,056	1,330	1,364	9,672	9,367	10,690	10,567	10,390	10,095	9,602	9,398
<i>45—Civil Works.</i>																
Bengal	1,532	1,439	1,184	1,168	880	858	793	781								
Bombay	825	850	1,280	1,203	1,069	1,026	994	949								
Madras	241	187	257	250	359	352	131	126								
Punjab	640	624	577	557	413	398	276	252								
United Provinces	804	737	879	682	697	639	352	290								
<i>49—Irrigation.</i>																
Bombay	118	20	350	354	235	277	234	237								
Madras	376	360	788	753	768	750	623	607								
Punjab	9,638	9,264	7,495	7,112	4,614	4,244	3,659	3,386								
United Provinces	1,354	1,215	1,029	1,035	999	937	749	657								

ANNEXURE VI.
LIST OF ADDED MEMBERS.

BENGAL.

Hon'ble Mr. W. A. IRONSIDE.
Hon'ble Mr. P. C. MITTER, C.I.E.

BOMBAY.

Mr. P. J. MEAD, C.I.E., I.C.S., Director of Industries.
Hon'ble Mr. N. M. SAMARTH.

MADRAS.

Hon'ble Mr. N. E. MARJORIBANKS.
Khan Bahadur MUHAMMAD HABIBULLAH, Sahib Bahadur.

BIHAR AND ORISSA.

Hon'ble Mr. E. H. WALSH, C.S.I., I.C.S., Member of the Board of Revenue.
Hon'ble Raja RAJENDRA NARAYAN BHANJ DEO, of Kanika.

PUNJAB.

Hon'ble Mr. H. J. MAYNARD, C.S.I., I.C.S., Financial Commissioner.
Raja NARENDRA NATH.

UNITED PROVINCES.

Hon'ble Sir H. VERNY LOVETT, K.C.S.I., I.C.S., Senior Member, Board of Revenue.
Hon'ble Raja Sir MUHAMMAD ALI MUHAMMAD KHAN, K.C.I.E., Khan Bahadur, of Mahmudabad.

ASSAM.

Mr. W. J. REID, C.S.I., I.C.S., Commissioner, Surma Valley and Hill Districts.
Hon'ble Rai GHANASHYAM BARUA Bahadur.

CENTRAL PROVINCES.

Mr. J. T. MARTEN, I.C.S.
Mr. M. V. JOSHI.

ANNEXURE VII.

LIST OF WITNESSES.

OFFICERS SERVING UNDER THE GOVERNMENT OF INDIA.

- Hon'ble Mr. A. Sharp, C.I.E., Educational Commissioner with the Government of India.
- Dr. H. H. Hayden, C.I.E., D.Sc., F.R.S., etc., Director, Geological Survey, India.
- Mr. J. Mackenna, C.I.E., I.C.S., Agricultural Adviser to the Government of India.
- Sir John H. Marshall, Kt., C.I.E., M.A., Litt.D., F.S.A., Director-General of Archaeology.
- Hon'ble Major-General W. R. Edwards, C.B., etc., I.M.S., Director-General, Indian Medical Service.
- Mr. G. S. Hart, C.I.E., Inspector-General of Forests.

BENGAL.

Name of Witness.	Name of Association (if any) represented.
Hon'ble Mr. J. H. Kerr, C.S.I., C.I.E., Chief Secretary to the Government of Bengal.	
Hon'ble Major-General W. H. B. Robinson, C.B., I.M.S., Surgeon-General with the Government of Bengal.	
Lieut.-Colonel J. T. Calvert, M.B., etc., I.M.S., Principal and Professor of Medicine, Medical College, Calcutta.	
Mr. J. C. K. Peterson, I.C.S., Director of Industries.	
Mr. L. Birley, C.I.E., I.C.S., formerly Secretary to the Government of Bengal, Revenue Department.	
Mr. L. S. S. O'Malley, C.I.E., I.C.S., Secretary to the Government of Bengal, General Department.	
Hon'ble Mr. W. C. Wordsworth, Director of Public Instruction.	
Dr. C. A. Bentley, M.B., D.P.H., Sanitary Commissioner, Bengal.	
Ven. W. K. Firminger, Archdeacon of Calcutta.	
Mr. C. P. Walsh, Secretary to the Government of Bengal, Public Works Department.	
Sir B. C. Mitter, Kt.	British Indian Association.
Mr. H. Langford-James	} Bengal Chamber of Commerce.
Hon'ble Mr. W. E. Crum, Member of the Bengal Legislative Council.	

BENGAL—*contd.*

Name of witness.	Name of Association (if any) represented.
Mr. B. Chakravarti	Bengal Landholders' Association.
Hon'ble Sir R. N. Mukharji, K.C.I.E., Member of the Legislative Council, Bengal.	
Mr. Williams, Vice-Chairman, Port Commis- sioners, Calcutta.	
Hon'ble Kumar S. S. Roy, Member of the Legis- lative Council, Bengal.	Northern Bengal Zemindars' Association.
Mr. J. H. Rundlett	Anglo-Indian Association.
Hon'ble Mr. H. P. Duval, I.C.S., Legal Remem- brancer and Secretary to the Government of Bengal, Judicial Department.	
Rai Srinath Pal Bahadur	Bengal National Chamber of Commerce.
Babu Iswar Das Jalan	Marwari Association.
Mr. B. L. Mitter	National Liberal League.
Raja Manilal Singh Ray of Chakdighi.	
Sir H. Farrington, Bart., Conservator of Forests.	
Khan Sahib Abdul Rahim	Central National Muhammadan Associa- tion.
Hon'ble Sir N. R. Sarkar, Kt., M.D., Member of the Legislative Council, Bengal.	
Maulvi Amir-ud-din Ahmad	Provincial Muhammadan Association, Dacca.
Rev. Dr. G. Howells, Calcutta University.	
Babu H. N. Dutt	Provincial Congress Committee, Calcutta.
Hon'ble Raja Hrishikesh Laha, C.I.E., Member of the Legislative Council, Bengal.	
Hon'ble Maulvi A. K. Fazl-ul-Haq, Member of the Legislative Council, Bengal.	
Hon'ble Mr. Amin-ur-Rahman, Member of the Legislative Council, Bengal.	
Hon'ble Babu Surendra Nath Ray, Member of the Legislative Council, Bengal.	
Mr. N. K. Basu	Indian Association.
Hon'ble Mr. F. A. A. Cowley, Secretary to the Government of Bengal, Irrigation and Marine Departments.	
Mr. T. E. Welby	European Association.
Hon'ble Nawab Saiyid Nawab Ali Chandhuris C.I.E., Additional Member of H. E. the Viceroy's Legislative Council.	
Rai J. N. Mazumdar Bahadur.	
Hon'ble Mr. J. Donald, C.I.E., I.C.S., Secretary to the Government of Bengal, Finance Depart- ment.	
Saiyid Muhammad Masih	Bengal Presidency Moslem League.

BOMBAY.

Name of witness.	Name of Association (if any) represented.
Hon'ble Mr. J. G. Covernton, C.I.E., Director of Public Instruction.	
Col. W. E. Jennings, M.D., C.M., D.P.H., F.C.P.S., I.M.S., Surgeon-General with the Government of Bombay.	
Lt.-Col. S. C. Evans, M.D., C.M., I.M.S., Obstetric Physician, J. H. Hospital, and Professor of Midwifery, Grant Medical College.	
Mr. F. St. J. Gebbie, Secretary to the Government of Bombay, P. W. D. (Irrigation Branch).	
Mr. R. M. Maxwell, I.C.S., Deputy Commissioner of Salt and Excise, Northern Division.	
Hon'ble Mr. R. G. Pratt, I.C.S., Commissioner, Northern Division.	
Dr. Harold H. Mann, D. Sc., Director of Agriculture.	
Mr. F. G. H. Anderson, I.C.S., Settlement Commissioner, Poona.	
Hon'ble Mr. C. V. Mehta, Additional Member of the Bombay Legislative Council.	
Mr. N. M. Joshi	Servants of India Society, Bombay.
Mr. T. R. D. Bell, Chief Conservator of Forests.	
Mr. Bhulabhai J. Desai, Advocate, High Court, Bombay.	
Mr. R. B. Ewbank, I.C.S., Registrar, Co-operative Societies, Poona.	
Sardar Vishnu Narayan Mutalik	Inamdars and Sardars of the Deccan.
Hon'ble Mr. M. A. Jinnah, Bar-at-Law, Additional Member of H. E. the Viceroy's Legislative Council.	
Hon'ble Rao Sahib Hiralal Desai, Member of the Legislative Council, Bombay.	
Hon'ble Mr. V. K. Patel, Additional Member of H. E. the Viceroy's Legislative Council.	
Mr. R. G. Pradhan, Editor, "Bharat Sevak," Nasik.	
Rao Thakurram P. Kapilram Bahadur, ex-President, Surat Municipality.	
Hon'ble Mr. Raghunath Parashottam Paranjpye, Member of the Legislative Council, Bombay.	
Mr. Subedar	
Mr. Umar Sobhani,	
Mr. Jamnadas Dwarkadas,	Home Rule League.
Mr. B. G. Horniman,	
Mr. S. G. Banker,	

BOMBAY—*contd.*

Name of witness.	Name of Association (if any) represented.
Rao G. K. Chitale Bahadur, President, District Local Board, Ahmednagar.	
Hon'ble Rao V. S. Naik Bahadur, Member of the Legislative Council, Bombay.	
Rao S. K. Rodda Bahadur, President, District Local Board, Dharwar.	
Pandit R. Chikodi, Editor, "Vibhakar," Belgaum.	
Mr. H. G. Limaye, Professor of History and Political Science, Fergusson College, Poona, Fellow of the Bombay University.	
Rev. Canon D. L. Joshi	Indian Christian (Protestant) Association.
Mirza Ali Muhammad Khan, Solicitor, High Court, Bombay	Muhammadan Community.
Hon'ble Sir Fazulbhoy Currimbhoy, Kt., C.I.E., Additional Member of H. E. the Viceroy's Imperial Legislative Council.	

MADRAS.

Hon. Maj.-Gen. G. G. Gifford, C.S.I., I.M.S., Surg.-Genl. with the Govt. of Madras.	
Mr. C. R. H. Schmidt, Inspector-General of Registration.	
Mr. C. A. Innes, I.C.S., Director of Industries.	
Mr. G. A. D. Stuart, I.C.S., Director of Agriculture.	
Mr. F. R. Hemingway, I.C.S., Registrar of Co-operative Credit Societies.	
Hon'ble Mr. C. G. Todhunter, I.C.S., ex-Commissioner of Separate Revenue and Excise.	
Hon'ble Mr. W. J. J. Howley, Secy. to the Govt. of Madras, Public Works Department.	
Hon'ble Mr. L. E. Buckley, C.S.I., I.C.S., Member of the Board of Revenue Settlement, etc.	
Hon'ble Mr. H. S. Duncan, Director of Public Instruction.	
Mr. S. Cox, Conservator of Forests.	
Hon'ble Rao Bahadur B. N. Sarma Avargal,	} Madras Mahajan Sabha and Madras Provincial Congress Committee.
M. R. Ry. T. V. Venkatarama Ayyar Avargal,	
M. R. Ry. Diwan Bahadur L. A. Govindaraghava Ayyar Avargal,	
M. R. Ry. G. A. Natesa Ayyar Avargal,	
M. R. Ry. T. V. Gopalaswami Mudaliar Avargal,	
M. R. Ry. N. Subba Rao Pantulu Garu, B. L.	Andhra Provincial Congress Committee.

MADRAS—*contd.*

Name of witness.	Name of Association (if any) represented.
M. R. Ry. C. P. Ramaswami Ayyar Avargal, B. L.	
M. R. Ry. A. Rangaswami Ayyar Avargal, B. L.	
Hon'ble Diwan Bahadur M. Ramachandra Rao Pantulu Garu, B. L., Member of the Legisla- tive Council, Madras.	
M. R. Ry. Diwan Bahadur D. Seshagiri Rao Pantulu Garu, B. L.	
M. R. Ry. Rai Sahib A. P. Patru Garu, B.A., B. L.	
The Hon'ble Rao Bahadur V. K. Ramanuja Achariyar Avargal, Member of the Legislative Council, Madras.	
The Raja of Kollengode	Kerala Janmi Sabha.
Mr. H. M. P. Rae	Madras Branch of the European Associa- tion.
The Hon'ble Sir Gordon Fraser	} Madras Chamber of Commerce.
Mr. F. C. L. Worke	
The Hon'ble Yakub Hasan Sahib Bahadur, Khan Bahadur Muhammad Abdul Kuddas Badshah Sahib Bahadur, C. Abdul Hakim Saheb Bahadur,	} South Indian Chamber of Commerce.
M. R. Ry. A. Rangaswami Ayyangar Avargal, B. L.,	
M. R. Ry. S. Venkatachalam Chettiyar Avargal,	
Mr. M. D. Devadas, Bar-at-Law.	
The Hon'ble Yakub Hasan Sahib Bahadur, Khan Bahadur Muhammad Abdul Kuddas Badshah Sahib Bahadur, /	} Madras Presidency Moslem League.
Maulana Abdus Sobhan Sahib Bahadur,	
M. Md. Usman Sahib Bahadur	Honorary Secretary, Muthialpet Muslim Anjuman, Madras.
Mr. H. G. Stokes, C.I.E., I.C.S., Secretary to the Government of Madras, Local and Municipal Department,	
M. R. Ry. Diwan Bahadur Keshava Pillai, M. R. Ry. Pakeer Sami Pillai, M. R. Ry. Salla Guruswami Chetti, M. B. Ry. Chakre Chetti,	} Madras Presidency Association.
The Rt. Rev. E. H. M. Waller, Bishop in Tinnevely and Madura.	
Lt.-Col. C. H. Lett-Palk, I.C.S., Inspector- General of Prisons,	

MADRAS—*contd.*

Name of witness.	Name of Association (if any) represented.
Dr. Krishnaaswami Aiyar.	
Rev. W. Meston, B.D.	President, Educational Council of South India.

BIHAR AND ORISSA.

The Hon'ble Mr. E. Lister, C.I.E., I.C.S., Secretary to the Government of Bihar and Orissa, Revenue Department.	
The Hon'ble Mr. T. S. Macpherson, I.C.S., Legal Remembrancer and Secretary to the Legislative Council, Bihar and Orissa.	
Lt.-Col. J. C. S. Vaughan, M.B., I.M.S., Offg. Inspector-General of Civil Hospitals, Bihar and Orissa.	
Hon'ble Mr. R. M. Watson-Smyth, Member of the Legislative Council, Bihar and Orissa.	Indian Mining Association.
Hon'ble Mr. S. K. Sahai, Bar-at-Law, Member of the Legislative Council, Bihar and Orissa.	
Mr. G. E. Fawcett, Director of Public Instruc- tion, Bihar and Orissa.	
Babu Ram Lal Sinha	Bengali Settlers' Association.
Mr. Sachhidananda Sinha, Babu Rajendra Prasad,	} Bihar Provincial Association.
Hon'ble Maulvi Saiyid Nur-ul-Hasan, Member of the Legislative Council, Bihar and Orissa.	
Babu Ganesh Datta Sinha, Babu Ram Gopal Singh Chaudhri,	} Bihar Landholders' Association.
Hon'ble Mr. Pringle Kennedy, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Khwaja Muhammad Nur, Khan Bahadur, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Mr. Mazhar-ul-Haq, Bar-at-Law, Addi- tional Member of H. E. the Viceroy's Legis- lative Council.	
Mr. Yunus, Khan Bahadur Sarfraz Husen Khan,	} Bihar Provincial Moslem League.
Hon'ble the Rev. Dr. A. Campbell, D.D., Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Rai Purnendu Narayan Singh Bahadur, Member of the Legislative Council, Bihar and Orissa.	
Babu Suresh Chandra Chakravarti	Orissa Association.
Mr. J. A. Hubback, I.C.S., Officer on Special Duty.	

BIHAR AND ORISSA—*contd.*

Name of witness.	Name of Association (if any) represented.
Hon'ble Rai Dwarika Nath Bahadur, Member of the Legislative Council, Bihar and Orissa.	
Babu Shashibhushan Nath	Utkal Union Conference.
Rev. J. G. Dann, Missionary.	
Mr. N. C. Sirkar	Indian Mining Federation.
Hon'ble Babu Gopabandhu Das, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Babu Bishun Prasad, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Mr. J. D. Sifton, I.C.S., Secretary to the Government of Bihar and Orissa, Finance Department.	
Mr. F. Trafford, Conservator of Forests, Bihar and Orissa.	
Hon'ble Mr. J. S. Jennings, Vice-Chancellor, Patna University.	
Hon'ble Mr. D. Weston, I.C.S., Commissioner of Excise and Salt, Bihar and Orissa.	
Hon'ble Mr. J. V. Jameson	Bihar Planters' Association.

PUNJAB.

Hon'ble Mr. L. French, I.C.S., Officiating Chief Secretary to the Government of the Punjab.
Hon'ble Mr. J. A. Richey, Director of Public Instruction.
Hon'ble Mr. O. F. Lumsden, I.C.S., Secretary to the Government of the Punjab, Finance Department.
Col. E. L. Ward, I.M.S., Inspector-General of Prisons.
Col. R. C. MacWatt, C.I.E., M.B., F.R.C.S., Inspector-General of Civil Hospitals.
Hon'ble Mr. H. D. Craik, I.C.S., Additional Secretary to the Government of the Punjab.
Hon'ble Mr. D. W. Aikman, C.I.E., Chief Engineer, Public Works Department (Roads and Buildings).
Mr. E. A. A. Joseph, Ex-Director of Agriculture.
Mr. W. F. Holmes, C.I.E., Chief Engineer, Public Works Department (Irrigation).
Lt.-Col. D. W. Sutherland, C.I.E., M.D., C.M., I.M.S., Principal, Medical College, Lahore.
Mr. A. C. Woolner, Registrar, Punjab University.
Mr. B. McIntosh, F.S.I., Conservator of Forests.

PUNJAB—contd.

Name of witness.	Name of Association (if any) represented.
Hon'ble Rai Bahadur Bakshi Sohan Lal, Member of the Legislative Council, Punjab.	
Hon'ble Mr. C. A. H. Townsend, I.C.S., Director of Industries.	
Rai Sahib Ruchi Ram Sahni, Government College, Lahore.	
Dr. Khalifa Shuja-ud-din	Provincial Moslem League.
Mirza Bashir Ahmad	Ahmadiya Community.
Bhai Shivaram Singh	Khalsa Diwan.
Mian Haq Nawaz	Punjab Moslem Association.
Lala Duni Chand, Pleader, Municipal Commissioner.	Indian Association.
Hony. Major Malik Sir Umar Hayat Khan, Tiwana, K.C.I.E., M.V.O., of Kalra.	Punjab Moslem Association.
Mr. C. M. King, C.I.E., I.C.S., Commissioner, Lahore Division.	
Rai Bahadur Sundar Das, Inspector of Schools.	
Chaudhri Zafarullah Khan.	Ahmadiya Community.

UNITED PROVINCES.

Hon'ble Mr. G. G. Sim, I.C.S., Secretary to the Government of the United Provinces, Finance Department.
Hon'ble Mr. A. C. Chatterjee, I.C.S., Secretary to the Government of the United Provinces, Revenue Department.
Mr. J. A. H. Way, Commissioner of Excise.
Hon'ble Mr. S. P. O'Donnell, C.I.E., I.C.S., Chief Secretary to the Government of the United Provinces.
Hon'ble Col. C. MacTaggart, C.I.E., I.M.S., Inspector-General of Civil Hospitals, United Provinces.
Mr. G. B. Lambert, I.C.S., formerly Inspector-General of Registration, United Provinces.
Mr. A. W. E. Standley, Secretary to the Government of the United Provinces, Public Works Department, Irrigation Branch.
Mr. P. H. Clutterbuck, Chief Conservator of Forests, United Provinces.
Mr. Saiyid Nabinulla.
Hon'ble Mr. H. R. C. Hailey, C.I.E., I.C.S., Director of Land Records and Agriculture, United Provinces.

BIHAR AND ORISSA—*contd.*

Name of witness.	Name of Association (if any) represented.
Hon'ble Rai Dwarika Nath Bahadur, Member of the Legislative Council, Bihar and Orissa.	
Babu Shashibhushan Nath	Utkal Union Conference.
Rev. J. G. Dann, Missionary.	
Mr. N. C. Sirkar	Indian Mining Federation.
Hon'ble Babu Gopabandhu Das, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Babu Bishun Prasad, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Mr. J. D. Sifton, I.C.S., Secretary to the Government of Bihar and Orissa, Finance Department.	
Mr. F. Trafford, Conservator of Forests, Bihar and Orissa.	
Hon'ble Mr. J. G. Jennings, Vice-Chancellor, Patna University.	
Hon'ble Mr. D. Weston, I.C.S., Commissioner of Excise and Salt, Bihar and Orissa.	
Hon'ble Mr. J. V. Jameson	Bihar Planters' Association.

PUNJAB.

Hon'ble Mr. L. French, I.C.S., Officiating Chief Secretary to the Government of the Punjab.
Hon'ble Mr. J. A. Richey, Director of Public Instruction.
Hon'ble Mr. O. F. Lumsden, I.C.S., Secretary to the Government of the Punjab, Finance Department.
Col. E. L. Ward, I.M.S., Inspector-General of Prisons.
Col. R. C. MacWatt, C.I.E., M.B., F.R.C.S., Inspector-General of Civil Hospitals.
Hon'ble Mr. H. D. Craik, I.C.S., Additional Secretary to the Government of the Punjab.
Hon'ble Mr. D. W. Aikman, C.I.E., Chief Engineer, Public Works Department (Roads and Buildings).
Mr. E. A. A. Joseph, Ex-Director of Agriculture.
Mr. W. F. Holmes, C.I.E., Chief Engineer, Public Works Department (Irrigation).
Lt.-Col. D. W. Sutherland, C.I.E., M.D., C.M., I.M.S., Principal, Medical College, Lahore.
Mr. A. C. Woolner, Registrar, Punjab University.
Mr. B. McIntosh, F.S.I., Conservator of Forests.

PUNJAB—*contd.*

Name of witness.	Name of Association (if any) represented.
Hon'ble Rai Bahadur Bakshi Sohan Lal, Member of the Legislative Council, Punjab.	
Hon'ble Mr. C. A. H. Townsend, I.C.S., Director of Industries.	
Rai Sahib Ruchi Ram Sahni, Government College, Lahore.	
Dr. Khalifa Shuja-ud-din	Provincial Moslem League.
Mirza Bashir Ahmad	Ahmadiya Community.
Bhai Shivaram Singh	Khalsa Diwan.
Mian Haq Nawaz	Punjab Moslem Association.
Lala Duni Chand, Pleader, Municipal Commissioner.	Indian Association.
Hony. Major Malik Sir Umar Hayat Khan, Tiwana, K.C.I.E., M.V.O., of Kalra	Punjab Moslem Association.
Mr. C. M. King, C.I.E., I.C.S., Commissioner, Lahore Division.	
Rai Bahadur Sundar Das, Inspector of Schools.	
Chandhri Zafarullah Khan	Ahmadiya Community.

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Hon'ble Mr. A. C. Chatterjee, I.C.S., Secretary to the Government of the United Provinces, Revenue Department.
Mr. J. A. H. Way, Commissioner of Excise.
Hon'ble Mr. S. P. O'Donnell, C.I.E., I.C.S., Chief Secretary to the Government of the United Provinces.
Hon'ble Col. C. MacTaggart, C.I.E., I.M.S., Inspector-General of Civil Hospitals, United Provinces.
Mr. G. B. Lambert, I.C.S., formerly Inspector-General of Registration, United Provinces.
Mr. A. W. E. Standley, Secretary to the Government of the United Provinces, Public Works Department, Irrigation Branch.
Mr. P. H. Clutterbuck, Chief Conservator of Forests, United Provinces.
Mr. Saiyid Nabiulla.
Hon'ble Mr. H. R. C. Hailey, C.I.E., I.C.S., Director of Land Records and Agriculture, United Provinces.

UNITED PROVINCES—*contd.*

Name of witness.	Name of Association (if any) represented.
Shekh Habibullah,	} British Indian Association.
Thakur Jagannath Baksh Singh,	
Hon'ble Nawab Muhammad Abdul Majid, C.I.E., Bar-at-Law,	} Agra Province Zemindars' Association.
Raja Raghu Prasad Narayan Singh,	
Hon'ble Pandit Madan Mohan Malaviya,	} Provincial Congress Committee.
" " Motilal Nehru,	
Hon'ble Raja Sir Rampal Singh, K.C.I.E., Additional Member of H. E. the Viceroy's Legislative Council.	
Hon'ble Mr. C. Y. Chintamani, Member of the Legislative Council, United Provinces; Editor of "The Leader," Allahabad.	
Rev. Dr. Garfield Williams.	
Hon'ble Saiyid Wazir Hasan, B.A., LL.B., Advocate, Judicial Commissioner's Court, Oudh; Member of the Legislative Council, United Provinces.	
Hon'ble Saiyid Raza Ali, B.A.; LL.B., Vakil of the High Court, Allahabad.	All-India Moslem League and Provincial Moslem League of the United Pro- vinces.
Mr. F. C. De La Fosse, Director of Public Instruction.	
Capt. D. R. Ranjit Singh, I.M.S.	
Mr. H. Stanley Jevons, Professor of Civil Econo- mics in the University of Allahabad.	
Mr. Govind Ballabh Pant, Vakil, Municipal Com- missioner, Kashipur (District Naini Tal).	Kumaon Association.

ASSAM.

The Hon'ble the Chief Commissioner.	
Hon'ble Mr. J. E. Webster, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner.	
Hon'ble Mr. A. W. Botham, C.I.E., I.C.S., Second Secretary to the Chief Commissioner.	
Rai Sahib Padmanath G. Barua	Ahom Association, Tezpur.
Hon'ble Mr. H. Miller, C.I.E.	Assam Valley Branch, Indian Tea Asso- ciation.
Hon'ble Col. W. Mason	Surma Valley Branch, Indian Tea Asso- ciation
Mr. J. McSwiney, I.C.S., Director of Land Re- cords and Agriculture.	
Baba Nabin Chandra Bardoloi	Assam Association.
M. Abdul Rahim Chaudhuri	Surma Valley Muhammadan Zemindars' Association.

ASSAM—*contd.*

Name of witness.	Name of Association (if any) represented.
Maulvi Derajuddin	Assam Valley Muhammadan Association.
Mr. Kshitish Mohan Das	People's Association, Sylhet.

CENTRAL PROVINCES.

Hon'ble Mr. H. A. Crump, C.S.I., I.C.S.,
Financial Commissioner.

Hon'ble Mr. A. I. Mayhew, Director of Public
Instruction.

Mr. A. E. Nelson, I.C.S., Commissioner of Excise.

Mr. A. E. Mathias, I.C.S., Registrar, Co-operative
Credit Societies.

Mr. M. Hill, C.I.E., F.L.S., Chief Conservator
of Forests.

Rao R. N. Mudholkar Bahadur, C.I.E.

Hon'ble Col. Green, I.M.S., Inspector-General of
Civil Hospitals.

Rai D. N. Chandhuri Bahadur, Chairman, District
Council, Raipur.

Hon'ble Mr. S. B. Tambe, LL.B., Member of
the Legislative Council, Central Provinces.

Hon'ble Rao Sahib R. V. Mahajani, LL.B.,
Member of the Legislative Council, Central
Provinces.

Rao K. G. Gamle Bahadur.

Mr. V. D. Kali C. P. and Berar Graduates' Association.

Hon'ble Rao N. K. Kelkar Bahadur, Member of
the Legislative Council, Central Provinces.

Mr. N. R. Alekar C. P. Provincial Congress Committee.

Mr. M. S. Aney Berar Congress Committee.

Mr. H. D. Coggan C. P. and Berar Mining Association.

Dr. H. 'S Gour, LL.D., President, Municipal
Committee, Nagpur.

Mr. G. L. Corbett, I.C.S., Director of Industries,
C. P.

Rev. J. F. MacFadyen, Offg. Principal, Hislop
College.

Hon'ble Mr. G. S. Khaparde, Additional Member
of H. E. the Viceroy's Council.

Hon'ble Mr. F. S. A. Slocock, C.I.E., I.C.S.,
Chief Secretary to the Chief Commissioner.

Mr. D. Clouston, B.Sc., Director of Agriculture.

AT DELHI.

Mr. K. C. Roy, Associated Press of India.

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