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## APPENDIX A

REPORT OF THE COMMITTEE APPOINTED BY THE BOMBAY  
LEGISLATIVE COUNCIL TO CO-OPERATE WITH THE INDIAN  
STATUTORY COMMISSION*Preliminary Remarks*

1. We were elected by the Bombay Legislative Council on the 3rd August 1928 to take part in the Joint Conference with the Indian Statutory Commission and the Indian Central Committee. We sat with the members of the Statutory Commission and the Indian Central Committee at the sittings of the Joint Conference in Poona from the 13th October to the 28th October 1928 and again in Karachi from the 11th November to the 13th November 1928 when the evidence, both official and non-official, relating to this Presidency was heard. We have also had the benefit of discussions with the members of the Statutory Commission and the Indian Central Committee. In the letter which the Chairman of the Indian Statutory Commission addressed to His Excellency the Viceroy dated the 28th March 1928, he stated that if a Provincial Committee wished to express its own views in a report and furnished its report to the Commission, such report would be given full consideration and would in due course be included in the appendices which would be printed and presented to Parliament. This Presidency was the first to be visited by the Commission and if we had presented our report soon after the sittings of the Joint Conference in our Province terminated on the 13th November 1928 at Karachi, we would have had to formulate our own views on many of the outstanding questions with which the Commission will have to deal, without knowing how the same problems had been faced in other Presidencies and without having the advantage of knowing the views of the representatives of other Presidencies on those questions. The Chairman of the Statutory Commission in the letter referred to above also gave an assurance that in order to obviate the disadvantages from which a Province which had been visited early in the Commission's itinerary might suffer because its Committee had conferred with the Commission before certain matters which might emerge at the later stages of the Commission's tour had become prominent, he would arrange, before the Commission finally left India, to meet representatives from each of the Provincial Committees if they desired it in order to hear from them their final views or confer with them on outstanding matters. An Auxiliary Committee was also appointed by the Chairman of the Commission to examine and report on one of the most important questions which the Commission had to investigate, the progress of education. The report of this Committee was not before us when the Joint Conference met in our Presidency. The findings of that Committee are of the greatest importance in connection with the

[Appendix A—*contd.*]

question of further political advance, and especially in connection with the important question of the necessity and advisability or otherwise of lowering the franchise. On all these grounds we felt that it would be inadvisable for us to formulate our final views on the many problems which came up before the Conference till after we had had an opportunity of studying the evidence given in the other provinces, of considering the report of the Auxiliary Committee on Education, and of finally discussing these problems with the Statutory Commission and the Indian Central Committee before their departure from India. While some of the problems arising out of the working of the Reformed constitution are peculiar to each province, there are many,—and they are the most important ones,—which are common to all provinces alike. Among such we reckon the question of the franchise; communal representation, the protection of minorities and the working of dyarchy in its broader aspects. The difficulties which arise in connection with these questions are more or less the same in all Presidencies and cannot, we feel, be solved on different lines by the different Provinces. Especially is this the case with the important question of communal representation. The basis on which the present arrangement rests was arrived at on a consideration of the position of the two important communities in all the Provinces in India as a whole, and any future solution of the problem must, we feel, take account of similar considerations. It would, therefore, have been impossible for us, even had we desired it, and would certainly have been unfair to our Presidency, if we had formulated our views on these important questions without carefully considering the evidence adduced in connection with them in the other Provinces. We, therefore, decided not to present our views in the form of a report till after the close of the Commission's tour in India. Shortly before the Commission made their final departure from Delhi, the Chairman as promised gave us the opportunity of meeting his Committee, the Indian Central Committee and also of hearing the views of the Chairman of the Auxiliary Committee on Education and of Mr. Layton, the financial adviser to the Commission. We have no special remarks to make with regard to the progress of education in this Presidency. The memorandum submitted by the Bombay Government (Chapter 3, Part I) shows that appreciable progress has been made in the spread of education in this Presidency and the Legislative Council has always displayed a very keen interest in all measures for the expansion of primary education. This fact has been admitted by the Auxiliary Committee itself. We desire, however, to take this opportunity of expressing our agreement with the opinion expressed by the Auxiliary Committee on Education that the divorce of the Government of India from education in the provinces has been unfortunate, and cordially support their suggestions that the Government of India should be in a position to give financial assistance to the provinces for purposes of education and should serve as a centre of educational information for the whole of India, and as a means of coordinating the educational experience of different provinces.

[Appendix A—contd.]

*Only broad constitutional questions discussed*

2. It is not our desire to give a detailed account of the working of the system of government in this Presidency; and in the proposals which we have made later on in our report we have dealt only with the broader constitutional questions which are involved. But we feel it necessary, before we formulate those proposals, to state briefly what progress has been made in self-government in this Presidency during the last few years and how the system of Government introduced in 1919 has worked.

*Development and Working of Local Self-Government*

3. Any extension of local self-government in the higher spheres of administration must be based on the experience gained and the success achieved by the people in the working of local self-government in the narrower spheres of municipalities and local boards. This Presidency has, as has been pointed out in the Memorandum presented by the Government of Bombay (Bombay Memorandum, Part 1, page 3), the largest urban population in the whole of India. Nearly 23 per cent. of the population of the Presidency live in towns,—a percentage nearly twice as high as that in Madras and the Punjab and considerably more than twice as high as that in the United Provinces and Bengal. As a necessary consequence this Presidency has a larger number of municipalities than any other Province in India. In spite of the fact that the population of the Bombay Presidency is considerably less than half of Madras, Bengal or the United Provinces, Bombay had in 1925-26, 157 municipalities as against 81 in Madras, 116 in Bengal and 85 in the United Provinces. The number of district and taluka local boards is also as high in the Bombay Presidency as in Madras and Bengal. The total number of people enjoying the municipal franchise in the Bombay Presidency in 1926 was 624,000 as against 240,682 in Madras, 166,956 in Bengal (excluding Calcutta) and 298-808 in the United Provinces. We have given the above statistics to show that experience in the exercise of the municipal and local board franchise and in the administration of municipal and local board affairs is probably far more widely spread in this Presidency than in any other province in India.

*Rapid progress made in the extension of Local Self-Government*

4. During the period of 8 years which has elapsed since the introduction of the Reformed system of Government, and to a considerable extent in consequence of the transfer of the control of local self-government to ministers, rapid progress has been made in the extension of local-government in all directions. Local self-government in villages was practically non-existent in this Presidency prior to 1920. By the Village Panchayats Act, 1920, local self-government has been extended to villages on a much greater scale by the constitution of village panchayats. The franchise for district and taluka local boards has been considerably extended by the Local Boards Act of 1923 and the electorate for the taluka local boards has been raised to 1,091,464 in 1926. The elective element in district local boards has been raised to a minimum of

[Appendix A—*contd.*]

three-fourths of the total number of members. In municipal areas excluding Bombay City the franchise has been considerably lowered and the electorate increased from 167,000 in 1919 to over 505,000 in 1926. In 1919 only 7 per cent. of the total municipal population exercised the municipal franchise. In 1926 the percentage was 20. In Bombay City the franchise has been lowered to such an extent that the electorate has been increased ten-fold from 12,000 to over 119,000. Women have been granted the franchise and have been made eligible for election both as municipal councillors and as members of district local boards. The presidents and vice-presidents both of municipalities and local boards have everywhere been made elective and far wider powers have been given to municipalities in many directions. The control of primary education has been transferred almost entirely to the hands of municipalities and local boards, and much wider powers of taxation have been given to these bodies.

*Consequent growth of civic consciousness*

5. The transfer of wider powers to local bodies, the increase of the elective element in them, and the introduction of elected presidents have, in our opinion, resulted in a considerable growth of civic consciousness both in urban and rural areas. This has been specially evident in the greater interest shown in questions relating to education and public health. In the mofussil municipalities of the Presidency the total expenditure on Education increased from Rs. 26 lakhs in 1919-20 to Rs. 43 lakhs in 1925-26; that on Public Health rose from Rs. 56 lakhs to Rs. 113 lakhs. During the same period the expenditure of district local boards on Education increased from Rs. 62 lakhs to Rs. 97 lakhs. It has been alleged that there is great unwillingness on the part of the local bodies to impose additional taxation for public purposes. We admit that there is a considerable amount of justification for this criticism; but we would point out that a comparison of the figures of income and expenditure of local bodies during the last few years shows that they have not been as remiss in this respect as is sometimes thought. During the seven years from 1919-20 to 1925-26 the total income of mofussil municipalities increased from Rs. 149 lakhs to Rs. 222 lakhs and their expenditure from Rs. 147 lakhs to Rs. 239 lakhs. The total income of district local boards increased from Rs. 141 lakhs to Rs. 204 lakhs, and their expenditure from Rs. 119 lakhs to Rs. 173 lakhs. The incidence of taxation per head of population increased from Rs. 3-9-1 to Rs. 5-11-6 in municipal areas and from Re. 0-3-5 to Re. 0-5-1 in rural areas.

*Wider powers of Self-Government and extension of franchise recommended*

6. The figures which we have quoted above show that the wider powers which have been conferred on local bodies have been on the whole well and wisely used and that the people of this Presidency have had an experience of local self-government which will justify the conferring on them of wider powers of self-government in provincial matters and the further extension of the franchise for the Legislative Council.

[Appendix A—contd.]

*Working of the system introduced by the Reforms*

7. The system of government introduced by the Reforms has, in our opinion, worked well in this Presidency. There has from the first been a genuine desire both on the part of Government and of the Legislative Council to work the new system in a spirit of harmony and co-operation. While the Legislative Council has at all times freely criticized the conduct and policy of Government, we maintain that it has on the whole worked in a spirit of co-operation and reasonableness and has never as a body attempted to wreck the constitution or to oppose Government merely with the object of creating deadlocks. It is significant that although the Council has on several occasions thrown out or reduced Government demands for grants, there has not been a single occasion during the whole period on which the Governor has resorted to his powers of certification. No Government legislation has had to be certified either. In assessing the work of the Legislative Council during the period of the Reforms, we would draw particular attention to the large amount of constructive legislation—both official and non-official—which has been passed dealing with the important subjects of Education and Local Self-Government both in municipal and rural areas. But while it may legitimately be said that the new system has been worked successfully, it has not worked in the way in which it was intended to. The absence of any well-organised parties and the presence of the official bloc have been, in our opinion, largely responsible for the fact that the ministers have never relied on their followers for support and have not really been responsible to the elected portion of the Council. To some extent the absence of well-organised parties has been due to the presence of the official bloc. So long as the ministers felt that they could rely on the official votes and the votes of nominated members, they have not felt any compulsion, and have made no serious efforts, to organise their own parties. Their followers, on the other hand, realising that the ministers could maintain themselves and carry through their policy independently of them, have not felt the same obligation to support the ministers as they would have felt if the ministers had been entirely dependent on their votes for their existence. Party discipline has, as a consequence, always been very slack. The presence of the official bloc has thus had the effect of destroying to a considerable extent the responsibility of ministers to the elected portion of the Council and in producing at times a feeling of irresponsibility among the elected members of the Council. It was the intention of the framers of the constitution that a convention should be established that the official members should abstain from voting on the subjects transferred to the control of ministers, leaving the decision of the question to the non-official members only, and that even in other matters, except on occasions when the Government thought it necessary to require their support, the nominated official members should have freedom of speech and vote. Neither of these conventions has been established, nor has any attempt been made at any time to introduce them. The occasions on which officials have been allowed to speak and vote as they pleased have been very few indeed, and have been restricted

## [Appendix A—contd.]

to questions of a very minor and non-controversial character. From the first the officials have voted on all matters relating to transferred subjects and as we have pointed out, the ministers have tended to rely almost entirely on the official votes for the carrying out of their policy. We are not confident that the mere doing away with the official bloc and the nominated members will in itself lead to the growth of well-organised political parties, but we feel strongly that the chances of such parties growing up will be considerably greater if the official bloc is removed. With these preliminary remarks we propose now to deal with some of the broader constitutional questions which are involved and to put forward as briefly as possible our recommendations with regard to them.

*Territorial Changes : Separation of Sind*

8. The question of the separation of Sind has played a very important part in the discussions which have been going on during the last year and more, both in the press and on the platform, in connection with the revision of the constitution. The question is not altogether a purely provincial one affecting this Presidency only. It is intimately involved with the very difficult question of the rights and the adequate representation of the Muhammadan minority, and it has, on this account, figured prominently in discussions outside this Presidency also. We, however, feel strongly that the question must be judged mainly, if not solely, from the point of view of the Presidency itself. We are in full sympathy with the desire of the Muhammadan community and of certain sections of the Hindu and Parsi communities of Sind for the separation of Sind, but consider that at the present stage, at any rate, there cannot be any justification for such a step being taken because from the figures before us, it appears that for financial reasons alone the proposal is impracticable. The administrative difficulties which have been pointed out by the Government of Bombay are also real and cannot be ignored. Then again it seems clearly desirable that the Bombay Presidency should first of all secure full provincial autonomy. This, it may be safely considered, is within easy reaching distance of an advanced Presidency like Bombay. But if Sind were a separate province, it could not, at such an early stage, expect an equal privilege, and it would, therefore, inevitably be denied the advantages of any further step forward which Bombay may secure. It must, therefore, in order to secure this advantage, continue to be a part of the Bombay Presidency. As soon as Sind has developed further in material prosperity, and if, as a result of an early and thorough investigation it is found that finances permit, we consider that its claim will demand immediate investigation. We are also not in favour of Sind being separated from Bombay and attached to the Punjab. In our opinion trade reasons are the only ones that can be put forward in support of this proposal, and they are not sufficiently strong to warrant such a step being contemplated. If, as recommended by us above, Sind is not for the present separated from the Presidency, we are of opinion that the special powers which the Commissioner in Sind at present enjoys under the Commissioner in Sind Act, 1868, should be done away with, and he

## [Appendix A—contd.]

should be placed in the same position as Divisional Commissioners in the rest of the Presidency. These special powers were necessary when owing to the distance of Sind from Bombay and the inadequacy of communications Sind could not be efficiently governed from the headquarters of the Presidency, and a wide delegation of powers was necessary. With the changes which have taken place during the last few years, such delegation of powers is no longer necessary.

*Separation of the Karnatak*

9. The question of the separation of the Kanarese-speaking areas of this Presidency has not really been brought before the Commission by any witnesses. We do not, therefore, think it necessary to deal with it at any length. We merely express our opinion that the demand is not a very strong one, nor is the proposal practicable.

*The Electorate and the Franchise*

10. At present out of a total population of 19,291,719 only 778,321 persons are on the electoral rolls of the Legislative Council. The percentage of voters to the total population is thus only 4.03. When the Franchise Committee worked out their proposals in 1919, they estimated that on the electoral qualifications fixed by them 3.3 per cent. of the total population would be enfranchised. The present position is, therefore, only a very slight advance on that of 1920. Of the total population of this Presidency, 4,440,248 or about 22.9 per cent. are urban, while 14,851,471 or 77.1 per cent. are rural. Of the total number of 778,321 electors, a little over 240,000 are urban and a little over 528,000 rural. It is evident, therefore, that the urban population is much more largely represented on the electorate in proportion to its strength than the rural. We are of opinion that steps should be taken to widen the electorate, and that it is particularly desirable that the rural population should have a larger representation on the electorate than at present. It is an admitted fact that certain important sections of the population, such as the Depressed Classes and the labourers, are at present not adequately represented on the electorate. The qualification for the franchise in the rural areas is comparatively higher than that in urban areas. A man paying an assessment of Rs. 32 or cultivating land assessed at that figure is economically in a better position than a resident of an urban constituency paying an annual rental of Rs. 36. We are, therefore, of opinion that the land revenue qualification for the rural constituencies should be reduced to half of what it is at present, and that persons holding in their own rights or as tenants alienated or unalienated land assessed at or of the assessable value of not less than Rs. 16 land revenue should be qualified as electors. At present the rural qualification in the Upper Sind Frontier, Panch Mahals and Ratnagiri districts is half of that in the other districts. We would suggest that the same distinction be maintained, and that in these three districts the qualification should be the holding as occupant or tenant of land assessed at or assessable to Rs. 8 land revenue. The other qualifications in rural areas may remain the



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same as at present. We do not propose any change in the urban franchise as we consider that it is sufficiently low at present. While the urban population forms 23 per cent. of the total, it forms 31 per cent. of the electorate. Under our proposals it will form about 21 per cent. We have no actual figures available to show the extent to which the electorate will be enlarged by our proposals. We estimate, however, that the halving of the rural franchise will increase the rural electorate from 528,000 to about 904,131. The total (urban and rural) electorate under our proposals will, therefore, be about 1,144,131. We realise that even under our proposals the electorate will only be about 5·93 per cent. of the total population and about 10·93 per cent. of the total population over 20 years of age. There are, however, two important considerations which, in our opinion, militate against any further lowering of the franchise at the present stage. One is the extent of illiteracy among the voters. We believe that at present roughly only about 58 per cent. of the electorate can read and write. We cannot expect any sudden increase in literacy within the next few years, and we think it very necessary that the widening of the franchise should proceed gradually so as to keep pace with the increase of literacy in the population. The other reason which makes us hesitate to recommend any very large widening of the electorate is the inadvisability of extending the Council franchise to people who have not in the past had the opportunity of exercising the franchise for any of the subordinate self-governing bodies such as municipalities and district local boards. One of the present qualifications for the district local board franchise is the payment of Rs. 32 land revenue. The franchise for the taluka local boards is the payment of Rs. 8 land revenue. Even our proposal to reduce the Council franchise to the payment of Rs. 16 land revenue goes below the existing district local board franchise. Our limit is, however, higher than that for taluka local boards.

*Method of Election*

11. We have given careful consideration to the question whether the method of indirect elections is, in the special circumstances of this country, more suitable than that of direct elections. We find from the Memorandum presented by the Government of Bombay that certain Members of the Government were in favour of introducing the system of indirect elections. We are, however, against the introduction of this system. The method of indirect elections prevailed in this Presidency prior to the introduction of the Reforms of 1919. The authors of the Joint Report were emphatic in their opinion that this system should be swept away. They said that its existence was "one main cause of the unreality that characterises the existing councils because it effectively prevents the representative from feeling that he stands in any genuine relation to the original voter". The considerations which weighed with them still exist, while the arguments which could have been urged ten years ago in favour of the system of indirect elections have lost some at least of their force. One of the reasons which has been urged in favour of the system of indirect elections is that owing to the illiteracy and

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inexperience in political matters of the bulk of the Indian electorate, direct elections do not produce as good representatives in the legislatures as a system of indirect elections does. We admit the force of this contention. But in our opinion the ten years that have passed have seen an appreciable improvement in the educational condition of the people and have given them a better training in political matters than they had ever had before. We attach very great importance to the educative value of the vote and consider that the system of direct elections is one of the best methods of training the people in self-government, and that the doing away with this system will inevitably result in a slackening of the interest which the general body of the electorate has taken in public affairs. We, therefore, think that the method of direct elections existing at present should be retained.

*Size and composition of the existing Legislative Council*

12. The Legislative Council at present consists of 86 elected members and 28 nominated and ex-officio members. The memoranda,—both official and non official,—which have been received by the Commission show clearly that the presence of nominated members in the Council, and especially of nominated official members, has been the main obstacle to the growth of an efficient party system in the Legislative Council. It has prevented the growth of proper relations between the Ministers and their followers in the Council and has, as a result, hindered the development of a sense of responsibility in the Legislative Council. We are, therefore, of opinion that in the future Council there should be no nominated members, either official or non-official. The nomination of non-officials was resorted to merely in order to provide for the representation of classes or interests which specially required representation and which, owing to their backwardness or for any other reason, were unable to secure representation through the ordinary channel of election. The classes and interests which are at present represented by nomination are (1) the Anglo-Indian community, (2) the Indian Christian community, (3) the Labouring Classes, (4) the Depressed Classes, and (5) the Cotton Trade. Eight seats are allotted to these classes. We propose to provide for the representation of all these classes except the Cotton Trade by election. The labouring classes and the Depressed Classes have themselves been clamouring for such representation. We do not think that the Cotton Trade needs special representation. We propose to give additional representation to Commerce, which will compensate for the one nominated seat for the Cotton Trade which we propose to abolish.

*Proposed size and composition of the Legislative Council*

13. In our opinion the future Legislative Council for the Presidency should consist of about 140 members. Eighty six will be elected by the existing constituencies. In distributing the additional 54 seats, we have taken the following facts into consideration. One of the principal difficulties in the working of representative institutions in India is the existence of large numbers of minorities which are so sharply divided

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from the rest of the population that they are unable to secure election in ordinary single member constituencies. The more important of such minorities such as the Muhammadans and the Marathas have been given special representation under the existing constitution,—the Muhammadans by separate electorates and the Marathas by reservation of seats. We propose to extend the system of reservation of seats to the Depressed Classes and to Indian Christians also. But even when these communities have been provided for, there still remain important minorities within the main divisions of Muhammadans and non-Muhammadans which, under the single-member system, have to go unrepresented, even though the minorities may be numerically very large. In such cases plural-member constituencies with the right of cumulative voting give a well-organised minority a considerable amount of protection. The Legislative Council at present contains 30 single-member constituencies. Nine of these, namely, the Deccan Sardars and Inamdars, the Gujarat Sardars and Inamdars, the Jagirdars and Zamindars of Sind, the Bombay University, the Karachi Chamber of Commerce, the Bombay Trades Association, the Bombay Millowners' Association, the Ahmedabad Millowners' Association, and the Indian Merchants' Chamber and Bureau are special constituencies, most of them with very small electorates. We think it very desirable that as many as possible of the remaining 21 single-member constituencies should be converted into plural-member constituencies.

*Representation of the Depressed Classes*

14. The Depressed Classes who form about one-thirteenth of the population of the Presidency (1,478,000) are at present represented in the Council by only two nominated members. Owing to their economic and educational backwardness, and the social prejudices which prevail against the Depressed Classes it is scarcely possible for them to get into the Council by election. They are very poorly represented on the electoral rolls. We are informed that according to a rough calculation there are only about 15,600 depressed class voters in the total electorate of 778,000. With the lowering of the rural franchise which we have proposed it is possible that the number may be appreciably increased. But even so it would be too small to enable these classes to secure any of the elective seats without special safeguards. We realise that if the representatives of the Depressed Classes in the Legislative Council are to carry any weight and to be in a position effectively to safeguard their interests, they should be sufficiently numerous to make it worth the while of other parties in the Council to secure their support. This will be especially necessary if the official members on whom the Depressed Classes have to a considerable extent relied for the safeguarding of their interests are removed from the Council. Taking these facts into consideration we suggest that ten seats should be reserved for the Depressed Classes. We do not propose separate electorates for them. We consider that it will be sufficient if in certain constituencies where the Depressed Classes are well represented both in the population and on the electoral roll, seats are reserved for them. The members elected

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from the Depressed Classes will be elected by the general electorate. We suggest that seats may in this way be reserved for the Depressed Classes in the following constituencies :—

Bombay City	..	..	..	2
Karachi City	..	..	..	1
Ahmedabad City	..	..	..	1
Ahmedabad District	..	..	..	1
Surat District	..	..	..	1
Ahmednagar District	..	..	..	1
Poona District	..	..	..	1
Belgaum District	..	..	..	1
Dharwar District	..	..	..	1
				10

It may be found desirable to allot some of the seats to two districts jointly.

#### *Representation of Labour*

15. The representation of Labour on the Legislative Council is at present secured by the nomination of three members. We suggest that these three seats may be converted into four elective seats. There should be no special electorate. Four seats should be reserved for Labour members in the general constituencies,—one in Sholapur, one in Ahmedabad and two in Bombay. Only members of registered trade unions should be qualified to be elected to the labour seats.

#### *Separate electorates for Muhammadans*

16. The Muhammadans have at present separate electorates with 31 per cent. of the elective seats. We consider that they should continue to have the same proportion of representation by separate electorates in the future Council. Thus in a Council of 140 elected members they will, therefore, have 43. They have 27 at present ; 16 more seats will have to be allotted to them. Two of our members, Sardar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow pact stands as regards all provinces.

#### *Representation of Europeans*

17. The separate European communal electorates which exist at present should be continued.

#### *Representation of Anglo-Indians*

18. The Anglo-Indian community is at present represented by one nominated member. We suggest that they should in future have two elected members. We are unable at present to make any definite recommendation as to the way in which the constituency should be constituted. A separate communal electorate will have to be created for them.

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*Representation of Indian Christians*

19. The Indian Christian community is at present represented by one nominated member. The total population of Indian Christians in the Bombay Presidency is only about 220,000 of whom about 50,000 are in Bombay, about 21,000 in the Bombay Suburban district, about 26,000 in the Thana district, about 26,000 in the Kaira district, about 22,000 in the Ahmednagar district and smaller numbers elsewhere. We suggest that one seat may be reserved for the Indian Christian community in Bombay City.

*Reservation of seats for Marathas*

20. The seven seats which are at present reserved for the Marathas and allied castes should, in our opinion, continue to be reserved. We do not suggest any extension of such reservation. We think, however, that the reasons which necessitated the reservation of the existing seven seats still continue, and that there is a danger that the Marathas may not be able to secure representation adequate to their numbers and influence if the safeguard of reservation is not maintained.

*Representation of Landholders and Inamdars*

21. The enlarged Council which we have proposed will have much wider powers than the existing Council. It will also be deprived of the expert knowledge and advice of the official nominated members. It appears to us, therefore, to be very desirable that increased representation should be given to the more stable elements of the population. We propose, therefore, to increase the representation given at present to the land-owning and commercial classes. The Inamdars and landholders of the Presidency and Sind have at present three seats allotted to them,—one for the Deccan Sardars and Inamdars, one for the Gujarat Sardars and Inamdars, and one for the Sind Jagirdars and Zamindars. The Sardars and Inamdars of the Southern Division have at present no separate seat allotted to them, and this has always been a matter of grievance with them. The Deccan Sardars and Inamdars constituency which includes the Southern Division has at present 517 voters of whom 312 are from the Central Division and 205 from the Southern Division. The Gujarat Sardars and Inamdars constituency has 171 voters. The Sind Jagirdars and Zamindars constituency has 1,059 voters. We suggest that two additional seats should be given to the landholders constituencies, one to a newly constituted constituency for the Southern Division and one to the Jagirdars of Sind, the existing Sind seat being allotted to the Sind Zamindars only.

*Representation of Commerce*

22. We suggest the giving of four more seats to the Commerce constituencies, one being given to the Indian Merchants' Chamber, Bombay (in addition to the existing one seat), one to the Indian Merchants' Chamber, Karachi (which is at present not represented), one to the Karachi Chamber of Commerce in addition to the existing one seat, and one to the Bombay Chamber of Commerce in addition to the existing two seats.

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*Representation of the Hindus of Sind*

23. The Hindus of Sind are, we think, very inadequately represented in the Legislative Council. For a population of 873,354 and a voting strength of 67,086, they have only three seats. The two rural constituencies of Eastern and Western Sind have each only one seat. We are of opinion that three extra seats should be given to the Sind Hindus, the total number of seats being distributed as follows:—

Karachi City and District .. .. .	2 seats
Sukkur and Upper Sind Frontier districts ..	1 seat
Hyderabad district .. .. .	1 „
Larkana district .. .. .	1 „
Nawabshah and Thar Parkar districts .. ..	1 „

If, as proposed, two new districts of Dadu and Guni are created in Sind, the seat allotted to the Larkana District may be allotted to the Larkana and Dadu Districts jointly, and the seat allotted to the Hyderabad District may be allotted to the Hyderabad and Guni Districts jointly.

*Distribution of seats*

24. We have shown in Schedule "A" attached to this report the detailed distribution of the 140 seats which we have proposed. In the distribution of seats we have provided 43 seats for Muhammadans so as to maintain the existing ratio of Muhammadan representation.

*Basis of Representation*

25. We have tried as far as possible to allot one seat for every 10,000 voters or fraction of 10,000 over half. Owing to the fact that the Muhammadans have been given representation in excess of their population, it has not been possible to apply this principle to them. The different constituencies vary so greatly in economic and political importance, that we have not found it possible to adopt any uniform ratio of population to seats.

*The Provincial Executive*

26. The experience which has been gained of the working of the transferred departments during the last eight years shows that the transfer of departments to the charge of ministers responsible to the Legislative Council has worked successfully in spite of the inevitable restrictions imposed by the system of dyarchy. We think the time is now ripe for a further transfer of responsibility, and recommend that all subjects with the exception of Law and Order should now be transferred to the control of ministers. With regard to Law and Order, we think that for some years this subject should continue to remain reserved. The existence of serious communal disorders between the two major communities in the Presidency and elsewhere in India makes the immediate transfer of this subject to the control of a newly elected Council difficult and dangerous. Such transfer may have a very serious and

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prejudicial effect on the efficiency and impartiality of the police and the magistracy. We hope that in a few years' time the feelings between the two communities will have improved, and that the further experience which the Council will have gained in the administration of important subjects like Land Revenue and Irrigation will bring about an increased sense of responsibility both among the people and among their representatives in the Council. We would recommend that a short period of five years should be provided during which the new entirely elective Councils should have an opportunity of settling down to their work, and that after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House to decide that the subject should be transferred. This will provide an automatic advance to a condition of complete provincial autonomy, with a unitary government consisting entirely of ministers chosen from amongst the members of the Legislative Council, jointly responsible, with a Chief Minister at the head. The Members of the Government should be chosen by the Governor but in order to introduce a system of joint responsibility, the names of the other Ministers should be submitted by the Chief Minister for the approval of the Governor. Until Law and Order is transferred, however, dyarchy will continue in the provincial Government with one reserved subject, *viz.*, Law and Order, in charge of a Member of Council, and all other subjects administered by Ministers. The Member in charge of Law and Order may be either an official or a non-official. As all subjects including Finance will be transferred with the exception of Law and Order, it will, we think, be necessary to provide a separate purse for Law and Order.

*Powers and Working of the proposed Executive*

27. If the recommendations made by us above are accepted, there will be only one Member of Council in charge of the reserved subject of Law and Order for the first five years and after that, if the Council, subject to the provision made above, so decides, Dyarchy will come to an end and there will be a unitary Government consisting of a Chief Minister and six other Ministers chosen by the Governor on the advice of the Chief Minister. The Governor should have the power to dismiss or accept the resignation of the Cabinet. The Government of this Presidency at present consists of four Members of Council and three Ministers. We are not in favour of reducing the number of Members of the Government. The increasing powers of the Legislative Council, and longer and more frequent sessions, will inevitably increase the work of the Ministers and much of their time and energy will and should, in our opinion, be spent on the purely political side of their work, the carrying on of propaganda in favour of their policy, and the maintaining of constant touch with their constituencies and with the country as a whole. With unitary system of Government formed on the principle of joint responsibility there will be less chances of conflict of views on fundamental points between the Ministers. When the ministry is chosen entirely from the Council and is supported by a majority of its members,

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the powers of overriding the advice of his Ministers given to the Governor under the existing section 52 should no longer be continued. The exercise of such powers will inevitably bring about serious conflicts between the Governor and the Legislature. If the Governor disagrees with the action of his Ministers, he will have the power to ask them to resign and to form a new ministry. If the new Ministry follows the same policy and is supported by the Legislative Council, it will be open to the Governor to dissolve the Council. If even the new Council takes the same view as its predecessor the Governor must then abide by its decision. We consider it necessary that provision should be made for the temporary administration of the province in the case of a breakdown. Under the present constitution section 52 (3) of the Government of India Act and the Transferred Subjects (Temporary Administration) Rules enable the Governor to take over the administration of a transferred subject temporarily. Similar powers should be vested in him in the future constitution. The meetings of the Cabinet should be presided over by the Governor as at present. We agree with the recommendation made by the Government of Bombay that the salaries of the Ministers should be fixed by statute.

*Second Chamber*

28. With the enlargement of the Councils which we have proposed and the transfer to their control of practically the whole administration, and with the removal of the official element from the Council, we think it very necessary that certain safeguards should be provided against the passing of hasty and ill-considered legislation or of legislation which may discriminate unfairly against particular classes or communities. We think the best safeguard would be the creation of an Upper House elected on a different franchise and for a longer period than the Lower House. The Upper House should, in our opinion, consist mainly of representatives of the larger landed and commercial interests. Its franchise should be the same as that for the present Council of State. The membership should be restricted to about 30, two-thirds of whom should be elected and one-third nominated by Government. A franchise similar to that for the present Council of State will, we believe, secure in the Upper House a fair number of representatives of the land-owning and commercial classes. It is not, however, our intention that after the creation of an Upper House which would consist mainly of representatives of the classes mentioned above, the special representation given to these classes in the existing Legislative Council should be done away with. To do so would be to put these classes in a worse position than they are now, whereas it is our intention that every effort should be made to bring into the legislatures a larger number of men from these classes. In the proposals, which we have made in paragraph 21, therefore, we have proposed not merely the retention of the existing representation of these classes in the Legislative Council but a slight extension of it. We have suggested that the Upper House should consist of about 30 members of whom 10 should be nominated. Of these, not more than half may be officials; the rest should be non-officials. Of the 20 seats to be filled by



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election, 6 (that is, 31 per cent.) should be given to the Muhammadans, 12 to the non-Muhammadans and 2 to the Europeans. The 12 non-Muhammadan seats may be distributed as follows :—

Central Division	..	..	..	3
Northern Division	..	..	..	3
Southern Division	..	..	..	3
Sind	..	..	..	1
Bombay City	..	..	..	2
				—
				12

The 6 Muhammadan seats may be distributed so as to give 3 seats to Sind and 3 to the Presidency. Of the Presidency seats, one should go to Bombay City and two to the rest of the Presidency.

*Term of office of the Legislative Council and Upper Chamber*

29. We think that the term of office of the present Legislative Council is not long enough and would suggest that it should be increased to five years. The period for the Upper House may be fixed at six years, one-third of the members retiring by rotation every two years. The Upper House should be given the same powers in matters of legislation as the Lower House, and the assent of both Houses should be necessary for the passing of any legislation. Bills (except money bills) may be introduced in either House but should not come into operation until they have received the assent of both Houses. Money bills should be introduced in the Lower House only. As regards the Budget, the Upper House should have the power to criticize it but not to reduce or refuse demands for grants. In the case of any difference of opinion between the two Houses, the question should be decided by a majority vote at a joint sitting of both Houses.

*Public Services Commission*

30. We recommend the creation of a provincial Public Services Commission which should deal with recruitment to all provincial services and should hear appeals from members of such services with regard to orders of dismissal, removal or reduction. The rules governing such Commission should be subject to the approval of the Governor, and should provide for adequately safeguarding the interests of the backward classes.

*Special and emergency powers of the Governor*

31. We do not think that there is any necessity for the continuance of the special powers of vetoing and certifying which are at present vested in the Governor. The safeguards which we have provided, and especially the creation of the Second Chamber, to a considerable extent render the exercise of such powers unnecessary. We think, however, that certain emergency powers must still be retained with the Governor. In

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connection with the budget, we would continue to vest in him the power which he has at present in cases of emergency to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of the province. In connection with legislation he should have the power which he has at present to certify that any bill which has been introduced or is proposed to be introduced or any amendment to a bill which is moved or is proposed to be moved affects the safety or tranquillity of his province or of any part of it or of another province, and to direct that no further proceedings should be taken by the Council in relation to such bill or amendment. The provisions of the existing section 80-C of the Government of India Act should be continued. On the Governor should also be placed the responsibility of safeguarding the rights of the existing members of the All-India Services and all members of such services should have the right of direct appeal to him.

*Separation of Judicial and Executive functions*

32. We are in favour of a gradual separation of the judicial and executive functions. The magisterial powers of the Collector and District Magistrate should not, in our opinion, be interfered with, but we consider that the combination of judicial and executive powers in subordinate magistrates such as Sub-Divisional Magistrates, mamlatdars, mukhtiar-kars, aval karkuns and munshis is open to serious objection and should be gradually abolished as and when the financial condition of the Presidency improves.

*Powers of the Courts to intervene in respect of proceedings pending in Council*

33. We agree with the recommendation made by the Government of Bombay in paragraph 11 of Chapter X of their Memorandum (Part II) that express provision should be made by legislation barring courts from premature interference with the Presidents of the Legislative Councils or with proceedings pending in the Councils.

*Privileges of Members of the Legislatures*

34. We agree with the recommendation made by the Government of Bombay in paragraph 11 of Chapter X of their Memorandum that in addition to the privilege of freedom of speech members of the legislature should be exempted from sitting as jurors or assessors in criminal trials and should be granted immunity from arrest and imprisonment for civil causes during the sessions of the legislature and for periods of a week immediately preceding and following actual meetings. We further recommend that members of the Central and Provincial Legislatures should be assigned definite places in the Warrant of Precedence, as was the case formerly.

*Protection of Minorities*

35. We consider that the future constitution of India should contain provisions giving the minorities adequate protection as regards the free exercise of their religion and the use of their language.

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*Financial Arrangements*

36. As regards financial arrangements, we do not propose to make any recommendations in detail. It will be seen from the memoranda submitted by the Government of Bombay and the Bombay Chamber of Commerce that the Government of Bombay, the Legislative Council, non-official bodies and the public of Bombay are all agreed that the Meston Settlement has worked very prejudicially as regards this Presidency and requires to be revised at the earliest possible opportunity. Protests have been repeatedly made that the Settlement is unfair, inequitable and based on premises which could be proved to be erroneous and has led to serious financial difficulties. The figures adopted by the Meston Committee as the basis of their calculations were misleading and the anticipations of the Committee that there was a great capacity for future growth in the revenues of this Province have been entirely falsified by events. The Settlement has had the effect of seriously hindering the growth of the nation-building and other departments and bringing in a period of stagnation and in some cases of actual retrogression in the administration of the Province. The years following the introduction of the Reforms have been years of great financial stringency with the result that very few schemes of improvement or expansion could be undertaken or carried through by the Government or the Legislative Council. While the Reforms necessarily involved increased expenditure for their successful working, there has been, since their inauguration a general and persistent demand for retrenchment forced both upon Government and the Legislative Council by the necessities of the situation resulting from the Meston Settlement. The Presidency has suffered serious financial losses under the Settlement, while its most important sources of revenue (especially income-tax) have been taken away from the Provincial field. We are, therefore, of opinion that a case has been fully established for a revision of the Meston Settlement, and suggest generally that it should be revised on the lines recommended by the Government of Bombay in Chapter X of Part II of the Memorandum submitted by them.

*Constitution of the Central Government*

37. In the preceding paragraphs of this report we have dealt with the changes which we consider necessary in the constitution and powers of the Provincial Government and the Provincial Legislature. We have recommended the grant of wider powers and the ultimate transfer of all subjects. In making these recommendations we have assumed the existence of a strong Central Government in India capable of exercising a unifying influence over the country as a whole both by legislation and by administrative action, and of interfering effectively in the administration of any Provincial Government in case of a break down or for any other sufficient reason. We consider that in the present condition of India a strong Central Government is absolutely essential if the various provinces of India, which differ so much from each other in race, in language, and to some extent in religion, are to be prevented from drifting apart. In our view the Central Government in India should always be

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of the unitary, not of the federal type. The present constitution of the Government of India has not been found altogether satisfactory. The existence of an irremovable executive, neither chosen from nor in the legal sense responsible to the legislature, faced by a legislature in which the Government is in a permanent minority, has resulted in the weakening of the executive and has produced a sense of irresponsibility in the legislature. The Government of India have frequently been defeated in their attempts to introduce legislation which they considered essential, and in many other cases where they have succeeded, their success has been due to fortuitous circumstances. We think it essential that the position of the Government of India as against the central Legislature should be strengthened. This could be done by leaving the constitution of the central Government as it is, that is, composed of Members of Council not responsible to, nor liable to be turned out by, a vote of the legislature, and by increasing the voting power of the Government in the Legislative Assembly by providing for a larger number of nominated members. Another method would be to introduce a system of dyarchy transferring the administration of certain subjects such as Education, Public Health, and Agriculture, to the control of ministers chosen from the majority party or parties in the Legislative Assembly. We are inclined to favour the latter alternative and think that the introduction of a measure of dyarchy in the Central Government will result in a sense of greater responsibility in the members of the Legislature and greater co-operation between the Legislature and the Executive, than has existed in the past. The power of nominating members to the Legislative Assembly and the Council of State will have to be continued, while we think that some increase might be given to Muslim representation in the central Legislature.

*Powers of control of the Central Government*

38. If the recommendations which we have made above for the ultimate transfer of all subjects in the provinces to the control of ministers are accepted, there will automatically be a considerable diminution in the power of control exercisable by the central Government over the provincial Government. The control of the central Government over transferred subjects is at present governed by the provisions of rule 49 of the Devolution Rules. We would maintain these provisions and would further provide that when the Governor of a Province differs from his Cabinet in connection with any matter wherewith he is specially charged by his Instrument of Instructions or which affects any central subject or the interest of another Province, he should have the power of reserving the question for the consideration of the Governor General and the decision of the Governor General in such matters should be considered as final. In view of our recommendation that the subject of Law and Order should after the first five years be capable of transfer if the Legislative Council with the concurrence of the Upper House so decides we would further suggest that power should be given to the Governor General to exercise an effective control over matters dealing with internal security

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and the administration of Law and Order. Such powers shall include authority to insist on expenditure which the Governor General considers necessary for the efficient maintenance of these departments.

*Allocation of subjects between Central and Provincial Governments*

39. The present allocation of subjects between the central and provincial Governments made by Schedule I to the Devolution Rules has, in our opinion, worked on the whole satisfactorily. The powers of control which the Governor General at present exercises over legislation by provincial Governments under the provisions of sections 80-A and 81 of the Act are necessary if uniformity of legislation is to be maintained throughout India in important matters but some relaxation of the provisions as regards previous sanction is, in our opinion, desirable as these provisions have at times resulted in considerable delay to provincial legislation, especially to legislation proposed by non-official members. We recommend that the general powers of control which the Governor General has at present should be left unimpaired. We have already in paragraph 36 dealt with the changes which we consider absolutely essential in the financial relations between the central and provincial Governments.

*The Central Legislature*

40. We consider that the size of the Legislative Assembly should be considerably enlarged and that the representation of the various Provinces on it should be based on some uniform ratio of seats to either population, or voting strength, or any other basis. The method of election should be direct as at present.

(Signed) S. N. BHUTTO, Chairman.

( „ ) ABDUL LATIF HAJI HAJRAT KHAN.

( „ ) E. MILLER.

( „ ) SYED MIRAN MUHAMMAD SHAH.\*

( „ ) D. R. PATIL.\*

( „ ) G. N. MUJUMDAR.\*

Bombay, 7th May 1929.

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\*Subject to a minute of dissent.

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SCHEDULE A

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## SCHEDULE

[Appendix A—contd.]

Serial No.	Name of Constituency.	Class of Constituency.	Population.		Voting
			Muham- madan.	Non- Muham- madan.	Muham- madan.
1	Bombay City North ..	Non-Muham- madan.	....	976,503	....
2	Do. South ..	Do. ..	....		
3	Karachi City ..	Do. ..	....	116,447*	....
4	Ahmedabad City ..	Do. ..	53,828	220,179*	7,605
5	Surat City ..	Do. ..	24,564	92,870*	1,636
6	Sholapur City ..	Do. ..	20,962	92,969*	3,290
7	Poona City ..	Do. ..	22,113	176,430	2,150
8	Ahmedabad District ..	Do. ..	45,467	571,097	1,715
9	Broach District ..	Do. ..	69,988	237,731	7,697
10	Kaira District ..	Do. ..	65,215	645,709	2,788
11	Panch Mahals District ..	Do. ..	26,685	348,156	2,967
12	Surat District ..	Do. ..	31,686†	525,186	2,025
13	Thana and Bombay Suburban Districts.	Do. ..	46,336	605,800	4,876
14	Ahmednagar District ..	Do. ..	37,736	602,752	1,100
15	East Khandesh District ..	Do. ..	107,509	968,094	2,175
16	Nasik District ..	Do. ..	46,458	782,645	2,686
17	Poona District ..	Do. ..	24,404†	780,928	555
18	Satara District ..	Do. ..	35,989	939,769	792
19	Belgaum District ..	Do. ..	80,292	872,053	1,398
20	Bijapur District ..	Do. ..	96,125	700,742	1,390
21	Dharwar District ..	Do. ..	143,037	693,742	2,351
22	Kanara District ..	Do. ..	26,402	375,297	586
23	Ratnagiri District ..	Do. ..	80,091	1,073,241	2,967
24	Eastern Sind ..	Do. ..	....	442,795	....
25	Western Sind ..	Do. ..	....	314,112	....
26	Sholapur District ..	Do. ..	37,740†	590,205	590
27	Kolaba District ..	Do. ..	28,354	534,359	1,278
28	West Khandesh District ..	Do. ..	32,509	609,322	1,600
29	Bombay City ..	Muhammadan ..	184,685	....	21,766

\* These include Europeans as separate figures of European

† Population of the City constituencies is excluded.

‡ Reserved in rotation.

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[Appendix A—contd.]

Strength.	Existing No. of seats.		Redistribution of seats so as to increase strength of Council to 140.	Reserved seats.
	Muham- madan.	Non- Muham- madan.		
42,774	..	3	6	(1) Maratha. (1) Depressed Classes. (1) Indian Christians. (1) Labour.
55,163	..	3	6	(1) Depressed Classes. (1) Labour.
13,057	..	1	2	(1) Depressed Classes.
35,668	..	1	4	(1) Do. (1) Labour.
7,583	..	1	2	(1) Depressed Classes.
12,026	..	1	3	(1) Labour.
17,218	..	1	2	
21,514	..	2	3	(1) Depressed Classes.
18,434	..	1	2	
27,792	..	2	3	
11,527	..	1	2	
18,987	..	2	2	(1) Depressed Classes.
30,070	..	2	2	(1) Maratha.
17,204	..	2	3	(1) Maratha, (1) Depressed Classes.
32,718	..	3	3	
21,070	..	2	2	(1) Maratha.
12,217	..	2	3	(1) Maratha, (1) Depressed Classes.
21,533	..	3	3	
23,152	..	2	3	(1) Depressed Classes.
16,000	..	1	2	
35,236	..	2	3	(1) Depressed Classes.
10,052	..	1	2	
21,594	..	2	2	(1) Maratha.
23,780	..	1	Karnchi District .. 1 Sukkur and U. S. F. D. .. 1 Hyderabad and Guni Districts .. 1 Dadu and Larkana Districts .. 1 Nawabshah and Thar and Parkor Districts .. 1	} 5
25,240	..	1		
12,825	..	1	2	(1) Maratha.†
14,328	..	1	2	(1) Maratha.†
10,392	..	1	2	(1) Maratha.†
....	2	..	4	

population are not given in Census Report for Cities.



## SCHEDULE

[Appendix A—contd.]

Serial No.	Name of Constituency.	Class of Constituency.	Population.		Voting
			Muham- madan.	* Non- Muham- madan.	Muham- madan.
30	Karachi City ..	Muhammadan ..	100,436	....	8,330
31	Ahmedabad and Surat Cities ..	Do. ..	53,828 24,564	313,049	7,695 1,636
			78,392		9,331
32	Poona and Sholapur Cities ..	Do. ..	22,113 20,962	269,399	2,150 3,290
			43,075		5,440
33	Northern Division ..	Do. ..	285,377	3,193,752	22,068
34	Central Division ..	Do. ..	322,345	5,693,694	9,498
35	Southern Division ..	Do. ..	455,201	4,450,508	9,860
36	Hyderabad District ..	Do. ..	411,776	160,894	11,603
37	Karachi District ..	Do. ..	285,715*	36,241	4,030
38	Larkana District ..	Do. ..	499,553	98,395	10,601
39	Sukkur District ..	Do. ..	358,396	151,810	9,412
40	Thar and Parkar District ..	Do. ..	212,735	183,576	4,475
41	Nawabshah District ..	Do. ..	321,135	97,523	6,517
42	Upper Sind Frontier ..	Do. ..	216,277	24,337	3,973
43	Bombay City European ..	European ..	....	....	....
44	Presidency European ..	Do. ..	....	....	....
45	Anglo-Indian Community ..	Anglo-Indian ..	....	....	....
46	Deccan Sardars and Inamdars ..	Landholders ..	....	....	....
47	Gujarat Sardars and Inamdars ..	Do. ..	....	....	....
48	Jagirdars and Zamindars (Sind).	Do. ..	....	....	....
49	Bombay University ..	University ..	....	....	....
50	Bombay Chamber of Commerce ..	Commerce and Industry.	....	....	....
51	Karachi Chamber of Commerce ..	Do. ..	....	....	....
52	Bombay Trades Association ..	Do. ..	....	....	....
53	Bombay Millowners' Association	Do. ..	....	....	....
54	Ahmedabad Millowners' Association.	Do. ..	....	....	....
55	Indian Merchants' Chamber and Bureau.	Do. ..	....	....	....
56	Karachi Indian Merchants' Chamber.	Do. ..	....	....	....

\* Population of the City constituencies is excluded.

A—contd.

[Appendix A—contd.]

Strength,	Existing No. of seats.		Redistribution of seats so as to increase strength of Council to 140.	Reserved seats.
	Non-Muham- madan.	Muham- madan.		
....	1	..		2
43,251	1	...	Ahmedabad City .. 1 } Surat City .. 1 }	2
29,244	1	..		2
....	3	..		5
....	3	..		4
122,214	3	..		4
13,369	2	..	Hyderabad .. 2 }	4
1,814	2	..	Gunt .. 2 }	2
6,329	3	..	Dadu .. 2 }	6
15,381	2	..	Larkana .. 3 }	3
2,834	2	..		2
5,002	1	..		2
1,716	1	..		2
....	1	..		1
....	1	..		1
....	..	..		2
....	1	..	Sardars of the Central Division .. 1 }	5
....	1	..	Sardars of the Southern Division .. 1 }	
....	1	..	Gujarat Sardars and Inamdars .. 1 }	
....	1	..	Jairdars of Sind .. 1 Zamindars of Sind .. 1 }	1
....	1	..		1
....	2	..		3
....	1	..		2
....	1	..		1
....	1	..		1
....	1	..		1
....	1	..		2
....	..	..		1
			Total ..	140

## [Appendix A—contd.]

## APPENDIX A

## Minute of Dissent by Syed Miran Muhammad Shah.

I very much regret to dissent from my colleagues in the question of separation of Sind from the Presidency of Bombay. I should like to make it clear at the very outset of my minute of dissent that I have been dissenting from the view of my friends at every meeting of the Committee at which this question has been discussed and decided although no such mention has been made in the provisional reports submitted by the Committee for the information of the Commission, before this. It will therefore be clear that this is not an after-thought on my part but a considerate opinion held by me since the conclusion of the evidence in connection with this question.

There have been two opinions on this question besides mine.

One is the view of the majority of my colleagues who have expressed their sympathy with the desire of the majority of the people of Sind demanding separation, while the other is expressed by my learned friend Dr. Ambedkar who has seriously criticised the majority for their more expression of sympathy towards the people of Sind. I will first try to meet the arguments advanced by the majority against separation, and then reply those advanced by Dr. Ambedkar if need be.

The majority has, it seems, realised the genuineness of the demand for separation and therefore have expressed their sympathy with the desires of the majority of Sindhis consisting of the entire Muslim population (73 per cent.) and certain sections of Parsi and Hindu Communities. It is quite clear that they do not consider it a demand based on communal grounds only, thinking that the Parsi and Hindu communities could not have joined Mussulmans in the question if it had been so. They have based their argument against separation on three main grounds. Firstly that Sind is not self-supporting from financial point of view;

Secondly that there are administrative difficulties involved in the question;

Thirdly that separated Sind will be deprived of the advantage of Provincial Autonomy which is to be conferred upon Bombay in the next instalment of Reforms.

As against the first, I regret to say that no serious effort has been made to investigate the financial position of Sind although such investigation was promised by the Chairman of the Statutory Commission to the deputation of Sind Mahomedan Association in Karachi. The Provincial Committee has repeated the question made by the deputation of the Sind Mahomedan Association at Karachi and requested the Chairman of the Statutory Commission to ask Mr. Layton, the financial expert, to investigate this question and inform the Committee of the result. Our Committee has not as yet received any information as regards the result of the inquiry by the financial expert and therefore, it seems, they have based their decision on the figures supplied by the Government of Bombay. As arbitrators entrusted with the settlement of this important question the Committee ought to have insisted on an immediate inquiry by the financial expert Mr. Layton and should have expressed their opinion and based their decision on the results arrived at by the disinterested expert; but to base the decision only on the materials supplied by the Government of Bombay, who are in the position of defendants as against the people of Sind, is like delivering judgment on the uncorroborated statement of defendants only. In my opinion the indifference is inexcusable and it vitiates *ab initio* the decision of the Committee so far as their first argument is concerned.

I will now try to discuss the question as to how far the figures supplied to us can help us to arrive at a definite conclusion as regards the exact financial position of Sind. The more do we scrutinize the statements of figures supplied to us from time to time by the Finance Department the more suspicious do we get, as regards the reliability of these figures. We have so far received figures from three sources, namely, the Secretary, Finance Department, Professor Chablani, the spokesman of the Sind Hindu Association, and Mr. M. S. Khuhro, the spokesman of the Sind Mahomedan Association. Professor Chablani's source of information of figures is Government records as admitted by the Finance Secretary for reasons best known to the latter; while the knowledge of Mr. Khuhro is based on the information supplied by the Finance Department in a demi-official No. 6094-A addressed to Mr. Noor Mahomed, M.L.C., in response to his letter. This letter has been mentioned by Mr. Khuhro in his evidence before the Joint Conference at Karachi. The Chairman of the Statutory Commission had asked Mr. Khuhro to send on that letter to him but he could not do so, hence I am attaching a copy of it with my minute for the purpose of reference. I do not attempt to go into details of each item of income and expenditure as supplied to us by the above-mentioned interested agencies, but I want to show the unreliability and unsuitability of these figures to form the basis of our decision on this most contentious and controversial question. The tables of figures supplied to us contain items of income and expenditure from the year 1921-22 to the year 1927-28. If we compare the table supplied by the Secretary, Finance Department, with that prepared by the Accountant General we see that the various items of income and expenditure

## [Appendix A—contd.]

do not tally. For instance, if we look at the items of income for the year 1921-22, we shall see that the Finance Secretary puts at Rs. 210·5; while the Accountant General calculates it at Rs. 185·4 making a difference of about 25 lacs. Then again we look at the items of expenditure from the year 1921-22 to 1924-25, at both tables we shall see the patent discrepancies between the two. For instance the Secretary, Finance Department, shows the figure of expenditure for the year 1921-22 to be 250 lacs of rupees while the Accountant General shows it to be Rs. 222·8 lacs making a difference of about 27 lacs. Similarly all the figures of expenditure supplied by both the abovementioned Financial Authorities do not tally with one another. Moreover all the items of expenditure contain capital expenditure and interest thereon. This method of calculation also cannot be said to be fair and just because capital expenditure has nothing to do with annual recurring expenditure as Capital Accounts are quite distinct from the ordinary expenditure from Revenue and is payable from the works on which the money is to be spent. Mr. Jamshed N. R. Mehta (a Parsee gentleman of great national renown and President, Karachi Municipality) has worked out figures of capital expenditure from the year 1921-22 to 1924-25 and they are as under:—

Capital expenditure in Sind in 1921-22=46 lacs.

Capital expenditure in Sind in 1922-23=47 lacs.

Capital expenditure in Sind in 1923-24=69 lacs.

Capital expenditure in Sind in 1924-25=185 lacs.

Now if we deduct these figures of capital expenditure from the figures of ordinary total expenditure as shown by the Finance Secretary and Accountant General we shall be able to see that so far as ordinary income and expenditure of Sind is concerned it is a surplus rather than deficit Province. The figures constituting capital expenditure as shown above are contained in the booklet written by Mr. Jamshed Mehta who besides being a veteran politician is a great banker and financier. His figures have been mentioned by the Finance Department in their Demi-official attached herewith for perusal.

If Professor Chablani is to be quoted by Government there is no reason why we should doubt the veracity of the figures supplied by an impartial man (neither Hindu nor Mussulman) like Mr. Jamshed N. R. Mehta.

“Statistics are dangerous” declared the Secretary, Finance Department, Bombay, in his speech during the debate on the current year’s budget in the last Session of the Council. The words are very significant in themselves and they are more so in connection with the financial position of Sind. Figures can construct anything and can destroy anything if the financial expert of any order so chooses. The layman is simply at his mercy. As an example of the above position described by me the comparison of Professor Chablani’s estimates with those supplied by Government in their Demi-official of September 1928, and later on officially, it will be seen how one economist (Professor) swells the figures of financial responsibility to 109 lacs of rupees and how the Government Financial expert reduces it to 60 lacs only. So many exaggerations contained in the Professor’s estimate are pointed out in the Demi-official of September last. But if Government figures were also scrutinized by some independent and disinterested expert I am sure the phantom of deficit would have frittered away in the air before long. However I shall try to examine the figure of 60 lacs shown by Government as the total annual deficit and also 10 lacs as the additional annual expenditure to be borne by Sind on separation.

The ordinary annual deficit which separated Sind has to face is estimated to be Rs. 50 lacs out of which 25 lacs constitute deficit from ordinary Revenue and expenditure and the remaining 25 lacs constitute share of public debt and interest thereon. If we dispassionately examine the first 25 lacs we shall be able to see that it does contain a portion of capital expenditure and interest which ought to have been included in the head of capital liability and shown as public debt to be paid by Sind.

For instance item No. 14 (interest on works for which Capital Accounts are kept) which consists of no less than 15 lacs ought to have been included in the Capital Accounts. Item No. 16 in the Accountant General’s statement should also have been included in the capital head, the commitment having origin since 1926-27 only and consisting of productive capital work. In order to understand the import of my above argument I should like to mention here that a backward Province which desires to advance and there is room for development—it is the duty of the Government of India to help it in the struggle for progress to a reasonably considerable extent. The primary and important help which Sind will require from the Government of India will be the readjustment of its share of public debt; and reorganisation of Capital Accounts for Sind on liberal basis. For instance if the Government of India permits Sind to borrow the capital as well as the recurring interest on the same for such period till the works for which the money is borrowed have actually finished and yielded returns, Sind will find itself in no difficulty to pay off its debts easily and run its Government without any trouble. Another method of concession which Government of India should do to

## [Appendix A—contd.]

Sind to pay off its debts will be to extend the period of payment. The two suggestions that I have made above are neither the inventions of my brain alone nor they are impracticable. The first suggestion has been made by the Finance Department in paragraph 2 of their Demi-official of September last while criticising the estimates of Professor Chablani. If the two above concessions are made by the Government of India, which they should, it will be seen from resurvey of the statements supplied to us that the annual deficit of 50 lacs will be reduced to nearly 10 lacs only. The "Axe of retrenchment" could be applied to many departments which have gone fat without rendering services commensurate with the expenditure incurred on them. Take for instance the Forest Department.

The annual income to Government from forests of Sind is only 7.1 lacs while the expenditure is 4 lacs, i.e., more than half the income. I know for certain that there is great room for reduction of expenditure on forests in Sind and this could easily be achieved. Another convenient department for economy is the General Department. The table of expenditure shows that the expenditure on this department has swelled from 14.3 lacs to 44.5 lacs a year. Now we should not look at this expenditure as irreducible minimum. Similarly we can prune every department of its overhanging and artificial branches and bring it within reasonable bounds.

If the retrenchment as suggested above is carried through, I am sure that the remaining 10 lacs above mentioned will also vanish and Sind will have a well balanced budget to begin its career.

Now let us examine the question of extra expenditure to be borne by Sind on separation. Professor Chablani has taken pains to fix it up at the pitch of 39 lacs a year, while the Finance Department has been considerate enough to fix it at Rs. 10 lacs a year. The figure of additional expenditure has been given by the Secretary, Finance Department, in paragraph 4 of his letter and he has tried to quote Assam in this connection. I cannot understand how he has calculated 9 lacs to be the expenditure of Assam on General Administration yet if we actually compare the items of expenditure of Assam and Sind we shall be able to see that Assam does not spend very much more on its Governor and his staff than we do on the Commissioner-in-Sind. For instance the monthly salary of the Governor of Assam is only Rs. 5,500 while that of the Commissioner in Sind amounting to Rs. 4,000 not very much difference. The sumptuary and travelling allowances of both are nearly the same. As regards the Ministers Assam pays Rs. 3,500 to each of the four members and Ministers of the Council. Sind will at the outset need only two Ministers (Reserved and Transferred, Government have estimated 3). The salaries of these Ministers may be reduced to Rs. 2,500 or 3,000 each which means an expenditure of about 60 or 70 thousands, not a very big amount to be feared of.

As regards the Secretaries it can be easily assumed that after the establishment of Provincial Autonomy the services will be provincialized and the rates of the salaries reduced to the present provincial scale. There are already four assistants working under the Commissioner-in-Sind as his Secretaries—the first being an I.C.S. man while the remaining three are men of provincial grade. Assam has got only four secretaries including the secretary for the Council. They are men of Civil Service, but for the sake of economy, till funds permit, the present assistants of the Commissioner-in-Sind can conveniently be converted into secretaries for various departments.

As regards the Legislative Council it should consist of only 50 members according to Assam Council. It is obvious that the members from Sind attending the Legislative Council of Bombay perform very expensive journey from Sind to Bombay, a distance about 800 miles, which will not be the case if the Council is held at Karachi, the capital of Sind. There will be very little extra expenditure so far as the travelling allowances of the members are concerned.

As regards the heads of departments which the Government of Bombay laments will not be available to Sind in the event of separation I should like to submit that the anxiety is not well grounded. For instance Sind has already got Heads of Departments just as Deputy Inspector-General of Police, Educational Inspector for Sind, Deputy Director of Agriculture, Conservator of Forests, Judicial Commissioner-in-Sind and so on. In fact these heads being men on spot are the final authority for all practical purposes regarding the departments managed by them. The Commissioner-in-Sind is virtual head of all departments. The question of recruitment, promotion, punishment, allowances, etc., etc., regarding every service under them is decided by these heads with the approval of the Commissioner-in-Sind (which he very often gives) and the Government of Bombay only accord their final sanction. So in fact the heads at the Headquarters of the Presidency are guided by the opinions of their immediate subordinates in Sind regarding any question affecting Sind. Hence we can see that Sind will need no extra officials at present to be called by the big name of "Directors". For the sake of formality we might call them Directors if we choose.

[Appendix A—*contd.*]

From the facts enumerated above it will be clear that the additional expenditure to be borne by Sind after separation will not be such as could not be managed by Sind itself. I will presently show that apart from any additional tax which the Mahomedan Association asking for separation have undertaken to bear, even the present sources of revenue to Sind are capable of considerable expansion after the completion of the Barrage. I think this fact requires no comment that the Barrage lands will pay for the Sukkur Barrage and canals irrigating that area, whether the management of the scheme is in the hands of the Government of Bombay or the Government of the Province of Sind, because it was made clear by the Chief Engineer, Lloyd Barrage, in answer to a question put to him by the Chairman of the Statutory Commission at Karachi, that the loan was taken by the Government of India at their own responsibility and handed over to the Government of Bombay. The Barrage will begin working from 1932 so the advantages incidental to the scheme will also accrue from the year the Barrage begins to function. The advantages incidental to the opening of the Barrage are briefly as follows:—

- (a) Increase in population.
- (b) Increase in the number of villages.
- (c) Increase in land revenue.
- (d) Increase in the sale of stamps owing to sale of land.
- (e) Increase in the income from registration.
- (f) Increase in Excise owing to the increase in population.

As regards (a) and (b) no stretch of imagination is required to understand it. As regards (c) direct profits may not accrue from the lands, within the Barrage Zone, immediately on the working of the Barrage in 1932, yet after 12th or 13th year from the date of the working of the Barrage there will be some direct income to Government from Land Revenue as is clear from the evidence of Mr. Harrison, the Chief Engineer, Lloyd Barrage, on page 8 (of the record of his evidence). The period of Revision of Land Settlements in Sind (which is 20 years) is also drawing near. It might begin from 1932. Land assessment is bound to increase as it invariably does, in consequence of a revenue inquiry. The general prosperity, as described by Mr. Musto in his booklet on "Sukkur Barrage and New Sind Canals" is bound to prepare people to bear any super-tax which may be imposed by their own Government for the purpose of nation-building departments. After having described the entire scheme of Sukkur Barrage and its advantages Mr. Musto remarks in his book thus "Sind will become one of the richest and most important provinces in India, supplying grain and cotton to its poorer neighbours and to all parts of the world." It is sad to think that the majority of my friends, in spite of the above remark of an expert engineer like Mr. Musto, hesitate to recognize the claim of Sind to separation even after it is found financially fit.

As regards (d), (e) and (f) it is easy to imagine that the revenue from stamp and registration is bound to increase in view of the sale, exchange and transfer of new lands to the extent of 15 lacs of acres besides private lands. The excise revenue is also bound to increase with the increase of population as the demand for drinks will be greater than at present. This has been admitted by the Secretary, Finance Department.

This finishes my arguments against financial difficulty postulated by my friends. The second difficulty raised by my friends is "Administrative". They have not taken pains to describe these difficulties in details which they anticipate but have shown agreement with those pointed out by the Government of Bombay in their memorandum Part II.

The Government of Bombay have pointed out the following difficulties namely:—

- (a) That the area is too small for a province—smaller than Assam.
- (b) That the population is also too small—smaller than Assam even.
- (c) That there will not be enough work for a Governor and a cabinet.
- (d) That there will be unnecessary expense on a cabinet of "at least" three ministers.
- (e) That there will be also unjustifiable expenses on a secretariat.
- (f) That Sind will be deprived of the control and advice of a large number of experts like the Director of Public Instruction, the Inspector-General of Police, the Chief Engineer for Irrigation, etc., etc.

Now as regards (a) and (b) I should like to submit that there has never existed in the past nor does exist at present any law, constitution or convention prescribing the limits—minimum or maximum—of any territory or Province in the world. There are biggest empires like the British Empire extending from East to West ostensibly most unwieldy for efficient administration—there are kingdoms of considerably large size and small size like Persia and Nepal; there are again the biggest states like the Nizam's dominions, Mysore and Baroda, and the smallest like Travancore, Sangli and Morvi.

Each of these empires, kingdoms, countries and states are being administrated properly ought we know. If the considerations of area and population were to be the deciding factor in the matter of constituting a separate Province, Assam could not have been so

## [Appendix A—contd.]

constituted at the time of its birth for surely it must have been, as it is now, the smallest Province as compared to the other Provinces in India. Sind is only 6,000 square miles smaller than Assam while Assam has got 15,000 square miles as waste-land incapable of development except with a very large capital. As regards population, the development of the Barrage Zone will surely give impetus within a short compass of time, to the figure of population, which fact is not disputed even by Government. Apart from the above facts in connection with the area and population of Sind, should we not, in fairness, compare and see if there exist any Provinces within the British India smaller than Sind itself? Take for instance Coorg, North-West Frontier Provinces, Ajmere-Merwar, etc. Now Coorg has got only 1,582 square miles in area and has a population of only 165,833. North-West Frontier has got 16,466 square miles area and 2,247,698 population. Figures for Merwar-Ajmere territory are not available but that province is also smaller than Sind. I am not losing sight of the fact that they are being maintained from the subsidies advanced by the Central Government, besides their own revenue; but the fact that concerns us is whether there are any administrative difficulties owing to their small size and their population.

I am sure there are none so far as their area and population goes. If not then no argument, advanced by anybody on the basis of smallness of size or thinness of population should carry any weight in the decision of the question of separation of Sind.

As regards (c) I think this objection is not made with any seriousness for it is indisputable that as a result of the developments in Sind owing to Sukkur Barrage and a consequent increase in population, the matters of Sind are bound to grow in volume and complexity and will surely keep the Governor very well engaged during the whole year.

As regards (d) assuming that there will not be very much work, in the beginning of course, as presumed by the Government, I think 2 ministers with a salary of 2,500 or 3,000 a month will be enough to make a cabinet. The less busy they are with routine the more they will be able to pay attention to the general good and development of the province (coming in direct touch with the people) and I think their utility will justify the meagre expenditure of about 72,000 a year.

As regards (e) and (f) I have already explained the situation and made my suggestions in my arguments on the financial aspect of the question and shown that there will be no necessity of employing any extra secretaries or directors in the beginning. With the material advancement of the Province and adequacy of funds, the Government may employ better men if they like.

Government have also pointed out another (minor) difficulty of maintaining small cadres in the service as there will, they say, be only 10 districts in Sind. From the point of view of the principle of "Self-determination" and the fundamental rights of the people to self-government this difficulty should not have been mentioned at all, but since it has been raised by Government I shall discuss it on its merits. I however, emphasise again that things like cadres of services should not and cannot constitute as clogs to choke the current of people's liberties. People of any Province or country can never consent to accommodate their servants at the expense of their own "Self-determination". But if we examine the conditions in Sind so far as services are concerned we see that Sind maintains a separate subordinate service cadre. As for the Provincial service in Sind, though the cadre is amalgamated with that of the Presidency still the recruitment, the promotions, the transfers, etc., etc., are limited within the boundaries of Sind. Ordinarily a provincial officer-in-Sind is recruited, promoted and transferred in Sind. So is the case in the Presidency with the Presidency Provincial officers. So far as the case of the Indian Civil Service men is concerned they are under the direct control of the Central Government and are interchangeable between the provinces, if the Government of India so chooses. In the first place it is hoped that all the services within an autonomous province will be provincialised in the course of time. If this principle comes into force then there will be no difficulty in maintaining separate cadres of services in Sind. The few high officials recruited for Sind Civil Service will earn their promotion very well up to the end of their service. Until this principle comes into force Government of India may keep the cadre of present civil service officials amalgamated with those of the Bombay Presidency. In practice even now the civil service officials posted in Sind in the beginning of their service are very often continued in Sind for a very long time until they have approached, nearly, the maximum limit of their service. This is very necessary from administrative point of view as the high officials owing to their long stay in Sind thoroughly understand the people of Sind who are diametrically opposed (in history, language, habits, etc.) to the people of the Presidency. From the above argument it will be clear that the difficulty of maintaining small cadres of services in Sind is merely a phantom of the fears of the Civil Service men now serving in the Presidency and in Sind; it is not a practical difficulty worth taking notice of in the decision of the question of self-determination of people.

## [Appendix A—contd.]

The third fundamental difficulty pointed out by my friends, constituting majority, is that Sind will not be able to get Provincial Autonomy on separation, and thus will be deprived of a unique privilege shortly to be conferred upon the Bombay Presidency. I regret to remark that it is a very illiberal and narrow view taken of the rights of the people. It strikes at the very root of the principle of self-determination to the people of India involved in the declaration of 1917. It also, I am afraid, recommends a policy of discriminating differentiation between province and province in India so far as their right to Self-Government is concerned. My friends express themselves thus in this connection: "But if Sind were a separate Province, it could not, at such an early stage, expect an equal privilege (with Bombay) and it would, therefore, inevitably be denied the advantage of any further step forward which Bombay may secure." Why Sind could not claim an "equal privilege" is not expressly explained. Apart from injustice I see no logic in the above statement. Sind has, to the common knowledge of all, remained as a part and parcel of the Bombay Presidency since about 1847 A.D. Since its connection with the Presidency it has been enjoying the political status and privileges conferred on the latter. The people of Sind have as much participated in the legislation of the Presidency and have, therefore, as much training in the art of legislation as the people of the Presidency. Old as well as new Reforms have been worked by Sindhis as much as the people of the rest of the Presidency. How is it just or even logically sound that those very people who have enjoyed equal rights and privileges with their colleagues in the Presidency should be denied equal status simply because they want to develop separately. Why should one component part of a body-politic be considered inferior to the rest of the body? Every Province in India including Assam is demanding Provincial Autonomy. If others get, Sind will surely get. If others do not get Sind will also have to wait. In the circumstances there is no reason to preclude Sind from getting the privileges to be conferred upon the other Provinces. This argument advanced against Sind could logically be applied to a Province like the North-Western Frontier and British Baluchistan which have never had a training in the field of Self-Government, but could it, in all fairness, be applied to Sind (on separation) when it has as much experience behind it as the Presidency proper. Apart from the indisputable right of Sind to an equal status with the rest of the Bombay Presidency, I for my part consider it preferable for Sind to get separation and be content with the present system of Government for some time, rather than consent to remain as a slave of the Presidency for ever. I agree with Mr. Jamshed Mehta, the President of the Karachi Municipality, when he says in his pamphlet "separation of Sind": "If Bombay becomes autonomous and Sind does not after all it can be at the most for 5 years. These 5 years will pass away as a stage of transition and what is 5 years in the history of a nation".

From what I have submitted above it is quite clear that neither the question of financial deficiency nor the Administrative difficulty nor future political status present any real difficulty to separate the Province of Sind from the Bombay Presidency proper. I consider it a political blunder to force a partner to remain in the Firm of partnership if he is unwilling to remain as such. It will give rise to unnecessary unpleasantness between the component parts of the Presidency and this unpleasantness is likely to interfere with the harmonious working of the new constitution. On a little deeper inquiry of facts my colleagues would have been convinced of the justice of claim for separation put forth by the people of Sind, just as two members of the Government of Bombay having thoroughly understood the situation, have done. The above-mentioned two members of the Government of Bombay have dissented from the arguments of the Government to which my colleagues have fallen a prey.

I will now briefly submit the reasons why the people of Sind are pressing for the separation of Sind from the Presidency proper—in other words I shall discuss the comparative disadvantages of union and advantages of separation:—

1. Geographically Sind is quite distinct from the Presidency; so much so that even official correspondence mentions "Sind and Presidency proper" as two component parts constituting the Bombay Presidency.

2. It has no historic connection with the Presidency in any age before the British conquest of Sind. It has been established by the pages of history that for ages together Sind has always been a separate state governed by rulers who extended their territories to the North of Sind but never cared to have any connection with the territories constituting the Bombay Presidency proper now. Sind was thus ruled by its own rulers having the seat of Government in Sind itself. Even after the British conquest for 4 years it was ruled as a separate Province with Sir Charles Napier as its Governor. Owing to some misunderstandings between Sir Charles Napier and the Bombay Government the former left Sind, which was attached to the Bombay Presidency under a Commissioner. Thus Sind was fortuitously wedded to the Bombay Presidency without a valid consent and has since then been labouring under manifold disadvantages and disabilities imposed upon it by its spouse—the Presidency.



## [Appendix A—contd.]

3. The mode of life, dress and habits of the people are entirely different from those of the Presidency. They are more akin to Baluchistan and Punjab than to the Presidency.

4. Sind has got its own distinct language called "Sindhi" which is not spoken in any part of the Presidency.

Sindhi language possesses a vast treasure of literature—specially poetry.

5. Sind has got quite different systems of Land Revenue and Irrigation. The problems of Sind connected with Land Revenue and irrigation are seldom understood by the members of the Council from the Presidency proper. The entire land revenue policy of Sind is shaped by the Commissioner-in-Sind by his special circulars and it is very rarely that the Bombay Council gets any chance to discuss it on the floor of the House.

The result is that the grievances of the people of Sind in connection with Land Revenue and Irrigation matters seldom invoke any sympathy in the minds of the non-Sindhi members who are in majority in the Council.

6. Sind is separated from Bombay by about 800 miles and this long distance from the Headquarters of the Government have resulted to the detriment of Sind in two ways—firstly that every important matter takes a very long time to be finally settled; secondly that there is less supervision of the Government on the administration of Sind. If the Government vests the Commissioner with the powers of the Local Government he becomes autocratic in his decision; on the other hand if the powers are retained by the Government there occurs an incalculable inconvenience and inexcusable delay in the decision of every matter. I have got personal experience of such delays in the matter of education and the like. I think it is worth while quoting the words of an experienced man like Mr. Cadell, the late Commissioner-in-Sind, when he spoke at the annual Sind Dinner in London in June 1927. He said: "It is worth consideration that Sind has not a single Government College. It has no public roads. Any correspondence on Education, Engineering, and such other subjects takes a very long time before it is finally disposed off." (Read this passage from the booklet by Haji Abdullah Haroon, M.L.A., presented by Mr. Khuro to the Commissioner at Karachi.)

7. The nation-building departments are practically starved. There are no roads worth the name for modern traffic and so also is the condition of railway communications. Public Health department activities are equally neglected. Education of the people is in a most deplorable condition. In spite of several schemes of compulsory education from Sind pending before the Government of Bombay since the last few years no scheme has been sanctioned so far for Sind. No Government College worth the name is established in Sind as referred to by Mr. Cadell above. The indigenous Industries of Sind are mercilessly allowed to dwindle and disappear.

To be brief Sind administration is carried on according to the policy laid down even previous to Minto-Morley Reforms. Owing to the apathy of the members of the Reformed Council from the Presidency, which apathy is of course based on ignorance of the conditions prevailing in Sind, Sind has continued as a step-child to the Presidency. No sincere effort has been made to develop the country except lately by the construction of the Barrage. The Executive officers in Sind, deriving inspiration from their autocratic head, the Commissioner, do not feel any responsibility to the people. Public opinion as against official opinion carries no weight with the executive head in Sind. Officialdom is so supreme that none from the public (specially Mussulman public residing in the mofussil area) can raise voice against them or show any sign of independence. No sooner he adopts the unpalatable attitude towards any superior official than he is run in on any flimsy or fabricated charge, however respectable he may otherwise be. This is simply because the province of Sind is situated very far away from the seat of the Government and that the executive of Sind is not responsible to the legislature. These are briefly the disabilities and disadvantages under which the people of Sind are labouring and it is therefore that they want a Government "At Home" responsible to themselves directly.

The advantages of separation, if enumerated, will be many and manifold. Though my friend Dr. Ambedkar or Professor Chabiani, the Spokesman of Hindu Association, may attribute any dishonest motives to Mussalmans of Sind yet if any one were to look with unbiassed mind at the facts on which the demand for separation is based, he would realise the justice of the claim. I shall be reiterating facts if I were to reply to each point of Dr. Ambedkar showing that Sind is benefited by amalgamation with the Presidency as I have sufficiently described the palpably backward state of affairs in Sind, when

## [Appendix A—contd.]

the opinion of Mr. Cadoll, the man who has ruled in Sind himself and has got personal knowledge of affairs is quite enough to meet the argument of my friend Dr. Ambedkar whose knowledge of Sind affairs is only second-hand and seems to have been derived from the Spokesman of Sind Hindu Association.

Under a separate administration of its own with a responsible executive Sind is bound to develop in education, agriculture, public health, industries, public works and so on. The executive will have personal knowledge of every matter of Sind. The Governor will know everything personally. People will feel their responsibility more and more as they will be in charge of affairs of the Province.

Official influence will vanish and public opinion will be supreme. The moral, material and intellectual condition of the people is bound to improve with a Government of their own. They will even be willing to pay any tax for their own improvement.

Now there only remains one point to be answered and that is the point raised by Dr. Ambedkar that it is only the Mussalman community that is demanding separation and that they are doing so from communal point of view and which point if conceded will prove detrimental to the development of nationalism. In this connection I submit that he is absolutely wrong even in the very inception of his argument. It is not a demand on behalf of Muslim community alone. It is a joint demand on behalf of all the communities inhabiting the soil of Sind. Even Hindus have supported the demand since ages. I think my friend Dr. Ambedkar will be shocked to hear that even the most representative Hindu body like the Sind Hindu Samelan in their Conference held in April 1927 at Sukkur passed the resolution of Sind separation unanimously.

Now can any one with an unbiased mind call any question as communal if it is supported by the most representative bodies like the All-India Congress Committee, the Muslim League, the Nehru Committee, the Sind Mahomedan Association, the Sind Hindu Samelan, the Muslim All-Parties Conference and the Parsi Community inhabiting Sind. It is strange that no one from among the above representative bodies suspected any communalism in the demand, but only our friend Dr. Ambedkar was clever enough to diagnose the malady.

To be fair, one has to examine every question of this nature on its merits whether it emanates from one community or the other. If any Province deserves grant of self-determination on merits it must be conferred without attributing any motives to the class of the public from whom the demand comes. The justice of the demand has been admitted even by Hindus; how is it that my friend Dr. Ambedkar should draw far fetched conclusions from the demand simply because the demand was placed before the Commission by the Sind Mahomedan Association and opposed by Sind Hindu Association. This betrays only rank communalism in the minds of those who accuse others of communalism.

In the end I would submit that Sind deserves separation from every point of view, and it should therefore be immediately separated on the introduction of the new Reforms in India. I am supported in this conclusion by the most representative bodies of India and Sind mentioned above and also by two members of the Government of Bombay.

SYED MIRAN MAHOMED SHAH, M.L.C.,

25th April 1929.

Member, Bombay Provincial Committee.

Demi-official No. 6094-A

Finance Department.

Bombay Castle, 11th September 1928.

Dear Mr. NOOR MAHOMED.

With reference to your letter dated 21st August to Mr. Wiles, I enclose herewith statements showing the Provincial receipts and Provincial expenditure in Sind during the first four years of the Reforms period. Later figures are not available. The figures of expenditure only represent the actual payments made from the treasuries in Sind together with the necessary account adjustments which are usually made at the end of the year. No debit to Sind is shown on account of any portion of the expenditure on general supervision and control incurred either at Bombay or Poona. The large fluctuations in the figures under "Land Revenue" and "General Administration" in the statements enclosed are due to changes in accounts classification, and the figures under both the heads if combined together will be seen to remain fairly constant. The large

## [Appendix A—contd.]

expenditure under "14—Works for which capital accounts are kept—Interest on debt" and "55—Construction of Irrigation Works" during 1923-24 and 1924-25 is due to the commencement of the Lloyd Barrage and Canals Construction Scheme.

2. I am also to enclose a note on the criticisms of Mr. Jamshed Mehta and Professor Chablani on the financial aspects of the separation of Sind from the Presidency.

Yours sincerely,

To

NOOR MAHOMED, Esq., M.L.C., B.A., LL.B.,  
Cantonments, Hyderabad, Sind.

## Statement of Provincial Receipts in Sind for the years 1921-22 to 1924-25 :—

Major Heads	Figures in lakhs of rupees			
	1921-22	1922-23	1923-24	1924-25
V—Land Revenue .. .. .	144·2	83·5	72·1	62·0
VI—Excise .. .. .	31·0	35·5	40·3	39·1
VII—Stamps .. .. .	16·0	19·4	20·2	19·8
VIII—Forests .. .. .	8·0	6·2	6·3	6·9
IX—Registration .. .. .	1·8	1·6	1·5	1·5
IX-A—Scheduled taxes .. .. .	..	..	·2	·6
XIII—Works for which Capital accounts are kept ..	†1·5	36·5	39·3	39·2
XIV—Works for which no Capital accounts are kept..	·5	·5	·1	·1
XVI—Interest .. .. .	1·7	3·6	2·7	1·8
XVII—Administration of Justice .. .. .	1·5	2·1	1·9	1·6
XVIII—Jails and Convict Settlements .. .. .	·8	·8	1·0	1·2
XIX—Police .. .. .	·2	·3	·2	·4
XXI—Education .. .. .	·7	1·0	1·0	1·5
XXII—Medical .. .. .	·2	·4	·4	·3
XXIII—Public Health .. .. .	..	·1	·1	·2
XXIV—Agriculture .. .. .	·4	·4	·7	·7
XXVI—Miscellaneous Departments .. .. .	·1	..	·1	·1
XXX—Civil Works .. .. .	·5	·9	·7	·9
XXXIII—Receipts in aid of Superannuation .. .. .	1·4	1·7	2·1	2·0
XXXIV—Stationery and Printing .. .. .	·2	·2	·3	·3
XXXV—Miscellaneous .. .. .	·2	·3	·8	·3
	210·5	195·5	192·0	180·7

\* Inclusive of "portion of Land Revenue due to irrigation," which is shown in subsequent year under the head "XIII."

† Working Expenses for this year are shown on the expenditure side.

[Appendix A—contd.]

Major Heads	Figures in lakhs of rupees			
	1921-22	1922-23	1923-24	1924-25
		ORDINARY	EXPENDITURE	
5. Land Revenue .. .. .	23'0	40'1	39'2	13'8
6. Excise .. .. .	2'5	1'3	1'3	1'9
7. Stamps .. .. .	0'7	'9	'8	'7
8. Forest .. .. .	4'2	3'5	3'6	4'1
9. Registration .. .. .	0'8	1'0	'9	'9
XIII.—Irrigation—Working expenses .. .. .	25'1	•	•	•
14. Works for which Capital accounts are kept— interest on debt.	11'4	12'9	16'2	21'5
15. Miscellaneous irrigation expenditure .. .. .	38'2	23'1	13'5	23'1
22. General Administration .. .. .	14'3	20'7	19'6	44'8
24. Administration of Justice .. .. .	10 0	9'6	10'0	11'5
25. Jails and Convict settlements .. .. .	6'3	5'9	5'2	5'9
26. Police .. .. .	40'8	36'1	35'1	36'0
27. Ports and Pilotage .. .. .	0'1	'1	'1	'3
31. Education .. .. .	23'4	23'0	26'6	23'8
32. Medical .. .. .	5'9	4'6	5'3	5'3
33. Public Health .. .. .	3'1	3'5	2'9	2'9
34. Agriculture .. .. .	3'5	3'3	3'3	3'4
37. Miscellaneous Departments .. .. .	'3	'8	'3	'3
41. Civil Works .. .. .	22'2	10'4	6'5	8'0
45. Superannuation allowances and pensions .. .. .	5'9	6'1	6'9	7'1
46. Stationery and Printing .. .. .	1'2	1'3	'9	1'0
47. Miscellaneous .. .. .	1'5	1'3	4'0	5'2
Total .. .. .	244'4	209'0	202'2	221'5
		CAPITAL	EXPENDITURE	
55. Construction of Irrigation Works .. .. .	5'6	19'1	51'6	124'0
56-A. Capital Outlay on improvement in Public Health.	..	5'3	'5	..
60. Civil Works not charged to Revenue .. .. .	..	7'1	5'5	12'2
Grand Totals .. .. .	250'0	240'5	259'7	357'7

\* Working expenses have been deducted from gross receipts and only the net receipts have been shown under "XIII" on the receipt side.

*Note reviewing the criticisms of Mr. Jamshed Mehta and Professor Chabiani on the financial aspects of the separation of Sind from the Bombay Presidency.*

A glance at the statements of Revenue and Expenditure in Sind for the first four years after the Reforms will show that the present revenue of Sind is not capable of meeting the ordinary revenue expenditure of that province. The average annual revenue deficit for the years 1921-22 to 1924-25 works out at about Rs. 25 lakhs. To this must be added the cost on account of general supervision and control which will have to be borne by

## [Appendix A—contd.]

Sind if separated from the Presidency proper. This additional cost on account of the Head of the Province, Executive Council and Ministers, Legislative Council and Secretariat may, reckoned on a modest scale on the basis of the expenditure at present incurred in Assam (the smallest province in India), amount to about Rs. 9 lakhs. To this again must be added the cost of strengthening the establishments, etc., in the offices of several Heads of Departments in Sind consequent on the increase of their responsibility by the removal of the supervision and control at present exercised by the Heads of Departments at Poona. The total additional cost on administration may roughly be set down at Rs. 10 lakhs.

2. Mr. H. L. Chablani in his pamphlet on the financial aspects of the separation of Sind from the Bombay Presidency has stated that over and above the additional cost of a separate administration, taken at Rs. 10 lakhs above but computed by Mr. Chablani at 39 lakhs a year, Sind will have to find over a crore of rupees on the items mentioned below :—

	Mr. Chablani's Estimate.
(1) Average annual deficit .. .. .	26·07 lakhs.
(2) Famine Insurance Grant applied to interest of the Lloyd Barrage .. .. .	10 lakhs.
(3) Share of interest and sinking fund on Public debt (not included in the figures given in the statement of expenditure)—	
(a) 1/3rd of 32·07 lakhs due to the Government of India on 8·9 crores, the capital on irrigation works handed over in 1920 .. .. .	10·9 lakhs.
(b) Interest on 3 crores spent by the Bombay Government on Sind irrigation till 1921 at 5½ per cent. .. .. .	16½ "
(c) 1/3rd of 15·86 lakhs the interest on 279 lakhs borrowed for irrigation works from 1921 to date .. .. .	5 "
(d) Interest on ¼th of 3·36 crores borrowed during 1922-25 for other purposes .. .. .	4·7 "
(e) Repayment of (b) and (c) in 60 years and (d) in 30 years .. .. .	8·9 "
(4) Provision for Famine Insurance .. .. .	13 "
(5) Contribution to the Central Government .. .. .	14 "
	109·07 lakhs.
Allowance for any margin of error .. .. .	9·07 "
	100 lakhs.

Mr. Chablani's above estimate errs on the side of exaggeration as shown below.

Item (1)—Average deficit has been set down above at Rs. 25 lakhs. As regards item (2), Sind can, if it so desires on separation, discontinue the contribution of Rs. 10 lakhs from the ordinary revenue with the sanction of the Secretary of State. The whole of the capital required for Lloyd Barrage Scheme, with the interest during the period of construction, will then be borrowed although such action would result in lowering the estimated percentage of profit on the scheme. This item can therefore be ignored. The expenditure mentioned in clauses (a) and (c) of item (3) above has already been included in the statement of expenditure under the head "14-interest".

The expenditure mentioned in clause (b) of item (3) ought to be reimbursed to the Presidency proper, as the profits on the irrigation expenditure incurred from the surplus revenues of the Presidency proper will continue to accrue to Sind.

Clause (d) of item (3) represents interest on capital borrowed for Civil Works, Sanitation Works, etc. This liability which has not been included in the statement of expenditure will also have to be shouldered by Sind on separation. A proportionate portion of Sinking Fund charges for the expenditure referred to in clauses (b) and (d) will also have to be provided for by Sind, the total liability of Sind under item (3) may be roughly taken at Rs. 25 lakhs.

As regards item (4), it is expected that once the Lloyd Barrage comes into operation that the chances of famine in Sind will be greatly lessened. Perhaps some expenditure might occasionally be required for relief of areas suffering from the effects of floods. Like

[Appendix A—*contd.*]

Assam a small annual provision of Rs. 10,000 might do for this purpose. This may therefore be ignored. The last item, namely that on account of Provincial Contribution, has now vanished.

3. The total additional burden including the ordinary revenue deficit of Rs. 25 lakhs and Rs. 10 lakhs on increased cost of administration which Sind will have to provide for on separation by means of additional taxation, thus aggregates to about Rs. 60 lakhs. It will also have to provide something for expanding the activities of the nation-building departments, otherwise its progress will remain stagnant for a number of years to come. Profits from the Lloyd Barrage Scheme may, of course, be expected to increase the resources of the province.

4. As regards the question whether Sind is large enough to become a province, attention is invited to the following figures of comparison with Assam (the smallest of the Governor's Provinces) which speak for themselves.

The area of Sind is 46,506 square miles as against 63,510 square miles of Assam. It has a population of only 32·79 lakhs, while Assam has 79·9 lakhs. It has only 5,107 villages against 30,957 villages in Assam. A small province is by itself a very serious handicap in the race for progress. The smaller the province, the less varied in economic characteristics will be its various parts, and the more severe will be the effect of a failure of crops or of famine or of some other natural calamity.

## APPENDIX B.

## Minute of Dissent by Rao Saheb D. R. Patil.

## I.

I am constrained to append this minute of dissent to the Majority Report owing to some fundamental difference on certain questions dealt with in that Report.

2. Before dealing with these questions, I wish first of all to make it clear that the main basis of the constitutional reforms in my opinion should be the attainment of Dominion Status within the British Empire.

3. After the experience gained in the working of the present reformed constitution, the absolute necessity of a radical change in the dyarchical form of government has been sufficiently established and, according to me, it should disappear without any delay and should give place to a system of full autonomy in the provinces. I trust everyone will agree with me when I assert that the people of this province have on the whole worked the Reforms in a spirit of goodwill and with determination to use the powers to the best advantage by acting in co-operation with the Executive. The Legislative Council of this Province has also shown its constructive tendency by taking practical measures for the social and economic uplift of the province. It must, however, be recognised that the difficulties experienced during the last eight years in the working of the Reforms in the very necessary development of the nation-building departments, in themselves, constitute a solid ground for the grant of full provincial autonomy. The present system has blocked real progress and so I strongly urge upon the Statutory Commission the absolute necessity and urgency of taking a bold step forward and showing their trust in the capacity and judgment of the people of this Province. I may assert that anything short of such a step to which the people have been eagerly looking forward, will be received with disappointment and will alienate public sympathy, and goodwill towards the proposals which may be finally made for further advance, and deprive them of the strength derived from the support of the people themselves.

II.—*Law and Order.*

4. Law and Order is the corner-stone of the fabric of the provincial government; and it would be a travesty of provincial autonomy if this subject is not transferred to a popular minister unless there are more convincing grounds in favour of keeping it as a reserved subject than have been put forward.

5. An immediate transfer of Law and Order to the popular control has been objected to by the Majority Report in the following words:—

“The existence of serious communal disorders between the two major communities in the Presidency and elsewhere in India makes the immediate transfer of this subject to the control of a newly elected Council difficult and dangerous. Such transfer may have very serious and prejudicial effect on the efficiency and impartiality of the police and the magistracy.”

## [Appendix A—contd.]

The subject of Law and Order has been administered by Indians as members of the Executive Council in Madras, the Central Provinces and the United Provinces, and so far as my information goes, there have been no complaints that their administration was in any way prejudicial to the efficient working of the department. It has been urged that the objection is not to the portfolio of Law and Order being held by an Indian, but to its being held by a minister responsible to and liable to be influenced by the wishes of the Legislative Council. It is feared that in times of communal trouble the minister may be subjected to unfair pressure by the members of his own community and to unfair criticism by the members of other communities. My own view is that this danger is to a considerable extent over-estimated. Any improper action on the part of the minister will be immediately exposed both in the Legislative Council and in the press, and it is unlikely that in normal times there will be any improper interference on the part of the minister with the police or the Magistracy. I admit, however, that some risk of such interference does exist, but it will only be by actual experience of the difficulties of administering the subject and by occasional mistakes that the people will learn to manage their own affairs, and the risk has to be run sooner or later. The objection urged is one which will be brought forward whether the subject of Law and Order is transferred to-day or ten years hence. On the other hand I consider that the difficulties which will arise from the continued reservation of this one subject are more serious than is generally realised. The mere fact that the subject of Law and Order is administered by a member who is not responsible to the Legislative Council and that the grants for this department are not entirely subject to its vote will produce in the Council a feeling of hostility towards the department, and with the abolition of the official and nominated members of the Legislative Council the member in charge of Law and Order will find it extremely difficult to carry through his proposals. When the ministers have been made entirely dependent on the vote of the Council, it will no longer be possible for them and their followers to support the members in charge of the reserved departments in the way in which they have done in the past. Constant friction and deadlocks will result. If, however, it is feared that the results which the Majority Report apprehends will follow after Law and Order is made a transferred subject, I would vest the Governor of the province with all the necessary emergency powers to be exercised in the public interest whenever he feels that the interests of one community are jeopardised by a minister belonging to the other community. The Governor can well be trusted to hold the scales even between the different communities when the occasion arises. The reservation of such power in the Governor of the province will not militate against the grant of full autonomy including the transfer of Law and Order.

5. It will be remembered that the Government of Bombay have recommended in their memoranda to the Statutory Commission that this province may be given complete provincial autonomy with necessary and proper safeguards. In the memoranda of the Bombay Government three safeguards have been suggested; the safeguard which I recommend is one of them.

6. The non-official evidence of the representatives of different communities heard by the Commissioner in Poona is in favour of full provincial autonomy. Mr. Kazi Kabiruddin, the only spokesman of the Muslims of the Presidency proper, strongly expressed his view on behalf of the Muslim community in favour of full provincial autonomy. It is only the Muslims of Sind that gave evidence against the transfer of Law and Order to popular control. I think I am justified in saying that the overwhelming view of the non-official witnesses before the Commission is for the grant of full provincial autonomy.

7. Another serious objection against the reservation of Law and Order is that it involves the maintenance of a separate purse for this subject as urged by the Majority Report. Divided heads in the Budget will be a serious drawback in the actual development of provincial autonomy. Finance is the soul of the administration and one of the handicaps of dyarchy has been that the reserved subjects took a large share of the provincial income at the cost of the transferred subjects. It would be wrong to perpetuate the evil of earmarking a portion of the provincial income for Law and Order over which the popular representatives will not have a real control.

## III.—Second Chamber

8. I strongly disapprove of the proposal in the Majority Report for the constitution of a Second Chamber in the province. When the Montagu-Chelmsford reforms were discussed, this question was fully considered and negatived after full deliberation. I am of opinion that the Central Legislature should be bi-cameral while the Provincial Legislature should continue to be uni-cameral. A two-chamber council, however, is for a component province, neither necessary nor useful. This duplication of legislative

## [Appendix A—contd.]

machinery will increase the financial burden upon the exchequer of the province. Apart from the cost it involves, the proposal is not conducive to the growth of democracy in the province. On the ground of expense alone, a second chamber is to be deprecated, and added to this, is the consideration that especially when the Council is constituted on a wide basis and made thoroughly representative of all the interests concerned, there is no reason to apprehend that that Council will not discharge its duties in a responsible and constructive manner and in a spirit of harmony.

9. The Majority Report seeks to justify the constitution of a second chamber principally on the ground that it is very necessary that certain safeguards should be provided against the passing of hasty or ill-considered legislation, or of legislation which may discriminate against particular classes or communities. I think that this safeguard would be tantamount to taking away with one hand what is given with the other. If any safeguards are necessary I would recommend the Governor being given wide powers of certification, veto and emergency interference including dissolution such as are already enjoyed by him under the Government of India Act.

10. The power proposed to be given in the Majority Report to this new chamber intended to consist of a few big landholders and commercial or industrial magnates, is absolute in so far as it can by its fiat overrule and override the decisions of the Council. These upper classes have been already provided with larger representation than before, and it would be nothing but unjust to the middle and lower classes that the upper classes should have a double opportunity of influencing and overriding the will of the popular electorate. I should like to say in conclusion that I would trust the absolute discretion of the Governor in preference to that of a second chamber, he having parliamentary experience. I can also put more trust in the honesty and integrity of the Governor when he has to take the responsibility on his own shoulders for any extraordinary acts than when he is called upon to act through the intermediary of a second chamber.

*IV.—Representation and Distribution of Seats*

11. I am of opinion that population alone should form the basis of representation. The representation under the present system is based upon no fixed principles and whatever factors might have been taken into consideration in the past for the purpose of determining the basis of representation, are all, to my view, opposed to justice, inasmuch as the rural areas which are the real foundation of the Empire have not been given their due share in the matter of representation.

12. It is a well-known fact that India lives in its villages and not in its towns and it will be recognised that the main financial burden of the provinces falls upon the population of the rural areas. The provincial income derived from such sources as land revenue, excise, irrigation, forests, court fees, etc., is much greater than that derived from the residents of urban areas. It is, therefore, just and proper that the rural areas should find an adequate and proportionate scope and opportunity for expressing their will and redressing their grievances under the new constitution. I am glad to find that the Majority Report has conceded that in the municipalities, local boards and village panchayats the rural population have received adequate training in the discharge of their civic duties. I think, therefore, that the ground is well prepared in the rural areas for recognising their due claims for a larger and more effective representation in the new Council than is contemplated by the Majority Report.

13. I am opposed to the creation of plural-member constituencies as suggested in the Majority Report. In the attempt to create plural-member constituencies everywhere my colleagues who have signed the Majority Report have given excessive representation to some constituencies, for instance, Kanara and Panch Mahals, both of which according to their voting strength are entitled only to one seat each.

14. I am opposed to basing representation on voting strength as that basis gives undue preference to the rich as against the poor in the matter of representation. In the allocation of seats as given in the Schedule appended to the Majority Report there are very considerable inequalities between the different divisions of the Presidency and between the different districts. The Northern Division with a much smaller population than the Central has received a larger number of seats.

15. Forty-three seats out of the total number of 140 have been allotted in the Majority Report to the Muslims whose total population, both rural and urban, comes to 3,775,100. Roughly speaking one seat goes to about 87,500 Muslims. For Non-Muslim constituencies the Majority have allotted 21 seats to urban areas for a population of 1,675,398. So one seat is provided for about 79,800 urban people. Forty-six seats have been allotted to rural areas for a population of 14,090,130, i.e., one seat for a rural population of about



## [Appendix A—contd.]

300,000. These figures will show that the rural areas have been most unjustly treated in the matter of representation. It can on the whole be said with sufficient justification that the Muslims, the urban people and commerce and industry have been allowed an undue share of representation at the cost of the agricultural classes which are the real pillars and benefactors of the country. In view of my criticism, I hope the Statutory Commission will carefully revise the schedule prepared by the Majority Committee and see that justice is done to the rural areas in the matter of representation. I want to bring to the notice of the Statutory Commission that even according to the basis of voting strength adopted by the Majority the Thana District ought to get three seats instead of two.

16. I do not think that the 7 seats reserved for the Marathas are sufficient. In my opinion these seats should be increased to ten abolishing the existing rotation system in the case of three districts, viz., Sholapur, Kolaba and West Khandesh. The importance of the backward classes justifies a measure of this kind. The list of Marathas and the allied castes mentioned in the Rules is not exhaustive. It should include more castes than those at present included in the light of the evidence of Messrs. Surve and Navle recorded in Poona. It may be noted that the backward classes did not, during the last eight years, succeed except on one occasion in returning their own representative to the Central Legislature. I, therefore, recommend one reserved seat for them in the Legislative Assembly.

17. The Mussalman of the Bombay Presidency form one-fifth of the total population of the Presidency and, therefore, they are entitled to 28 seats out of a total of 140 seats. The Muslims demand separate electorates and 31 per cent. representation on the strength of the Lucknow Pact. I would not accept that Pact which to my mind is unjust, inequitable and unauthorised. As regards the Muslim demand for separate electorates, my own view is that there should be joint electorates for Hindus and Muhammadans with seats reserved for Muhammadans on the basis of their population. The creation of joint electorates will promote good feeling between the two communities and the growth of a spirit of goodwill and harmony and will tend considerably to reduce the existing unfortunate communal tension. Under the system of reserved seats it will be open to the Muhammadans to capture more seats than the number reserved.

*Sardars' Representation*

18. I consider the proposal to increase the representation for Sardars and Inamdars in the Legislature as highly reactionary. If as Sardar Mutalik, their witness before the Statutory Commission claimed, the Sardars and Inamdars care for the poor people and stand for public interests, I do not see why they should claim to have any special seats for themselves. If they are honestly out for the service of the people and if they exercise any genuine influence on the people and the country as they have claimed, then I think they ought to come in through the general constituencies. When these are enlarged as is proposed to be done, they should experience no difficulty whatever in finding their way into the Legislature and exercising their proper influence on the course of political advancement in the Presidency. The Sardars and Inamdars cannot be allowed to further the interests of the class to which they belong as opposed to those of the people under the cloak of democracy. If they are really democratic and are sure that they enjoy the esteem and confidence of the people at large, which no doubt some of them do, I think separate seats for them should be unnecessary. I would, therefore, in the interests of democracy and democracy alone propose the abolition of the special constituencies of Sardars and Inamdars and urge upon the Statutory Commission to allow the Sardars to take their chance of being returned to the Legislative Council along with the rest of their fellow countrymen through the constituencies.

19. I am in full sympathy with the desire of the depressed classes to take their proper share in the political life of the country. They must be given representation on their population basis.

Bombay, 28th April 1929.

(Signed) D. R. PATIL.

## APPENDIX C.

*Minute of Dissent by Sardar G. N. Mujumdar*

I have the misfortune of finding myself in disagreement with the conclusions of the Majority Report on several points of vital moment. I record here, however, my dissent only from such of those conclusions as affect the basic principles of the frame-work of Government and important details thereof.

## [Appendix A—contd.]

*Provincial Autonomy*

The most important subject on which our Committee has to submit recommendations is in respect of the extension of the present sphere of responsible Government in the Presidency. The Committee have deemed it necessary to continue the existing reservation of Law and Order for administration by an irresponsible Government and the only reason which they have given in support of their recommendation is that, owing to the strained relations which subsist at present between Hindus and Mahomedans, the efficiency and impartiality of the Police and magistracy are in danger of suffering too great a deterioration to be consistent with public security. It is no doubt true that communal disorders have latterly become frequent and serious, but the majority of the Committee are taking, in my opinion, an illegitimate advantage of that undesirable fact when they make it the reason for withholding Law and Order from popular control. Whatever political differences there may be between the Hindu and Moslem sections in the Legislative Council—and that these differences are keen and acute I shall at once grant—it has never been my experience that they have been allowed by either section to impede the administration of justice or the taking of necessary steps towards the maintenance of public peace. The most extensive and bloody riots, of which the inspiration is supposed to be communal hatred, were those which were witnessed recently in Bombay City and whatever the intensity of communal antagonism may be outside, within the Legislative Council there was complete unanimity about the need of probing the matter to the bottom and bringing the offenders to justice, whatever their creed or nationality may be. And I have no doubt that when the investigation which the Bombay Government have ordered into these disturbances is complete, the Council will oppose no obstacle on communal grounds to the taking of measures which may be found necessary either to prevent the recurrence of a similar outbreak in future or to deal swiftly and effectually with it if it should unhappily take place. There is, therefore, no ground for taking law and order out of the control of the Legislative Council. The Committee have no objection to entrusting this subject to a member of the Executive Council selected from unofficials, provided he be not subject to the control of the Legislative Council. The record of the Legislative Council for the last nine years affords no warrant for the unmerited slur which the Committee casts upon it by proposing that Law and Order shall continue to be a reserved subject. If the communal animosity raging outside has its interaction on the Legislative Council, thus impairing the *morale* of the police and magistracy, how can the Committee contemplate the transfer of this department to the Council's control after five years? And what is the sense of making such transfer depend upon a favourable vote of the two chambers of the Council? If anything, the state of communal feeling at the time should decide the question, not the vote of a legislative body.

The Committee, in saying that all subjects but Law and Order should be transferred to popular control, give to what is in reality a slender and insubstantial concession the appearance of a large measure of advance. The only new subject of importance which they recommend for addition to the transferred list, however, is Land Revenue, the other subjects to be so added being of little relative importance. My principal objection to the Majority's recommendation is that it would be felt by public opinion to be too meagre a response to the growing aspirations of the public. The changes now to be effected in the constitution must above everything else fulfil one condition, *viz.*, that they should be satisfying to the sober and thoughtful sections of the Community. I can think of no section which is politically awakened to which the transfer of Land Revenue in the Presidency, offset, however, by the creation of a Second Chamber (even when added to the transfer in the Central Government of a few subjects like Education, Public Health and Agriculture which as central subjects are of little consequence) will be satisfactory. In the event of public discontent persisting, the spirit of indiscriminate opposition and non-co-operation which is now in such strong evidence will also persist and go far to nullify the good effects of such concessions as may be made to public opinion. I would, therefore, urge that the advance now to be made in the Constitution should be substantial and generous enough to impress the public with a sense of its bigness and nothing short of full responsible Government in the provincial sphere will at the existing stage of development of political consciousness be regarded as big in any sense of the term. I do not apprehend that the transfer of Law and Order will be attended by effects prejudicial to the preservation of public safety.

If from the point of view of broad statesmanship the transfer of Law and Order is necessary, it is no less necessary from the narrow administrative point of view as well. The ill success or rather imperfect success, which has attended the working of the existing constitution, is due, in large measure, to the fact of a want of well-organised political parties in the Council; and the growth of such parties is impossible as long as dyarchy obtains. Under dyarchy the Ministers almost always cease to be the effectual leaders

## [Appendix A—contd.]

of their parties, because of their association with unpopular acts done by the bureaucratic wing of Government. The Ministers may have even opposed those acts in the Cabinet, but because they cannot publicly join with their followers in opposing them, the latter naturally suspect their leaders to be in the wrong box and cease to follow their lead. This state of things must continue as long as the present duality in Government continues. It is generally matters connected with Law and Order which bring odium upon the Ministers in the eyes of their followers in the Council, and if Law and Order continues to be a reserved subject even under the new dispensation, it is useless to expect that the reforms, slightly widened, will show any better results than those which have followed from the present reforms.

It may no doubt be urged, with great show of reason, that the evidence tendered before the Committee lends no support to the transfer of Law and Order, but the fact that almost every section of advanced opinion in the Presidency had decided to ignore the Joint Conference cannot be lost sight of. I have never favoured this policy of non-co-operation, but those to whom it belongs to frame a constitution must so frame it as to approve itself to the judgment not only of the supporters of the Conference, who after all are representatives of backward sections, but of the opponents of the Conference as well, who represent the progressive sections. However deplorable the policy of the latter may be, it must be recognised that the successful working of the constitution depends after all is said and done upon the co-operation they offer and therefore the constitution to be formulated must be such as to liquidate their non-co-operation.

I would for these reasons recommend the transfer of Law and Order as well as other subjects to the control of the Legislative Council.

*Mahomedan Representation*

The next most important question on which I differ from the Majority of the Committee is that of communal electorates for the representation of Moslem interests.

In the all too brief paragraph of the Majority Report on "separate Electorates for Mahomedans" in which the Committee have recommended the retention of the communal franchise for Moslems, without giving any reasons for this recommendation I could barely mention that my support for the recommendation was provisional. I feel that the Hindu-Muslim pact, unofficially arrived at in 1916 and officially ratified in all essentials in 1919, must be honoured till both communities again agree to give it up in favour of something else. Attempts are being made by leaders of public opinion to replace this Pact by another of which mixed electorates would be the leading features as separate electorates are of the one now in force. These attempts have not yet attained that measure of success which is necessary in order to enable one to recommend to Government the substitution of common for communal electorates as an agreed measure. I am, therefore, constrained at this stage to fall in with the Majority of the Committee and agree to the retention of separate electorates for Moslems. My support, however, is conditional on the Pact being adhered to in all the Provinces. It has become necessary to make this clear in view of the fact that attempts are being made in certain influential quarters to depart from the provisions of the Pact in certain Provinces while requiring their fulfilment in others. The principle of giving to minorities representation in the Local Councils in excess of what their proportion to the population demands which is incorporated in the Pact, is invoked only in those provinces in which Mahomedans are in a minority while its application is challenged in those in which Mahomedans form the majority of the population. Such a selective enforcement of the Pact cannot be allowed. Either it stands as a whole or is abandoned as a whole. If in any part of India a departure is contemplated from this Pact in any particular without the consent of the parties who brought it about, the whole Pact is then reopened for discussion, not merely on the question of proportion of seats allotted to the two communities but on the question of communal electorates too. There are many like myself who are opposed to the communal franchise but who still feel bound in honour to support it, so long as the Pact remains. But no such obligation will rest upon them if the Pact is held to have binding force only in regard to certain matters and in certain provinces by any section of opinion and if this view is allowed to prevail.

If the question of a common versus communal franchise is thus thrown open to discussion, I would support the former and oppose the latter with all the force at my command. It is hardly necessary for me here to set out arguments in favour of my position at great length. They have now become a commonplace of politics. Since the publication of the Montagu-Chelmsford Report, in which common electorates were advocated with great vigour, two other State papers, equally momentous, have been issued, which too take up the same position on this question as the Montagu-Chelmsford Report. These

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are : the report of the Donoughmore Commission on the Ceylon Constitution (Cmd. 3331) and the Report of the Hilton Young Commission on East Africa (Cmd. 3234). Both these reports are so emphatic in their condemnation of communal representation and so urgent in favour of its replacement by territorial representation that Government would perhaps be entitled to review the existing constitution of the electorates in the light of them even if the Pact had as large a measure of support of public opinion behind it as in 1916.<sup>7</sup> But when this measure of support is fast dwindling and when a demand is being made on all sides to revise the Pact, Government ought to be willing to reorganise the electoral arrangements in the country in obedience to the principles enunciated in these reports. The analogy of Ceylon and Kenya is very close because in these two countries as in India, it was a question not merely of adopting for the first time either the territorial or the communal method of election which is simple enough, but of abrogating the one already in force and substituting the other in its place, which is very much harder. Whatever action His Majesty's Government may ultimately decide to take on these Reports, the Commissions of Inquiry at any rate felt compelled to recommend the abolition of communal electorates and the formation of common electorates in place of them. Such would clearly be the duty of the Statutory Commission in India. The East-Africa Commission have made the adoption of common electorates contingent on their acceptance by Indians and Europeans but the Ceylon Commission have recommended it without regard to the wishes of the communities concerned. The theoretical consideration which weighed with these commissions, e.g., that common electorates promote national unity while communal electorates impair it, etc., etc. I need not repeat here. I would, however, only refer to one of them on which much stress was laid by the Ceylon Commission as peculiarly applicable to Indian conditions, viz., that "the desire for communal representation tends to grow rather than to die down in course of time". This is a very important consideration because even the most ardent supporter of communal representation admits and the Mahomedan witnesses who appeared before the Joint Conference freely admitted to borrow the words of the Commission in Ceylon, "That the communal form of appointment to the Legislative Council was a necessary evil and should only continue until conditions of friendliness and acknowledgment of common aims were developed among different communities". That day, however, experience shows, is not hastened but adjourned by the continued existence of communal electorates. These electorates tend to weaken corporate consciousness and strengthen communal consciousness and this only helps to generate a demand for an extension of the existing electorates. It is therefore idle to hope that the separate electorates are only a passing phase of Indian politics, to be tolerated for a brief while. The longer they are allowed to remain, the more assured will be their future existence.

The conclusion, therefore, that emerges from this vicious circle is that the evil which is almost universally acknowledged, should be remedied while it is yet of no long standing.

Appeal is frequently made to clauses in the post-war Treaties of certain successor States intended to give protection to minorities of race, religion, and language. Briefly the rights conferred include equality before the law ; political equality, free use of language in social business intercourse in religious worship, in the press or public meetings and in the law Courts ; the right of minority peoples to establish and maintain at their own expense charitable, religious, social, or educational institutions ; the use of their own language in the primary public Schools in towns and district in which the minority constitutes a considerable proportion of the population—and an equitable share of the States and Municipal appropriations for educational, religious or charitable purposes. There is no section of opinion in the country which will not give a ready and enthusiastic approval to conferring all these rights on the Moslems and other minorities and writing them into the constitution so as to place them beyond the caprice of the legislatures. It should be noted, however, that in none of such treaties is provision made for the communal system of representation. The treaties concede a sort of Cultural Autonomy to minorities and it is thought that when that is conceded the minorities receive all the protection that they need and deserve.

Communal electorates being rejected on the ground of principle the question that arises is whether in common electorates with an equal franchise a certain proportion of seats should be reserved for Moslems in Bombay where they are in a minority. To this as a last resort I have no objection, though I would urge an attempt being made to obviate the reservation of seats by so constituting the electorates as to secure for Mahomedans the same relative voting strength as they have in the population. It will be noticed that Mahomedan witnesses that have appeared before the Joint Conference in this Presidency have laid much emphasis on this and for this purpose some have advocated adult suffrage though apparently they were not quite convinced of the expediency of that measure at

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the present moment. I am in favour of devising the franchise in such a manner that the Moslems will retain among the voters the same proportion as they have in the whole population. But when this is done, there is really no need for reservation of seats. Still if Moslem fears cannot otherwise be allayed I am willing to have a certain number of seats reserved for them—the maximum being represented by the proportion of the Mahomedan Community to the total population of the presidency.

*Representation of other Communities : Marathas and allied Castes*

I see no need any longer of continuing for the benefit of the Marathas and allied castes the concession given to them at present of having seven seats reserved for them. The three general elections that have taken place so far have amply shown that the communities concerned are now well able to stand upon their own legs without any outside prop and the prop may therefore be safely removed without any risk of injury to the communities. I must not be misunderstood in recommending this change as holding that the interests of the communities in question can be protected even by a smaller number of their representatives in the Council. Only I feel so certain of the guaranteed number of seats, and indeed, in course of time a larger number, being won by them in open competition by sheer dint of merit that I cannot persuade myself to sanction any longer what is universally recognised as a serious detraction from the methods of election in force in democracies.

*Depressed Class and Labour*

In the case of the depressed classes and the labouring population, however, such reservation is absolutely necessary in the present circumstances if nomination is to be done away with, as it ought to be, and I entirely support the recommendation of the Majority Committee in this connection.

*Landholders and Inamdars*

With regard to the representation of Landholders and Inamdars, I am surprised at the attitude of the majority. While they clearly admit the necessity of giving increased representation to the Landholders and Inamdars, as they are, they say, the more stable elements of the population, only two more seats have been recommended by them, one for the Southern Division and the other for the Sind Zamindars and Jahagirdars.

The table given below will show the extent of interests which the landholders have got, as also the number of electors in every division of the presidency proper—

	Divisions	No. of alienated villages	No. of voters in the constituency
Central	.. .. .	1,048½	305
Southern	.. .. .	715	212
Northern, Bombay and Suburban	.. .. .	312½	160
		<u>2,076½</u>	<u>677</u>

Thus this class holds one-tenth of total villages and about one-fourth of the land revenue of this Presidency proper as alienated. Though the number of alienated villages is 2,076, the number of voters are only about 677. The qualification for a voter being the sole holder of an entire alienated village both for the Legislative Council and the Assembly. But this fact is always lost sight of by the people generally. The vast extent of interests which the alienees have got, must be taken into consideration while distributing seats to this landholders class in the Council and the Assembly.

From this class, from 1862 to 1892, one representative was nominated to the Provincial Council. By the Reforms of 1892, the Deccan Sardars were enfranchised to send one representative to the Provincial Council. In 1909 the Sardars of Gujarat and the Sind Zamindars were enfranchised to send one representative each in addition to the one on behalf of the Deccan Sardars. By the Reforms of 1919 the constituency was enlarged by the addition of Inamdars and Jahagirdars, but the number of representatives to be sent by all of them was kept the same, viz., 3, that is, with all the expansions of the Council from time to time the Deccan Sardars and the Inamdars are just in the same place as they were in 1861.

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With the expansion of the Councils in 1919 the three seats of the landholders ought to have been increased proportionately. It was a clear injustice to them. This injustice may now be removed by allotting an adequate number of seats to this class in the Legislative Council and the Assembly.

It is often argued that there is no necessity of special representation to the landholders—Sardars, Inamdars and Jahagirdars—in the Councils when they can very well be elected through the general constituency. I really wonder at the mentality of those who say so. They almost forget the fact that when a Sardar or an Inamdar does not hold land paying an assessment of Ra. 32 he cannot be an elector in the general or rural constituency. When a Sardar or an Inamdar is either a title holder or an alienee of an entire village and an agriculturist, he can exercise his rights in either capacity through the special or general constituency. It would be a grave injustice to him if he is deprived of one of his rights. There is, besides this, one more point worth consideration. In the general elections unless the Sardar or Inamdar champions the cause of and goes under the ticket of some party such as communal, liberal, nationalist, congress, etc., then only there is chance of his success, otherwise not. Communal representation is altogether different from class representation.

Adequate representation to the special interests would always serve as a restraining influence on the Council and will ultimately serve the purpose of a Second Chamber. The presence of this class in adequate numbers will serve as a healthy check on hasty and ill-considered legislation. These representatives, having a very big stake in the country will always be persons of balanced views and their voting will be guided by reason and sense of responsibility.

The landed aristocracy of the Bombay Presidency is most important in the history of India. It has founded Empires, led armies, fought battles and was chiefly responsible for the Civil and Military administration of the country. This constituency is free from any communal feeling or bias. Only the special interest is recognised in forming this constituency. The constituencies consist of all castes and creeds and communities.

Their special advantage is that by their position as Inamdars they are able to understand and appreciate the difficulties of administration. No class is better fitted to represent the rural areas than this class as it is the only class with culture and education that comes directly in contact with the rural areas. I give below the extracts from the Montagu-Chelmsford Report, paragraphs 147 and 148.—

“The natural and acknowledged leaders in country areas are the landed aristocracy. They generally represent ancient and well born families, and their estates are often the result of conquest or grants from some mediæval monarch. By position, influence and education they are fitted to take a leading part in public affairs. Some of them are beginning to do so; and our aim must be to call many more of them out into the political lists. They are conservative like the ryot, but like him they also will learn the need to move with changing times.”

“No men are better qualified to advise with understanding and great natural shrewdness on the great mass of rural questions which will come before the Provincial legislatures.”

The general attitude of the Council members towards the landholders is well described on pages 463-465 in Bombay Government Memorandum, Part I. As the size and composition of the new proposed council will be enlarged and as the rural franchise is proposed to be lowered to half of what it is at present, it is the more necessary to increase the representation of the landholders. Another reason for their increased representation is that Land Revenue will be a transferred subject. For all these reasons the landholders must have quite adequate and effective representation in order to protect their interests and to exercise due influence in the Council.

Under these circumstances I strongly propose that representation to this class should be increased and seats allotted to them in the Provincial Council whose total strength is 150 as follows :—

Central Division	..	..	..	..	..	3
Southern Division	..	..	..	..	..	2
Northern Division	..	..	..	..	..	2
Sind	..	..	..	..	..	1
						—
						8

## [Appendix A—contd.]

For the same reasons I would strongly urge the necessity of giving increased representation to the landholders in the Central Legislature. At present one seat is allotted alternately for Sind and Presidency proper. I would propose three seats—one for each of the three divisions—to be allotted to the landholders of the Presidency proper for every term of the Legislative Assembly.

I would further propose that a separate constituency of the landholders be formed to return one member to the Council of State from the Presidency proper for every term.

As I envisage it, the Legislative Council of this Presidency would be composed somewhat like this :—

Rural	.. 27 Districts	.. ..	81	81
Urban	.. (1) Bombay City	.. ..	5	
	.. (2) Karachi City	.. ..	1	
	.. (3) Ahmedabad City	.. ..	1	
	.. (4) Surat City	.. ..	1	
	.. (5) Sholapur City	.. ..	1	
	.. (6) Poona City	.. ..	1	
			10	10
Minorities	.. (1) Mahomedans	.. ..	30	
	.. (2) Depressed	.. ..	6	
	.. (3) Labour ..	.. ..	3	
	.. (4) Europeans	.. ..	2	
	.. (5) Indian Christians	.. ..	1	
	.. (6) Anglo-Indians	.. ..	1	
	.. (7) Inamdars	.. ..	8	
	.. (8) Commerce and Industry	.. ..	5	
	.. (9) University	.. ..	3	
			150	

*Second Chamber*

A representative as I am of the landholding class, pleading for a stronger representation of it in the Legislative Council, I am implacably opposed to the creation of a Second Chamber. The Second Chamber proposed by my colleagues is not the *bona fide* second Chamber with revising and delaying functions which exist even in some States in Federal or Unitary Governments; it is on the contrary avowedly meant to do duty for "the special powers of vetoing and certifying which are at present vested in the Governor". The Committee is quite explicit about it. "The safeguards which we have provided," it says at paragraph 31, "and especially the creation of a second Chamber to a considerable extent render the exercise of such powers unnecessary". No Inamdar or commercial magnate, however favourable he may be to the creation of a normal second Chamber, will like to come into a Second Chamber of this character for no other object than to override the popular wishes on occasions on which the Governor would like them overridden. The second Chamber proposed to be created has not even a verisimilitude to second Chambers known to democratic Constitutions and this particular project of a Second Chamber, I am sure, will be treated with the contempt which it deserves by the classes with whom the Chamber is meant to be filled.

*Financial Proposals*

In the words of the Montagu-Chelmsford Report, the Government of India's control over revenue and expenditure is derived from the acts of 1853 and 1858 which treated the revenues of India as one and applied them to the purposes of the Government of India as a whole. "In spite of the various quinquennial settlements from 1882 to 1912, the real responsibility for raising all revenues and determining all expenditure for the whole country rested with the Government of India, until the introduction of the Reforms. The manner in which the Government of India had carried out its trusteeship during

[Appendix A—contd.]

those sixty years had evoked certain very well crystallised and well ventilated points of popular criticism. In fact, it was the strength of that criticism which led to the mooting of the Reforms. The critics alleged: (1) that since the eighties of the last century, the Military expenditure of the country had been growing excessively; (2) that vital nation-building departments like education, sanitation, medical relief, rural public works had been woefully starved; that (3) the miserable percentage of literacy, the wide prevalence of malaria, the high death-rate, the very low average expectation of life, the recurrence of famines and pestilences were eloquent testimony of the moral and material conditions of the people; (4) that the land revenue policy of the Government completely ignored the canon of ability to pay; (5) that the liquor excise policy of the Government had led to an alarming spread of the drink evil in town and country alike, and that in a country where both the Hindu and Mussalman masses regarded the taking of liquor as a heinous sin; (6) that the Government would not let even an article of daily necessity like common salt go without a tax burden.

The framers of the Reforms proposals intended to transfer the responsibility for the nation-building services to the Provincial Governments and to make the latter responsible for those services to popular legislatures. They ought therefore to have considered how to enable Provincial Governments to meet criticism of the type noted above by making up past leeway and launching satisfactory programmes for future development. That meant equipping the Province with sufficient funds from expensive sources. The authors of the Joint Report, however, paid no consideration whatever to this aspect of the question. In their financial proposals they allotted customs and income tax to the Central Government and land revenue and liquor excise to the Provincial Government. Thus out of the four most important sources the two most expensive ones were given to the Central Government, whereas the inexpensive source of land revenue and liquor excise against which public opinion was so very strong were allotted to the Provinces. On the expenditure side however defence and service of unproductive debt were the only two expensive items left to the Central Government whereas the provinces were saddled with responsibility for all those expensive nation-building departments which had been starved for sixty years according to the public opinion. The Meston Committee was appointed merely to fill in the minor details of a scheme of which the frame-work was more or less rigidly laid down in the above manner by the Montagu-Chelmsford Report itself.

No wonder, then that the reformed Constitution has been found to be disappointing mainly for financial reasons, in almost all Provinces except Madras which is temporarily in good funds and therefore happy. Provincial Governments of the Ryotwari tracts have been persistently harassed by their legislatures on the subjects of land revenue and liquor excise. It is very doubtful if even full provincial autonomy will give better results than the Reformed Constitution has done in the last nine years unless there is a re-distribution of resources between the Central and Provincial Governments more in proportion to their respective needs and more in consonance with public criticism of the vital issues noted above.

The authors of the Joint Report aimed at a Federal Constitution for India on the lines of Australia or the United States. But they did not trouble to inquire how the division of functions and resources took place in these federations and to base their financial proposals on those lines. Had they done so their division of functions would have been the same as now but the allocation of sources would have been quite different, *viz.*, Customs, Excise (including liquor-excise), salt, opium, surplus in Commercial Departments and income-tax on profits of Companies as such (miscalled super tax on Companies at present) and non-judicial stamps would have been central sources whereas revenue tax on personal incomes and stamps (at least judicial stamps) would have been the chief Provincial sources. The Central budget under such an allocation of sources would have stood as follows for 1917-18:—

Revenue	(Rs. Crores)	Expenditure	(Rs. Crores)
Customs .. ..	16·5	Army .. ..	46·1
Excise .. ..	15·2	Service of unproductive debt	10·9
Salt .. ..	8·2		
Opium .. ..	4·1		
Railway surplus ..	14·8		
Posts surplus ..	1·5		
Tax on companies' profit ..	..		
	<hr/> 60·3		<hr/> 57·0



## [Appendix A—contd.]

Thus there would have been no need for Provincial contributions to the Central Government, no inter-provincial jealousies would have arisen, the Provinces would not have been placed on the horns of a dilemma of finding funds for nation-building Departments by making people more addicted to liquor on the other hand, the Central Government would have had to decrease Military expenditure and put up with decreasing revenue from liquor excise in response to a policy of prohibition.

What was not done in 1919 may however be done now. But income-tax revenue has decreased since then and liquor excise has increased, the figures for 1926-27 being 15·64 and 19·41 lakhs respectively. A look at the figures of total income-tax and those of (so-called) super tax on companies for the last few years shows that the maximum percentage of the latter to the former was 20. Instead of allotting personal income-tax to the Provinces and super tax on companies to the Central Government, it would be possible and administratively more effective to allot 20 per cent. of the whole income-tax to the Central and 80 per cent. to the Provincial Governments on the basis of the tax collected within each Province, the machinery of collection being under the control of the Central Government as at present.

If with this modification, the allocation of sources is made as suggested above the Central Government will gain nearly 7 crores by the exchange of 4/5ths of income-tax for the whole of liquor excise and with exception of Bengal, each Provincial Government will lose more by parting with liquor excise than it gained under income-tax. The figures for 1926-27 stand as follows :—

Province	Income Tax	Excise (Liquor)
	(Rs. Lakhs)	(Rs. Lakhs)
Madras .. .. .	1·28	5·10
Bombay .. .. .	3·21	4·09
Bengal .. .. .	5·69	2·25
United Provinces .. .. .	73	1·30
Punjab .. .. .	64	1·24
Bihar and Orissa .. .. .	53	1·97
Central Provinces .. .. .	36	1·36
Total .. .. .	15·64	19·41

It would, therefore, be necessary in the beginning for the Central Government to give subventions to the Provinces to re-imburse them for the loss they sustained by the exchange of liquor excise for 80 per cent. of the income-tax. The yield under income-tax can be substantially increased (1) by lowering the exemption limit from Rs. 2,000 to Rs. 1,000, (2) by taking agricultural incomes, (3) by adopting steeper graduation of tax for incomes between 10,000 and 50,000. The Provinces would thus be gainers by adopting all possible means to stimulate the growth of agricultural, industrial, commercial and professional incomes of persons residing within their borders. The Central Government will be left to adopt the same policy in the matter of liquor excise that it has had to adopt in the matter of opium. The possibility of drastically reducing Military expenditure is apparent from the following :—

	1913-14	1927-28	Increase
India .. .. . (Rs. Crores)	31·5	56·7	80%
Britain .. .. . (£ Mil.)	74·5	115·1	55%

The rise of prices has been about the same in both the countries. It is obviously absurd to suggest that the responsibilities of India in matter of defence have increased much more than those of Britain herself as result of the last European War. It must also be noted that the Indian Expenditure of defence in 1913-14 was regarded as extravagant by responsible men like late Mr. Gokhale.

The re-distribution of sources proposed above is therefore quite feasible apart from its being theoretically sound. It has the special merit of making Provincial revenues depend on the incomes of persons resident therein, an obviously expansive source provided the

## [Appendix A—contd.]

right economic policy is followed both by the central and provincial Governments, the former of which stands to get 20 per cent. of the income-tax collected. The financial aspect of the problem, before the country is in a sense even more important than the constitutional one as the experience of the present reforms has shown. No scheme of financial relation between the Central and Provincial Governments is likely to be perfect, and we have to choose what will appear to be the least objectionable from all points of view. And it may be emphasised here that a return to centralization of financial powers suggested in certain quarters will mean the negation of advancement and the undoing of constitutional progress.

The re-distribution of financial resources proposed above, is particularly essential in the interest of an industrial province like Bombay which came to be most unfairly treated under the Meston arrangements. Compared to what have been described as true "Agricultural Provinces" Bombay was a serious loser, having had to on the growing sources of revenue and while the abolition of provincial contributions has benefited former considerably the finances of the Bombay Presidency remain in a straitened condition. This injustice, must in any event be remedied and Bombay, which had contributed so much to the commercial and industrial development of India must be enabled to play its proper part in national development efficiently.

I am firmly convinced that no change in the administrative machinery or in the constitution which has been recommended on the ground of securing proper responsibility between the Ministers and the Councils and the people at large will be of any avail without financial readjustment. The experience in the past confirms me in my opinion that there is a great danger of the failure of the new constitution if adequate funds are not provided. It is possible there may arise difficulties in working up the new constitution due to extraneous causes and I am not prepared to face the possibility of a charge that the failure of the working is due either to inability of the Indians or the inherent defects of a fully responsible system of Government.

*Territorial Redistribution*

I am at one with the Committee in refusing to endorse the proposal for separating Sind from the Bombay Presidency and creating it into an independent Province. The demand from Karnatak however deserves more sympathetic consideration.

I am in full sympathy with the Karnatak people in the matter of the unification of Kanarese-speaking areas. But this depends more or less on the re-distribution on linguistic basis of all the provinces in India. A separate Committee will have to be appointed to investigate into this question on financial, educational, and many other considerations. I think the linguistic principle should be adhered to in the formation in this Presidency of divisions—Sind, Gujarath, and Karnatak should be the respective divisions while Maharashtra or Marathi-speaking area which will consist of eleven Districts including the Thana and Bombay Suburban Districts should be arranged into two divisions. The Konkan Districts of Ratnagiri and Kolaba should be in one division.

*Other matters*

While I support the Majority recommendation for the creation of a Public Services Commission I cannot lend my support to the recommendation that provision be made "for adequately safeguarding the interests of the backward classes" if by this is meant that a certain proportion of posts should be earmarked for them. Communal representation shows its worst effect when introduced into the services. I am altogether in favour of "safeguarding the interests of the backward classes" but in my judgment these interests are best protected not by making the entry of backward classes more facile than that of others or by guaranteeing a number of posts for them but by giving them special facilities for making rapid progress in education, thus remedying their backwardness and removing the very cause for the demand of special facilities in the services. I would therefore favour granting these communities all the facilities and privileges which it is within our power to give but in the filling of posts merit must be the sole consideration without regard to class or creed. If these classes take some time in having a proportionate number of their representatives in the services, it is a sacrifice which is entailed upon them by the inexorable demands of efficiency.

The Majority of the Committee, while seeking to right the long standing abuse of the combination of judicial and executive functions at the lower end, allows it to continue at

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the upper. I cannot see why this abuse should be allowed to continue anywhere. The committee itself gives no reason. I can therefore only say that I do not agree with its conclusions.

*Central Government*

I agree with the Majority of the Committee when they say:—"We consider that in the present condition of India a strong Central Government is absolutely essential if the various provinces of India, which differ so much from each other in race, in language, and to some extent in religion, are to be prevented from drifting apart. In our view the Central Government of India should always be of the Unitary, not of the federal type." I agree further that "the existence of an irremovable executive, neither chosen from nor in the legal sense responsible to the legislature, faced by a legislature in which the Government is in a permanent minority, has resulted in the weakening of the executive and has produced a sense of irresponsibility in the legislature." It is therefore essential, as the majority say, "that the position of the Government of India as against the Central Legislature should be strengthened." I agree that the only method, open to us in the circumstances, of strengthening the Government of India is to end the present divorce of power from responsibility by inviting those who wield the power to shoulder the responsibility. In other words some, at any rate, of the departments of Government, now administered by an irremovable executive, must be transferred to the control of "Ministers chosen from the majority party or parties in the Legislative Assembly". I entirely share the confidence of the majority "that the introduction of a measure of dyarchy in the Central Government will result in a sense of greater responsibility in the members of the Legislature and greater co-operation between the legislature and the Executive than has existed in the past." The general line of policy being thus entirely approved, I differ from the Majority only as to the extent to which the policy, to be successful, must be carried. The majority, it would appear, are in favour of transferring Education, Public Health and Agriculture alone to popular control in the Central Government. These of course are Departments of the very greatest importance, but their work is mostly done in the Provinces, the Central Government concerning itself mostly with co-ordinating their activities, etc. As administered therefore by the Central Government, these Departments are of very small account, and their transfer to the Ministers will do exceedingly little to imbue the members of the Legislature with a sense of responsibility which is the object of introducing dyarchy. To transfer merely these Departments is to retain the essence of all power in the hands of an irremovable executive and just to make an appearance of sharing power with people's representatives. This will not appreciably reduce "the sense of irresponsibility in the legislature" which it is desired to remedy. This can be done only by transferring to the control of the Legislature Departments of real importance, of which the administration will bring either greater happiness or greater misery to the people. If the Departments are ill administered, involving the people in misery, the people will see to it that the Ministers concerned do not come back to power. It is, therefore, of the first importance that the dyarchy to be introduced should be cast into a large mould.

The net result of the Majority's recommendations both in the provincial and the central spheres would be this. In the former sphere Land Revenue would be transferred, but over against this must be set the proposed second Chamber which will operate as a check not only on the administration of this new Department proposed to be transferred, but over all. And in the latter sphere three departments of little consequence will be transferred. This will be a very poor outcome to the momentous investigations which have been on foot for all this time. One thing is certain, that it would not produce the least impression on the country. I would therefore recommend, as I have done before the introduction of responsibility in the whole of provincial field, and in the whole field of internal civil administration at the centre; that is, all Departments except Defence and Political and Foreign Departments should be transferred in the Central Government. This is no doubt a large measure and almost a venture in faith. But statesmanship requires that this venture be made. It is only such a bold step that will kill non-co-operation and revive people's faith in co-operation. It is only British Statesmanship which is capable of taking such a step. I only hope that it will rise to the occasion and will save INDIA to the EMPIRE.

G. N. MUJUMDAR,

Member, Bombay Provincial Committee.

Poona City, 29th April 1929.

[Appendix A—contd.]

## APPENDIX D

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*REPORT by Dr. B. R. AMBEDKAR, M.A., Ph.D., D.Sc., Bar-at-Law, M.L.C., Member of the Committee appointed by the Bombay Legislative Council to co-operate with the Statutory Commission containing his views and recommendations regarding changes that should be made in the constitution of the Government of the Bombay Presidency.*

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[Appendix A—*contd.*]

## PREFACE.

I regret that I have not been able to agree in the tenor of the report prepared by my colleagues on the Committee or to accept the more important of the conclusions on the matters falling within the scope of our inquiry. I have therefore submitted this separate report containing my own views and recommendations. The bulk of my report has exceeded that of my colleagues. It might perhaps have been possible, by including in my report nothing more than formal answers to the questions raised, to limit its bulk. But I felt that there was hardly a question to which an answer could be given without some general explanation of the principles on which the answer was based or else the report could not be properly understood. I have therefore set aside all considerations of brevity which would have exposed me to the criticism that the recommendations in the report were not supported by a sufficient amount of reasons and arguments and have allowed the report to grow to the size it has reached.

[Appendix A—contd.]

## APPENDIX D

## SECTION I :

## REDISTRIBUTION OF THE AREA OF THE PROVINCE

1. The area of the Bombay Presidency which extends over 12,23,541 Square miles may be divided into four distinct linguistic divisions: (1) Maharashtra, (2) Gujerat, (3) Karnatak and (4) Sindh. The people of these divisions have been associated together under one administration for a long period. Gujerat, Maharashtra and Karnatak have been parts of the Bombay Presidency for last 110 years, while Sindh was joined to the Presidency 85 years ago. From this Confederacy, Karnatak and Sindh are now demanding that they be separated from the Presidency. The argument urged in favour of separation states that the Province does not represent a natural unit; that not only it does not meet the test of unity of race or language but that it is actually built up by a deliberate fragmentation of homogeneous groups and their amalgamation with other heterogeneous groups. This, it is said, is an evil. For it is urged that the fragmentation involves a smothering of their distinctive cultures, while their amalgamation with other bigger groups makes them politically helpless.

2. In the case of Karnatak this argument has no doubt some force. That Karnatak has been dismembered into various small parts which have been linked up with other non-Karnatak areas for administrative purposes thereby causing a severance is true. Nor can it be gainsaid that the part united with the Presidency of Bombay has politically suffered by being under-represented in the Bombay Legislative Council. Notwithstanding all this, I am opposed to the separation of Karnatak from the Bombay Presidency. The principle of one language one province is too large to be given effect to in practice. The number of provinces that will have to be carved out if the principle is to be carried to its logical conclusion shows in my opinion its unworkability. Nor can it be made workable by confining it to cases "where the language is a distinct cultural language with a past and a future" and "where there exists a strong linguistic consciousness." For the simple reason that every language which has a part if given an opportunity will have a future and every linguistic group of people if they are vested with the powers of government will acquire linguistic consciousness. I am aware that this may involve the sacrifice of Kanarese culture although I am not sure that that would be an inevitable consequence of the continuance of the present arrangement. But even if that be the consequence I do not think it is a matter for regret. For, I am of opinion that the most vital need of the day is to create among the mass of the people the sense of a common nationality the feeling not that they are Indians first and Hindus, Mohamedans or Sindhis and Kanarese afterwards but that they are Indians first and Indians last. If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness. The present heterogeneous character of the province has this much in its favour that it provides a common cycle of participation for a ployplot people which must go a great deal to prevent the growth of this separatist feeling. I think that an arrangement which results in such an advantage should be conserved. I am therefore opposed to the demand of Karnatak for separation.

3. My colleagues have summarily dismissed the claim of Karnatak for separation on the ground that no witness appeared before the conference to support the same. I do not regret it in view of the fact that I and my colleagues agree in our recommendation regarding it. But it is a surprise to me that my colleagues should have in the case of Sindh come to a different conclusion. For I think that as compared to Karnatak Sindh has no case. There can be no two opinions regarding the fact that Sindh has gained substantially by its incorporation in the Bombay Presidency. Having been separated by long distance, Sindh instead of being made a subordinate member of the household has been accorded the superior status of a neighbour associated with on the most honourable terms. In so far as her affairs have been administered by a Commissioner who is next to the Governor, Sindh must be said to have preserved the dignity of her independence. She has been allowed to retain her ancient and customary code of laws. Seldom has she been subjected to any new law passed for the Presidency proper unless the same was deemed to be specially conducive to her benefit. Her tribunals are entirely independent of the tribunals of the Presidency. Her public service is virtually separate from the Presidency public service and is manned by her own people. Her being linked to the Presidency cannot be said to have worked to her financial detriment. On the contrary she has been able to ride on the broad shoulders of the Presidency at a speed which would have been beyond her own capacity. It is her incorporation which has enabled her to draw so largely upon the great resources of this Presidency. Nor can Sindh be said to

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have failed to secure the consideration and attention from the Government which is due to it. Indeed since the introduction of the Reforms Sindh has exercised an influence on the Government of Bombay out of all proportion to its magnitude. Given these facts it is difficult to understand what more is to be gained by separation when Sindh has all the advantages of separation without the disadvantages of incorporation.

4. It is also evident that all the communities of Sindh have not joined in making this demand. The evidence such as was placed before the joint Conference of the Commission and the Committee disclosed a sharp cleavage between the Moslems and the Hindus of Sindh, the former favouring separation and the latter arraying themselves in opposition to it. On an examination of the history of Sindh public opinion regarding this question I find that the politically minded people of Sindh as a body took up the question of the status of Sindh only in 1917. After the announcement of August 1917 the Sindh held a special conference in November 1917 to consider the place of Sindh in the coming Scheme of reforms. The Honourable Mr. G. M. Bhurgri, the leading Mohamedan citizen, of Sindh was the chairman of the Reception Committee, while the President of the Conference was a Hindu gentleman, Mr. Harchandrai Vishindas. The Conference had before it four alternatives namely (1) Formation of Sindh as a separate Province, (2) Sindh and Baluchistan to form one province, (3) Sindh to go with the Punjab and (4) Sindh to remain with Bombay. It is noteworthy that this special Conference turned down three of these four alternatives including the proposal to form Sindh into a separate province. Not only did the Conference reject the proposal of a separate province but in its resolution supported by Hindus and Mohamedans urged for a closer incorporation between Sindh and the Presidency by reducing the position of the Commissioner of Sindh to that of the Divisional Commissioner in the Presidency. The deputation consisting of Hindus and Muslims, which waited upon the Secretary of State, Mr. Montagu, and the Viceroy, Lord Reading, was, it is said, emphatic in its declaration that Sindh did not wish to be a separate Province. The same attitude towards this question was uniformly maintained by members of both the communities at subsequent sessions of the Conference which met in 1918, 1919 and 1920. Since 1920 the question has not been considered by the Conference owing to its being swayed by the movement of non-co-operation. From this survey it is clear that it is the Mohamedans who have changed front and it is they who have departed from an agreed point of view and that the demand far from being a united demand is a sectional demand originating from the Mohamedan Community only.

5. Before any sympathy can be shown to such a sectional demand, one must be satisfied that the purpose for which separation is sought is a proper one. Now although, the Mohamedan deputation which put forth this demand and the Hindu deputation which opposed it, both did their best not to reveal the real object of the demand and the real objection to its fulfilment, all the same those who knew the reality, must have felt that the contending factions had not placed all their cards on the table. But this purpose must be made clear so that it may be considered on its own merits and I propose to do so to the best of my information. On the 20th of March 1927 there were put forth what are known as the "Delhi Muslim Proposals," by prominent members of the Muslim Community as the terms for an *entente cordiale* between Hindus and Muslims. According to these proposals it was demanded (1) that Sindh should be made into a separate Province, (2) that the North-West Frontier Provinces should be treated on the same footing as other provinces and (3) that in the Punjab and Bengal the proportion of Muslim representation should be in accordance with their population. A glance at the above proposals is sufficient to indicate that the object of the scheme is to carve out as many Provinces with a Mohamedan majority as possible out of the existing arrangement. At present Punjab and Bengal are two Provinces with a bare Muslim majority. The proposals by demanding that in those provinces representation should be proportionate to population seeks to make the communal majority of the Muslims a political majority so that a Mohamedan Government will be assured in those provinces. Baluchistan and N.-W. F. Province have an overwhelming Muslim majority. But they are as yet out of the pale of responsible government with the result that the Mohamedan majority is not a ruling majority. The aim of the proposals is to rectify this anomaly so that they will make four Provinces with a Muslim majority with sure chances of forming a Muslim Government. The demand for the formation of Sindh which is predominantly Muslim in numbers into a separate Province is to add a fifth to the list of Muslim provinces contemplated by the scheme. Now what is the purpose behind the formation of these Mohamedan Provinces? In the eyes of the Mohamedans themselves it has the same purpose as communal electorates. For the authors of the scheme say that they are prepared to give up communal electorates and agree to joint electorates in all provincial legislatures and in the Central Legislature provided their proposal of Mohamedan provinces was agreed to. By parity of reasoning

## [Appendix A—contd.]

it follows that the object of carving out Mohamedan Provinces is to protect the Muslim minorities; since that was the object of communal electorates. The scheme on the surface does not show how the creation of Muslim Provinces is going to protect the Muslim minorities against Hindu majorities in Provinces in which the Hindus predominate. Indeed the scheme seems to weaken the position of the Muslim minorities by taking away the protection they receive or believed to receive from communal electorates. But if we probe into it we can see that the scheme is neither so innocent nor so bootless as it appears on the surface. At bottom it is an ingenious contrivance for the protection of Muslim minorities. For if the Hindu majority tyrannized the Muslim minority in the Hindu Provinces the scheme provides a remedy whereby the Mohamedan majorities get a field to tyrannize the Hindu minorities in the five Mohamedan provinces. It is a system of protection by counterblast against blast; terror against terror and eventually tyranny against tyranny. That is the purpose behind the whole scheme and also behind the demand for the separation of Sindh. Lest there should be any doubt on this point I wish to remove it by directing attention to the Report of the Nehru Committee in which they say: "we agree that the Muslim demand for the separation of Sindh was not put forward in the happiest way. It was based on communalism and tacked on irrelevantly to certain other matters with which it had no concern whatever." That the Nehru Committee should have fought shy of disclosing the real grounds of separation is a circumstance which raises the presumption that the purpose as known to the Committee must have been otherwise than laudable. But if we are to consent to it, it is better to know the worst about it. I will therefore raise the curtain and let Maulana Abdul Kalam Azad reveal the same. Addressing the Muslim League at its recent session at Calcutta in a speech which must be admired for its terseness and clarity he said—"That by the Lucknow pact they had sold away their interests. The Delhi proposals of last March opened a door for the first time to the recognition of the real rights of the Muslims in India. Separate electorates by the pact of 1917 only ensured them Muslim representation, but what was vital for the existence of the community was the recognition of its numerical strength. Delhi opened the way to the creation of such a state of affairs as would guarantee to them in the future of India a proper share. Their existing small majority in Bengal and in the Punjab was only the census figure but the Delhi proposals gave them for the first time five provinces of which no less than three (Sind, N.-W.F. and Baluchistan contained a real overwhelming majority. If Muslims did not recognise this great step they were not fit to live (applause). There would be now nine Hindu Provinces against five Muslim Provinces and whatever treatment Hindus accorded in nine provinces Muslims would accord same treatment to Hindus in the five provinces. Was not this a great gain? Was not a new weapon gained for the assertion of Muslim rights?" (*Hindustan Times*, 3rd January 1928). No one who is not interested in misunderstanding the plain meaning of simple English can mistake the real purpose of the demand for the separation of Sind. It is obvious that the real purpose has very little to do with the destiny of Sind. It is part of a larger scheme designed for the protection of Muslim minorities and is based upon the principle that the best way of keeping peace is to be prepared for war.

6. Knowing the real purpose of the demand the question is should it be sympathised with? I, for one am unable to sympathize with it and no person I venture to say who has at heart the interests of good administration will consent to it. It will no doubt be said as is done by the Nehru Committee which has expressed itself in favour of separation that "the manner of putting it forward does not necessarily weaken the merits of a proposal." I take exception to this position. I hold that the manner discloses the motive and that motive, far from being a small matter, is important enough to change the face of the situation. For it cannot be gainsaid that the main force which sets an institution in motion and also fixes its direction centres round the motive which brings the institution into being. The motive that lies behind this scheme is undoubtedly a dreadful one involving the maintenance of justice and peace by retaliation and providing an opportunity for the punishment of an innocent minority, Hindu in Mohamedan provinces and Mohamedan in Hindu provinces, for the sins of their co-religionists in other provinces. A system must stand self-condemned which permits minorities to be treated in their own provinces as hostages rather than as citizens, whose rights are subject to forfeiture, not for any bad behaviour chargeable to them but as a corrective for the bad behaviour of their kindred elsewhere. And who can say that the grievance leading to such a forfeiture will always be just and substantial? As often as not, a grievance is one at which one merely feels aggrieved so that any act be it great or trivial against a minority may be made to serve as a *casus belli* for a war between the Provinces. The consequences of such a scheme are too frightful to be contemplated with equanimity. That the Hindus get the same chance to tyrannize the Moslems in Hindu Provinces does



## [Appendix A—contd.]

not alter for the better the character of the scheme which contains within itself the seeds of discord and disruption. The scheme is so shocking that if the Mohamedans cannot feel secure without it I for one would prefer that Swaraj be deferred till mutual trust has assured them that they can do without it. The Nehru Committee argues that "a long succession of events in history is responsible for the distribution of the population of India as it is to-day"—and that in creating communal provinces "we have merely to recognize facts as they are." This is no doubt true. But the point remains whether we should create such admittedly communal provinces at a time when the communal feeling is running at full tide and the national feeling is running at its lowest ebb. There would be time for creating such provinces when the Hindus and Mohamedans have outgrown their communal consciousness and have come to feel that they are Indians first and Indians last. At any rate this question should wait till both have come to feel that they are Indians first and Hindus and Mohamedans afterwards. On these grounds I dissociate myself from the sympathy shown by my colleagues towards the question of the separation of Sindh.

7. It will be noticed that I say nothing about the financial difficulties that lie in the way of separating Sindh from the Presidency. That is not because I do not attach importance to them. I do. But my view is that they alone cannot be decisive and if I have not alluded to them it is because I hold that the objections which I have raised to the separation of Sindh will survive, even when the financial objections are met or withdrawn.

## SECTION II

## PROVINCIAL EXECUTIVE

## CHAPTER 1

## DUAL VERSUS UNIFIED GOVERNMENT

8. My colleagues have recommended that the subject of law and order should be continued as a reserved subject for five years after the new regime has come into operation. I would not have cared to differ from my colleagues if their recommendation had involved nothing more than a short period of waiting to allow the Council an opportunity of settling down to its work. But unfortunately their recommendation involves more than this and is accompanied by a proviso that "after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House and of the Governor to decide that the subject should be transferred." I am unable to agree to this recommendation which means the continuance of dyarchy for an indefinite period. Such a recommendation cannot be supported except on the assumption that Dyarchy is a workable system of Government and that as it has been successfully worked in the past it can be expected to work in future. This assumption is in my opinion quite untenable.

9. Many things have been pointed out as being responsible for the unsatisfactory working of dyarchy as a form of Government. It is true that the Transferred Side of the Government was hampered by certain checks which were introduced by way of safeguards. The subjects transferred to the control of the ministers all related to the well being of the people, as distinguished from subjects relating to the maintenance of law and order. Indeed the subjects were transferred largely because they were of that character. As a matter of policy, therefore, the finances of the Presidency should have been in the hands of a minister. For it is obvious that no policy has any chance of reaching fruition unless the Finance Department found the ways and means required for the same. This could be expected of the Finance Department only if it belonged to the Ministerial side of the Government. But it did not. Section 45A (3) provided for the constitution by rules under the Act of a finance department and for the regulation of the functions of that department. The department as constituted is neither a Transferred nor a Reserved one but was common to both sides of the Government. Yet as rule 36 (1) of the Devolution rules laid down that the Finance Department should be controlled by a member of the Executive Council, that department was virtually converted into a Reserved department. Having been placed into the hands of the Executive Councillor, not responsible to the legislature, it is only natural that the department should be on the Reserved side and the head of the department more or less identified with the work of the reserved departments to the disadvantage of the Ministers. The

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position assigned to the Governor in relation to the Transferred subjects was another factor which worked to the detriment of the transferred side of the Government. Under section 52 (3) it was laid down that in relation to the transferred subjects the Governor shall be guided by the advice of his ministers, unless he sees sufficient reason to dissent from their opinion. But the common complaint has been that the Governors instead of reducing their interference to exceptional occasions of fundamental difference claimed that in law the ministers were merely their advisers and they were free to reject their advice if they thought fit to do so. This perverse interpretation made the position of the ministers worse than the position of the Executive Councillors. For, the Executive Councillors could not be overruled in ordinary cases except by a majority of votes. While under the interpretation put by the Governors upon section 52 (3) Ministers were at the mercy of the Governor and were without the protection enjoyed by the Executive Councillors. There was another thing which also helped the aggrandizement of the powers of the Governors as against the ministers and which tended to cripple the activity of the latter. The Instrument of Instructions issued to the Governors charged him to safeguard the interests of all members of the services employed in the Presidency in the legitimate exercise of their function and in the enjoyment of all their recognised rights and privileges. The duty was confined only to the question of the safeguarding of the interests of the services. But the Governors placed a wider interpretation on this instruction and insisted that all matters relating to the services including the question of their appointments, posting and promotions in the Minister's department should be under the charge of the Governors. In Bombay the Governor claimed this right even with regard to the services functioning under the Executive Councillors and to make it known that the Governor has this power, the ordinary form "the Governor in Council is pleased to appoint" was changed to "Governor is pleased to appoint". The position assigned to the Secretary of a ministerial department also helped to weaken the authority of the minister and to increase the autocracy of the Governor. For, in all cases, where the Secretary differed from the decision of the ministers, he was permitted to approach the Governor over the head of his political chief and get his decision altered by the fiat of the Governor.

10. All this undoubtedly had an adverse effect on the satisfactory working of dyarchy. But what I wish to guard against is the inference often drawn that in the absence of these factors dyarchy could have been a workable system of Government. For I maintain that dyarchy is in itself an unworkable system of Government. Fortunately for me I am not alone in holding this opinion. The Government of Bombay, some members of which individually support the continuance of the system of dyarchy, has itself condemned it in 1919, as an unworkable system in words which are worth quoting: "A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any of the departments of Government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the Minister in charge of any of the departments suggested for transfer . . . . will involve a reference to the authorities in charge of the reserved departments . . . . there are few, if any, subjects on which they (the functions of the two portions of the Government) do not overlap. Consequently the theory that, in case of a transferred subject in charge of a Minister, it will be possible to dispose it off without reference to departments of Government concerned with the control of reserved subjects is largely without foundation."

11. The dualism due to division of subjects is but one of the inherent defects which makes dyarchy unworkable. There is also another. Under it it is not possible for the Executive to act as an unified body with a common policy. Such a unity can be secured only by a common allegiance arising out of a common mandate. Ministers who are appointed from the legislature are bound to feel a real obligation towards that body: that indeed is the reason why they are appointed and they would not serve their intended purpose unless they felt such obligation. But every link that binds them to the legislature works only to separate them from their official colleagues with the result that the dualism inherent in dyarchy tends to come to the surface. Once this dualism has established itself between the two halves of government—and the many instances in which Ministers and Executive Councillors have opposed each other by speech and vote in open Council prove its possibility—government must become impossible. This dualism in dyarchy is kept in check by a coalition. But this coalition is a forced and artificial union between

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two parties with totally different mandates and can easily lead to an impasse. That such an impasse has not occurred in the Bombay Presidency does not negative this inherent defect in dyarchy. It only throws in clear relief that in this coalition the ministers had surrendered themselves to the Councillors.

12. Notwithstanding these inherent defects there are people who hold that dyarchy has been successfully worked in this Presidency. That view can be agreed to only if it means that the Governor was not obliged to suspend the constitution or to bring into operation the emergency powers given to him by the Government of India Act. This is true. But the question is not whether dyarchy worked. The question is whether it worked as a responsible form of Government. For it must not be overlooked that in 1919 there were many other alternative forms of Government competing with dyarchy for acceptance. There was the Congress League Scheme and there was the Scheme by heads of the Provinces, to mention no others. But all these schemes were rejected in preference to dyarchy because they failed to satisfy the tests of responsible government. Any estimate of the working of the dyarchical system of Government must therefore be based upon that supreme consideration alone. If we bear this fact in mind and then attempt to evaluate the working of dyarchy, the conclusion that in this province dyarchy has been a failure is beyond dispute. Responsible government means, that the Executive continues to be in office only so long as it commands a majority in the House. That is the essence of the doctrine of ministerial responsibility. Now if we apply this test to the working of dyarchy in the Bombay Presidency and take into account the occasions on which the Council divided on motions relating to the transferred subjects, we find a most unedifying spectacle that the ministers have been defeated time and again on the floor of the House and yet they have continued in office as though nothing had happened. This lamentable tale is told by the following table:—

Year	Total No. of divisions	No. of divisions in which Govt. were neutral	No. of Govt. defeats	No. of Govt. defeats if official block is eliminated	No. of Govt. successes	No. of ties
1921	3	..	2	2	1	..
1922	17	..	4	8	9	..
1923	4	1	1	2	1	..
1924	19	..	10	14	5	1
1925	30	1	..	11	18	..
1926	3	..	..	1	2	1
1927	26	..	3	10	16	..
1928	2	..	1	1	1	..

These figures show that in 1921 out of three divisions the ministers were defeated on two; in 1922 out of 17 on 8; in 1924 out of 19 on 14; in 1925 out of 30 on 11; in 1926 out of 3 on 1; in 1927 out of 26 on 10; in 1928 out of 2 on 1. Notwithstanding this there has never been a case in this Presidency of a minister having resigned. With these facts before us it is impossible to agree to any conclusion which implies that dyarchy has worked as a responsible system of Government.

13. It is of course open to argument that if the ministers did not resign it is because the Council did not intend by these divisions to indicate want of confidence; otherwise it would have refused supplies to the ministers whom it had discredited by its adverse vote. That the Bombay Legislative Council was too effete to impose its will effectively upon the ministers is a fact too well known to need mention. Its division into cliques and factions, its vicious way of following men rather than principles, made it a toy in the hands of the executive, so much so, that the House as a whole failed to exercise even the selective function which any popular House conscious of its power is expected to fulfil. Any popular House, however dominated by the executive, will not tolerate the candidature of any member of the House for office unless he shows that he has some power of speech, some dexterity in the handling of a subject, some readiness of reply and above all some definite vision which can constitute the basis of a rational policy of social and economical betterment. Even in England where the dominance of the cabinet is as complete as it

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could be, no Prime Minister in filling the subordinate offices of Government will choose men who have not shown themselves acceptable to the House of Commons. The Legislative Council of Bombay was incapable even of this, with the result that the choice for political office did not always fall on the best man available. But supposing that the Council being better organised, had imposed its will more effectively on the executive. What would have been the result? Would it have made dyarchy work as a responsible form of Government? My answer is emphatically in the negative. For, any effective action on the part of the legislature against the Executive can produce only one result, namely it will lead to the use by the Governor of the emergency powers of suspension and certification, which are entrusted to him under the Act. That this is the inevitable result of strong action on the part of the legislature is the testimony of all provinces where the constitution has been suspended. But to admit this is to admit that the moment the Council begins to assert its power to the fullest extent dyarchy must crumble unless backed by the emergency powers of the Governor. It is therefore obvious that in either case dyarchy fails. It fails by the inaction of the legislature as in the Bombay Presidency. It fails as much by the action of legislature as in Central Provinces. In the one case by reason of the weakness of the legislature the executive gets the freedom to be irresponsible. In the other case the legislature by force of action compels the Governor to keep into being an irresponsible executive.

14. Many have suggested that dyarchy would have worked better if the Governor had chosen to conduct himself as a constitutional head in accordance with the provisions of section 52 (3) and the advice given by the Joint Parliamentary Committee. I do not share this view. First of all there is no foundation of facts to support the contention that the Governor was bound to act as a constitutional head. It is often forgotten that though the dyarchical form of government was selected as being a responsible form of government implying that the Governor in relation to the ministers was to be a constitutional head, yet the Joint Report made it quite clear that he was not to be reduced to that position. They expressly stated "We do not contemplate that from the outset the governor should occupy the position of a purely constitutional governor who is bound to accept the decision of his ministers. We reserve to him the power of control because we regard him as generally responsible for his administration". Nor did the Joint Parliamentary Committee recommend that he should work as a constitutional governor. The Committee distinctly stated in paragraph 5 of their Report that the Ministers will be assisted and guided by the governor who will accept their advice and promote their policy *whenever possible*. This is far from saying that the Committee intended him to function as a constitutional head. Indeed such an intention would be inconsistent with the provisions of the Act under which the governor's dictatorial powers were expressly reserved and nothing that it said in the Joint Report or in the Report of the Parliamentary Committee nullifies their use; so that if the governor has himself governed and has not allowed the ministers to govern through him it is no fault of his. But granting that the governor should have acted as a constitutional head, the question again is, would it have made dyarchy workable as responsible form of government? My answer to this question is also in the negative. For, as I see the situation if you take away the power of the Governor and make him a constitutional head, you thereby expose the existence of the reserved side of the Government to an attack from a popularly elected chamber. From this peril the reserved-side deprived of the protection of the Governor has only one escape and that is to consent to be ruled by the wishes of the Council. In other words if you remove them from the lap of the governor, you have no other alternative except to place them on the same footing as the transferred side. But this is only another way of stating that if the desire is to reduce the position of the Governor to that of a Constitutional head you must first put an end to dyarchy.

15. So far I have argued against the view that dyarchy is not a system which is made unworkable by certain other factors and in support of the view that owing to its inherent defects, it is not only unworkable but it is incapable of being worked as a responsible form of a government. Of course dyarchy with complete dualism involving the functioning of two separate governments and two separate legislatures, in one the legislature is subordinate to the executive, and in the other the executive is subordinate to the legislature, is free from the criticism which has been urged above against the system of dyarchy-with-dualism such as is in operation. But the alternative of dyarchy with dualism was rejected by the Government of India in 1919 and is open to the same objections which apply to the system of government that was established by the Morley-Minto Reforms and which have never been so forcibly voiced as in the Montagu-Chelmsford Report. A return to such a system at this stage in the evolution of

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political life in India is unthinkable and I therefore refrain from saying anything on a possible recourse to such a system. The only alternative left is to discontinue dyarchy and transfer all subjects to the control of the ministers.

16. So far the general grounds of my opposition to the recommendations of my colleagues who have given their sanction to the continuance of dyarchy have been stated. I now proceed to state my grounds of objection to the continued reservation of the particular subject, namely law and order. The principal reason urged against the transfer of law and order to the charge of a minister is that being subject to the wishes of the electorates and being removable by an adverse vote of the Council the minister will not be able to administer the department impartially. The inevitable consequence of such a situation, it is feared, will be that the services working in the administration of that department will be placed in a false position. Never knowing when they will be supported and when they will be censured, the uncertainty will paralyse their action to the grave detriment of peace and good government. It is further urged that in view of the series of Hindu-Moslem riots which have, of late, become so very common we ought not to transfer law and order to the control of a minister who is subject to the vagaries of public opinion and who is likely to be swayed by communal prejudices, Hindu or Moslem.

17. To be frank this argument has produced no effect upon me although my colleagues seem to have been considerably impressed by it. It is one of the stock arguments of bureaucracy. To admit its force is to accept that bureaucratic government is the best form of government. Unfortunately bureaucratic government has been known to India too long for anybody to be deceived by any such argument. It is so extravagant that its acceptance would involve the negation of all responsible government. Whatever its antecedents, responsible government, it must be recognized, has come to stay in India. Any change time can bring along with it must be in the direction of expansion of the principle. Any plan therefore which hinders the broadening of this basic principle must create a serious conflict between the Government and the people. Nor does it appear to me that there exists any ground why we should needlessly give rise to such a conflict by acting upon the bureaucratic argument. For, in my opinion, the fear that the ministers will succumb to the clamour of their followers in the house or that their followers will be malevolent in their attitude is not backed by experience and in so far as it is, it does them a great injustice. The suspension of the Local Boards and Municipalities which had been captured by the non-co-operators in 1922 at a time when Mr. Gandhi was in the plenitude of his power give us hope to say that ministers can be trusted to act independently of the wishes of the electorates when such an action is demanded of them. Members of Government will I am sure testify that the Bombay Legislative Council has invariably acted with the necessary restraint which conscientiousness of responsibility always brings with it. But even if one is compelled to admit that the House may not keep itself unruffled on occasions of communal feeling and communal clash this is no argument against transfer. For, one may point out in reply that no community whatever its attitude towards another has any vested interest in disorder such as will induce its accredited representatives to be so irresponsible as to lead them to work against peace and goodwill. The fear therefore which operates on the mind of those who support the reservation of law and order is merely the fear of the unseen, unknown and the untried. My colleagues in not recommending the transfer are no doubt adopting a most cautious course. But I am not certain that they are thereby following the wisest course. For, there is such a thing as too much caution which prohibits the liberty to make an experiment which the wisest course must demand in order to find out whether or not the fear is real. The very same fear of the unknown which is now urged against the transfer of law and order was urged in 1919 against the transfer of the subjects now entrusted to the control of the ministers. But they were all brushed aside by the Secretary of State and the Government of India who both consented to take the leap in the dark. I prefer to adopt the same course with respect to law and order.

18. But there is another reason why if we are to make the experiment it is wise that we should make it without delay. It is obvious that the transfer of a subject brings in its wake an increase in the number of Indians employed in the services. It is possible that the Indians might be less efficient, at any rate, less experienced than the European members of the staff. To postpone the transfer of law and order is therefore to increase the dangers incident upon every transitional stage. Consequently, it is much the safest to take the step at once and emerge through that stage while the experienced trained civil servants, who could be relied upon to loyally assist in working the new constitution with as little dislocation as possible, are still with us. Fortunately for me this suggestion

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comes from a very important authority, in fact it comes from an experienced civil servant, who supplied his views in a note to Mr. Barker who has reproduced the same in his book on the "*Future of Government of India and the I.C.S.*"

"I propose to state," says Mr. Barker, "the lines of such criticism, as it is advanced in a Note written by an experienced civil servant. . . . In the first place it is urged by the author of the Note that the maintenance of law and order, and matters concerned with land revenue and tenancy rights, ought to be transferred." "These departments," he urges, "are administered under Government by the strongest and most able branch of all the services in India—the Indian Civil Service. The principles of their administration have long been laid down, and are well understood. The Service has great tradition behind it which will ensure that that administration will get the best assistance and most outspoken advice. . . . It is admitted that the people of India are quiet and easily governed people, though occasionally liable to excitement over things affecting their caste or religion. The task of maintaining law and order is not therefore a very difficult one. . . . the argument that land revenue and tenancy questions affect the interest of the masses rather than of the classes who will be represented in the Legislature (and therefore, on the fifth of the canons mentioned above, should not be transferred) is absolutely inconsistent with the franchise and electorate scheme which has been put forward for the Provinces. . . . The convinced advocate of the compartmental system who is afraid to transfer some at any rate of the departments concerned with law and order and with revenue administration admits that he is afraid of his own scheme. I, though I am not an advocate of dyarchy, should not be afraid to make the experiment, because I should hope to find among the Ministers that common sense, goodwill, and forbearance which are essential to the success of any scheme, dyarchical or not."

19. I quite realize the anxiety of the minorities in respect of the transfer of law and order. But it is somewhat difficult to understand how they expect to gain by its reservation. There will be no difference between a bureaucrat in charge of law and order and a minister from the standpoint of personal bias if the bureaucrat is to be an Indian. If he is to be an European, then the most that can be said of him is that he will be a neutral person. But this is hardly an advantage. For, there is no guarantee that a neutral person will also be an impartial person. On the contrary a person who is neutral has also his interests and his prejudices and when he has no such interest he is likely to be ignorant. The European persona of the bureaucrat is therefore a doubtful advantage to the minorities who are anxious for the reservation of law and order. What however passes my comprehension is the failure of some of the representatives of the minorities to realize the great advantage which the ministerial system gives them as against the bureaucratic regime. For the best guarantee which the minorities can have for their own protection is power to control the actions of the executive. The bureaucratic system is impervious to this control. If it protects the minorities it is because it likes to do so. But if on any occasion it chooses not to take action the minorities have no remedy. In other words, a minister can be dictated to; but a bureaucrat may not even be advised. This it seems to me is a vital difference between the regime of the bureaucrat and the regime of the minister. Personally myself, I do not see how the minorities will lose by the transfer of law and order and I say this, although I belong to a minority whose members are treated worse than human beings. My view is that in a Legislature where minorities are adequately represented, it is to their advantage that law and order should be transferred. For, such transfer gives *them* the power of control over the administration of the subject which is denied to them under reservation. I think the minorities should consider seriously whether there is not sufficient truth in the statement that a rogue does better under the master's eye than an honest man unwatched; and if they do, I think they will realize that they can with good reason prefer inferior officers, over whom they can exercise an influence, to the most exemplary of mankind entirely free from such responsibility.

20. There is however another and a more important reason why Minorities prefer reservation to transfer. It is because their representation in the Legislature is so small as to make them inconsequential. From the standpoint of the minorities, the choice obviously is between reservation and no-representation on the one hand and transfer and adequate representation on the other. Here again the second alternative must be deemed to be more beneficial than the first. It would therefore be more in the interest of the minorities to insist on adequate representation than to persist in opposing the transfer of law and order. But, if the fear of mal-administration in the department of law and order to the prejudice of the minorities cannot be allayed by the grant of adequate representation to the minorities, I am prepared to add a proviso to my recommendation to the effect that if a minority of say 40 per cent. in the legislative council

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should decide by a vote that law and order be a reserved subject, it shall then be withdrawn from the list of transferred subjects. I make the proposal in preference to that of the Majority, because I hold that some day the subject shall have to be transferred if the principle of responsible government laid down in the Pronouncement of 20th August 1917 is to be made good and that the proposal while it does not come in the way of giving effect to it immediately it does not preclude the possibility of cancelling the transfer, if experience shows that the fears entertained about it are well founded.

## CHAPTER 2

## THE EXECUTIVE IN WORKING

21. The introduction of a unified government based on ministerial responsibility gives rise to four important questions. Of these the first pertains to the stability of the executive, the second to communal representation in the Executive, the third to the enforcement of the responsibility of the executive and the fourth to the mutual relation among the members of the Executive.

22. Regarding the first question it is said that owing to the communal bias of the members of the legislature the legislature is bound to be composed of groups. With attachment to community more pronounced than loyalty to principles, the ministry may find itself resting on uncertain foundation of communal allegiance measured out in proportion to communal advantage so that if communities choose to transfer their allegiance according to their will and without reference to principles ministries may crumble as soon as they are formed. To prevent such an evil it is proposed that the ministry might be formed from a panel of men chosen by the various groups in the Council and once it is formed it should be made irremovable during the lifetime of the Council. I recognise that the fear of an unstable executive may come true. But I do not think that it calls for a remedy or a remedy of the kind suggested. India is not the only country with the group tendency manifesting itself in the Legislature. The French Chamber of Deputies is a more glaring instance of the group tendency involving frequent disruption of the ministries. All the same the French have felt that the situation, bad as it is, is not so intolerable as to call for a remedy. But assuming that what is anticipated comes true and the situation becomes intolerable, I am convinced that the remedy is not the right one. That the remedy will immensely weaken the responsibility of the ministers is beyond dispute. What, however, I am afraid of, is that the scheme instead of making for the coalescence of the groups will only serve to harden and perpetuate them; so that the remedy far from curing the disease will only aggravate it. The true remedy appears to me to lie along the line of reconstruction of the existing electorates.

23. I am totally opposed to the recognition of communal representation in the executive of the country. Under it, the disease will break out in its worst form in a most vital organ of the governmental machinery. It will be a dyarchy or triarchy depending upon the number of communities that will have to be recognized as being entitled to representation in the cabinet. It will no doubt be a communal dyarchy somewhat different from the political dyarchy which we have to-day. But that will not make it better than political dyarchy. The defects inherent in the one are inherent in the other and if the aim of constitutional reconstruction is a unified government, dyarchy in its communal form must be as summarily rejected as dyarchy in its political form. Indeed there is greater reason for the rejection of communal dyarchy than there is for the rejection of political dyarchy. For under political dyarchy the possibility of a Government based on principle exists. But communal dyarchy is sure to result in a Government based on class ideology.

24. It is a cardinal principle of the constitutional law of Great Britain and the self-governing Dominions that every minister is amenable to the Law Courts. Indeed it is owing to this wise principle that British subjects at home and in the Dominions are secure in person and property against ministerial wrong doing. India alone stands in strange contrast with Great Britain and the Dominions in the matter of legal responsibility of the executive for illegal acts. During the course of a bitter conflict between the judiciary headed by Sir Iltajah Impey and the Executive backed by Warren Hastings, the Executive in India as early as 1780 secured for itself immunity from the control of the Courts. That immunity has been continued to it ever since and now finds its place in sections 110 and 111 of the Government of India Act. Such an immunity was tolerated because it was local and not general. For it was provided that members of the Executive who could not be prosecuted in India were liable to prosecution in England for illegal acts done in India. This system of accountability if it was remote

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was nonetheless efficacious because under the old regime almost every member of the Executive by reason of the fact that he was a European returned to England. The composition of the Executive has now undergone a change. It is largely Indian in personnel and as the chances of any one of them going to England are so rare their liability can never in fact be enforced. The situation as it now stands provides no remedy either immediate or remote against wrongful acts of ministers. To allow the situation to continue, is to destroy the very basis of constitutional government. I therefore recommend that sections 110 and 111 of the Government of India Act should be amended so as to allow all British subjects whether Indian or European the right to resort to the Courts in respect of illegal acts ordered by ministers. Such a change in the law was urged in 1919 in respect of ministers. But it was not then accepted because its acceptance, it was thought, would introduce an invidious distinction between Ministers and Executive Councillors. With the introduction of full responsible government in the Provinces, this objection does not survive.

25. I hold so strongly to the view of enforcing legal responsibility of ministers for illegal acts that I propose that the constitution should provide for the constitution of a tribunal composed of the Legislature or partly of the Legislature and partly of the Judiciary before which ministers may be impeached for acts unlawful in themselves or acts prejudicial to the national welfare. I am aware that owing to the introduction of ministerial responsibility impeachment has fallen into disuse. But I feel that ministerial responsibility in India is only in the making and until the Legislature and the Executive have become conscious of its implications it is better to provide a more direct means of curbing the extravagances of power in the hands of men who are unused to it and who may be led to abuse it by excessive loyalty to caste and creed. A safeguard is never superfluous because it is not often invoked.

26. In determining the relationship between the members of the executive—whether each should be liable for his acts only or whether each should be liable for the acts of all, in other words, whether the liability should be individual or joint—is a question on which no one can dogmatise. All the same I am for joint responsibility. I am aware that under it the Legislature is practically helpless in the matter of punishing a delinquent minister. With joint responsibility the legislature will not be able to dismiss a minister of whose acts it disapproves; it will not be in position even formally to censure him, unless it is prepared to get rid of his colleagues as well. This no legislature functioning with a parliamentary executive dare do. For if it does, and overthrows the executive the executive will also overthrow the Legislature by asking for a dissolution. Notwithstanding this defect, I am in favour of joint responsibility and for two reasons. In a modern state the function of the executive as an administering body applying legislation has become a secondary function. Its main function is to determine policy and submit proposals to the Legislature. Indeed so necessary is the function that the usefulness of the Legislatures would be considerably diminished if the executive failed to perform it. But in order that the executive may perform the function of policy-making, there must be a unity of outlook among its members. Such a unity of outlook will not be possible without complete coherence in the executive. Joint responsibility, it appears to me, can alone ensure such coherence. Second reason why I recommend joint responsibility is because I fear that the principle of individual responsibility will never permit the growth of a common political platform transcending the boundaries of caste and creed. It will perpetuate groups and the Presidency will for ever be condemned to a rule of Government by Coalition of groups which by their readiness to form new combinations, will plague the administration with instability and which by their preference for a policy of manœuvres to a policy of ideas, will fatally affect the integrity of the work of the administration. Under joint responsibility although a party may be a collocation of units of varying views yet members of each unit, not only shall be forced to do the best they can to formulate a unified policy but will be compelled to be bound by it. The habit of submitting to a party programme which is wider than the group programme will furnish a kind of education, the need of which must be keenly felt by all who know the conditions of India.

27. How to secure joint responsibility is a matter of some importance. To do it by express terms of law will leave no liberty either to the Head of the administration or the Legislature to dismiss a minister without dismissing the whole of the executive. It is therefore better to leave it to convention. The question how to make the convention operative still remains. It seems to me that if, instead of the Governor choosing the ministers, the task was entrusted to one of the ministers to choose his colleagues, a cabinet so formed is bound to function on the basis of joint responsibility and would yet leave room for getting rid of an individual minister without changing the whole



[Appendix A—*contd.*]

personnel of the government. I therefore suggest that the Governor should be instructed not to undertake directly the task of appointing individual ministers but to choose a chief minister and leave to him the work of forming a government.

28. My colleagues have recommended that there should be 7 ministers to take charge of the administration of the Presidency. I am unable to concur in the recommendation in so far as it fixes the number of ministers. It may be that the future government of the Presidency might be able to do with less than 7 or may feel the necessity for having more than 7 to make no mention of having to appoint ministers without portfolios for satisfying the personal ambition of members of the Legislature without whose support it may not be possible to carry on the government of the Province. Under these circumstances the wisest course seems to me to leave the question of the number of ministers open to be determined by the Legislature of the day.

## CHAPTER 3

## THE POSITION AND POWERS OF THE GOVERNOR

29. Under the existing constitution the Governor of a Province does not occupy a well defined position. He has not the position of a constitutional head representing the Crown in the Province without any responsibility for the government of the Province. Nor is his position such as to invest him with a complete direction of the affairs of the Province. His position partakes of both. Such a position for the Governor which makes him play the double role of an autocrat and a constitutional head is not a very happy position either from the standpoint of the Governor or from the standpoint of smooth working of the governmental machine. Whatever the nature of the difficulties of the position of a Governor was made to occupy it was quite consistent with the type of the constitution that was introduced in 1919. As the constitution did not grant full responsible government the Governor was naturally not reduced to the position of a constitutional head. On the other hand as the direction of the affairs of the Province was in some departments at any rate, transferred to responsible ministers, the Governor was not permitted to retain his former position as an irresponsible head. The change in the position of the Governor was thus based on an intelligent principle of reducing the executive powers of the Governor in direct ratio to the advance made towards responsible government. Following the logic of the principle laid down in 1919, of making the position of the Governor to accord with the transfer of responsibility, I recommend that the Governor of the Province should be reduced to the position of a constitutional head. Indeed no other position for the Governor can be thought of, which will be compatible with the system of full responsible government.

30. Regarding his powers he shall have in his capacity as representing the Crown in the Executive of the Province the power to make appointments to the cabinet. In the same capacity, he will have the ultimate power of giving or refusing sanction, to any order proposed by the minister in any matter pertaining to any branch of the Administration. As representing the Crown in the Legislature he will have in dealing with Bills passed by the Council the power (1) to assent, (2) to reserve assent pending signification of His Majesty's pleasure and (3) to refuse assent.

31. The exercise of these powers given to the Governor must of course be made conditional upon the formula that it must be with the advice of ministers responsible to the Legislature. This does not mean that he will not have the discretion to disagree with his ministers. Far from that being the case, he will retain the liberty not merely to tell his ministers that he does not approve of their policy but actually to dismiss the ministers who persist in a policy to which he is opposed. For there cannot be any obligation on a constitutional head compelling him to follow a minister responsible to a Legislature. The essence of his obligation is to follow the general wish of the electors and if he appears to follow the minister it is because a minister is supposed to represent the will of the electors. But there may be occasions when he may have reasons to doubt that the minister correctly represents the will of the general electorate. Consequently not only do the constitutions of all responsible governments recognise this possibility but they actually provide him with all possible means of ascertaining what the will of the electorate is. For that purpose the constitution of every responsible government permits the Governor to dismiss the ministers and appoint others who agree with him in the hope that the Legislature will support them. If the Legislature refuses support to the new ministers, the constitutions of all responsible governments permit him another resource that of an appeal to the electorate in the hope that they might support him. These resources the Governor of the Province must be allowed. But it is also necessary

## [Appendix A—contd.]

to bear in mind that no constitution gives him larger powers than these. If after the ascertainment of the will of the electorates, it is found that the decision has gone against him the constitution of every responsible government leaves him no other alternative but to yield, abdicate or fight. The Governor of a Province must be content with these resources. Under no circumstances can he have independent powers of action such as he has under the present constitution to certify measures not passed by the Legislature, sanction expenditure refused by the legislature or suspend the constitution by dismissing the ministers and assuming the direction of affairs himself. What is necessary therefore for making the Governor a constitutional head is to take away his powers of certification and suspension and thus make it impossible for him to act independently of ministers responsible to the legislature.

32. The precise language of the Section in which the obligation of the Governor to act on the advice of the minister is a matter of some moment. Section 52 (3) which deals with this seems to be too vaguely worded. It is too indefinitely worded to secure the desired end. Instead of stating that the Governor shall act on the advice of his ministers it would be better if the Section stated that no order of the Governor shall be valid unless it is countersigned by a minister. The obligatory force of such language is obvious. Accordingly I recommend such a change in the language of the Section.

33. Along with the definition of the powers of the Governor, the place of the Governor in the Executive must also be defined. Being relieved from the responsibility for the direction of affairs, the function of the Governor becomes supervisory rather than executive. His main business will be to see that those on whom the responsibility will now fall do not infringe the principles enunciated in the constitution for their guidance. In order that he may perform this function, he must be independent of local politics. That independence is absolutely essential to unprejudiced supervision. The best way of keeping him independent is to keep him away from the executive. Nothing will undermine public confidence in his impartial judgment so much as a direct participation by the Governor in political controversies. Nor can it be doubted that his association in the public mind with the controversies between the Legislature and the Executive will have any other result. If the Governor is to discharge his functions in a manner that will be regarded as fair it is very important that he must be above party. For that purpose he must be emancipated from the Executive as he has been disassociated from the Legislature. I therefore recommend that it should be provided that the Governor shall not be a part of the Executive nor shall he have the right to preside over it. The meetings of the Executive shall be summoned and presided over by the Prime Minister without any intervention of the Governor.

## SECTION III

## PROVINCIAL LEGISLATURES

## CHAPTER 1

## FRANCHISE

34. My colleagues have recommended that the franchise in urban areas should remain, as it is and that in rural areas the land revenue assessment should be halved. I am unable to agree to this. My colleagues have treated the question of franchise as though it was a question of favour rather than of right. I think that such a view is too dangerous to be accepted as the basis of political society in any country. For if the conception of a right to representation is to be dismissed as irrelevant; if a moral claim to representation is to be deemed as nothing but a metaphysical or sentimental abstraction; if franchise is considered a privilege to be given or withheld by those in political power according to their own estimate of the use likely to be made of it, then it is manifest that the political emancipation of the unfranchised will be entirely at the mercy of those that are enfranchised. To accept such a conclusion is to accept that slavery is no wrong. For, slavery too involves the hypothesis that men have no right but what those in power choose to give them. A theory which leads to such a conclusion must be deemed to be fatal to any form of popular Government and as such I reject it *in toto*.

35. My colleagues look upon the question of franchise as though it was nothing but a question of competency to put into a ballot box a piece of paper with a number of names written thereon. Otherwise they would not have insisted upon literacy as a criterion for the extension of the franchise. Such a view of the franchise is undoubtedly superficial and involves a total misunderstanding of what it stands for. If the majority had before its mind the true conception of what franchise means they would have realised that franchise, far from being a transaction concerned with the marking of the ballot paper, "stands for direct and active participation in the regulation of the terms upon which associated life shall be sustained and the permit of good carried on." Once this conception

## [Appendix A—contd.]

of franchise is admitted, it would follow that franchise is due to every adult who is not a lunatic. For, associated life is shared by every individual and as every individual is affected by its consequences, every individual must have the right to settle its terms. From the same premises it would further follow that the poorer the individual the greater the necessity of enfranchising him. For, in every society based on private property the terms of associated life as between owners and workers are from the start set against the workers. If the welfare of the worker is to be guaranteed from being menaced by the owners the terms of their associated life must be constantly resettled. But this can hardly be done unless the franchise is disassociated from property and extended to all propertyless adults. It is therefore clear that judged from either point of view the conclusion in favour of adult suffrage is irresistible. I accept that conclusion and recommend that the franchise should be extended to all adults, male and female, above the age of 21.

36. Political justice is not the only ground for the introduction of adult suffrage. Even political expediency favours its introduction. One of the reasons why minorities like the Mohamedan insist upon communal electorates is the fear that in a system of joint electorates the voters of the majority community would so largely influence the election that seats would go to men who were undesirable from the standpoint of the minority. I have pointed out in a subsequent part of the report that such a contention could be effectively disposed of by the introduction of adult suffrage. The majority has given no thought to the importance of adult suffrage as an alternative to communal electorates. The majority has proceeded as though communal electorates were a good to be preserved and have treated adult suffrage as though it was an evil to be kept within bounds. My view of them is just the reverse. I hold communal electorates to be an evil and adult suffrage to be a good. Those who agree with me, will admit that adult suffrage should be introduced not only because of its inherent good but also because it can enable us to get rid of the evil of communal electorates. But even those whose political faith does not include a belief in adult suffrage will, I am sure, find no difficulty in accepting this view. For it is only commonsense to say that a lesser evil is to be preferred to a greater evil and there is no doubt that adult suffrage, if it is at all an evil, is a lesser evil than communal electorates. Adult suffrage which is supported by political justice and favoured by political expediency is also, I find, demanded by a substantial body of public opinion. The Nehru Committee's report, which embodies the views of all the political parties in India except the Non-Brahmins and the Depressed Classes, favours the introduction of adult suffrage. The Depressed Classes have also insisted upon it. The Sindh Mohamedan Association, one Mohamedan member and one Non-Brahmin member of the Government of Bombay have expressed themselves in favour of it. There is thus a considerable volume of public opinion in support of adult franchise. My colleagues give no reason why they have ignored this volume of public opinion.

37. Two things appear to have weighed considerably with my colleagues in their decision against the introduction of adult suffrage. One is the extent of illiteracy prevalent in the country. No one can deny the existence of illiteracy among the masses of the country. But that this factor should have any bearing on the question of franchise is a view the correctness of which I am not prepared to admit. First of all, illiteracy of the illiterate is no fault of theirs. The Government of Bombay for a long time refused to take upon itself the most important function of educating the people and when it did, it deliberately confined the benefit of education to the classes and refused to extend it to the masses\*.

\*Lest this fact should be regarded as a fiction, I invite attention to the following extracts from the report of the Board of Education of the Bombay Presidency for the year 1850-51:—

"Paragraph 5. Thus the Board of Education at this Presidency having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat were informed by your Lordship's predecessor in Council that the process must be reversed."

"Paragraph 8. Equally wise, if we may be permitted to use the expression, do the indications of the Honourable Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Hon. Court wrote to Madras in 1830 as follows:—'The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people, are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would essentially produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover,

Views of Court on the expediency of educating the upper classes.

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38. It was not until 1854, that Government declared itself in favour of mass education as against class education. But the anxiety of Government for the spread of education among the masses has gone very little beyond the passing of a few resolutions. In the matter of financial support Government always treated education with a most niggardly provision. It is notorious, how Government, which is always in favour of taxation refused to consent to the proposal of the Honourable Mr. Gokhale for compulsory primary education, although it was accompanied by a measure of taxation. The introduction of the Reforms has hardly improved matters. Beyond the passing of a Compulsory Primary Education Act in the Presidency there has not been any appreciable

*acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations, in the civil administration of their country than has hitherto the practice under our Indian Government.* Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the state were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England.

“ Paragraph 14. It results most clearly from these facts, that if sufficient funds are not available to put 175 Vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating the masses of the Presidency disappears. The object is not one that can be attained or approximated to by Government; and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence.

“ Paragraph 15. The Honourable Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (para.7), and their despatch to the Government on the same date enforces sentiment of exactly the same import:— ‘It is our anxious desire to afford to the higher classes of the Natives of India the means of instruction in European sciences and of access to the literature of civilized Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.’

“ Paragraph 16. It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and the Honourable court having in effect decided that this section should consist of the ‘upper classes’ it is essential to ascertain who these latter consist of. Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms the will of the Prince was all that was requisite to raise men from the humblest conditions in life to the highest station and where, consequently great uniformity in manners has always prevailed. A beggar according to English notions, is fit only for the stocks or compulsory labour in the work-house; in India he is a respectable character and worthy indeed of veneration according to the Braminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity.

“ Paragraph 17. The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows:—

- 1st. The landowners and jaghirdars, representatives of the former feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.
- 2nd. Those who have acquired wealth in trade or commerce or the commercial class.
- 3rd. The higher employees of Government.
- 4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhuss and Shenvis in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station.

“ Paragraph 18. Of these four classes incomparably the most influential, the most numerous and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognized fact throughout India that the ancient Jaghirdars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt new one, or to cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to loister up a landed aristocracy have lamentably failed; and complete discomiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors successful raids in the plains of Hindusthan, nor among the commercial classes, with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilized ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly, the employees of the state, though they possess a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state.

## [Appendix A—contd.]

advance in the direction of mass education. On the contrary there has been a certain amount of deterioration owing to the transfer of education to local authorities which are manned, comparatively speaking, by people who, being either indifferent or ignorant are seldom keen for the advancement of education.

39. In the case of the Depressed Classes the opportunity for acquiring literacy has in fact been denied to them. Untouchability has been an insuperable bar in their way to education. Even Government has bowed before it and has sacrificed the rights of the Depressed Classes to admission in public schools to the exigencies of the social system in India. In a resolution of the year 1856 the Government of Bombay in rejecting the petition of a Mahar boy to a school in Dharwar observed: "The question discussed in the correspondence is one of very great practical difficulty".

"1. There can be no doubt that the Mahar petitioner has abstract justice in his side: and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.

"2. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which Government cannot summarily remove by interfering in his favour, as he begs them to do."

The Hunter Commission which followed after the lapse of 26 years did say that Government should accept the principle that nobody be refused admission to a Government College or School merely on the ground of caste. But it also felt it necessary to say that the principle should "be applied with due caution" and the result of such caution was that the principle was never enforced. A bold attempt was, no doubt, made in 1921 by Dr. Paranjpye, when he was the Minister of Education. But as his action was without any sanction behind it, his circular regarding admission of the Depressed Classes to Schools is being evaded, with the result that illiteracy still continues to be a deplorable feature of the life of the Depressed Classes.

40. To the question that is often asked how can such illiterate people be given the franchise, my reply therefore is, who is responsible for their illiteracy? If the responsibility for illiteracy falls upon the Government, then to make literacy a condition precedent to franchise is to rule out the large majority of the people who, through no fault of their own, have never had an opportunity of acquiring literacy provided to them. Granting that the extension of franchise must follow the removal of illiteracy what guarantee is there that efforts will be made to remove illiteracy as early as possible? The question of education like other nation-building questions is ultimately a question of money. So long as money is not forthcoming in sufficient amount, there can be no advance in education. How to find this money is therefore the one question that has to be solved. That a Council elected on the present franchise will never be in a position to solve the problem is beyond dispute. For the simple reason that money for education can only be provided by taxing the rich and the rich are the people who control the present Council. Surely the rich will not consent to tax themselves for the benefit of the poor unless they are compelled to do so. Such a compulsion can only come by a radical change in the composition of the Council which will give the poor and illiterate adequate voice therein. Unless this happens the question of illiteracy will never be solved. To deny them that right is to create a situation full of injustice. To keep people illiterate and then to make their illiteracy the ground for their non-enfranchisement is to add insult to injury. But the situation indeed involves more than this. It involves an aggravation of the injury. For to keep people illiterate and then to deny them franchise which is the only means whereby they could effectively provide for the removal of their illiteracy is to perpetuate their illiteracy and postpone indefinitely the day of their enfranchisement.

"Paragraph 19. *The above analysis, though it may appear lengthy is nevertheless, indispensable, Poverty of Brahmins.* for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes Brahmins proximi. But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with 'beggar'.

"Paragraph 20. We may see, then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April 1850,—what appears Wealthy classes will not at present support superior education. *prima facie*, so plausible and proper in itself—what in fact, the Board themselves have very often attempted, viz., the strict limitation of superior education, to the wealthy, who can afford to pay for it, and to youths of unusual intelligence." The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognized, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with

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41. It might be said that the question is not who is responsible for illiteracy; the question is whether illiterate persons should be given the right to vote. My answer is that the question cannot be one of literacy or illiteracy; the question can be of intelligence alone. Those who insist on literacy as a test and insist upon making it a condition precedent to enfranchisement, in my opinion, commit two mistakes. Their first mistake consists in their belief that an illiterate person is necessarily an unintelligent person. But everyone knows that, to maintain that an illiterate person can be a very intelligent person, is not to utter a paradox. Indeed an appeal to experience would fortify the conclusion that illiterate people all over the world including India have intelligence enough to understand and manage their own affairs. At any rate the law presumes that above a certain age every one has intelligence enough to be entrusted with the responsibility of managing his own affairs. The illiterate might easily commit mistakes in the exercise of the franchise. But then the Development Department of Bombay has fallen into mistakes of judgment equally great which though they are condemned, are all the same tolerated. And even if they fall into greater errors it may still be well that they should have fran hise. For all belief in free and popular Government rests ultimately on the conviction that a people gains more by experience than it loses by the errors of liberty and it is difficult to perceive why a truth that holds good of individuals in non-political field should not hold good in the political field. Their second mistake lies in supposing that literacy necessarily imports a higher level of intelligence or knowledge than what the illiterate possesses. On this point the words of Bryce might be quoted. In his survey of "Modern Democracies" he raises the question how far ability to read and write goes towards civic competence and answers thus: "Because it is the only test practically available, we assume it to be an adequate test. Is it really so? Some of us remember, among the English rustics of sixty years ago shrewd men, unable to read but with plenty of mother wit, and by their strong sense and solid judgment quite as well qualified to vote as are their grand-children today who read a newspaper and revel in the cinema.....The Athenian voters.....were better..... fitted for civic franchise than most of the voters in modern democracies. These Greek voters learnt politics not from the printed and, few even from any written page, but by listening to accomplished orators and by talking to one another. Talking has this advantage over reading, that in it mind is less passive. It is thinking that matters, not reading, and by thinking, I mean the power of getting at facts, and arguing consecutively from them. In conversation there is a clash of wits, and to that, some mental exertion must go.....But in these days of ours reading has become substitute for thinking. The man who reads only the newspaper of his own party, and reads its political intelligence in a medley of other stuff, narratives of crimes and descriptions of football matches, need not know that there is more than one side to a question and seldom asks if there is one, nor what is the evidence for what the paper tells him. The printed page, because it seems to represent some unknown power, is believed more readily than what he hears in talk. He takes from it statements, perhaps groundless, perhaps invented, which he would not take from one of his fellows in the workshop or the counting house. Moreover, the Tree of Knowledge is the Tree of the Knowledge of Evil as well as of Good. On the Printed Page Truth has no better chance than Falsehood, except with those who read widely and have the capacity of discernment. A party organ, suppressing some facts, misrepresenting some others, is the worst of all guides, because it can be incessantly reiterating untruth produce a greater impression than any man or body of men, save only ecclesiastics clothed with a spiritual authority, could produce before printing was invented. A modern voter so guided by his party newspapers is no better off than his grandfather who eighty years ago voted at the bidding of his landlord or his employer or (in Ireland) of his Priest. The grandfather at least knew whom he was following, while the grandson, who only reads what

Europeans on the footing of social equality; but as a general proposition at the present moment, we are satisfied that the academical instruction in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India.

" Paragraph 21. The practical conclusion to be drawn from these facts which years of experience has forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice: If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes—the Dheds, Mahars, etc., from flocking in numbers to their walls?

" Paragraph 22. There is little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent—to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disunity amongst the Hindu community, and that an open attack should be made upon the barriers of caste.

## [Appendix A—contd.]

is printed on one side of a controversy may be the victim of selfish interests who own the organs which his simplicity assumes to express public opinion or to have the public good at heart. So a democracy that has been taught only to read and not also to reflect and judge, will not be better for the ability to read."

42. It seems to me that too much is being made out of the illiteracy of the masses in India. Take the English voter and inquire into his conduct as a voter and what do we find? This is what the Times Literary Supplement of August 21, 1924, says about him—

"The mass of the people have no serious interest. Their votes decide all political issues, but they know nothing of politics. It is a disquieting, but too well-founded reflection that the decision about tariff reform or taxation of foreign policy is now said by men and women who have never read dozen columns of serious politics in their lives. Of the old narrow electorate of eight years ago, probably at least two-thirds eagerly studied political speeches on the question of the day. Today not five per cent. of the voters read either debates or leading articles. The remnant, however remarkable, is small. Democracy as a whole is as content with gross amusement as Bottles was with vulgar ones, and like him it leases his mind to its newspaper which makes his Sundays much more degrading than those which he spent under his Baptist Minister. This is the atmosphere against whose poisonous gasses the schools provide in vain the helmet of their culture."

43. Surely if British Democracy—say the British Empire—is content to be ruled by voters such as above, it is arguable that Indians who are opposed to adult suffrage are not only unjust and visionaries but are protesting too much and are laying themselves open to the charge that they are making illiteracy of the masses an excuse to pocket their political power. For, to insist that a thorough appreciation of the niceties of political creeds and the ability to distinguish between them are necessary tests of political intelligence is, to say the least, hyper-critical. On small political questions no voter, no matter in what country he is, will ever be accurately informed. Nor is such minute knowledge necessary. The most that can be expected from an elector is the power of understanding broad issues and of choosing the candidate who in his opinion will serve him best. This, I make bold to say, is not beyond the capacity of an average Indian.

44. The other thing which apparently weighed with my colleagues in refusing to accept adult suffrage is the analogy of the countries like England. It is argued that the extension of the franchise from forty shilling freehold in 1429 to adult suffrage in 1918 has taken altogether a period of 589 years; that previous to 1832 there were less than 500,000 persons who had the right to vote in the election of members of Parliament; that it was not until the Reform Act of that year that the number of voters was increased to nearly 1,000,000; that no further step was taken to lower the franchise till the passing of the Act of 1867 which increased it to 2,500,000; that the next step was taken 17 years after when the Act of 1884 increased it again to 5,500,000; and that adult suffrage did not come till after a lapse of 34 years when People's Representation Act of 1918 was passed. This fact has been used for every different purposes by different set of peoples. A set of politicians who are social Tories and political radicals use this in support of their plea that the legislature can be given full powers although it may not be fully representative and in reply to this argument of their opponents that the transference of power to a legislature so little representation will be to transfer it to an oligarchy. By others in support of their plea that in the matter of franchise we must proceed slowly and go step by step as other nations have done. To the second group of critics my reply is that there is no reason why we should follow in the foot-steps of the English nation in this particular matter. Surely the English people had not devised any philosophy of action in the matter of franchise. On the other hand, if the extension was marked by such long intervals it was because of the self-seeking character of the English ruling classes. Besides, there is no reason why every nation should go through the same stages and enact the same scenes as other nations have done. To do so is to refuse to reap the advantage which is always open to those who are born later. To the other section of critics my reply is that their contention as a fact is true, that Parliament did exercise full powers of a sovereign state even when

"Paragraph 23. But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest castes the best pupils; but we must be careful how we offer any special encouragement to men of that description; they are not only the most despised, but among the least numerous of the great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.'"

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it represented only a small percentage of the population. But the question is with what results to the nation? Any one who is familiar with the history of social legislation by the unreformed Parliament as told by Lord Shaftesbury certainly will not wish the experiment to be repeated in this country. This result was the inevitable result of class rule and class rule was the inevitable result of the restricted franchise which obtained in England. The facts relied upon by these critics in my opinion do not go to support a government based upon a restricted franchise. If they prove anything it is that a government based upon a restricted franchise is a worse form of government in that it gives rise to the rule of oligarchy. Such a result was never contemplated by the authors of the Joint Report. Indeed they were so conscious of the evil that in paragraph 262 of their Report they were particular enough to say that among the matters for consideration the Statutory Commission should consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation. "Indeed we regard the development of a broad franchise as the arch on which the edifice of self-government must be raised; for we have no intention that our reforms should result merely in the transfer of powers from a bureaucracy to an oligarchy."

45. What is however the remedy for preventing oligarchy? The only remedy that I can think of is the grant of adult suffrage. It is pertinent to remark that the members of the Ceylon Commission of 1929 who like the authors of the Joint Report were conscious that "the grant of a responsible government to an electorate of these small dimensions would be tantamount to placing an oligarchy in power without any guarantee that the interests of the remainder of the people would be consulted by those in authority" and who felt it "necessary to observe that His Majesty's Government is the trustee not merely of the wealthier and more highly educated elements in Ceylon but quite as much of the peasant and the coolie, and of all those poorer classes which form the bulk of the population" and who held that "to hand over the interests of the latter to the unfettered control of the former would be a betrayal of its trust," came "to the conclusion that literacy should not remain as one of the qualifications for voters at election of State Council." They said "the development of responsible government requires, in our opinion, an increasing opportunity to the rank and file of the people to influence the Government, and the franchise cannot be fairly or wisely confined to the educated classes." If adult franchise can be prescribed for Ceylon the question that naturally arises is why should it not be prescribed for India? Similarity in the political, social, economic, and educational conditions of the two countries is so striking that to treat them differently in the matter of franchise is to create a distinction when there is no real difference to justify the same. Analogy apart and considering the case purely on merits it is beyond doubt that of the two if any one of them is more fitted to be trusted with the exercise of adult suffrage it is the people of India and more so the people of the Bombay Presidency wherein the system of adult suffrage is already in vogue in the village panchayets.

## CHAPTER 2

## ELECTORATES

46. The existing Legislative Council is composed of 114 members, of whom 28 are nominated and 86 are elected. The nominated members fall into two groups (a) officials to represent the reserved half of the Government and (b) the non-officials to represent (1) the Depressed Classes, (2) Labouring Classes, (3) Anglo-Indians, (4) Indian Christians and (5) the Cotton Trade. Of the elected members (1) some are elected by class-electories created to represent the interests of the landholders, commerce and industry, (2) some by reserved electories for Maratha and allied castes and the rest (3) by communal electories which are instituted for the Muhammadans and the Europeans. The question is whether this electoral structure should be preserved with alteration. Before any conclusion can be arrived at, it is necessary to evaluate it, in the light of considerations both theoretical as well as practical.

## NOMINATED MEMBERS

47. Against the nominated members it is urged that their presence in the Council detracts a great deal from its representative character. Just as the essence of responsible self-government is the responsibility of the Executive to the Legislature, so the essence of representative government lies in the responsibility of the legislature to the people. Such a responsibility can be secured only when the legislature is elected by



## [Appendix A—contd.]

by the people. Not only does the system of nominated members make the house unrepresentative, it also tends to make the Executive irresponsible. For, by virtue of the power of nomination, the Executive on whose advice that power is exercised, appoints nearly 25 per cent. of the legislature with the result that such a large part of the house is in the position of the servants of the Executive rather than its critics. That the nominated non-officials are not the servants of the Government cannot go to subtract anything from this view. For the nominated non-official can always be bought and the Executive has various ways open to it for influencing an elected member with a view to buy up his independence. A direct conferment of titles and honours upon a member, or bestowal of patronage on his friends and relatives, are a few of such methods. But the nominated non-official members are already in such an abject state of dependence that the Executive has not to buy their independence. They never have any independence to sell. They are the creatures of the Executive and they are given seats on the understanding, if not on the condition, that they shall behave as friends of the Executive. Nor is the Executive helpless against a nominated member who has the audacity to break the understanding. For, by the power of renomination which the Executive possesses, it can inflict the severest penalty by refusing to renominate him and there are instances where it has inflicted that punishment. Like the King's veto, the knowledge that this power to renominate exists, keeps every nominated member at the beck and call of the Executive.

48. Another evil arising from the system of nomination must also be pointed out. The nominated non-official members were to represent the interests of certain communities for whose representation the electoral system as devised, was deemed to be inadequate just as the nominated official members were appointed to support the interests of government. The regrettable thing is that while the nominated officials served the interests of government, the nominated non-officials failed to serve the interests of their constituents altogether. Indeed a nominated non-official cannot save his community. For more often than not the interests of the communities can only be served by influencing governmental action and this is only possible when the Executive is kept under fire and is made to realise the effects of an adverse vote. But this means is denied to a nominated member by the very nature of his being, with the result that the Executive being assured of his support is indifferent to his cause and the nominated member being denied his independence is helpless to effect any change in the situation of those whom he is nominated to represent. Representation by nomination is thus no representation. It is only mockery.

49. Another serious handicap of the system of nomination is that the nominated non-officials are declared to be ineligible for ministership. In theory there ought not to be limitations against the right of a member of the legislature to be chosen as a minister of an administration. Even assuming that such a right is to be limited the purpose of such limitation must be the interests of good and efficient administration. Not only that is not the purpose of this limitation but that the limitation presses unequally upon different communities owing to the difference in the manner of their representation and affects certain communities which ought to be free from its handicap. Few communities are so greatly in need of direct governmental action as the Depressed Classes for effecting their betterment. It is true that no degree of governmental action can alter the face of the situation completely or quickly. But making allowance for this, no one can deny the great benefits that wise legislation can spread among the people. All these classes do in fact begin and often complete their lives under a weight of inherited vices and social difficulties, for the existence of which society is responsible, and for the mitigation of which much can be done by legislation. The effect of legislation to alter the conditions under which the lives of individuals are spent has been recognised everywhere in the world. But this duty to social progress will not be recognised unless those like the Depressed Classes find a place in the Cabinet of the country. The system of nomination must therefore be condemned. Its only effect has been to produce a set of men who usually subordinate the care of their constituents to the desire for place.

## ELECTED MEMBERS

50. *Class Electorates.*—These class electorates are a heritage of the Morley-Minto Reforms. The Morley-Minto Scheme was an attempt at make-believe. For, under it the bureaucracy without giving up its idea to rule was contriving to create legislatures by arranging the franchise and the electorates in such a manner as to give the scheme the appearance of popular rule without the reality of it. To such a scheme of things, these class electorates were eminently suited. But the Montagu-Chelmsford Scheme was not a make-believe. It contemplated the rule of the

## [Appendix A—contd.]

people. Consequently it was expected to suggest the abolition of such class electorates. Owing, however, to the powerful influence, which these classes always exercised, the authors of the Report were persuaded to recommend their continuance, which recommendation was given effect to by the Southborough Committee. Whatever the reasons that led to the retention of these class electorates, there is no doubt that their existence cannot be reconciled with the underlying spirit of popular government. Their class character is a sufficient ground for their condemnation. In a deliberative assembly like the legislature, where questions of public interest are decided in accordance with public opinion, it is essential that members of the Council who take part in the decision should each represent that opinion. Indeed no other person can be deemed to be qualified to give a decisive vote on the issues debated on the floor of the house. But the representatives of class interest merely reflect the opinions, one might say, the prejudices of their class, and should certainly be deemed to be disqualified from taking part in the decision of issues which lie beyond the ambit of the interests of their class. Notwithstanding their class character as members of legislature they acquire the competence to vote upon all the issues whether they concern their own class or extend beyond. This, in my opinion, is quite subversive of the principle of popular government. It might be argued that representatives of such class interests are necessary to give expert advice on those sectional issues with which the unsectional house is not familiar. As against this, it is necessary to remember that in a democracy, the ultimate principle is after all self-government and that means that final decision on all matters must be made by popularly elected persons and not by experts. It is moreover noteworthy that the advice of such people is not always serviceable to the house. For, their advice invariably tends to become eloquent expositions of class ideology rather than careful exposition of the formula in dispute.

51. Assuming, however, that it is necessary either to safeguard the interests of these classes or to tender advice to the house on their behalf, it is yet to be proved that these interests will not secure sufficient representation through general electorates. Facts, such as we have, show that they can. Taking the case of the Inamdars, though they have been given three seats through special electorates of their own, they have been able to secure 12 seats through the general electorates. Indeed by virtue of the solidarity which they have with other landholding members of the Council, they felt themselves so strong in numbers that only a few months back, they demanded a ministerial post for the leader of their class. Besides, it is not true that without class-electorates there will be no representation of the interests of these classes in the Council. Such interests will be amply safeguarded by a member belonging to that class, even if he is elected by a general constituency. This will be clear if we bear in mind that a member taking his seat in the legislature, although he represents directly his constituency yet indirectly he does represent himself and to that extent also his class. Indeed, from the very nature of things this tendency on the part of a member, indirectly to represent himself, although it might be checked, controlled and overruled, so surely manifests itself that it throws, and must necessarily throw, direct representation into the background. No one for instance can believe that a European gentleman representing a Chamber of Commerce will only represent the interests of commerce and will not represent the interests of the European community because he is elected by a Chamber of Commerce and not by the general European community. It is in the nature of things that a man's self should be nearer to him than his constituency. There is a homely saying that a man's skin sits closer to him than his shirt and without any imputation on their good faith, so it is with the members of the legislature. It is the realisation of this fact which has led the English people who at one time wished that the shipping trade, the woollen trade and the linen trade should each have its spokesman in the House of Commons, to abandon the idea of such class-electorates. It is difficult to understand why a system abandoned elsewhere should be continued in India. It is not necessary in the interests of these classes and it is harmful to the body politic. The only question is whether or not persons belonging to the commercial and individual classes can secure election through the general constituencies. I know of nothing that can be said to handicap these classes in the race of election. That there is no handicap against them is proved by the success of Sardars and Inamdars in general election. Where Inamdars and Sardars have succeeded there is no reason why representatives of commerce and industry should not.

52. *Reserved Electorates.*—Three objections can be raised against the system of reserved electorates. One is that it seeks to guarantee an electoral advantage to a majority. It is true that the Marathas and the allied castes form a majority in the Marathi speaking part of the Presidency both in population as well as in voting strength and as such deserve no political protection. But it must be realised that there is all the difference in the world between a power informed and conscious of its strength and power so latent and suppressed that its holders are hardly aware of that they may exercise

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it. That the Marathas and the allied castes are not conscious of their power, is sufficiently evident if we compare the voting strength of the Marathas and the allied castes in those constituencies wherein seats are reserved for them, with the rank of their representatives among the different candidates contesting the elections. In every one of such constituencies the Maratha voters, it must be remembered, have a preponderance over the voters of other communities. Yet in the elections of 1923 and 1926, out of the seven seats allotted to them, they could not have been returned in three had it not been for the fact that the seats were reserved for them. It is indeed strange that the candidates of a community which is at the top in the electoral roll, should find themselves at the bottom, almost in a sinking position. This strange fact is only an indication that this large community is quite unconscious of the power it possesses, and is subject to some influence acting upon it from without.

53. The second ground of objection, urged by the members of the higher classes who are particularly affected by the system of reserved seats, is that it does an injustice to them in that it does not permit them the benefit of a victory in a straight electoral fight. It is true that the system places a restriction upon the right of the higher classes to represent the lower classes. But is there any reason why "*the right to represent*" as distinguished from "*a right to representation*" should be unrestricted right? Modern politicians have spent all their ingenuity in trying to find out the reason for restricting the right to vote. In my opinion there is a greater necessity why we should strive to restrict the right of a candidate, to represent others. Indeed there is no reason why the implications of the representative function should not define the condition of assuming it. It would be no invasion of the right to be elected to the legislature to make it depend, for example, upon a number of years' service on a local authority and to rule out all those who do not fulfil that condition. It would be perfectly legitimate to hold that that service in a legislative assembly is so important in its results, that proof of aptitude and experience must be offered before the claim to represent can be admitted. The argument for restricting the rights of the higher classes to represent the lower classes follows the same line. Only it makes a certain social attitude as a condition precedent to the recognition of the right to represent. Nor can it be said that such a requirement is unnecessary. For aptitude and experience are not more important than the social attitude of a candidate towards the mass of men whom he wishes to represent. Indeed mere aptitude and experience will be the cause of ruination if they are not accompanied and regulated by the right sort of social attitude. There is no doubt that the social attitude of the higher classes towards the lower classes is not of the right sort. It is no doubt always said to the credit of these communities that they are intellectually the most powerful communities in India. But it can with equal truth be said that they have never utilized their intellectual powers to the services of the lower classes. On the other hand, they have always despised, disregarded and disowned the masses as belonging to a different strata, if not to a different race than themselves. No class has a right to rule another class, much less a class like the higher classes in India. By their code of conduct, they have behaved as the most exclusive class steeped in its own prejudices and never sharing the aspirations of the masses, with whom they have nothing to do and whose interests are opposed to theirs. It is not, therefore, unjust to demand that a candidate who is standing to represent others shall be such as shares the aims, purposes and motives of those whom he desires to represent.

54. The third objection to the system of reserved electorates is that it leads to inefficiency inasmuch as a candidate below the line gets the seat in supersession of a candidate above the line. This criticism is also true. But here again, there are other considerations which must be taken into account. First of all, as Professor Dicey rightly argues, "it has never been a primary object of constitutional arrangement to get together the best possible Parliament in intellectual capacity." Indeed, it would be inconsistent with the idea of representative government to attempt to form a Parliament far superior in intelligence to the mass of the nation." Assuming, however, that the displacement of the intellectual classes by the candidates belonging to the non-intellectual classes is a loss, that loss will be more than amply recompensed by the natural idealism of the backward communities. There is no doubt that the representatives of the higher orders are occupied with the pettiest cares and are more frequently concerned with the affairs of their own class than with the affairs of the nation. Their life is too busy or too prosperous and the individual too much self-contained and self-satisfied for the conception of the social progress to be more than a passing thought of a rare moment. But the lower orders are constantly reminded of their adversity which can be got over only by a social change. The consciousness of mutual dependence resulting from the necessities of a combined action makes for generosity, while the sense of untrained powers and of undeveloped faculties gives the aspirations. It is to the lower classes that we must look for the

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motive power for progress. The reservation of seats to the backward Hindu communities makes available for the national service such powerful social forces, in the absence of which any Parliamentary government may be deemed to be poorer.

55. *Communal Electorates.*—That some assured representation is necessary and inevitable to the communities in whose interests communal electorates have been instituted must be beyond dispute. At any rate, for some time to come the only point that can be open to question is, must such communal representation be through communal electorates? Communal electorates have been held by their opponents to be responsible for the communal disturbances that have of late taken place in the different parts of the country. One cannot readily see what direct connection there can be between communal electorates and communal disturbances. On the contrary it has been argued that by satisfying the demand of the Mohamedans, communal electorates have removed one cause of discontent and ill-feeling. But it is equally true that communal electorates do not help to mitigate communal disturbances and may in fact help to aggravate them. For communal electorates do tend to the intensification of communal feeling and that they do make the leaders of the two communities feel no responsibility towards each other, with the result that instead of leading their people to peace, they are obliged to follow the momentary passions of the crowd.

56. The Mohamedans who have been insisting upon the retention of the communal electorates take their stand on three grounds.

57. In the first place they say that the interests of the Mohamedan community are separate from those of the other communities and that to protect these interests they must have separate electorates. Apart from the question whether separate electorates are necessary to protect separate interests it is necessary to be certain that there are any interests which can be said to be separate in the sense that they are not the interests of any other community. In the secular as distinguished from the religious field every matter is a matter of general concern to all. Whether taxes should be paid or not, if so what and at what rate; whether national expenditure should be directed in any particular channel more than any other; whether education should be free and compulsory; whether government lands should be disposed of on restricted tenure or occupancy tenure; whether state aid should be granted to industries; whether there should be more police in any particular area; whether the state should provide against poverty of the working classes by a scheme of social insurance against sickness, unemployment or death; whether the administration of justice is best served by the employment of honorary magistrates and whether the code of medical ethics or legal ethics should be altered so as to produce better results, are some of the questions that usually come before the Council. Of this list of questions is there any which can be pointed out as being the concern of the Mohamedan community only? It is true that the Mohamedan community is particularly interested in the question of education and public service. But there again it must be pointed out that the Mohamedan community is not the only community which attaches particular importance to these questions. That the non-Brahmins and the Depressed Classes are equally deeply interested in this question becomes evident from the united effort that was put forth by all three in connection with the University Reform Bill in the Bombay Legislative Council. The existence of separate interests of the Mohamedan community is therefore a myth. What exists is not separate interests but special concern in certain matters.

58. Assuming however that separate interests do exist, question is, are they better promoted by separate electorates than by general electorates and reserved seats? My emphatic answer is that the separate or special interests of any minority are better promoted by the system of general electorates and reserved seats than by separate electorates. It will be granted that injury to any interest is in the main caused by the existence of irresponsible extremists. The aim should therefore be to rule out such persons from the councils of the country. If irresponsible persons from both the communities are to be ruled out from the councils of the country, the best system is the one under which the Mohamedan candidates could be elected by the suffrage of the Hindus and the Hindu candidates elected by the suffrage of the Mohamedans. The system of joint electorates is to be preferred to that of communal electorates because it is better calculated to bring about that result than is the system of separate electorates. At any rate, this must be said with certainty that a minority gets a larger advantage under joint electorates than it does under a system of separate electorates. With separate electorates the minority gets its own quota of representation and no more. The rest of the house owes no allegiance to it and is therefore not influenced by the desire to meet the wishes of the minority. The minority is thus thrown on its own resources and as no system of representation can convert a minority into a majority, it is bound to be overwhelmed. On the other hand, under a system of joint electorates and reserved seats the

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minority not only gets its quota of representation but something more. For, every member of the majority who has partly succeeded on the strength of the votes of the minority if not a member of the minority, will certainly be a member for the minority. This, in my opinion is a very great advantage which makes the system of mixed electorates superior to that of the separate electorates as a means of protection to the minority. The Mohamedan minority seems to think that the 'Council is, like the Cardinals' conclave convened for the election of the Pope, an ecclesiastical body called for the determination of religious issues. If that was true then their insistence on having few men but strong men would have been a wise course of conduct. But it is time the community realised that Council far from being a religious conclave is a secular organisation intended for the determination of secular issues. In such determination of the issues, the finding is always in favour of the many. If this is so, does not the interest of the minority itself justify a system which compels others besides its own members to support its cause?

59. The second ground on which the claim to separate electorates is made to rest is that the Mohamedans are a community by themselves; that they are different from other communities not merely in religion but that their history, their traditions, their culture, their personal laws, their social customs and usages have given them such a widely different outlook on life quite uninfluenced by any common social ties, sympathies or amenities; that they are in fact a distinct people and that they do so regard themselves even though they have lived in this country for centuries. On this assumption it is argued that if they are compelled to share a common electorate with other communities, the political blending consequent upon it will impair the individuality of their community. How far this assumption presents a true picture, I do not stop to consider. Suffice it to say, that in my opinion it is not one which can be said to be true to life. But conceding that it is true and conceding further that the preservation of the individuality of the Mohamedan community is an ideal which is acceptable to that community one does not quite see why communal electorates should be deemed to be necessary for that purpose. India is not the only country in which diverse races are sought to be brought under a common Government. Canada and South Africa are two countries, within the British Empire where two diverse races are working out a common system of government. Like the Hindus and the Mohamedans in India, the British and the Dutch in South Africa and the British and the French in Canada are two distinct communities with their own distinctive cultures. But none has ever been known to object to common electorate on the ground that such a common cycle of participation for the two communities for electoral purposes is injurious to the preservation of their individualities. Examples of diverse communities sharing common electorates outside the Empire are by no means few. In Poland there are Poles, Ruthenians, Jews, White Russians, Germans and Lithuanians. In Latvia, there are Latvians, Russians, Jews, Germans, Poles, Lithuanians and Estonians. In Estonia, there are Germans, Jews, Sweeds, Russians, Latvians and Tartars. In Czechoslovakia, there are Czechs, Slovaks, Germans, Magyars, Ruthenians, Jews and Poles. In Austria, there are Germans, Czechs and Slovenes; while in Hungary there are Hungarians, Germans, Slovaks, Roumanians, Ruthenians, Croatians, and Serbians. All these groups are not mere communities. They are nationalities each with a live and surging individuality of their own, living in proximity of each other and under a common Government. Yet none of them have objected to common electorates on the ground that a participation in them would destroy their individuality.

60. But it is not necessary to cite cases of non-Moslem communities to show the futility of the argument. Cases abound in which Mohamedan minorities in other parts of the world have never felt the necessity of communal electorates for the preservation of their individuality against what might be termed the infectious contagion of political contact with other communities. It does not seem to be sufficiently known that India is not the only country where Mohamedans are in a minority; There are other countries, in which they occupy the same position. In Albania, the Mohamedans form a very large community. In Bulgaria, Greece and Roumania they form a minority and in Yugoslavia and Russia they form a very large minority. Have the Mohamedan communities there insisted upon the necessity of separate communal electorates? As all students of political history are aware the Mohamedans in these countries have managed without the benefit of separate electorates; nay, they have managed without any definite ratio of representation assured to them. In India, at any rate, there is a consensus of opinion, that as India has not reached a stage of complete secularisation of politics, adequate representation should be guaranteed to the Mohamedan community, lest it should suffer from being completely eclipsed from the political field by the religious antipathy of the majority. The Mohamedan minorities, in other parts of the world are managing their affairs even without the benefit of this assured quota. The Mohamedan

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case in India, therefore, overshoots the mark and in my opinion, fails to carry conviction.

61. The third ground on which it is sought to justify the retention of separate communal electorates of the Mohamedans, is that the voting strength of the Mohamedans in a mixed electorate may be diluted by the non-Mohamedan vote to such an extent that the Mohamedan returned by such a mixed electorate, it is alleged, will be a weakling and instead of being a true representative of the Mohamedans will be a puppet in the hands of the Non-Mohamedan communities. This fear, has no doubt the look of being genuine, but a little reasoning will show that it is groundless. If the mass of the non-Muslim voters were engaged in electing a Mohamedan candidate, the result anticipated by the Mohamedans may perhaps come true if the non-Muslims are bent on mischief. But the fact is, that at the time of general election there will be many non-Mohamedan candidates standing for election. That being the case, the full force of all the non-Muslim voters will not be directed on the Mohamedan candidates. Nor will the non-Mohamedan candidates allow the non-Mohamedan voters to waste their votes by concentrating themselves on the Mohamedan candidates. On the contrary, they will engage many voters, if not all, for themselves. If this analysis is true, then it follows that very few non-Mohamedan voters will be left to participate in the election of the Mohamedan candidates, and that the fear of the Mohamedans of any mass action against Moslem candidates by non-Moslem voters is nothing but a hallucination. That the Mohamedans themselves do not believe in it is evident from what are known as the "Delhi proposals." According to these proposals, which have been referred to in an earlier part of this report, the Mohamedans have shown their willingness to give up communal electorates, in favour of joint electorates, provided the demand for communal Provinces and certain other concessions regarding the representation of the Moslems in the Punjab and Bengal are given to them. Now, assuming that these communal Provinces have no purpose outside their own, and it is an assumption which we must make, it is obvious that the Mohamedan minority in any province must be content with such protection as it can derive from joint electorates. It is therefore a question as to why joint electorates should not suffice without the addition of communal Provinces when they are said to suffice with the addition of communal Provinces. But this consideration apart, if there is any substance in the Moslem view that the watering of votes is an evil which attaches itself to the system of joint electorates, then the remedy in my opinion does not lie in the retention of communal electorates. The remedy lies in augmenting the numbers of the Mohamedan electors to the fullest capacity possible by the introduction of adult suffrage, so that the Mohamedan community may get sufficiently large voting strength to neutralise the effects of a possible dilution by an admixture of the non-muslim votes.

62. All this goes to show that the case for communal electorates cannot be sustained on any ground which can be said to be reasonable. What is in its favour is feeling and sentiment only. I do not say that feeling and sentiment have no place in the solution of political problems. I realize fully that loyalty to Government is a matter of faith and faith is a matter of sentiment. This faith should be secured if it can be done without detriment to the body politic. But communal representation is so fundamentally wrong that to give in to sentiment in its case would be to perpetuate an evil. The fundamental wrong of the system, has been missed even by its opponents. But its existence will become apparent to any one who will look to its operation. It is clear that the representatives of the muslims give law to the non-Muslims. They dispose of revenue collected from the non-muslims. They determine the education of the non-Muslims, they determine what taxes and how much the non-Muslims shall pay. These are some of the most vital things which Muslims as legislators do, whereby affect the welfare of the non-Muslims. A question may be asked by what right can they do this! The answer, be it noted, is not by right of being elected as representatives of the non-Muslims. The answer is, by a right of being elected as the representatives of the Muslims! Now, it is a universally recognised canon of political life that the Government must be by the consent of the governed. From what I have said above communal electorates are a violation of that canon. For, it is government without consent. It is contrary to all sense of political justice to approve of a system which permits the members of one community to rule other communities without their having submitted themselves to the suffrage of those communities. And if as the Mohamedans allege that they are a distinct community with an outlook on life widely different from that of the other communities, the danger inherent in the system becomes too terrible to be passed over with indifference.

63. Such are the defects in the existing structure of the Council. It was framed by the Southborough Committee in 1919. The nature of the frame work prepared by

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that Committee was clearly brought forth by the Government of India in their Despatch No. 4 of 1919 dated 23rd April 1919 addressed to the Secretary of State in which they observed :—

“2. Before we deal in detail with the report (of the Southborough Committee) one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings.”

64. My colleagues have not cared to consider the intrinsic value of the frame work as it now stands. They have no doubt recommended that the system of nominations should be done away with and in that I agree with them. But excepting that they have kept the whole of the electoral structure in tact, as though it was free from any objection. In this connection I differ from them. As I have pointed out the whole structure is faulty and must be overhauled. I desire to point out that the object of the Reforms are embodied in the pronouncement of August 1917 declares the goal to be the establishment of self-governing institutions. The electoral structure then brought into being was only a half way house towards it and was justified only because it was agreed that a period of transition from the rule of the bureaucracy to the rule of the people, was a necessity. This existing electoral structure can be continued only on the supposition that the present system of divided government is to go on. The existing system of representation would be quite incompatible with a fully responsible government and must therefore be overruled.

65. There is also another reason why the present system of representation should be overhauled. Representative government is everywhere a party government. Indeed a party government is such a universal adjunct of representative government that it might well be said that representative government cannot function except through a party government. The best form of party government is that which obtains under a two-party-system both for ensuring stable as well as responsible government. An executive may be made as responsible as it can be made by law to the legislature. But the responsibility will only be nominal if the legislature is so constituted that it could not effectively impose its will on the executive. A stable government requires absence of uncertainty. An executive must be able to plan its way continuously to an ordered scheme of policy. But that invokes an unwavering support of a majority. This can be obtained only out of a two-party-system. It can never be obtained out of a group system. Under the group system the executive will represent not a general body of opinion, but a patch work of doctrines held by the leaders of different groups who have agreed to compromise their integrity for the sake of power. Such a system can never assure the continuous support necessary for a stable government since the temptation to reshuffling the groups for private advantage is ever present. The existing council by reason of the system of representation is, to use the language of Burke, “a piece of joinery so crossly indented and whimsically dovetailed, a piece of diversified mosaic, a tessellated pavement without cement patriots and courtiers, friends of government and open enemies. This curious show of a Legislature utterly unsafe to touch and unsure to stand on” can hardly yield to a two-party-system of government and without a party system, there will neither be stable government nor responsible government. The origin of the group system must be sought in the formation of the electorates. For, after all the electorates are the moulds in which the Council is cast. If the Council is to be remodelled so that it may act with efficiency then it is obvious that the mould must be recast.

66. In making my suggestions for the recasting of the electoral system I have allowed myself to be guided by three considerations: (1) Not to be led away by the fatal simplicity of many a politician in India that the electoral system should be purely territorial and should have no relation with the social conditions of the country. (2) Not to recognise any interest social or economic for special representation which is able to secure representation through territorial electorates. (3) When any interest is recognised as deserving of special representation, its manner of representation shall be such as will not permit the representatives of such interest, the freedom to form a separate group.

67. Of these three considerations the second obviously depends upon the pitch of the franchise. In another part of this Report I have recommended the introduction of adult suffrage. I am confident that it will be accepted. I make my recommendations therefore on that basis. But in case it is not and if the restricted franchise continues it

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will call for different recommendations, which I also propose to make. For the reasons given above and following the last mentioned consideration I suggest that :—

I. If adult suffrage is granted there shall be territorial representation except in the case of the Mohamedans, the Depressed Classes, and the Anglo-Indians.

II. If the franchise continues to be restricted, all representations shall be territorial except in the case of the Mohamedans, the Depressed Classes, Anglo-Indians, the Marathas and the allied castes and labour.

III. That such special representation shall be by general electorates and reserved seats and of labour by electorates made up of registered trade unions.

68. From these suggestions it will be seen that I am for the abolition of all class electorates, such as those for Inamdars and Sardars, (2) Trade and Commerce whether Indian or European and (3) Industry and merge them in the general electorates and (4) Indian Christians. There is nothing to prevent them from having their voice heard in the Councils by the ordinary channel. Secondly although I am for securing the special representation of certain classes, I am against their representation through separate electorates. Territorial electorates and separate electorates are the two extremes which must be avoided in any scheme of representation that may be devised for the introduction of a democratic form of Government in this most undemocratic country. The golden mean is the system of joint electorates with reserved seats. Less than that would be insufficient, more than that would defeat the ends of good government. For obvious reasons I make an exception in the case of the European community. They may be allowed to have their special electorates. But they shall be general electorates and not class electorates.

CHAPTER 3

DISTRIBUTION OF SEATS

I—Distribution of Seats among the Minorities

69. The quota of seats assigned by my colleagues to the different minorities is given below in the tabular form :—

Minority	No. of seats out of 140 General + Special
I. Europeans .. .. .	2 5
II. Anglo-Indians .. .. .	2 Nil
III. Indian Christians .. .. .	1 Nil
IV. Depressed Classes .. .. .	10 Nil
V. Mohamedans .. .. .	43 2

70. From this table it will be seen that in distributing the seats among the different minorities, my colleagues have not acted upon any uniform principle. Nor does it appear that they have striven to do justice to the minorities concerned. This is clear if we compare the treatment given by my colleagues to the Mohamedans with the treatment they have given to the Depressed Classes. Mohamedans form 19 per cent. of the population of the Presidency. My colleagues have proposed to give them over 31 per cent. of the total representation provided for the Legislative Council. The Depressed Classes on the other hand who form according to the most conservative estimate 8 per cent. of the total population of the Presidency are allowed only 7 per cent. of the total seats in the Council. The reasons for this discrimination are difficult to comprehend. Of the two minorities the Mohamedan minority is undoubtedly stronger in numbers, in wealth and in education. Besides being weak in numbers, wealth and education, the Depressed Classes are burdened with disabilities from which the Mohamedans are absolutely free. The Depressed Classes cannot take water from public watering places even if they are maintained out of public funds; the Mohamedans can. The Depressed Classes, by virtue of their untouchability cannot enter the Police, the Army and the Navy although the Government of India Act lays down that no individual shall be denied his right to any public office by reason of his caste, creed or colour. The Mohamedans have not only an open door in the matter of public service, but that in certain departments they have secured the largest share. The Depressed Classes are not admitted in Public schools even though they are maintained out of public money; there is no such bar against the Mohamedans. The touch of a Depressed Class man causes pollution; the touch of a Mohamedan does not; that trade and industry are



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open to a Mohamedan while they are closed to a man from the Depressed Classes. The Mohamedan does not bear the stigma of inferiority as does a man from the Depressed Classes with the result that the Mohamedan is free to dress as he likes, to live as he likes and to do what he likes. This freedom, the Depressed Class man is denied. A Depressed Class man may not wear clothes better than the villagers even though he may have the economic competence to pay for its cost. He must live in a hut. A Depressed Class man may not make much display of wealth and splendour even on ceremonial occasions and may certainly not take the bridegroom on a horse in procession through the main streets. Any act contrary to the customary code or beyond his status is bound to be visited by the wrath of the whole body of villagers amongst whom he happens to live. The Depressed Class man is far oftener subject to the tyranny of the majority than the Mohamedan is. The reason is that the Mohamedan who has all the elementary rights of a human being accorded to him, has no cause for quarrel against the majority, except when a religious issue comes to the front. But the position of the Depressed Class man is totally different. His life which is one incessant struggle for the acquisition of the rights of a human being, is a constant challenge to the majority which denies him these rights. The result is, that he is constantly in antagonism with the majority. This is not all. If on any occasion, the Mohamedan is visited by the tyranny of the majority, he has on his sides the long arm of the Police and the Magistracy. But when the Depressed Class man is a victim of the tyranny of the majority, the arm of the Police or of the Magistracy seldom comes to his rescue. On the contrary it works in league with the majority to his detriment for the simple reason that the Mohamedan can count many of their kith and kin in the Police and the Magistracy of the Province; while the Depressed Classes have no one from them in these departments. And be it noted that the Depressed Classes have not merely to bear the brunt of the orthodox Hindu force. It has also to count against the Mohamedans. It is ordinarily supposed that the Mohamedan is free from social prejudices of the Hindus against the Depressed Classes. Nothing can be a greater error than this. Leaving aside the urban areas, the Mohamedan in the rural parts is as much affected by the poison as the Hindu. The fracas that took place at Harkul, a village in the Mangaon Taluka of the Kolaba District is an instance in point. In this district the Depressed Classes launched a campaign of social elevation and resolved to give up certain unclean practices which have marked them out as persons of inferior status. The Hindus of the District who had formerly preached to these people the abandonment of these unclean practices as a necessary condition of their uplift turned upon these poor people and tyrannised them by bringing to bear upon them a social and economic boycott. But it was never expected that the Mohamedans of the district would follow their Hindu neighbours. On the contrary it was the hope of the Depressed Classes that in their struggle with the touchable Hindus the Mohamedans would act as their friends. But these hopes of theirs were dashed to pieces. For, it was soon found that the Mohamedans, although they did not observe untouchability, were as much infected as the Hindus with the noxious belief that the Depressed Classes were born to an inferior social status and that their attempt to raise themselves above it by giving up their unclean habits was an affront and an insult which required to be put down. As a result many were the fights that took place between the Mohamedans and the Depressed Classes of the district in one of which at Harkul a Depressed Class man actually lost his life.

71. It is therefore clear that the problem of the Depressed Classes is far greater than the problem of the Mohamedans. The Mohamedans may be backward in the race, although they are so forward that in education at least they are second only to the advanced Hindus. But they are certainly not handicapped, so that with effort and encouragement they can hope to rise. The Depressed Classes, on the other hand, are not merely backward, they are also handicapped; so that no effort or encouragement will enable them to rise unless the handicap is first removed. That being the difference between the two, whatever degree of political power that may be necessary for the Mohamedans to change their backward state, the Depressed Classes will require twice as much if not more to do so. Yet my colleagues have reversed the proportion of their representation. The Mohamedans, who are 10 per cent. and who form a strong minority, are given 31 per cent. of seats in the Council, while the Depressed Classes, who form 8 per cent. of the population on the most conservative estimate, are given only 7 per cent. of the seats in the Council which, in fact, is 1 per cent. less than their population ratio.

72. There is a view that the problem of the Depressed Classes is a social problem and that its solution must be sought for in the social field. I am surprised that this view prevails even in high quarters. I am afraid that those who hold this view forget that every problem in human society is a social problem. The drink problem, the problem of wages, of hours of work, of housing, of unemployment insurance are all social problems

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In the same sense the problem of untouchability is also a social problem. But the question is not whether the problem is a social problem. The question is whether the use of political power can solve that problem. To that question my answer is emphatically in the affirmative. True enough that the State in India will not be able to compel touchables and untouchables to be members of one family whether they liked it or not. Nor will the State be able to make them love by an Act of the Legislature or embrace by order in Council of the Executive. But short of that the State can remove all obstacles which make untouchables remain in their degraded condition. If this view is correct, then no community has a greater need for adequate political representation than the depressed classes.

73. My colleagues nowhere explain why the Mohamedan minority should get 12 per cent. more than its population ratio and why the Depressed Classes should not get even the share that is due to them on the basis of their population. It is noteworthy that the Mohamedan witnesses who pleaded for the excess of their representation did not claim it on the ground, as one might have expected, that it was necessary to ensure their progress or their well-being. Their only ground was that the Mohamedans were the descendants of a ruling class and that they required this excessive representation because without it, they feared that the community would suffer in importance and influence. From this it will be seen that the Mohamedan claim for such excessive representation proceeds not on the basis of adequacy but on the basis of supremacy. I am strongly of opinion that in any democratic form of government all communities must be treated as of equal political importance and that there should be no room left for any one community to claim that it is *UBER ALLES*. When any one said that his community was important and should receive fair and adequate representation the claim was entitled to the sympathetic consideration of all. But when any one urged that his community was specially important and should therefore receive representation in excess of its fair share, the undoubted and irresistible implication was that the other communities were comparatively inferior and should receive less than their fair share. That is a position to which naturally the other communities will not assent. The earlier therefore the Mohamedan community is disabused of this extravagant notion, the better it will be for the future of the community. For there is no benefit in an advantage which not being willingly conceded by the other communities has perpetually to be fought for. On the contrary it may result in positive harm to the Mohamedan community by sowing the seeds of estrangement and perhaps of positive antipathy between it and the other communities concerned.

74. The Mohamedan's is not the only case of a ruling class which has suffered a fall in its position. The French in Canada and the Dutch in South Africa are other instances where a class fell from its position of a ruling class to that of a subject class. But neither the French in Canada nor the Dutch in South Africa put forth claims to extravagant representation in order to be able to maintain their former position as rulers. Nor is such a consideration shown to the Mohamedan minorities in other parts of the world. The Mohamedan minorities in Albania, Roumania, Greece, Bulgaria are the remnants of what was once a ruling race. Yet in none of these countries have they claimed a royal share of representation. The Mohamedan claim for representation according to the influence is not only not heard of but is quite foreign to the system of representative government. The landowners, the capitalists, and the Priests have an immense influence in every society, but no one has ever conceded that these classes should be given an immense share of representation. There is therefore no reason why the Mohamedan claim should be recognised when claims of similar nature have been dismissed elsewhere.

75. Whatever may have been their position before the advent of British rule in India—and there again it must not be forgotten, that if the Mohamedans have ruled India for five centuries, the Hindus have ruled for countless centuries before them and even after them—the safest course is to proceed on the basis that as a result of the British conquest all communities stand on a common level and pay no heed to their political past. Such an attitude far from being unjust will be perfectly in keeping with the sentiments expressed by the Law Commissioners who drafted the Indian Penal Code in their address to the Secretary of State. Therein they observed—

“Your Lordship in Council will see that we have not proposed to except from the operation of this Code any of the ancient sovereign houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge than we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that it is an evil that any man should be above the law; that it is still greater evil that the public should be

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taught to regard as a high and enviable distinction the privilege of being above the law ; that the longer such privileges are suffered to last, the more difficult it is to take them away ; that there can scarcely ever be a fairer opportunity of taking them away than at the time when the Government promulgates a new Code binding alike on persons of different races and religion ; and that we greatly doubt whether any consideration except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice."

76. These are words of great wisdom and I am sure that words of greater wisdom have not been uttered for the guidance of those in charge of the public affairs of India. Nor is their wisdom restricted to the occasion on which or the purpose in relation to which they were uttered. I have no doubt that they apply to the present occasion with equal if not greater force. Indeed using the language of the Law Commissioners, I am led to say that it is an evil that the constitutional law of the country should recognise that any one community is above the rest ; that it is a still greater evil that sections of the public should be taught to weigh themselves in the scales of political importance in such a manner as to lead one to look up to and the other to look down upon ; that the longer such notions are suffered to last the more difficult it is to eradicate them and that there can scarcely ever be a fairer opportunity for dispelling them than at the time when Parliament promulgates a new code of constitutional law binding alike on persons of different races and religion.

77. Equal treatment of all the minorities in the matter of representation is only a part of the problem of the representation of minorities. To determine a satisfactory quantitative measure for the distribution of seats is another and a more important part of the problem. But this is a most controversial question. Of the two opposing theories one is that the representation of a minority should be in a strict proportion to its population. The other theory which is strongly held by the minorities is that such representation must be adequate. I do not think that the arithmetical theory of representation can be agreed to. If the Legislative Council was a zoo or a museum wherein a certain number of each species was to be kept, such a theory of minority representation would have been tolerable. But it must be recognised that the Legislative Council is not a zoo or a museum. It is a battle ground for the acquisition of rights, the destruction of privileges and the prevention of injustice. Viewed in this light a minority may find that its representation is in full measure of its population yet it is so small that in every attempt it makes to safeguard or improve its position against the onslaught of an hostile majority it is badly beaten. Unless the representation of minorities is intended to provide political fun the theory of representation according to population must be discarded and some increase of representation beyond their population ratio must be conceded to them by way of weightage.

78. To recognize the necessity of weightage is no doubt important. But what is even of greater importance is to recognize that this weightage must be measured out to the minorities on some principle that is both intelligible and reasonable. For it must be recognized that the minorities under the pretext of seeking adequate protection are prone to make demands which must be characterised as preposterous. To avoid this we must define what we mean by adequacy of representation. No doubt adequacy is not capable of exact definition, but its indefiniteness will be considerably narrowed if we keep before our mind certain broad considerations. First of all a distinction must be made in the matter of minority representation between adequacy on the one hand and supremacy on the other. By supremacy, I mean such a magnitude of representation as would make the minority a dictator. By adequacy of representation I mean such a magnitude of representation as would make it worth the while of any party from the majority to seek an alliance with the minority. Where a party is compelled to seek an alliance with a minority, the minority is undoubtedly in the position of a dictator. On the other hand where a party is only drawn to seek an alliance with the minority, the minority is only adequately represented. The first thing, therefore, that should be kept in mind in the matter of the allotment of seats to minorities is to avoid both the extremes— inadequacy as well as supremacy. These extremes can in my opinion be avoided if we adopt the rule that minority representation shall, in the main, be so regulated that the number of seats to which a minority is entitled will be a figure which will be the ratio of its population to the total seats multiplied by some factor which is greater than one and less than two.

79. This principle, it is true, merely defines the limits within which the representation of a minority must be fixed. It still leaves unsettled and vague with what this multiplier should vary. My suggestion is that it should vary with the needs of the particular minority concerned. By this method we arrive at a principle for measuring out the weightage to the minorities which is both intelligible and reasonable. For, the needs of a minority are capable of more or less exact ascertainment. There will be

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general agreement that the needs of a minority for political protection are commensurate with the power it has to protect itself in the social struggle. That power obviously depends upon the educational and economic status of the minorities. The higher the educational and economic status of a minority the lesser is the need for that minority of being politically protected. On the other hand the lower the educational and economic status of a minority, the greater will be the need for its political protection.

80. Taking my stand on the sure foundation of the principle of equality on the one hand and the principle of adequacy on the other I feel I must demur to the allotment of seats proposed by my colleagues to the different minorities. My proposal is that out of 140 seats the Mohamedans should have 33 and the Depressed Classes 15. This gives the Mohamedans 23 per cent. and the Depressed Classes 10·7 per cent. of the total seats in the Council. By this, the Mohamedans get nearly 4 per cent. and the Depressed Classes 2 per cent. above their respective population ratios. This much weightage to the respective communities is, in my opinion, reasonable and necessary and may be allowed. Besides my proposal has one thing in its favour and that is it keeps the ratio of Mohamedan representation unaltered. In the present Council, the Mohamedans have 23 per cent. of the total representation. As a result of my proposal they will have the same ratio of representation in the new Council.

81. In view of the fact that some people disfavour, I do not say oppose, the degree of representation I have allowed to the Depressed Classes, I think it is necessary that I should clear the cloud by additional explanation. There is no doubt that the initial representation allowed to the Depressed Classes was grossly unfair. The authors of the Joint Report expressly stated (paragraph 153) "we intend to make the best arrangements we can for (the) representation (of the Depressed Classes). But this promise was thrown to the wind by the Southborough Committee which was subsequently appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed Classes that even the Government of India which was not over-particular in this matter felt called upon in paragraph 13 of their Despatch on the Report of the Southborough Committee to observe: "We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us to require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed Classes and gave a pledge respecting them. The castes described as "Hindu—others" in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras Panchamas, definitely outside that part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total population, and have not been represented at all in the Morley-Minto Councils. The Committee's Report mentions the Depressed Classes twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people of their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justifies the restriction of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes. The measure of representation which they proposed for this Community is as follows:—

Province	Total population in millions	Population of Depressed classes in millions	Total Seats	Seats for the Depressed Classes
Madras .. ..	39·8	6·3	120	2
Bombay .. ..	19·5	·6	113	1
Bengal .. ..	45·0	9·9	127	1
United Provinces .. ..	47·0	10·1	120	1
Punjab .. ..	19·5	1·7	85	....
Bihar and Orissa .. ..	32·4	9·3	100	1
Central Provinces .. ..	12·0	3·7	72	1
Assam .. ..	6·0	·3	54	....
	221·4	41·9	791	7

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These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of practically 800. It is true that in all the councils there will be roughly a one-sixth proportion of officials who may be expected to bear in mind (?) the interests of the Depressed; but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an assembly where there are 60 to 90 Castes—Hindus. To make good the principles of paragraphs 151, 152, 154 and 155 of the Report we must treat the out-caste more generously....."

82. Even the Joint Select Committee recognized that the Depressed Classes were unjustly treated in the matter of representation by the Southborough Committee. For the Committee in its Report felt bound to observe that "the representation proposed for the Depressed Classes is inadequate. Within this definition are comprised, as shown in the Report of the Franchise Committee, a large proportion of the whole population of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of Depressed Classes in each Province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate." All this of course was of no avail and the wrong done by the Southborough Committee to the Depressed Classes remained unredressed. The present is not an attempt to give excessive representation to the Depressed Classes. It is only an attempt to rectify the wrong done. Nor can it be said that in suggesting the measure of representation it is open to the objection of being extravagant. For, even the Muddiman Committee which said that there was "a very general recognition of the fact that it is desirable that both these interests (i.e., the labouring classes and the Depressed Classes) should receive further representation" and expressed itself as being "in agreement with this view" proposed to give them 11 seats in a Legislative Council of 113. If 11 seats out of 113 was a reasonable allotment, then the allotment of 15 out of 140 must be admitted to be very moderate. The quota of 15 appears excessive only because the initial quota was small. Those who object to the quota of 15 because it is out of proportion to the existing quota forget that the initial quota of seats which they are adopting as the standard measure is neither just nor proper.

83. There is one other matter which needs to be cleared up. My colleagues in paragraph 16 of their Report in which they discuss the question of the allotment of seats to the Mohamedan community say, "Two of our members, Sirdar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow pact stands as regards all provinces." My colleagues have misunderstood me and have therefore misrepresented me. What I wanted to point out was that as they had not justified communal electorates or the number of seats to be given to the Mohamedans it would be better if they stated in their report that this was in pursuance of the Lucknow pact. The way in which my colleagues have reported me seems to suggest that I support the Lucknow pact. I take this opportunity to say that the suggestion is quite unwarranted.

## II. GEOGRAPHICAL DISTRIBUTION OF SEATS

84. My difference with my colleagues is not confined only to the question of allotment of seats to the different minorities. It extends also to the question of distribution of seats among the different constituencies. One unpleasant feature of the Council as now constituted is the over-representation of some parts and an under-representation of the rest. The enormous extent of the evil is made clear by the following figures:—

	Area in square miles	Population	Land Revenue demand for 1925-26	Seats in the Council at present
			Rs.	
Maharashtra ..	47,854	8,536,217	2,18,18,155	25
Gujerat ..	10,118	2,958,849	99,41,264	16
Karnatak ..	18,870	3,188,523	82,91,225	8
Sind ..	46,506	3,279,377	1,03,85,031	19

## [Appendix A—contd.]

85. How glaring are the inequalities becomes evident from the above table. Taking population as the basis, Maharashtra and Karnatak are grossly under-represented. Adopting representation of Gujerat as the standard, Maharashtra ought to be allowed 48 seats and Karnatak 17. Even taking revenue as the basis of distribution, Maharashtra and Karnatak have undoubtedly been treated quite unfairly. For, on that basis also Maharashtra is entitled to 32 and Karnatak 15. This demand for equal electoral power is not a mere sentimental demand or a demand for exact electoral symmetry. It has also behind it ample theoretical justification. For, in a system in which the value of a vote is high in one constituency and low in another, it is open to objection that every member of the community has not an equal share with each of the rest of the people in the choice of their rulers. But even if the principle of exact equivalence of all votes be not treated as a fundamental principle of political justice, yet the differences of this kind do not fail to produce the evil consequences of the over-representation of one part of the country or one set of opinions or interests at the expense of the other. Experience has shown that the existing distribution of seats has unduly diverted the centre of gravity of legislative and executive action to certain parts of the Presidency to the prejudice of other parts of the Presidency, with the result that the latter have unintentionally been deprived of an adequate share of consideration and attention from the Government. From this practical point of view, the existing distribution of seats is a grievance, the justice of which cannot be denied. As matters now stand Karnatak and Maharashtra can never exercise, in this Province that influence on the Government to which they consider themselves entitled by reason of their numbers. This is a substantial grievance which must be keenly felt as indicated by the evidence from Karnatak. This grievance is bound to increase as the responsible character of the Legislative Council increases and with it the influence which it will exercise upon the conduct of public affairs. There is, therefore, too much reason to fear that instead of dying out the bitterness of feeling will become more and more acute. It is, therefore, proper that at a time when we are overhauling the machinery of government with a view to make it a representative and a responsible government this grievance should also be redressed.

86. The evil of over-representation of some parts of this Presidency at the expense of other parts was due to the fact that the Southborough Committee acted quite capriciously and refused to follow any definite principle in the matter of the distribution of seats. I am glad to find that my colleagues have sought to follow a uniform principle in the matter of distribution of seats as far as possible. But my complaint is that they have taken the worst possible principle as the basis of the distribution of seats. Contributions to the exchequer, electors on the roll and population in the constituency are the three conceivable tests that can be adopted as the basis for the distribution of seats. Of these three the test of the electors is the most unjust and indefinite. In the first place where the franchise is so restricted as we now have it means the rule of wealth. It means that if any particular area on any arbitrary test of property qualification does not produce the basic quota of electors it should go without representation. That this must be inevitable consequence of following the test of electors is clearly brought out in the distribution proposed by the Majority for the Depressed Classes, according to which the Depressed Classes of some parts have enormous representation while those of the other part of the Presidency have no representation at all. A theory which produces such an absurd result must be regarded as indefensible and must be ruled out. Revenue is a better test than the tests of electorates. For it may be argued that the power to influence government should be commensurate with the revenue paid to Government. This test must even be rejected as being deceptive and inadequate, owing to the fact that as all revenue might not be paid when it is earned, it would be difficult to know the true revenue of a state. A constituency in which a large revenue is earned may suffer in distribution of seats because it is paid in another. But the most fatal objection to both these tests is that the State does not exist for the benefit of the electors or the taxpayers. Nor does the State limit its coercive action to them. Its jurisdiction extends over all the people who are its subjects irrespective of the question whether or not he is a taxpayer or an elector. From that it follows that the population is the only test for a just and proper distribution of seats. That is the test applied in England and in all countries which have a representative system of government, and I recommend that the seats for the Bombay Legislative Council should be distributed on that basis.

## III. OTHER ASPECTS OF THE DISTRIBUTION OF SEATS.

87. The want of principle which is noticeable in the distribution of seats among the minorities as proposed by my colleagues is also noticeable in the distribution of seats they have proposed between Capital and Labour, and between Landlords and Tenants. To capital as represented through Commerce and Industry they have given 11 seats,

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while to labour they give only four. To tenants they give none except what they can scrape through in the general election; while to the landlords they give five. But this is not correct for if we take into consideration the Sind members and others from the Presidency, the seats to the landlords in the Council might easily come up to forty. Nor can I say that my colleagues have paid sufficient attention to the question of the proper distribution of seats between urban and rural areas. The Legislature is at present too much at the mercy of the rural classes and there is a great danger of governmental powers being exploited in the name of the agriculturists for legalizing dangerous fads such as permanent settlements, cheap irrigation and free forests. If such fads are to be kept out of the statute book it is necessary to increase the representation of the urban classes whose representation is not commensurate with their ability or their contribution. It would have been better if my colleagues had left the task of a proper distribution of seats between the different parts of the Presidency to a separate Committee. I cannot say they have succeeded in doing justice to the weaker parties. I would suggest that a separate committee should be appointed to deal with this problem.

## IV. SEATS AND RESIDENTIAL QUALIFICATION

88. Under rule 6 (1) (b) of the Bombay Electoral Rules, a residential qualification is prescribed for candidates for election to the Legislative Council. The rule lays down that "No person shall be eligible for election as a member of the Council to represent a general constituency unless he has for the period of six months immediately preceding the last date fixed for the nomination of candidates in the constituency, resided in the constituency or in a division any part of which is included in the constituency." The rule has been interpreted in this Presidency to mean that actual or habitual residence in the constituency (and not merely a place of residence or occasional visits to it) is necessary before a candidate can stand for election from a particular constituency. Before I give my own opinion on this question I would like to state briefly the history of this restriction so far as this Presidency is concerned. Paragraph 84 of the Joint Report commented on the fact that a noteworthy result of the electoral system then existing was the large percentage of the members of the legal profession who succeeded at elections and went on to point out that so great a predominance of men of one calling in the political field was clear not in the interests of the general community and suggested that in framing the new constituencies an important object to be borne in mind was to ensure that men of other classes and occupations found a sufficient number of seats in the councils and that it was possible that this could be done by prescribing certain definite qualifications for rural seats. The question was carefully examined by the Southborough Committee, who in paragraph 29 of their report referred to the fact that some of the local Governments, namely, those of the United Provinces, Behar and Orissa and Assam did not press for the insertion of the residential qualification, while the Governments of Bengal, Bombay, Madras and the Punjab held that it would be detrimental to the interests of a large proportion of the new electorate to admit as candidates persons who were not resident in the areas they sought to represent. The majority of the Southborough Committee were on principle opposed to the residential qualification, but they resolved, by way of a compromise, to impose the restriction in the Central Provinces, Bombay and the Punjab but not in the remaining provinces. The Government of India, in expressing their views upon the recommendations of the Southborough Committee, accepted those recommendations, but pointed out that the Committee's treatment of the question had placed them in some difficulty in that while the Committee accepted the views of some of the local Governments in favour of the restriction, they discarded the views of some others who equally pressed for it. The Joint Parliamentary Committee on the Government of India Bill recommended that the compromise suggested by the Franchise Committee should be accepted. This was done and the residential qualification was imposed only in the Central Provinces, Bombay and the Punjab. I would point out that subsequent to this the residential qualification was done away with in the Punjab in the revision of the rules which preceded the General Election of 1923. The Punjab Government themselves in the opinion which they gave to the Muddiman Committee stated that for the first general elections the residential qualification gave the rural representatives an *entree* from which they had not been dispossessed, and there appeared to be no adequate reason for restoring the qualification. The position at present therefore is that Bombay and the Central Provinces are the only provinces in which the residential qualification still exists. In the Central Provinces the restriction is not interpreted as strictly as it is in this Presidency. It is, in my opinion, difficult to justify the retention of this restriction in this the most advanced province in India when provinces much more backward have felt no necessity for it. The retention of this qualification is, in my opinion, to some extent responsible for the election of inferior men to the Councils and for the keeping out of the

## [Appendix A—contd.]

Councils men of position, ability and proved political capacity who are mostly found in the larger urban areas and who by the existence of the qualification are prevented from seeking election anywhere else if for some reason they are unable to secure election from their own residential area. I therefore recommend that the residential qualification should now be abolished so far as this Presidency is concerned.

## CHAPTER 4

## LUCKNOW PACT

89. I am aware that my recommendations regarding the substitution of Joint electorates for communal electorates and the distribution of seats conflict with the terms of the Lucknow Pact in so far as they affect the representation of the Mohamedan community. The representation of the Mohamedan community as settled under the rules framed in 1919 was largely based upon what is known as the Lucknow Pact. This pact embodies an agreement arrived at in 1917 at Lucknow between the Moslem League and the Congress, the former acting on behalf of the Mohamedans and the latter on behalf of the Hindus. It gave to the Mohamedans communal electorates and a varying proportion of seats in the Provincial and Central Legislature. I realize that the views I have put forth on the representation of the Mohamedan community are subversive of this agreement and I feel that it is incumbent upon me to state why I think that this agreement should be scrapped.

90. My first argument is that the settlement embodied in the Lucknow Pact is a wrong settlement. This was admitted by all the Local Governments. The Government of India in their Despatch reviewing the recommendations of the Franchise Committee to the Secretary of State reported—"We note that Local Governments were not unanimous in subscribing to the compact. The Government of Madras framed their own proposals for Mohamedan representation without regard to it. The Bombay Government while adopting the compact did not rule out from discussion a scheme of representation upon a basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Mohamedan electorates and considered that the percentage proposed in the compact was 'wholly disproportionate to the strength and standing of the community'. The Chief Commissioner of Assam thought it was a mistake even from a Muslim point of view to give that community representation in excess of their numerical proportion". Nor did the Government of India differ from this view generally held by the Provincial Governments. Evaluating the results of the Lucknow Pact in the different Provinces, they observed "the result is that while Bengal Mohamedans get only three-quarters and the Punjab Mohamedans nine-tenths of what they would receive upon a population basis, the Mohamedans of other provinces have got good terms and some of them extravagantly good. We cannot ourselves feel that such a result represents the right relation either between Mohamedans in different provinces, or between Mohamedans and the rest of the community". Sir William Vincent in a note of dissent went so far as to say "In my view....we should proceed without regard to the details of the Lucknow Settlement, to fulfil our own pledges to the Mohamedans in what we ourselves think is the best way".

91. The wrong in the Lucknow Pact is not so much that it treated the Mohamedans in the different Provinces in a dissimilar manner providing for them generously in some and niggardly in others. This is comparatively speaking a small matter. The principal defect in the Lucknow Pact is that in allotting the seats to the Mohamedans it did not take into consideration the effect it will have upon other interests. The framers of the pact as pointed out by the Government of India failed to remember that whatever advantage is given to the Mohamedans is taken away from some other interest or interests. Sir William Vincent too was careful enough to point this out. He also said in his minute of Dissent, "The compact meets with much more acceptance than criticism at the present time; but hereafter when the value of votes and representation comes to be realized it must be expected that the interests which are hard hit by it will complain with some injustice that the Government of India should have endorsed it". The extent to which this prediction has been realised is remarkable and the universal dissatisfaction that is felt with the result of the Lucknow Pact is more than sufficient testimony to show that settlement embodied in the Lucknow Settlement is a wrong settlement. Now there can be nothing improper in asking that what is wrongly settled shall be re-settled. Such a demand is bound to meet with opposition from the Mohamedan Community. Having



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obtained representation on an extravagant scale they are sure to take their stand on precedent and past rights. But as Thomas Paine pointed out the error of those who reason by precedents drawn from antiquity, respecting their rights is that they would not take that time as the starting point when no vested rights existed. If they did they would realize that rights far from being immutable are historical accidents and are therefore liable to readjustment from time to time. This must be so; for all political and social progress is based upon the maxim that wrong cannot have a legal descent and that what is not rightly settled is never settled. This is not the only instance in which a pact like the Lucknow Pact is sought to be revised. The Act of Union between Ireland and England was also a pact of the same sort. It certainly had a far greater binding force than the Lucknow Pact. In fact it was regarded as a treaty which guaranteed to Ireland 100 seats in Parliament. All the same Mr. Balfour's Government when it found that the excessive representation granted to Ireland had become a positive wrong did not hesitate to bring in a Bill in 1905 which would have had the effect of reducing the Irish seats by 30. That owing to the resignation of Mr. Balfour's Government the Bill did not become as is another matter. But the fact remains that a revision of the Irish Settlement in the matter of the representation was not excluded by the fact that the settlement was based upon an agreement between the two parties. Nor was Mr. Balfour agreeable to the view that such revision could be carried out only with the consent of Ireland. Indeed he had launched upon the scheme of redistribution in the teeth of the Irish opposition. But it is not necessary to go so far afield to find a precedent when there is one near at hand. The constitution of Ceylon had also given recognition to pacts and agreements between various organisations allowing communal representation and communal distribution of seats. But the Ceylon Commission of 1928 was emphatic in its view that "in any case, in considering afresh the whole problem of representation, private arrangements between races or groups, while worthy of attention cannot take precedence of considerations, in the interests of the Ceylon people as a whole". It had therefore no hesitation in revising the whole scheme of representation in Ceylon out of recognition. What is asked herein is no more than what is done elsewhere.

92. It is further to be remembered that the Lucknow pact is valueless not merely because its terms, to use the words of Government of India, "were the result rather of political negotiation than of deliberate reason" but also because it was brought about by organisations neither of which had any real authority to speak in the name of those on whose behalf they purported to act. The All-India Muslim League was not entitled to speak for all Mohamedans and that it was the view of the Government of India in their despatch on the Report of the Southborough Committee is abundantly clear. Regarding the Congress it is indisputable that it is a body which does not represent the vast mass of the Non-Brahmins and the Depressed Classes. A pact arrived at by organisations which are not constituent assemblies of the mass of people may bind themselves but they certainly cannot bind the generality of the people. To give the pact an authority as though it was treaty negotiated between duly empowered plenipotentiaries of different states is to assume in the League and the Congress an authority which they did not possess. It has become necessary to assess the binding force of the agreement because of the view taken by the Government of Bombay that "Any change in the direction of abolishing separate electorates must, however, be based on agreement between the two communities, and cannot be forced on the Mohamedans against their wish. The question is also an All-India one and can hardly be dealt with on different lines for each presidency. The Government of Bombay adhere to the view which they had expressed in 1918 that communal electorates are not acceptable to them and that their abolition is desirable, if it can be secured with the consent of both parties as in the case of the Lucknow Pact." In my opinion this is an attitude which is as irresponsible as it is dangerous. It is irresponsible because it involves the surrender of the right of Parliament to decide in the matter. That the Government of India thought it wise not to "ignore" the pact which in their opinion represented a genuine attempt on the part of the two communities upon so highly controversial a subject and "on behalf of the larger community at least a subordination of their immediate interests to the cause of unanimity and united political advance" is true. — But that is far from saying that the Government of India or any other authority held the view that on the question of Mohamedan representation their position was merely to register the decision which the Congress and the League may by mutual negotiation make. Indeed Sir William Vincent was careful to point out that "in this matter (the Government of India) cannot delegate (its) responsibility to Parliament into other hands."

93. The attitude taken by the Bombay Government is dangerous because admitting that an error has been committed it refuses to take upon itself the task of correcting it. I would have looked upon such an attitude as a pardonable sin if the error was not an error in the constitutional arrangement of the country. But unfortunately it is an error in

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the constitution and having found its lodgment in a most vital part thereof it affects its working in a fatal manner. An error of such a character cannot be tolerated. A mistake in constitutional innovation directly affects the entire community and every part of it. It may be fraught with calamity or ruin, public or private, and correction is virtually impossible. The Government of Bombay practically takes for granted that all constitutional changes are final and must be submitted to, whatever their consequences. Doubtless this assumption arises from a fateful renunciation that in these matters we are propelled by an irresponsible force on a definite path towards an unavoidable end—towards destruction. But I am glad to find that the Government of India in accepting the pact did not concede that its terms as embodied in the Act should stand unaltered. Far from leaving the matter shrouded in ambiguity they made it quite clear that the arrangement was not to stand beyond the first Statutory Commission. In their Despatch on the Report of the Southborough Committee they said—"Before we deal in detail with the Report one preliminary question of some importance suggests itself. As you will see the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings. It was no doubt the case that the exigencies of time alone made any other course difficult for them. But in dealing with their proposals, we have to ask ourselves the question whether the results of such methods are intended to be in any degree permanent. . . . Whatever be the machinery for alteration however we have to face the practical question of how long we intend the first electoral system set up in India to endure. Is it to be opened to reconstruction from the outset at the wish of the Provincial Legislature or is to stand unchanged at least until the first Statutory Commission? There are reasons of some weight in either direction. In the interest of the growth of responsibility it is not desirable to stereotype the representation of the different interests in fixed proportion; the longer the separate class and communal constituencies remain set in a rigid mould, the harder it will become to progress towards normal methods of representation. On the other hand it is by no means desirable to invite incessant struggle over their revision." It is for the Commission to say whether the life of this error shall be prolonged. I have hopes that the Commission will not merely say "Well! we feel the force of the objections to principle of the communal system fully. But we cannot help as India has deliberately chosen her road to responsible government." For the Commission will realise that its duty to point out the right road and lead India on to it arises not merely out of a conscientious regard for what is right but also out of the moral obligation of the British authorities who are primarily responsible for pointing out in 1909 this wrong road.

## CHAPTER 5

## SECOND CHAMBER

94. My colleagues have recommended the institution of a Second Chamber as a part of the Provincial Legislature of this Presidency and have suggested a framework for its constitution. I am afraid my colleagues have not devoted sufficient thought to the difficulties pertaining to its construction. In the matter of its composition a second chamber, if there is to be one, must be different than the first. In the matter of its powers, they must be such that a second chamber can work without impediment to the first chamber. It seems to me to be very difficult to constitute a second chamber which will satisfy both these conditions. A nominated second chamber is out of question. The Canadian Senate is a standing warning against the introduction of a nominated second chamber. It cannot have the moral authority of a popularly elected chamber to command respect for its decisions. Nor can it have the independence possessed by a popularly elected chamber, to sit in judgment, as a revising chamber must, over the very executive which brings it into being. If the second chamber is an elective chamber then its working smoothly with the first will depend upon their respective franchise, times of election and their powers. If the second chamber is elected on the basis of a restricted franchise, it is sure to end in the raising of a small group from amongst the aristocracy into a governing class having a special degree of control over the destiny of the masses. Such a second chamber far from being a revising chamber acting as a check upon the supposed rashness of the lower chamber will be a chamber which instead of putting a premium upon improvement in general will put a premium upon the upkeep of vested interests. It would be dormant under a conservative administration and would be vigilant only under a radical one. When it ought to revise it will refuse and when it ought to refuse to revise, it will

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revise and may perhaps obstruct. If the two are elected on a uniform franchise then the second will only be a replica of the first and will be quite superfluous. The same would be the result if the second chamber was elected simultaneously with the first. On the other hand if the second chamber is elected at a different time than the first then it is bound to enfeeble the executive and diminish its efficiency. For, it would work as a hindrance to adequate policy-making and may cause such a violent break in the policy of the executive as to lead to constant general elections. If the two chambers are coequal in powers there are bound to be deadlocks and the inevitable result of all deadlocks is an unhappy compromise, if not a total abandonment of the principle in dispute. On the other hand if the powers of the second chamber are inferior to those of the first, it will not be able to control the supposed rashness of the first chamber and will thus fail to perform the purpose of its life.

95. In framing the constitution of a second chamber, my colleagues have ignored all these difficulties. In doing so they have created a second chamber which, if I may say so, has all the faults and none of the virtues which a second chamber should have. In supporting the idea of a second chamber it seems to me that my colleagues have more or less followed the crowd psychology. A widespread existence of second chambers in historical times has given rise to the dogma of political science that a second chamber is a necessary accompaniment of a popular government. But it is forgotten that a two-chamber system which had its origin in England was a purely historical accident. That it found a place in the constitution of other countries was the result of the imitation of the superior by the inferior and the virtue ascribed to it of serving as a brake on the rashness of the popular chamber is a subsequent invention of the human mind to justify the existence of what had become a universal fact. But it must be noted that this faith in the second chamber has been dwindling of late and that pre-war constitutions like Canada and South Africa and many post-war constitutions like those of Latvia, Lithuania, Estonia and Yugoslavia have dispensed with the second chamber. This reaction has come about by the growing conviction that a government must be judged not by the symmetry of its structure, but by its practical achievement, by the content of actual service that it renders to the community and by the amount of well-being that it brings to the nation as a whole.

96. Looking at the institution of second chamber from the utilitarian point of view I refuse to accept that it can perform the function of a revising chamber. If to revise means to interpret the will of the electorates I fail to understand how the second chamber is more likely than the first to be correct in its judgment as to what the electoral will is. My view is that the electorate and not the second chamber will be the best judge when such a question arises, unless we suppose that the members of the second chamber by virtue of their position have a greater prudence than the members of the lower chamber. I deny that the second chamber possesses any such virtue. Indeed a second chamber is not only as much likely to fail in correctly gauging the popular will, but its own interests in the matter are likely to give it such a personal bias one way or the other as to make it quite incapable of coming to an independent and rational judgment. It is therefore better, safer and more reasonable to have a single chamber and to throw the responsibility of decision, when doubt arises, upon the electorate which chooses the chamber. Besides, if the idea underlying the second chamber is to delay the decision of the first chamber then this end is already secured by the Governor having the power to refer back any particular measure which has been passed by the legislature for reconsideration. If the legislature does not reconsider, but passes it in original form, the Governor can still stop it by vetoing it. And if the legislature does not abide by the decision of the Governor it may compel him to submit the matter in dispute to the electorate by compelling the dissolution of the House. It is therefore obvious that what the second chamber can do or is expected to do, can be done by the Governor with his powers to veto, to refer back and to dissolve. If this is admitted then a second chamber becomes a useless appendage to a popular chamber.

97. I am sure my colleagues would not have been led away by what exists in some other countries without applying the utilitarian standard if they had made sure that their assumption that a single chamber is likely to pass hasty and ill-conceived laws was based on sure foundations. It seems to me that the assumption is quite unfounded and displays a total ignorance of the working of modern politics. No piece of legislation in modern times is flung upon the legislature as a surprise. On the other hand every legislative proposal before it is enacted into law goes through a long process of discussion and dissection at the hands of the public extending over a long period of years. Indeed, if the antecedent history of every measure which has found its place in the Statute book were investigated it would demonstrate that the period that has intervened between the conception of the idea and its enactment into a law has varied more often on the side of length

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than on the side of brevity. Such being the case the assumption that a popular chamber acts hastily and therefore needs a brake upon its wheels is to prescribe for a disease which does not exist.

98. What however my colleagues are after is not a revising chamber but a governing caste. This is clear from the purpose assigned to it, from the franchise on which it is sought to be built and the powers which are proposed to be given to it. I confess, I am somewhat surprised that they should have thought that a devolution of powers on the legislature must be circumscribed by the institution of a second chamber as an insurance against such powers being used to the detriment of a particular community, or a particular interest. For the desire really felt, as I understand it, is not that we should have a reform in which the centre or the balance of political power shall remain unchanged but that within certain limits it shall be surreptitiously shifted in the direction of the mass of the people. To attempt to circumscribe this devolution of power seems to suggest that my colleagues think that the most desirable kind of political reform is one which does not alter the balance of power amongst the different communities concerned. Persons who hold such a view in my opinion either do not know what political reform means or knowing what it means, do not desire a reform which will disturb the *status quo*. As for myself, I make no mistake about the fact that the essence of all reform is to change the balance of power among the different classes. If the lower classes gain, some other class must lose. If each class remains with no more political power than before then there will have been no real reform. It is idle to suppose that either the lower classes or for the matter of that any class interested in reform will be satisfied with a measure, either because it is called political reform or because while proposing to change everything it contrives to keep things where they are. It would be much better to say in plain terms that the scheme of devolution of political power should be so conditioned that the flow of power shall stop with the classes and shall not reach the masses. I must however make it plain that I cannot be a party to any such scheme of reforms.

99. Granting that a second chamber is a necessity there is one supreme difficulty in the way of its formation. The authors of the Montagu-Chelmsford Report had in 1917 carefully considered the question of establishing second chambers in the provinces. But taking all things into consideration they decided against the proposal. They said "we see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two houses. We apprehend also that a second chamber representing mainly landed and monied interests might prove too effective a barrier against legislation, which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging other members of the same class from seeking the votes of the electorates. We think that the delay involved in passing legislation through two houses would make the system far too cumbersome to contemplate for the business of Provincial Legislature." We have decided for the present therefore against bicameral institution for the Provinces. The objections raised to second chambers in 1917 hold good even to-day. I am quite certain that this Presidency has not at its command a sufficient number of eminent men to run both the houses. A second chamber will sap the life of the first or the first will sap the life of the second. There is not enough material to build both. Under such circumstances it is better to have a single efficient chamber than to have two effete ones. For these reasons I oppose the institution of a second chamber in this Presidency.

## CHAPTER 6

## POWERS OF THE LEGISLATURE

100. *Power of appointing and removing the President.*—Prior to the reforms of 1919 the Governor who was the chief of the executive of the Province was the President of the Provincial Legislature. By the changes introduced in 1919 the Provincial Legislature obtained the right of electing one of its members as its President and to remove him from office. This was a valuable privilege. The exercise of this privilege was, however, made subject to certain restrictions inasmuch as the appointment of the President was made subject to the approval and his removal subject to the concurrence of the Governor. These limitations are the remnants of the time when the Executive was supreme over the Legislature. They are not to be found in the constitution of the dominions. They are incompatible with the independence of the Legislature and must be removed. Granting that the President must be made independent of the executive, question is must he also be made independent of the Judiciary? Section 110 of the Government of India Act defines the officers and the matters in respect of which they are exempt from the jurisdiction of the High Courts. The President of the Legislative Council is not included among

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the officers who enjoy this immunity. That being the case the President of the Legislature is subject to the jurisdiction in respect of what he does as a President. That means that his conduct as a President is liable to be questioned in a Court of Law. It is feared that this opens a vast field to vexatious litigation involving great delay in the conduct of the business of the Legislature. This is sought to be remedied by granting exemption to the President from the jurisdiction of the Courts. I am opposed to this change and prefer to leave things as they are.

101. *Power of Defining Privileges.*—No one will question the expediency of allowing a Legislature every power reasonably necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute. The position of the Provincial Legislatures under the existing law is very unsatisfactory. Beyond giving certain immunities to the members of the Legislature and barring the meagre powers given to the President by rule 17 of the Legislative Council Rules for expelling a disorderly member the law gives no authority to the Legislature to vindicate itself against a wrong calculated to obstruct its work or lower its dignity. Such authority can no longer be withheld from the Legislature. I therefore recommend that the Provincial Legislatures like the Dominion Legislatures should be given the power within prescribed limits to define by law the powers and privileges which it thinks are necessary in its own interest.

102. *Power of Regulating Procedure.*—The conduct of business in the Bombay Legislative Council is governed by Rules framed under section 72D (6) of the Government of India Act supplemented by Standing Orders framed under section 72D (7) of the same. In the framing of this code of procedure the Provincial Legislature has had no hand. The standing orders were made by the Governor General-in-Council though the Legislature has had the liberty to suggest amendments to them. But the Rules are framed under the provisions of section 129A by the Governor General-in-Council which expressly prohibits the Provincial Legislature from altering or repealing them. I am of opinion that the Provincial Legislature should have the power of regulating its own procedure. The difficulty in giving such freedom to the Provincial Legislatures seems to arise from the fact that some of the Rules embody provisions which in other countries form parts of their constitutional law; so that the power to amend rules virtually becomes power to alter the constitution. But this difficulty can be easily avoided if an attempt was made to enact such rules as sections of the Government of India Act. If this is done the recommendation I have made can be easily given effect to and the Provincial Legislatures brought on a par with the Dominion Legislatures of Australia, South Africa and Canada.

103. *Power of Legislation.*—Section 80C of the Government of India Act provides that it shall not be lawful for any member of any local Legislature to introduce, without the previous sanction of the Governor, Lieutenant-Governor or Chief Commissioner, any measure affecting the public revenue of a province, or imposing any charge on those revenues. This section is a serious limitation upon the powers of the legislature. It is a relic of the days when the people had no voice in the administration of the affairs of the country. The retention of these powers will ill-accord with a legislature supreme over the executive. This Section must therefore be deleted. The Governor will still have the power of vetoing any legislation that will be passed by the Council. That power must suffice. More than that will not be consistent with the position he will have to occupy under a system of complete ministerial responsibility.

104. *Power of appropriation.*—The Legislative Council under Section 72(D) may assent or refuse its assent to a demand or reduce the amount referred to therein either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed. This power is subject to certain important provisos. In the case of a demand relating to a reserved subject, the Governor has the power of over-ruling the decision of the Legislature if he certifies that the expenditure provided for in the demand is essential to the discharge of his responsibility for the subject. Another proviso limiting the powers of appropriation of the Legislature is contained in Section 72D, Clause (2) (b), by virtue of which the Governor has the "power in cases of emergency to authorize such expenditure as may be in his opinion necessary for the safety or tranquility of the province, or for the carrying on of any department". These are also very serious limitations on the powers of the Legislative Council and I suggest that they should be removed from the Act. The powers given to the Governor under the first proviso are out of place in a government which is fully responsible and in which the Governor is not charged with the direction of affairs. The safety and tranquility of the Province will not be a special concern of the Governor any more than that of the responsible executive. Consequently the power given by the second proviso to the Governor is unnecessary and should be taken away.

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105. Another restraint on the financial powers of the Legislature is embodied in Section 72D (3). By virtue of this, the executive is not required to submit to the Legislature for its vote expenditure on certain specified heads mentioned therein. The result is that the budget of the Province contains permanent appropriations to a large extent which the Legislative Council cannot touch. Theoretically speaking every item of expenditure should be sanctioned each year by the Legislature. But the Budget, in almost every country contains permanent appropriations which do not require to be voted annually by the Legislature. Even in England there has grown up quite a list of permanent appropriations covering before the War in the aggregate about one-third of the total annual expenditure. Whether the Executive can or cannot be trusted to fix the amount and determine the character of public expenditure depends upon the stage of development at which a people have arrived in their realization of constitutional government. If the stage be such that there exists an uncertainty concerning the political rights of the Government and the people it would not be safe to permit such permanent appropriations of public moneys without legislative sanction as are contemplated by Section 72D (3). It is true that the foundation of responsible government in the provinces is just being laid and the Provincial Legislatures have jealously to guard against the encroachments of the Executive. All the same it must, I think, be recognized that the right of popular control over public affairs is recognized and will be under the new constitution fully conceded; so that under the various checks upon the arbitrary use of public authority the submission for annual sanction of every item of public expenditure need not be insisted upon. I do not therefore object to this scheme of permanent appropriations. But I object to their being made so by law thereby curtailing the powers of the Legislature. Their being made a matter of law has had the effect of debarring the Legislature from even discussing the policy underlying the administration of non-votable items. The creation of non-votable items must be a matter of convenience. There ought to be no restraint about them on the legislature by law.

106. *Power of Controlling the Executive.*—Originally Provincial Legislatures under the reformed constitution of 1919 could control the ministers in three ways:—(1) by legislation, (2) by refusing supplies and (3) by refusing or reducing their salaries. The second and the third were the only two ways whereby the Legislature could control the administration by the ministers. This control could normally be exercised only once a year, and was therefore insufficient. Consequently provision was made in 1926 for a motion regarding want of confidence in a minister. These powers are sufficient for the Legislature to control the actions of a minister and were in keeping with the idea that the ministers were to be individually liable for their actions. The future ministry will be based upon the principle of joint responsibility under which ministers will stand together or fall together. There is nothing in the existing powers of the Legislature to indicate that it desires to dismiss the ministry as a whole. I think provision to this effect should be made by adding a new class of motion to be called "a motion of no confidence" as distinguished from the existing motion which should be renamed as "motion questioning a minister's policy in a particular matter". This was suggested by the Muddiman Committee but was not carried out.

107. *Power of altering the constitution.*—The provincial Legislatures are bound by the terms of the instrument which has created them. By virtue of that instrument they are made bodies with "plenary powers" possessing a specific and defined power of government in their territory over all persons. The plenary powers of Government do not *per se* carry a power to alter the constitution itself. There is a desire that the Provincial Legislatures should have the powers of a constituent Assembly to alter the Constitution of the Province. There is much that can be said in favour of such a proposal. Parliament having consented to grant self-government to the people of the Province, it is as well that the people of the provinces had the right to decide the form of Government under which they liked to live. But it must be recognized that there are minorities who will not like their constitutional rights to be determined by the majority as would be the case if the Provincial Legislatures were allowed the right to alter the constitution. This is the principal reason why the constitution of Canada gives no power to the Canadian Parliament to alter the constitution of Canada. There is however the example of South Africa which shows that the powers of altering the constitution can be conferred on a legislature without detriment to the position of the minorities. There is therefore no reason why the example of South Africa should not be followed. I recommend that the power of altering the constitution of the Province should be granted to the Provincial Legislature; provided that it shall have no power to alter the provisions regarding the representation of minorities in the Legislature.

108. What special procedure should be prescribed for passing such a legislation is a matter which it is very difficult to decide. But it might however be stated that the mode

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of amending the constitution should be such as to make it sufficiently rigid to protect the fundamental rights of the citizens but which should at the same time leave it flexible enough to recognize that development is as much a law of life, as existence and to secure deliberation before action and final decision in harmony with the principle of rule by majority. The safest course, it seems to me, would be to prescribe different procedure for different kinds of amendments to the constitution. For the more fundamental amendments the procedure should be more exacting than for amendments to less fundamental parts of the constitution.

## SECTION IV

## PROVINCIAL AUTONOMY

## CHAPTER 1

PROVINCIAL GOVERNMENT IN RELATION TO THE  
GOVERNMENT OF INDIA

109. It is evident that the responsibility of the Executive would be of very little consequence if the Provincial Executive instead of being subordinate to the Provincial Legislature is subordinate to any other body outside the Province or if the Provincial Legislature instead of being supreme within its field is made subject to some other authority in the matter of the exercise of its powers. In other words responsible government must also be autonomous government. To render Provincial Government autonomous it is necessary to demarcate clearly the spheres of operation of the Provincial and Central governments.

110. Prior to 1919 a Provincial Government was required under section 45 of the Government of India Act, 1915, to obey the orders of the Governor General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province. This meant that the Provincial governments had no acknowledged authority of their own in any of the matters which they administered; that whatever powers they exercised were powers which were delegated to them by the Central Government in the same way as a principal delegates his authority to his agent. By the Act of 1919 this relation of the Provincial to the Central Government was made subject to its provisions, and rules made thereunder. Section 45 (1) (b) of the Act of 1919 provided "for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments", while section 45 (3) laid down that "the powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act 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 powers in any particular case comes within the purposes so specified". The Act of 1919 therefore made two changes: (1) It gave the provinces authority of their own as distinguished from authority derived as agents of the government of India. (2) It relieved them of their former obligation to obey the Government of India in regard to those subjects which were transferred to the control of the ministers but retained its powers of supervision. From this it is clear that there may be a complete transfer of all the subjects to the control of the ministers; but transfer will always be subject to the powers of supervision of the Government of India involving interference in the freedom of action by the Provincial Government. The question is whether these powers of supervision are necessary and if so whether any other form of relationship between the Provincial and Central Governments can be contemplated in which these powers will be so placed as not to conflict with the autonomy of the Province.

111. By the Act of 1919 and the Rules made thereunder the provincial subjects are marked off from central subjects. Notwithstanding this the Provincial Legislature have not been given freedom of action or finality of action in legislating upon Provincial subjects. The powers of Provincial Legislature are restricted in two different ways. In certain matters defined in section 80A it cannot without the previous sanction of the

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Governor-General make or take into consideration any law although it might pertain to a matter lying within the Provincial field. In certain other matters Provincial Legislature may pass a law but if the law happens to fall within the purview of section 81A and rules made thereunder its action becomes subject to the veto of the Governor-General. The combined effect of these two restrictions on Provincial autonomy can be easily understood. The question is whether any other system of relationship between the Provincial and Central Governments can be contemplated in which the powers of the Central Government will not conflict with the autonomy of the Province.

112. The provision regarding supervision by the Central Government over Provincial Government in the matter of administration of Provincial subjects and of previous sanction and subsequent veto by the Central Government of Provincial legislation regarding Provincial subjects is a feature which is not to be found in the constitution of any other country in which the functions of government are divided between two body politics, Central and Provincial, such as Canada, Australia and the United States. The provisions regarding previous sanction have found their way in the Indian constitution as a result of two erroneous suppositions. One is that it is not possible to demarcate functions exclusively. That assumption does not seem to be well-founded. For in Canada the constitution does divide the functions into two distinct classes (1) those which exclusively belong to the Central Government and (2) those which exclusively belong to the Provincial Government making each government absolutely autonomous in the sphere which is allotted to it. The second assumption is that in dealing with those functions which cannot be said to be exclusively Provincial the only way open is to make their exercise subject to previous sanction and subsequent veto by the Central Government. This again seems to me to be an erroneous assumption. The constitution of Australia and the United States are examples where the constitutions have not divided the functions into two clear cut exclusive divisions as is done in Canada. By the scheme of division of powers and functions adopted by the Australian constitution there are certain matters over which the Central Government has exclusive powers. In certain other matters the powers of the Central Government are concurrent with those of the State Governments. But the matters of concurrent legislation are divided into two categories (1) in which the power of the Commonwealth Parliament operates by way of paramount legislation merely overriding any exercise by the State of its own powers and (2) in which the Commonwealth has no paramount power. In the United States Governmental powers are distinguishable into (1) Powers vested in the Central Government alone, (2) Powers vested in the State Governments alone, (3) Powers exercisable by either the Central Government or the States, (4) Powers forbidden to the Central Government and (5) Powers forbidden to the State Governments. Thus the constitution of Australia and the United States both recognize that there may be functions which cannot be said to exclusively belong to either. But neither of them have adopted the plan of assigning them to one government subject to the previous sanction and subsequent veto of the other government. I recommend that the Scheme of division of functions and powers like that of Canada should be tried and failing that the scheme prevalent in Australia or the United States should be adopted. But in any case the provision of previous sanction and subsequent veto should be done away with.

113. The provision whereby the Central Government has been invested with powers of supervision over subjects which have been transferred to Provincial control is partly due to want of clear cut allocation of subjects between Central and Provincial and partly to an erroneous view of the responsibility of the Central Government for the administration of Provincial subjects. The power of supervision is sought to be justified on the ground that certain subjects are of importance for Central Government. This reason will not survive a proper allocation of the subjects on the Canadian, Australian or American lines. The other justification for the powers of supervision is the view that the Government of India must be responsible for the peace, order and good government of India as a whole and that in order that it may discharge its own responsibilities, it must have the power of supervision. It seems to me that with the partition of functions there must follow a partition of responsibilities as well. If these responsibilities are partitioned and that of the Central Government confined to matters arising out of matters assigned to it, the necessity for supervision over Provincial Governments will vanish and I suggest that the clauses in the Government of India Act which define the responsibilities of the Central Government should be amended accordingly.

114. While I am anxious to see that there should be established complete Provincial autonomy I am opposed to any change which will in any way weaken the Central Government or which will impair its national character or obscure its existence in the eyes of the



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people. Holding this view I am against making the Central Government a league composed of a number of governments bound together to constitute for certain purposes a single body. The effect of such an arrangement is obvious. The league will exist only as an aggregate of governments, and will therefore vanish as soon as the governments decide to separate themselves from one another. Such a Central Government will last only as long as the component governments will desire it to last. The league being a confederacy of governments will have to deal with and act upon the governments only. With the individual citizen it will have very little to do. It will have no right to tax the individual, to adjudicate upon his causes or to make laws for him. Such a Central Government is bound to be the weakest government possible. My conception of the position of the Central Government will not permit me to reconcile myself even to such a form of relationship as is found in the American constitution in which the Central government is a commonwealth as well as a union of commonwealths. It is true that under it the Central Government acts immediately upon every individual through its courts and executive officers. But it is equally true that the Central government in the United States is a creature of the States. Having been called into existence by the States it must stand or fall with the States. The States retain all the powers which they have not expressly surrendered. The Central Government has no more powers than those that have been conferred upon it by law. Such a Central Government, however stronger it may be than a Central Government in a league, will not in my opinion be strong enough for the needs of India. My view is that the national Government should be so placed as not to appear to stand by virtue of the Provincial Governments. Indeed its position should be so independent that not only it should survive even when all Provincial Governments have vanished or changed into wholly different bodies but it should have the power to carry on provincial administration when a Provincial Government by rebellion or otherwise has ceased to function. Consequently on this aspect of the question I make the following recommendations:—(1) That all residuary powers must be with the Central Government, (2) that there must be a specific grant of power to the Central Government to coerce a recalcitrant or a rebellious Province acting in a manner prejudicial to the interests of the country, (3) that all powers given to the Provincial Government in case of its non-functioning shall return to the Central Government and (4) that the election to the Central Legislature shall be direct.

## CHAPTER 2

## PROVINCIAL GOVERNMENT IN RELATION TO THE CROWN

115. For the purpose of securing Provincial autonomy it is not sufficient merely to lay down proper relations between the Provincial Government and the Central Government. It is also necessary to define the status of the Provincial Government. This is of practical importance principally in respect to their external relations. That the Provinces cannot have any international status goes without saying. But the question of their relationship with the Home Government stands on a different footing and cannot be easily disposed of. It is clear that whatever the nature of the relationship between the Provincial and Home Government it must be in keeping with the constitutional law of the country. The degree of independent political existence of a Province must determine the angle from which the problem is to be looked at. Are the Provinces to be treated so very devoid of independent political existence that they are to be treated as mere internal divisions comparable with the areas of local Government, unknown and unrecognised beyond India itself? If so that Imperial Government would know but one Indian authority, the Central Government, and would in all matters affecting India address itself to that Government and receive communications from or through it alone. On the other hand have the Provincial Governments an independent political existence in the eye of the law? If they can be said to have it, then the Imperial Government must recognize them and must in all provincial matters address them and must receive communication from them. Of these two possible bases of relationship there is no doubt that the latter is the more proper one. An independent political existence for the Provinces is now an accomplished fact. They have a sphere of activity in which they have an authority of their own. The whole scheme of reforms is opposed to the subordination of the Provincial Governments to the Central. The chief executive of the Province is not a nominee of the head of the Central Government. He is the representative of the Crown in the Province and not of the Governor General. The constitution is a pluralistic constitution and there is nothing to suggest the view that while within India

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the constitution is to be treated as plural, conferring distinct powers on each, it is to be treated by the Imperial Government as a unitary constitution with a single responsible Government.

116. What are the matters in which the right of Provincial Governments to deal directly with the Home Government can be recognized? Following the rule prevalent in the case of the Australian Commonwealth that in matters in which the Crown is concerned solely in its capacity as part of the constitution of a government, communications proceed directly between the State Governor and the Colonial Office without the intervention of the Governor General, it must be claimed on behalf of the Provincial Governments that they shall have the right to deal with the Home Government directly without the intervention of the Central Government. The matters in which it must have such a right must include the reservation, the allowance and disallowance of provincial legislation, the appointment and removal of Provincial Governors and their instructions, the amendment of provincial constitutions and other matters which exclusively belong to the Provincial Governments. What about matters which do not exclusively belong to either Government? I suggest that in cases in which the Central Government has paramount power of legislation, the Central Government is the sole representative of India. But as to matters within concurrent jurisdiction of the Central and Provincial Government, the Provincial Government must have a right to direct representation.

117. To make the political existence of the Provinces as an entity independent of the Government of India a reality, the representation of the Crown in the Provincial Executive and the Provincial Legislature should be made more manifest than it is at present. Under the existing law the Secretary of State has placed the Crown quite in the background and has in fact usurped its place. The office of the Secretary of State for India is analogous to the office of the Secretary of State for Colonies. But the two play quite different roles. The Secretary of State for Colonies occupies no place in the constitutional law of the dominions. The constitutional laws of all the dominions are emphatic in their declaration that their executive and Legislative Government is vested in the Crown. Section 2 of the Government of India Act gives a definite legal status to the Secretary of State. So prominent is the position given to the Secretary of State that he has altogether eclipsed the Crown. Indeed except for a passing reference in section 1 there is no mention of the Crown anywhere in the Government of India Act. The reasons for this are no doubt historical and go back to the passing of the Regulation Act of 1773 when the East India Company disputed the right of the Crown to the possessions it had acquired in the East. Whatever be the historical differences the fact remains that the Dominion laws do not recognize the Secretary of State while the Indian law does. The result is that the Secretary of State for Colonies does not govern the dominions. His duty is to advise the Crown to allow or disallow particular acts of the Dominion Governments. The Secretary of State on the other hand is not merely the advisor of the Crown. By section 2 of the Government of India Act he has been given the fullest powers of government.

118. The provisions contained in section 2 cannot be justified under any circumstance. They are derogatory to the position of the Crown and are a perversion of the true position of a Secretary of State. They gave a false picture of the position of the Provincial Governments. Whatever might have been the justification of the provisions in section 2 before 1919 the changes introduced in that year have removed it altogether. The powers of Government having been transferred to the people it is no longer possible to retain those powers in the hands of the Secretary of State. To do so would be to introduce a system of double government fraught with the possibilities of serious conflict. I therefore recommend that section 2 of the Government of India Act should be deleted and two new sections of the following tenor should be added:—

- (1) The Legislative power of the Province shall be vested in a Provincial Parliament which will consist of the King and a Council of Representatives and which is hereinafter called "The Provincial Legislature."
- (2) The Executive power of the Province is vested in the King and is exercisable by the Governor as the King's representative and extends to the execution and maintenance of the constitution and of the laws of the Province.

Sections of similar import regarding the position of the Crown in the Government of India should be added to Act of 1919. Such a change will not only help to place the Crown and the Secretary of State in their true position; but they will also help to bring the constitutional law of India in line with the constitutional law of the dominions.

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## SECTION V

## PUBLIC SERVICES

## PUBLIC SERVICES

## I. REORGANIZATION OF SERVICES

119. *Separation of Services.*—The present organisation of the public services in India is the outcome of the recommendations of the Aitchison Commission which inquired into the Public Service of India in 1886-87. Prior to the appointment of the Commission the great bulk of the civil posts of higher responsibility and emoluments were filled by recruits from Europe and that Commission was expressly directed to suggest measures which would "do full justice to the claims of natives of India to higher and more extensive employment in the public service" of their country. The Commission held the view that the civil service should be only "a Corps d'elite" and consequently recommended that the recruitment of officials in England should be substantially reduced and the higher appointments so set free transferred to a service locally recruited in India. As a result of these recommendations officers recruited in England formed the Imperial Services and the officers locally recruited formed the Provincial Service. The conditions of appointments in regard to pay, leave and pension of officers belonging to the two services were to be fixed on the independent grounds and were not necessarily to have any relation to each other. This division into Imperial and Provincial obtains in most of the Civil Services of the country which it is needless to detail. What is important to bear in mind is that the division was made to distinguish officers recruited in England and officers recruited in India and not as might be understood from the description, in order to distinguish officers placed under the Government of India and liable to serve all over India from officers placed under Local Governments and liable to serve only in specified provinces. For instance the officers belonging to the Provincial services in the Telegraph (engineering) and the Survey of India are directly under the Government of India and not confined to any particular province while officers in the Imperial Service in the Education and the Police Departments are allotted to different provinces. In my opinion time has arrived when each Province should be free to organize its own civil service. For this the all-India character of the services must cease. There should be *Central Civil Service* recruited and maintained in response to its own needs by the Central Government to run various departments which are handed over to it by the Government of India without imposing upon its members the liability to serve under any of the Provincial Governments. Similarly there should be a *Provincial Civil Service* recruited and maintained in response to its own needs by every Provincial Government exclusively for its own employment. This recommendation cannot be said to involve any substantial change in the system. For although members of the Imperial service and Provincial service are liable to serve in any part in India their all-India character is only nominal. For the cases in which a member of the civil service whether Imperial or Provincial has been called upon to serve in a Province different from the one in which he was originally posted are few. Almost all of them continued to work to the end in the same Province in which they were placed in the beginning. That being the case the reform which I have suggested will involve no change. It will only recognize facts as they exist.

120. The grounds on which I press for this reform in the organisation of the Civil Service are many. First of all such a separation of the services into those which are central in the sense that they are in the employment of the Government of India and those which are Provincial in the sense that they are in the employment of the Provincial Government has this immense advantage, namely that it is a reform which is eminently called for by the change in the character of the Provincial Government. If the present system was continued, ministerial responsibility would be difficult of realisation. Public Servants in India according to section 96 (B) of the Government of India Act no doubt hold their position during the pleasure of the Crown. But it must be remembered that the Act does not allow the ministers the power to decide when His Majesty should be pleased to remove him from office. Although that power is given to the authority who appoints him yet the dismissed officer has been given a right of appeal to the Secretary of State. Not only the minister has no right of dismissing an officer, but he cannot even punish him with impunity, because it is provided in the Act that if any officer appointed by the Secretary of State-in-Council thinks himself wronged by an order of an official superior in a Governor's Province he has a right to complain to the Governor and the Governor by the Act as well as by the instrument of instruction is bound to enquire and pass such an order as may appear to him just and equitable. These

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provisions must make any Minister, however strong he may be, quite helpless against a recalcitrant member of the Civil Service who refuses to carry out the policy for which the Minister is responsible to the legislature in accordance with its wishes. Ministerial responsibility requires that a Minister shall have power effectively to deal with an erring officer working under him. He must also have the power to decide how many officers he must have and to what particular post any of them might be appointed. The existing provisions do not permit him any of the powers he must stand in sore need of. This anomaly was recognised by the Lea Commission which was appointed soon after the reforms were introduced. That Commission recommended that no further recruitment should take place in the transferred departments on an All-India basis and the personnel required for them should in future be recruited and appointed by Provincial Governments. As a result of this recommendation Provinces have been empowered to frame rules for the recruitment of officers who will take the place of the existing All-India Service Officers in these services operating in the transferred department when the latter vacate. The reform I have suggested is merely an extension of the same principle which the necessities of the case have compelled the authorities to accept. The extension cannot now be delayed for the reason that under a fully responsible system of Government the distinction between Reserved and Transferred will have vanished.

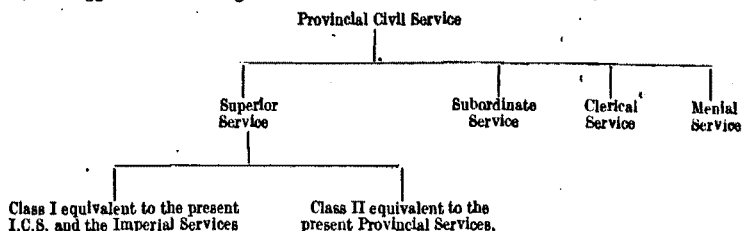
121. The second advantage of a separate and independent Provincial Civil Service will be the liberty it will give to the Provincial Governments to alter the cadre of the services belonging to the Province. The drawback of the All-India system is that a minister who is satisfied that there are several superfluous posts ordinarily held by the members of the All-India Service and a larger number the duties of which can be and in the temporary vacancies have been efficiently discharged by the more moderately paid officers of the Provincial Services, and who might therefore be convinced of abolishing such a post or transferring it to the cadre of a Provincial Service finds himself powerless to do so. For, under the Act he has no such power. All that he can do is to let such post remain in abeyance or to let an officer of the Provincial Service concerned to officiate for a lengthened period. But even here his powers are limited. For, under the rules he cannot do this beyond fixed number of months without the sanction of the Secretary of State. This is a very serious limitation arising out of the All-India organisation of the Services in that it prevents the attainment of the ends of economy for which the Reformed Council has been clamouring from its very inception.

122. These are not the only advantages of an independent system of Provincial Civil Service. The All-India character of the service imposes upon the provinces an uniformity in the conditions of employment in relation to pay, leave allowances, promotions and pensions. I contend that such uniformity must work great hardships upon the resources of comparatively poor Provinces. They are obliged to pay more for the services than they can reasonably afford. Nor can it be said that uniform scale of salary in all Provinces is necessary to ensure equality in the standard of living. It is notorious that owing to differences in local conditions the same standards of comfort can be had in two different Provinces on quite different scales of salary. If that is the case there is no reason why should uniformity in pay be enforced when such uniformity is either burdensome or unjust.

123. The requirement of uniformity in the conditions of service also arises directly out of the All-India character of the Civil Service and it will not vanish unless the service ceases to have that character. The constitution of an independent Provincial Civil Service is a means for accomplishing this end and should be welcomed particularly when its accomplishment can reduce the cost of administration and give the Provinces full liberty to manage its own affairs. This of course means that the position of the Secretary of State *vis a vis* the Provincial Governments in the matter of recruitment to the public service must be radically altered. The Secretary of State instead of being the general employer and the Provincial Government indenting upon him for the number of hands necessary for work in their provinces, the Secretary of State in those cases where the recruitment in England is necessary should merely act as the agent of particular province concerned, on the terms prescribed by the Provincial Government and not on the terms formulated by himself. The Provinces should henceforth cease as authorities utilising the service of persons lent to them or found for them, so to say, by the Secretary of State. So long such a system continues the Secretary of State is bound to claim the powers which he now enjoys under Section 96B of the Government of India Act. Much is said by the Ministers against the powers retained by the Secretary of State over the Civil Service on the ground that they make responsible government impossible. That criticism is perfectly valid. But those who urge this criticism do not seem to be aware of the fact that these powers can be taken away only when the Secretary of State ceases to be the recruiting officer.

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124. If this reform of separation of services is carried into effect I should like to suggest the following classifies of the Provincial Civil Service :—



125. (ii) *Recruitment Agency for the Provincial Civil Service.*—The next question that arises for consideration relates to the agency that should be in charge of matters pertaining to the recruitment to the Provincial Civil Service when the Secretary of State has ceased to perform that function. I accept that the Civil Service in order that it may be free from the evil effects of political influence and jobbery should be recruited and controlled by an authority independent of the ministers. I am not however prepared to say that a Provincial Civil Service Commission could be instituted to take charge of this kind of work. On financial considerations alone the proposal seems to be too big. However, I agree with the suggestion that in every province there should be a full-time officer specially charged with the consideration of service matters. He should be a liaison officer between the Public Service Commission and the local government.

## II. INDIANIZATION OF THE SERVICES

126. (i) *Recruitment of Indians.*—The case for Indianization was accepted by the Islington Commission in 1915. Its relation to the success of the Reforms was emphasized by the authors of the Joint Report and the Lee Commission gave effect to it by defining the proportion between the Indians and the Europeans in the different services. There is therefore no necessity to argue the case for Indianization *de novo*. All that is necessary to say is that during the interval that elapsed between the appointment of the Islington Commission and the appointment of Lee Commission the angle of vision regarding this question had completely altered. In the days of the Islington Commission the question was "How many Indians should be admitted into the Public Services"? At the time of the Lee Commission it had become "what is the minimum number of Englishmen which must still be recruited?" I am glad to say that the Lee Commission gave full recognition to this altered angle of vision. What is now necessary is to determine the necessary changes in the principles which were taken by the Lee Commission for framing the proportions of Indians and Europeans so as to accelerate the pace of indianization. The consideration that should, in my opinion, govern the proportions is the requirement of a Department and the merits of qualified Indians to run them. If this consideration were adopted the proportions settled by the Lee Commission will have to be altered in favour of Indians in all departments except Law and Order, Forest and other Technical Departments.

127. (ii) *Payment of Indians.*—I press for indianization not only on its own merits but also because of its potential effects on the finances of the Province. For, I hope that Indianization can be made to yield economy in administration. I have not been personally able to see why equality of pay to Indians and Europeans should be regarded as a necessary consequence of membership of an All-India Service. Looking to the question from the standpoint of merit I have been convinced that there is no logical justification for equal remuneration for both classes of public servants. One class consists of a body of public servants exiled from their own home and posted in a country thousands of miles away in which they do not think that they can properly educate their children or maintain their health. Conditions such as these which compel them to maintain dual establishments at a standard of living admittedly high are considerations which do not apply to those civil servants who have their domicile in India. In contrast to their European colleagues they are working in a country in which they are living, free from the difficulties of dual establishments not exposed to ill-health owing to climatic considerations and accustomed to a comparatively low standard of living. The financial burden they are obliged to carry is obviously less pressing than is the case with their European colleagues. If this difference between personal risk and sacrifices involved in the performance of their service is admitted, then in my opinion, there is no logical justification for paying them on the same basis. Indeed, if the total position of the two classes

## [Appendix A—contd.]

of public servants in India be compared then one thing is certain. That if the present salary of European officers is adequate then it is beyond dispute that the Indian officers are overpaid. If, however, the contention is that the Indian officers are not overpaid then it follows that the European officers are underpaid. Whichever view is taken the present practice of equal pay to Indians and Europeans gives rise to a position which is quite unsatisfactory. I have no hesitation in saying that under the present practice of equal payment whether or not the European is adequately paid his Indian colleague is certainly overpaid. That being my view I am anxious to see that the scale of salary of public servants with Indian domicile is lower. This argument I am sure cannot fail to appeal to every Indian who examines the financial position of the different Provincial Governments and the serious embarrassments in which each is placed by reason of the high proportion of expenditure which is devoted to the payment of emoluments to Public Servants. There are some Indians I know who object to this principle of inequality in salaries. Be it noted that these objections come from those classes of Indians from which the Civil Service is largely recruited, and who claim to be the leaders of the country. There is a contemptible little argument without any substance in it. It has no substance because inequality in status is not a necessary consequence of inequality in pay. It is contemptible because it is based on self-interest. I for myself am in favour of increasing Indianization mainly because of the large promise of economy which it holds out.

128. (iii) *Indianisation and the claims of the Backward classes.*—It is notorious that the public services of the country in so far as they are open to Indians have become by reason of various circumstances a close preserve for the Brahmins and allied castes. The Non-Brahmins, the Depressed Classes and the Mohamedans are virtually excluded from them. They are carrying on an intense agitation for securing to themselves what they regard as a due share of the Public Services. With that purpose in view they prefer the system of appointment by selection to the system of appointment by open competition. This is vehemently opposed by the Brahmins and the allied castes on the ground that the interests of the State require that efficiency should be the only consideration in the matters of appointment to public offices and that caste and creed should count for nothing. Relying upon educational merit as the only test which can be taken to guarantee efficiency, they insist that public offices should be filled on the basis of competitive examinations. Such a system it is claimed serves the ends of efficiency without in any way prohibiting the entry of the Backward classes in the Public Services. For the competitive examination being open to all castes and creeds it leaves the door open to a candidate from these communities if he satisfied the requisite test.

129. The attitude of the Brahmin and allied castes towards this question has no doubt the appearance of fairness. The system of competitive examination relied upon may result in fairness to all castes and creeds under a given set of circumstances. But those circumstances presuppose that the educational system of the State is sufficiently democratic and is such that facilities for education are sufficiently widespread and sufficiently used to permit all classes from which good public servants are likely to be forthcoming to compete. Otherwise even with the system of open competition large classes are sure to be left out in the cold. This basic condition is conspicuous by its absence in India, so that to invite Backward classes to rely upon the results of competitive examination as a means of entry into the public services is to practise a delusion upon them and very rightly the Backward Classes have refused to be deceived by it.

\* 130. Assuming therefore that the entry of the Backward Classes in the Public Services cannot be secured by making it dependent upon open competition the first question that arises for consideration is, have the Backward Classes a case for a favoured treatment? Unless they can make good their case they cannot expect any modification of the accepted principles of recruitment by considerations other than those of efficiency pure and simple. In regard to this important question I have no hesitation in stating that the Backward Classes have a case which is overwhelming.

131. First of all those who lay exclusive stress upon efficiency as the basis for recruitment in public services do not seem to have adequate conception of what is covered by administration in modern times. To them administration appears to be nothing more than the process of applying law as enacted by the legislature. Beyond question that is a very incomplete understanding of its scope and significance. Administration in modern times, involves far more than the scrutiny of statutes for the sake of knowing the regulations of the state. Often times under the pressure of time or from convenience a government department is now-a-days entrusted with wide powers of rule making for the purpose of administering a particular law. In such cases it is obvious that administration cannot merely consist in applying the law. It includes the making

## [Appendix A—contd.]

up of rules which have the force of law and of working them out. This system of legislation by delegation has become a very common feature of all modern governments and is likely to be on the increase in years to come. It must be accepted as beyond dispute that such wide powers of rule making affecting the welfare of large classes of people cannot be safely left into the hands of the administrators drawn from one particular class which as a matter of fact is opposed to the rest of the population in its motives and interests, does not sympathise with the living forces operating in them, is not charged with their wants, pains, cravings and desires and is inimical to their aspirations, simply because it comes out best by the test of education.

132. But even assuming that administration involves nothing more than the process of applying the law as enacted by the legislature it does not in the least weaken the case of the Backward Classes. For, officers who are drawn from a particular caste and in whose mind consciousness of caste sits closer than conscientious regard to public duty, may easily prostitute their offices to the aggrandizement of their community and to the detriment of the general public. Take the ordinary case of a Mamlatdar, administering the law relating to the letting of Government lands for cultivation. He is no doubt merely applying the law. But in applying he may pick and choose the lessees according to his predilection and very possibly may decide against lessees on grounds which may be communal in fact although they may be non-communal in appearance. Take another illustration of an officer placed in charge of the census department in which capacity he is called upon to decide questions of nomenclature of the various communities and of their social status. An officer in charge of this department by reason of his being a member of particular caste in the course of his administration may do injustice to a rival community by refusing to it the nomenclature or the status that belongs to it. Instances of favouritism, particularly on the grounds of caste and creed are of common occurrence though they are always excused on some other plausible ground. But I like to quote one which pertains to the Vishwakarmans of the Madras Presidency. It is related in their letter to the Reforms Enquiry Committee of 1924 in which they complained that "a Brahmin member of the Madras Executive Council Sir (then Mr.) P. Sivaswami Ayyar—when he was in charge of the port-folio of law—issued a Government Order objecting to the suffix 'Acharya' usually adopted by the Vishwakarmans in their names and seeking to enforce in its place the words 'Aary' which is weighed with common odium. Though there was neither necessity nor authority to justify the action taken by the law member the Government Order was published by the law department as if on the recommendation of the spelling mistakes committee. It happened to our misfortune that the Non-official members of this Committee were drawn largely from the Brahmin Community, who never knew how to respect the rights of their sister communities and never informed us of the line of action that they were decided upon. It was dealt more or less as the stab in the dark."

133. This is inevitable. Class rule must mean rule in terms of class interests and class prejudices. If such results are inevitable then it must raise a query in the minds of all honest people whether efficient government has also given us good government? If not what is the remedy? My view is that the disadvantages arising from the class bias of the officers belonging to Brahmin and allied castes has outweighed all the advantages attending upon their efficiency and that on the total they have done more harm than good. As to the remedy the one I see is a proper admixture of the different communities in the public service. This may perhaps import a small degree of inefficiency. But it will supply a most valuable corrective to the evils of class bias. This has become all the more necessary because of the social struggles that are now going on in the country. The struggles between the Brahmins and the Non-Brahmins, between Hindus and Mohamedans, between Touchables and Untouchables for the destruction of all inequalities and the establishment of equality with all their bitterness cannot leave the Judges, Magistrates, Civil Servants and the Police without being influenced in their judgment as to the right or wrong of these struggles. Being members of the struggling communities they are bound to be partisans with the result that there may be a great loss in the confidence reposed by the public in their servants.

134. So far I have considered the case of the Backward classes on grounds of administrative utility. But there are also moral grounds why entry into the public service should be secured to them. The moral evils arising out of the exclusion of a people from the public service were never so well portrayed as by the late Mr. Gokhale. In the course of a telling speech he observed, "The excessive costliness of the foreign agency is not however its only evil. There is a moral evil, which, if anything, is even greater. A kind of dwarfing or stunting of the Indian race is going on under the present system. We must live all the days of our life in an atmosphere of inferiority and tallest of us must bend, in order that the exigencies of the existing system may be satisfied. The upward impulse, if I may use such an expression, which every school boy at Eton or Harrow may

## [Appendix A—contd.]

feel, that he may one day be a Gladstone, a Nelson or a Wellington and which may draw forth the best efforts of which he is capable, is denied to us. The full height to which our manhood is capable of rising can never be reached by us under the present system. The moral elevation which every self-governing people feel cannot be felt by us. Our administrative and military talents must gradually disappear, owing to sheer disuse till at last our lot, as hewers of wood and drawers of water in our own country, is stereotyped." Now what one would like to ask those who deny the justice of the case of the Backward Classes for entry into the Public Service is whether it is not open to the Backward Classes to allege against the Brahmins and allied castes all that was alleged by the late Mr. Gokhale on behalf of Indian people against the foreign agency? Is it not open to the Depressed Classes, the Non-Brahmins and the Mohamedans to say that by their exclusion from the Public Service a kind of dwarfing or stunting of their communities is going on? Can they not complain that as a result of their exclusion they are obliged to live all the days of their lives in an atmosphere of inferiority, and that the tallest of them has to bend in order that the exigencies of the existing system may be satisfied? Can they not assert that the upward impulses which every school boy of the Brahminical community feels that he may one day be a Sinha, a Sastri, a Ranade or a Paranjpye, and which may draw forth from him the best efforts of which he is capable is denied to them? Can they not indignantly assert that the full height to which their manhood is capable of rising can never be reached by them under the present system? Can they not lament that the moral elevation which every self-governing people feel cannot be felt by them and that their administrative talents must gradually disappear owing to sheer disuse till at last their lot as hewers of wood and drawers of water in their own country is stereotyped? The answers to these queries cannot but be in the affirmative. If to exclude the advanced communities from entering into public service of the country was a moral wrong, the exclusion of the backward communities from the same field must also be a moral wrong and if it is a moral wrong it must be righted.

135. These are the considerations which lead me to find in favour of the Backward Classes. It will be noticed that these considerations are in no way different from the considerations that were urged in favour of Indianization. The case for Indianization it must be remembered did not rest upon efficient administration. It rested upon considerations of good administration. It was not challenged that the Indian was inferior to the European in the qualities that go into the make-up of an efficient administrator. It was not denied that the European Bureaucracy had improved their roads, constructed canals on more scientific principles, effected transportation by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine, and stopped their internal quarrels. Nothing can be a greater testimony to the fact that the European bureaucracy constituted the most efficient government possible. All the same the European bureaucracy, efficient though it was, was condemned as it was found to be wanting in those qualities which make for human administration. It is therefore somewhat strange that those who clamoured for indianization should oppose the stream flowing in the direction of the Backward Classes forgetting that the case for indianisation also includes the case for the Backward Classes. Be that as it may, I attach far more importance to this than I attach either to Provincial Autonomy or to complete responsibility in the Provincial Executive. I would not be prepared to allow the devolution of such large powers if I felt that those powers are likely to fall in the hands of any one particular community to the exclusion of the rest. That being my view I suggest that the following steps should be taken for the materialisation of my recommendations :—

- (1) A certain number of vacancies in the superior services Class I and Class II and also in the Subordinate Services should every year be filled by system of nomination with a pass examination. These nominations should be filled on the recommendation of a select committee composed of persons competent to judge of the fitness of a candidate and working in conjunction with the Civil Service officer referred to above. Such nominations shall be reserved to the Depressed Classes, the Mohamedans and the Non-Brahmins in the order of preference herein indicated until their numbers in the service reach a certain proportion.
- (2) That steps should be taken to post an increasing number of officers belonging to these communities at the headquarters.
- (3) That a Central Recruitment Board should be constituted as a central agency for registering all applications for appointments and vacancies and putting applicants in touch with the offices where vacancies exist or occur from time to time. It is essential to put the man and the job in touch if this desire is to be achieved. The absence of such a Board is the reason why the efforts of the Government of Bombay in this connection have not achieved the success which was expected of them,



[Appendix A—contd.]

## SECTION VI

## SUMMARY OF RECOMMENDATIONS.

## SUMMARY OF RECOMMENDATIONS.

## SECTION I.

There should be no separation of Karnatak or Sind from the Bombay Presidency.

## SECTION II.

- Chapter 1.*—There should be complete responsibility in the Provincial executive subject to the proviso that if members of the Legislature resolve to make it a reserved subject effect shall be given to their resolution.
- Chapter 2.*—Under no circumstances should the executive be made irremovable. There shall be no communal representation in the executive. Ministers shall be amenable to courts of law for illegal acts. The constitution should provide for the impeachment of Ministers. There should be joint responsibility in the executive. The executive should be presided over by a Prime Minister and not by the Governor.
- Chapter 3.*—The Governor should have the position of a constitutional head. He should have no emergency powers.

## SECTION III.

- Chapter 1.*—There should be adult franchise.
- Chapter 2.*—The Legislature should be wholly elective. All class and communal electorates should be abolished except for Europeans. Reserved seats should be provided for Mahomedans, Depressed Classes and Anglo-Indians and to the Non-Brahmins only if the franchise continues to be a restricted one.
- Chapter 3.*—The Legislature should consist of 140 members. Of these Mahomedans should have 33 and the Depressed Classes 15. The under-representation of certain districts and the over-representation of others should be rectified on the basis of population. There should be a committee to adjust seats between different classes and interests. The requirement of a residential qualification for a candidate should be removed.
- Chapter 4.*—Lucknow Pact is not a permanent settlement and cannot prevent consideration of the questions arising out of it afresh and on their own merits.
- Chapter 5.*—There should be no second chamber in the Province.
- Chapter 6.*—The Legislature should have the power of appointing and removing the President, of defining its privileges and regulating its procedure. Sections 72D and 80C of the Government of India Act should be removed from the Statute. The Legislature should have the power to move "a motion of non-confidence." The Legislature should have the power to alter the constitution subject to certain conditions.

## SECTION IV.

- Chapter 1.*—There should be complete provincial autonomy. The division of functions between Central and Provincial should be reconsidered with a view to do away with the control of central government now operating through the system of previous sanction and subsequent veto.
- Chapter 2.*—Within the limits fixed by the functions assigned to the Provincial Government the relations between that government and the Home Government should be direct and not through the medium of the Central Government. Section 2 of the Government of India Act should be deleted as it obscures the position of the Crown in relation to the governance of India.

[Appendix A—*contd.*]

## SECTION V.

There should be a distinct Provincial Civil Service and the Secretary of State should cease altogether to perform the function of a recruiting agency. His functions regarding the Services may be performed by a Provincial Civil Service Commission or by an officer acting conjointly with the Public Service Commission of India. Indianization of Services should be more rapid. Its pace should vary with the nature of the different departments of State. Indianization should be accompanied by a different scale of salary and allowances. In the course of Indianization of the services arrangement should be made for the fulfilment of claims of the backward classes.

17th May 1929.

B. R. AMBEDKAR.

## APPENDIX 1.

## BILL No. XXXVII OF 1928.

(A Bill further to amend the Bombay Abkari Act, 1878.)

## REPORT OF THE SELECT COMMITTEE.

We, the undersigned members\* of the Select Committee appointed to consider Bill No. XXXVII of 1928 (A Bill further to amend the Bombay Abkari Act, 1878), have the honour to report as follows:—

We have carefully considered the Bill and have no other suggestions to make except one. We are of opinion that the power which the Government have under sub-section (2) of issuing notifications regarding "prescribed areas" and "prescribed limit" should be subject to the condition of previous publication, so that the people affected by the proposed notifications could get an opportunity of expressing their views thereon and the Government of considering them before final notifications are issued.

We recommend that this report together with the minutes of dissent, if any, and the Bill as amended be published in English, Marathi, Gujarati, Kanarese and Urdu in the *Bombay Government Gazette*.

(Signed) B. V. JADHAV.

( „ ) P. G. SOLANKI.

( „ ) J. P. BRANDER.

( „ ) A. M. MANSURI.

( „ ) H. B. SHIVDASANI.

( „ ) D. R. PATIL.

23rd May 1929.

\*Note.—The signatures of Messrs. Shaikh Abdul Aziz Abdul Latif and W. S. Mukadam will be notified when received.

The signature of Mr. Balak Ram, I.C.S., could not be obtained owing to his death.

[Appendix 1—contd.]

**BILL No. XXXVII OF 1928.***A Bill further to amend the Bombay Abkari Act, 1878.***(As amended by the Select Committee.)**

Bom. WHEREAS it is expedient further to amend the Bombay Abkari Act,  
V of 1878. 1878, in manner hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Abkari  
Bom. (Amendment) Act, 192 .  
V of 1878.

2. *Amendment of section 18-B of Bom. V of 1878.*—For section 18-B  
of the Bombay Abkari Act, 1878, the following shall be substituted :—

“ 18-B. *Special provisions as to mhowra flowers (1).*—Save as is provided in sub-section (3), no person shall export from or import into any prescribed area or collect, transport, sell or have in his possession within any such area any quantity of mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the terms and conditions of a license, permit or pass granted by the Collector or other officer duly empowered in this behalf.

(2) In this section “ prescribed area ” means such area, comprising either the whole or some portion of the Presidency of Bombay, excluding Sind, as the Government from time to time notifies in this behalf ; and “ prescribed limit ” means four seers or such greater quantity as the Government from time to time notifies in this behalf.

*The power to issue notifications under this sub-section shall be subject to the condition of previous publication.*

(3) Provided that within such limits of the districts and areas mentioned in column 1 of the subjoined table as the Government may, by a notification in the *Bombay Government Gazette*, specify, and within the period specified against such districts and areas respectively in column 2 of the said table or such longer period embracing the said period as the Government may, from time to time, by a notification in the *Bombay Government Gazette*, direct (hereinafter called “ the vacation period ”), no license, permit or pass shall be necessary for the collection, transport, sale or possession anywhere of any quantity of mhowra flowers which are the produce of that year and, in the case of the districts and areas mentioned in entries (2) and (3) of column 1 of the said table, which are the produce of the said districts and areas

[Appendix 1—contd.]

or of any or either of them or other portion of a prescribed area so specified.

Table

1	2
Districts and areas	Period within which no license, etc., shall be necessary for the collection, etc., of mhowra flowers.
(1) Kaira and Panch Mahals districts; and Dholka talukas and the Modasa Mahal of the Ahmedabad District; and the Nawapur, Nandurbar, Sakri, Shirpur, Shahada and Taloda talukas and the Akrani Mahal of the West Khandesh District.	Five months from the 16th February to the 15th July in each year.
(2) Thana, Nasik, Kolaba and the East West Khandesh District as is not covered by entry (1) of this table.	Three months from the 16th February to the 15th May in each year.
(3) Broach, Surat, Ahmednagar, Poona and Belgaum districts and such portion of the Ahmedabad District as is not covered by entry (1) of this table.	Two months from the 16th February to the 15th April in each year.

(4) Provided further that unless Government by a notification in the *Bombay Government Gazette* otherwise directs, no license, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers mentioned in sub-section (3) through an area which has no vacation period or the vacation period for which as prescribed in column 2 of the said table has expired at the time when the transport takes place, provided that—

- (i) the said flowers are not unloaded in transit and
- (ii) there is a vacation period at the places from and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

## APPENDIX 2.

### BILL No. XIII OF 1929.

*A Bill further to amend the Bombay University Act, 1928.*

(As published in the "Bombay Government Gazette" of the  
7th May 1929.)

WHEREAS it is expedient further to amend the Bombay University Act, 1928, in manner hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay University (Amendment) Act, 1929.

[Appendix 2—contd.]

2. *Amendment of section 13 of Bom. IV of 1928.*—In Part (A) under the heading “ II. Ordinary ” in sub-section (1) of section 13 of the Bombay University Act, 1928—

Bom.  
IV of  
1928.

(a) in entries (iv) (f), (g), (h), (i) and (j) for the expression “ city municipalities ” the expression “ borough municipalities ” shall be substituted ;

(b) in entry (iv) (j) after the word “ Group ” the words “ and the Karachi Municipality ” shall be inserted ;

(c) in Explanation (1) the words “ the schools and colleges in ” shall be omitted ; and

(d) in Explanation (2) the word “ city ” shall be omitted.

### STATEMENT OF OBJECTS AND REASONS.

The expression “ city municipality ” occurring in section 13 of the Bombay University Act, 1928, is not defined in the Act. In the absence of a statutory definition doubts have been raised as to the precise meaning of the expression. The intention was that only municipalities of municipal boroughs governed by the Bombay City Municipalities Act, 1925, should have the privilege of electing Fellows. The Bill is intended to make this intention clear. Specific provision has been made for the Karachi Municipality as it is not a borough municipality governed by the Bombay City Municipalities Act, 1925.

(Signed) RAFIUDDIN AHMAD.

4th March 1929.

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### APPENDIX 3.

#### BILL No. XIV OF 1929.

*A Bill further to amend the Sindh Incumbered Estates Act, 1896.*

(As published in the “ Bombay Government Gazette ” of the  
27th May 1929.)

WHEREAS it is expedient further to amend the Sindh Incumbered Estates Act, 1896, in manner hereinafter appearing ; It is hereby enacted  
1896. as follows :—

1. *Short title.*—This Act may be called the Sindh Incumbered Estates (Amendment) Act, 1929 .

[Appendix 3—*contd.*]

2. *Amendment of section 29 of Act XX of 1896.*—To section 29 of the Sindh Incumbered Estates Act, 1896, the following shall be added, **XX of 1896.**  
namely :—

“or in the case of a loan granted under the Land Improvement Loans Act, 1883, or the Agriculturists’ Loans Act, 1884, with the previous sanction of the officer granting such loan.” **XIX of 1883.**

**STATEMENT OF OBJECTS AND REASONS.** **XII of 1884.**

Under section 29 of the Sindh Incumbered Estates Act, 1896, as it stood before its amendment in 1919, a jagirdar or zamindar restored to the possession of his estate could not, after the release of the estate from management, alienate or charge it beyond his natural life. This section was amended by Bombay Act II of 1919 whereby such jagirdars or zamindars were allowed to alienate or charge their estate beyond the said period with the previous sanction of the Commissioner in Sind. The Commissioner’s sanction in such cases is, however, purely formal and no material advantage is gained thereby. It has, on the other hand, the disadvantage of causing delay in the disposal of applications for takavi loans. The sanction of the officer granting the loans is sufficient in such cases. It is therefore proposed further to amend section 29 so as to enable such jagirdars or zamindars to pledge their property, in the case of takavi loans, with the previous sanction of the officer granting such loan.

(Signed) J. L. RIEU.

19th April 1929.

**APPENDIX 4.**

**BILL No. XVI OF 1929.**

*A Bill further to amend the Bombay Smoke-nuisances Act, 1912.*

(As published in the “Bombay Government Gazette” of the 25th June 1929.)

WHEREAS it is expedient further to amend the Bombay Smoke-nuisances Act, 1912, in manner hereinafter appearing; It is hereby **Bom. VII of 1912.**  
enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Smoke-nuisances (Amendment) Act, 192 .

2. *Amendment of section 3 of Bom. VII of 1912.*—In section 3 of the Bombay Smoke-nuisances Act, 1912, hereinafter called the said **Bom. VII of 1912.**  
Act,

[Appendix 4—*contd.*]

(1) After sub-section (1) the following shall be inserted:—

“(1A) ‘Flue’ or ‘chimney’ means any ‘flue’ or ‘chimney’ joined to, connected with or forming part of a furnace”.

(2) In clause (a) of sub-section (5) the words “flue or chimney” shall be inserted after the word “furnace” wherever it occurs.

3. *Insertion of new sections 9A and 9B in Bom. VII of 1912.*—After section 9 of the said Act, the following sections shall be inserted, namely:—

“9A. (1) *No furnace, etc., to be erected unless plans are approved by Commission.*—No furnace, flue or chimney shall be erected, altered, added to or re-erected except in accordance with plans approved by the Commission.

(2) If any furnace, flue or chimney is erected, altered, added to or re-erected in contravention of the provisions of sub-section (1), the owner of such furnace, flue or chimney shall be liable to fine which may extend to one hundred rupees; and, if any such furnace, flue or chimney is used without the permission of the Commission, to a further fine not exceeding twenty rupees for every day during which such use continues.

9B. *Power to order demolition of furnace, flue or chimney unlawfully erected.*—(1) A Magistrate imposing a fine on any person under sub-section (2) of section 9A may, by order, direct such person to demolish the furnace, flue or chimney within a period to be specified in the order.

(2) Any such person failing to demolish any furnace, flue or chimney within the period specified in the order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.”

4. *Amendment of section 10 of Bom. VII of 1912.*—In section 10 of the said Act,

(a) after the word “furnace,” wherever it occurs, the words “flue or chimney” shall be inserted;

(b) the words “or stoked” occurring in clause (c) of sub-section (1) shall be omitted.

5. *Amendment of section 11 of Bom. VII of 1912.*—After clause (h) of sub-section (2) of section 11 of the said Act, the following shall be inserted:—

“(hh) prescribe the procedure regarding the submission and approval of plans under sub-section (1) of section 9A.”



[Appendix 4—contd.]

## STATEMENT OF OBJECTS AND REASONS

In the existing Act there is no provision requiring the owners of factories to submit to the Bombay Smoke-Nuisances Commission plans for the erection of any furnace, flue or chimney or for any addition to or alteration therein. It sometimes happens that the owner erects a chimney and the inspector of smoke-nuisances finding that it does not comply with the Act or the rules made thereunder, is unable to make any suggestions and is obliged to condemn the chimney altogether. In order to avoid this, it is proposed to provide that no furnace, flue or chimney shall be erected, altered, added to or re-erected except in accordance with plans approved by the Commission. Opportunity is also taken to bring flues and chimneys within the scope of section 10 as it is necessary that Inspectors should have power to inspect them for the purpose of seeing whether the provisions of the Act are complied with.

(Signed) GHULAM HUSSAIN HIDAYATALLAH.

7th June 1929.

## APPENDIX 5.

## BILL No. XV OF 1929.

*A Bill further to amend the Bombay Prevention of Gambling Act, 1887.*

(As published in the "Bombay Government Gazette" of the 17th June 1929.)

WHEREAS it is expedient further to amend the Bombay Prevention of Gambling Act, 1887, in manner hereinafter appearing; It is hereby enacted as follows:—

Pom.  
IV of  
1887.

1. *Short title.*—This Act may be called the Bombay Prevention of Gambling (Amendment) Act, 1929.

2. *Amendment of section 3 of Bom. IV of 1887.*—For clause (c) in section 3 of the Bombay Prevention of Gambling Act, 1887, the following shall be substituted, namely:—

Pom.  
IV of  
1887.

“Between any individual or individuals in person on the one hand and such licensee on the other hand, or between any number of individuals in person, in such manner and by such contrivance as may be permitted by such license.”

## STATEMENT OF OBJECTS AND REASONS.

Section 3 (c) of the Bombay Prevention of Gambling Act, 1887, excludes wagering or betting upon a horse-race from the definition of gaming when such wagering or betting takes place between any individual in person on the one hand and the licensee of the race-course on the other

[Appendix 5—contd.]

hand. As a result of the decision of the House of Lords dated March 4, 1929, in Attorney General vs. Luncheon and Sports Club, Ltd. (W. N., 1929, p. 65) a doubt has been raised whether when bets are made on a totalizator, they are not made by the backers *inter se*. In that case the licensee, by permitting any bets on a totalizator by backers *inter se*, might be liable to prosecution for maintaining a common gaming-house within the meaning of section 4 of the Bombay Prevention of Gambling Act, 1887. In order to remove this doubt it is thought desirable to amend section 3 (c) of the Act so as to make it clear that wagering or betting upon a horse-race is not gaming within the meaning of that section when such wagering or betting takes place between any persons *inter se* in such manner and by such contrivance as may be permitted by the license granted under the Bombay Race-Courses Licensing Act, 1912, that is under the existing totalizator system.

(Signed) J. E. B. HOTSOX.

3rd June 1929.

## APPENDIX 6.

### BILL No. XVII OF 1929.

*A Bill further to amend the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923, and the Bombay City Municipalities Act, 1925*

(As published in the "Bombay Government Gazette" of the 27th June 1929.)

Bom. III of 1901. WHEREAS it is expedient further to amend the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923, and the Bom. VI of 1923. Bombay City Municipalities Act, 1925, in manner hereinafter appearing: It is hereby enacted as follows:—

Bom. XVIII of 1925. 1. *Short title.*—This Act may be called the Bombay District Municipal, Local Boards and City Municipalities (Amendment) Act, 192 .

Bom. III of 1901. 2. *Amendment of Bom. III of 1901.*—In the Bombay District Municipal Act, 1901,

(i) after proviso (b) to sub-section (2) of section 27, the following shall be inserted, namely:—

“(c) any powers of the Pilgrim Committee appointed under section 27A.”

(ii) after section 27, the following shall be inserted, namely:—

“27A. *Pilgrim Committee.*—(1) In every municipality notified by Government in this behalf there shall be a committee called the Pilgrim Committee consisting of three councillors elected in accordance with rules made under clause (a) of section 46 and of three Government officers nominated by the Collector.

[Appendix 6—contd.]

(2) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

(3) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (c) to section 51 and shall exercise the powers and perform the duties of the municipality in respect of the said fund.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(5) The provisions of section 36 shall not apply to the Pilgrim Committee ”;

(iii) in section 29 the following words shall be inserted at the end :—

“ not being, where a Pilgrim Committee is appointed, powers or duties referred to in section 27A ”;

(iv) in section 37 after the figures “ 27 ” the figures and letter “ 27A ” shall be inserted ;

(v) in clause (a) of section 46 for the word and figures “ section 27 ” the words, figures and letter “ sections 27 and 27A ” shall be substituted.

(vi) to section 51 the following proviso shall be added, namely :—

“ (c) Every municipality in a municipal district in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district is levied shall, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or which may be imposed on it by or under section 61 or 72 of Chapter XII, credit to a separate heading in the municipal account to be called the ‘ Pilgrim Fund Account ’ the proceeds of the said tax and the sums so credited shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner. ”

3. *Amendment of Bom. VI of 1923.*—In the Bombay Local Boards Act, 1923, Bom.  
VI of  
1923.

(i) in section 27, for the word “ The president of the retiring board shall preside at such meeting and the new board shall then elect its own chairman for that meeting and then the meeting shall proceed to elect the new president, ” the following shall be substituted namely :—

“ The president of the retiring board shall preside at such meeting and the new board shall then elect its own chairman for that meeting. In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the president of the retiring board in such manner as he may determine. The meeting shall then proceed to elect the new president. ”

(ii) in sub-section (2) of section 36 after the word “ contained ” the words “ in section 36A or ”, shall be inserted ;

[Appendix 6—*contd.*]

(iii) after section 36 the following section shall be inserted, namely :—

“ 36A. *Pilgrim Committee*—(1) In every local board of a local area notified by Government in this behalf there shall be a committee called the Pilgrim Committee consisting of three members elected in accordance with rules made under section 133 and of three Government officers nominated by the Collector.

(2) The members of the Pilgrim Committee shall, notwithstanding anything contained in sub-section (1) of section 39, hold office for the duration of the local board and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

(3) Notwithstanding anything contained in sub-section (2) of section 4, the Pilgrim Committee shall manage and administer the pilgrim fund established under the third proviso to section 75 and shall, subject to any limitations or other provisions contained in rules made under section 133 or regulations made under sub-section (1) of section 35, exercise the powers and perform the duties of the local board in respect of the said fund.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of members shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.”

(iv) In sub-section (1) of section 38 the following words shall be inserted at the end :—

“ or, where a Pilgrim Committee has been appointed, powers or duties referred to in section 36A.”

(v) To section 75 the following provisos shall be added, namely :—

“ Provided also that when a tax is levied on pilgrims resorting periodically to a shrine within the limits of the area subject to the jurisdiction of a local board, the proceeds of the said tax shall, after reasonable provision has been made for the performance of all obligations imposed or which may be imposed on the local board by or under section 101 or Chapter X, be credited to a separate heading in the account of the local board to be called the ‘ Pilgrim Fund Account ’ and the sums so credited shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

“ Provided also that a local board may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the local board accounts any portion of the local fund received or set apart by it specially for the purposes of veterinary dispensaries or other such purposes as Government in this behalf approve and the local board may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.”

[Appendix 6—*contd.*]

4. *Amendment of Bom. XVIII of 1925.*—In the Bombay City <sup>Bom.</sup> Municipalities Act, 1925,— <sup>XVIII</sup>

(i) In sub-section (1) of section 1, for the words “City Municipalities” of 1925. the words “Municipal Boroughs” shall be substituted.

(ii) In clause (a) of sub-section (2) of section 11, for the figures, brackets and words.

“(ii) who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules application for enrolment may be received has paid the qualifying tax and who within the three months next preceding the aforesaid date has paid all arrears of taxes if any due from him to the municipality,

shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough :” the following shall be substituted :—

“(ii) who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has paid the qualifying tax,

and who within the three months next preceding the date referred to in sub-clause (ii) has paid all arrears of taxes, if any, due from him to the municipality, shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough :”

(iii) In the proviso to sub-section (1) of section 33, after the word “Act” where it occurs for the second time the words “or a person temporarily appointed as chief officer under this Act for a period not exceeding two months” shall be inserted.

(iv) In sub-section (2) of section 37 after the figures “34” the figures and letter “37A” shall be inserted ;

(v) After section 37 the following new section shall be inserted, namely :—

“37A. *Pilgrim Committee.*—(1) In every municipality notified by Government in this behalf there shall be a committee called the Pilgrim Committee consisting of three councillors elected in accordance with rules made under clause (a) of section 58 and three Government officers nominated by the Collector.

(2) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

(3) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (c) to section 65 and shall exercise the powers and perform the duties of the municipality in respect of the said fund.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be

[Appendix 6—*contd.*]

applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(5) The provisions of section 45 shall not apply to the Pilgrim Committee ;”

(vi) In sub-section (1) of section 38 after the word “ purpose ” the following shall be inserted, namely :—

“ not being, where a Pilgrim Committee is appointed, powers or duties referred to in section 37A ”;

(vii) In section 46 after the figures “ 37 ” the figures and letter “ 37A ” shall be inserted ;

(viii) In clause (a) of section 58 after the word “ or ” where it occurs for the third time the following shall be inserted, namely :—

“ subject to the provisions of section 37A ”;

(ix) To section 65 the following proviso shall be added namely :—

“ (c) Every municipality in a municipal borough in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough is levied shall, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal account to be called the ‘ Pilgrim Fund Account ’ the proceeds of the said tax and the sums so credited shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.”

(x) In sub-section (2) of section 105—

(a) after the words “ as the case may be ” the words “ where the property is in a cantonment the warrant shall be addressed to the Executive Officer of the Cantonment ” shall be inserted ;

(b) after the word “ district ” where it occurs for the third time the words “ or cantonment ” shall be inserted ; and

(c) after the word “ vice-president ” where it occurs for the second time the words “ Executive Officer ” shall be inserted.

(xi) In sub-section (3) of section 106 for the words “ one year ” the words “ three years ” shall be substituted.

#### STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are explained in the following notes on the clauses of the Bill :—

*Clauses 2, 3 (ii) to (v), and 4 (iv) to (ix).*—Government consider that the proceeds of a pilgrim tax should be used solely for the health, convenience and safety of pilgrims. Orders have been passed directing municipalities in places where a pilgrim tax is levied to keep separate accounts of the receipts from the tax and expenditure incurred in connection with the pilgrims but Government find that these orders are not properly observed by the local bodies concerned. This is merely due to the absence of a separate local executive authority whose duty

[Appendix 6—*contd.*]

it should be to look to the interests of pilgrims. Government therefore propose to make it obligatory on a local body within whose jurisdiction a pilgrim tax is levied and which is notified by Government in this behalf to appoint a Pilgrim Committee and to nominate officials on this Committee to the extent of one-half of the total number of members. Government also propose to make it obligatory on the local body to open a separate Pilgrim Fund Account and to credit all receipts from the pilgrim tax to that account and to spend the sums so credited on works conducive to the health, convenience and safety of pilgrims.

*Clause 3 (i).*—Under section 27 of the Bombay Local Boards Act, 1923, as it stands at present, the president of the retiring board presides over the meeting of the new board called for the election of the president. It has been urged that as the president of the retiring board is not a member of the new board, he has no second or casting vote in the case of an equality of votes. The result is that in the case of an equality of votes there is no prescribed procedure for determining the result of the election. Clause 3 (i) of the Bill, therefore, provides that in case of an equality of votes at a meeting for the election of the chairman the result shall be decided by lot to be drawn in the presence of the president in such manner as he may determine.

*Clause 3 (v), last proviso.*—Proviso (b) to section 51 of the Bombay District Municipal Act, 1901, and proviso (b) to section 65 of the Bombay City Municipalities Act, 1925, provide for crediting to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by the municipality specially for the purpose of dispensaries. There is no express provision of this nature in the Bombay Local Boards Act, 1923. The practice in this matter requires that the district local board shall maintain for each veterinary dispensary a separate veterinary fund and that all sums including those sanctioned by the local board intended for the maintenance of a veterinary dispensary as also any unexpended balance from the dispensary budget at the end of the year should be credited to the Veterinary Fund. It is desirable that they should not lapse to the general balance of the district local board. It is intended to give statutory recognition to this practice.

*Clause 4 (i).*—The title of the Act, the Bombay City Municipalities Act, 1925, has caused confusion, for though there are some municipalities in cities which are governed by that Act there are others which are still governed by the Bombay District Municipal Act, 1901 (*vide* Chapter XIII of that Act). All City Municipalities are not governed by Bombay Act XVIII of 1925. It is therefore proposed to change the title of that Act.

(ii) Under section 11 (2) (a) of the Act, as it stands, it is only the payers of the qualifying tax who are required to have paid all arrears of municipal taxes before they can be qualified to be entered in the list of voters for a municipal borough. No such condition is prescribed in the case of persons qualified under section 11 (2) (a) (i), that is, owners.

## [Appendix 6—contd.]

or tenants of houses or buildings. The result is that taxes due to the municipalities from these classes of persons remain in arrears. The object of requiring payment of arrears of taxes before any claim could be made for being a voter was to help the finances of the municipalities and this object would not be fully achieved unless the payment of arrears of municipal taxes is made obligatory in the cases of both the classes of persons mentioned in sub-clauses (i) and (ii) of clause (a) of sub-section (2) of section 11.

(iii) Under section 33, as it stands, except in the case of chief officers permanently appointed before the coming into operation of the Act none but a graduate of a recognised University or a qualified Engineer can hold the post of Chief Officer even for a short period, as for instance, when the permanent incumbent of the post goes on leave. It has been represented that in the smaller municipal boroughs men with the prescribed educational qualifications are not always available to act as chief officers in short vacancies. It is therefore proposed to amend the section so as to empower a municipality to appoint a person who does not possess these qualifications to act as chief officer for a period not exceeding two months.

(x) Section 105 (2) does not provide for cases in which warrants for the recovery of municipal dues have to be executed in cantonment limits. The clause is intended to remedy this defect.

(xi) The words "one year" in sub-section (3) of section 106 is a mistake for "three years." It is proposed to rectify it.

(Signed) HARILAL DESAIBHAI DESAI.

13th June 1929.

## APPENDIX 7.

## BILL No. XXIII OF 1928.

*(A Bill to amend the Bombay Act No. V of 1879, the Bombay Land Revenue Code.)*

## REPORT OF THE SELECT COMMITTEE.

We, the undersigned members\* of the Select Committee appointed to consider Bill No. XXIII of 1928 (A Bill to amend the Bombay Act No. V of 1879, the Bombay Land Revenue Code), have the honour to report as follows:—

We have redrafted the original clause and, in giving effect to the objects of the bill, have taken the opportunity to make some other changes in section 216 of the Land Revenue Code in order to clear up one or two points of ambiguity.

\*Note.—The signature of Sardar G. N. Majumdar will be notified when received.

The signature of Mr. Jairamdas Doulatram could not be obtained as he has ceased to be a member of the Select Committee owing to his resignation as a member of the Legislative Council.



[Appendix 7—contd.]

In the new section 216 as proposed to be substituted by us there are four sub-clauses.

*Sub-clause (1).*—This merely reiterates the provisions of a portion of the present section 216 of the Land Revenue Code. The only change made is in the wording of part (b) of section 216 in order to bring out clearly that chapters 8 to 10 of the Code are applicable to the unalienated share of only those villages of which a definite share defined by metes and bounds is alienated.

*Sub-clause (2).*—This sub-clause enacts the principle of the present bill, but we are of opinion that the consent of holders representing in the aggregate not less than one half of the total interest in the village in respect of its alienated revenue, should be sufficient.

*Sub-clause (3).*—This is consequential on sub-clause (2).

*Sub-clause (4).*—We think that the survey settlements introduced so far in wholly or partially alienated villages should be validated. We have accordingly made provision first in sub-clause (4).

We recommend that this report, with a copy of the bill as amended, together with the minutes of dissent, if any, be published in English, Marathi, Gujarati, Kanarese and Urdu in the *Bombay Government Gazette* and in Sindhi in the *Sind Official Gazette*.

(Signed) J. L. RIEU,  
 ( „ ) BALAK RAM,  
 ( „ ) BHASAHEB, Thakor of Kerwada,  
 ( „ ) R. R. KALE,  
 ( „ ) P. R. CHIKODI,  
 ( „ ) A. MACKIE.

26th March 1929.

### BILL No. XXIII OF 1928.

*A Bill to amend the Bombay Act No. V of 1879, the Bombay Land Revenue Code.*

(As amended by the Select Committee.)

WHEREAS it is expedient to further amend Bombay Act No. V of Bom. 1879, the Bombay Land Revenue Code; It is hereby enacted as <sup>V of</sup> follows :— 1879.

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Amendment) Act of 1928 .

2. *Amendment of section 216 of Bom. V of 1879.*—In the last Bom. paragraph of section 216 of the Bombay Land Revenue Code, after V of the words “on the application in writing being made by the holder 1879. of any such village to that effect.” add the words “or where there are more than one of such holders of the village, by the holder or

[Appendix 7—contd.]

~~holders of the village receiving in the aggregate three-fourths or more of the revenue of the village and paying three-fourths or more of the jodi that is annually payable to the Government."~~

2. Amendment of section 216 of Bom. V of 1879.—*For section 216 of the Land Revenue Code the following section shall be substituted:*

"216. Chapters VIII to X how far applicable to alienated villages.—(1) *The provisions of Chapters VIII to X shall be applicable to*  
(a) *all unalienated lands situated within the limits of an alienated village;*

(b) *unalienated shares of villages of which a definite share defined by metes and bounds is alienated;*

(c) *alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess above such amount belongs to Government;*

(2) *Save as is otherwise provided in section 111 and in this section, no provision of the said Chapters shall be applied to any other alienated village except for the purposes of fixing its boundaries and of determining any disputes relating thereto, unless the extension of the provision is authorised by the Commissioner acting on the written application of the sole holder, or, if there be more than one holder, of the holder or holders representing in the aggregate not less than one-half of the total interests in the village in respect of its alienated revenue. In respect of their share, if any, in the village, Government shall be considered to be a holder for determining the prescribed proportion of one-half.*

(3) *In any case in which action under sub-section (2) is taken lawfully by the Commissioner on the application of some only of the holders of the village any covenant or agreement relative to the extension of the said Chapters or incidental thereto, entered into by such holders shall also be binding on the remaining holders of the village in respect of their shares in the revenue of the village as if such covenant or agreement had been entered into by them.*

(4) *All survey settlements heretofore introduced in villages, wholly or partially alienated, shall be valid as if they had been introduced in accordance with the provisions of this section."*

## APPENDIX 8.

### BILL No. XXX OF 1928.

*A Bill further to amend the City of Bombay Police Act, 1902.*

*(As introduced on the 2nd October 1928 and published in the "Bombay Government Gazette" on the 18th October 1928.)*

Bom. IV of 1902. WHEREAS it is expedient to amend the City of Bombay Police Act, 1902, in manner hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the City of Bombay Police (Amendment) Act, 1928 .

[Appendix 8—*contd.*]

2. *Amendment of section 29-A (1) of Bom. IV of 1902.*—In section 29-A (1) of the City of Bombay Police Act, 1902, the words “if the owner is absent” or refuses to consent to the destruction of the animal” and the words “without the consent of the owner” shall be omitted. Bom.  
IV of  
1902.

3. The first proviso to section 29-A (1) of the City of Bombay Police Act, 1902, shall be omitted and the following proviso substituted in its place :— Bom.  
IV of  
1902.

“ Provided that if the owner or person in charge of the animal, or in their absence, or in the event of their declining to remove the animal as mentioned below, any other person on the spot, is willing and offers to remove the animal to a veterinary hospital or pinjrapole within such time as the veterinary practitioner considers reasonable, the veterinary practitioner shall allow the animal to be removed by such owner, person in charge, or such other person. If the owner or the person in charge or such other person is unwilling or fails so to remove the animal the veterinary practitioner shall immediately inform the authorities of the Bombay Humanitarian League, the Pinjrapole or the Society for the Prevention of Cruelty to Animals and give them an opportunity of so removing the animal within such time as the veterinary practitioner considers reasonable and if any of those institutions is willing and offers so to remove the animal, the veterinary practitioner shall allow the animal to be so removed by the agents of such institutions. If the owner or person in charge or such other person or any of the institutions aforesaid is unwilling or fails so to remove, the veterinary practitioner may direct the police officer to remove the animal before it is destroyed from the place where it is found to such other place as he may think fit.”

4. In the second proviso to section 29-A (1) of the City of Bombay Police Act, 1902, the words “in any street or public place” and “as far as possible” shall be deleted. Bom.  
IV of  
1902.

#### STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to give an opportunity to public bodies like the Bombay Humanitarian League, Pinjrapole or Society for the Prevention of Cruelty to Animals or other such institutions to remove a diseased or a wounded animal before the veterinary practitioner would direct it to be destroyed by a police officer. In view of the strong public feeling, it is desirable to give every scope to public institutions to remove the animal and have it treated in veterinary hospitals or pinjrapoles.

JETHALAL CHIMANLAL SWAMINARAYAN.

## APPENDIX 9.

## BILL No. XXXIV OF 1928.

*A Bill further to amend the Bombay Land Revenue Code, 1879.*

(As introduced on the 2nd October 1928 and published in the  
"Bombay Government Gazette" of the 18th  
October 1928.)

Bom. V of 1879. WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, in manner hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Amendment) Act, 1928.

Bom. V of 1879. 2. *Repeal of section 88 of Bom. Act No. V of 1879.*—Section 88 of Bombay Land Revenue Code, 1879, is hereby repealed.

## STATEMENT OF OBJECTS AND REASONS

The powers which the Commissioner is authorised to confer on the superior holders are being utilized by them for the purpose of terrorizing the inferior holders and compelling them to submit to their illegitimate demands and extortions. In the eye of law, there should be no partiality towards the superior as against the inferior holder. The object of this Bill is to delete the discretionary authority of the Commissioner by which he can arm a superior holder with special powers against his inferior holders.

JETHALAL CHIMANLAL SWAMINARAYAN.

## APPENDIX 10.

## BILL No. XXXVI OF 1928.

*A Bill further to amend the Deccan Agriculturists' Relief Act, No. XVII of 1879.*

(As introduced on the 2nd October 1928 and published in the  
"Bombay Government Gazette" of the 18th October 1928.)

5 & 6 Geo. V, c. 61. WHEREAS it is expedient further to amend the Deccan Agriculturists' Relief Act No. XVII of 1879 in manner hereinafter appearing; and whereas the previous sanction of the Governor General of India required in that connection by section 80A (3) (e) of the Government of India Act has been obtained; It is enacted as follows :—

(1) This Act may be called the Deccan Agriculturists' Relief (Amendment) Act of 1928.

[Appendix 10—*contd.*]

(2) In section 2 of the Deccan Agriculturists' Relief Act, XVII of 1879, omit the 2nd, 3rd and 4th paragraphs dealing with the definition of the Agriculturist and substitute the following in its place :—

*First.*—An agriculturist shall be taken to mean a person who owns land in his own right and who ordinarily engages personally in agriculture in British territory within the limits of the Bombay Presidency provided that his yearly income from sources other than agriculture does not exceed Rs. 500 and that his aggregate income from all sources does not exceed Rs. 1,000.

#### *Explanations.*

(a) A person who is a female or minor member of the family of an agriculturist as above defined and who as such has a right either to be maintained by him or to participate in the family agricultural income shall be deemed to be an agriculturist for the purposes of this Act.

(b) A person does not cease to be an agriculturist within the meaning of the definition if he is prevented from cultivating land by age or physical infirmity or if he temporarily ceases to do so owing to necessity or reasonable cause. Absence in the Military Service of His Majesty the King-Emperor shall be deemed to be reasonable cause within the meaning of this explanation.

(c) A person otherwise coming within the definition shall not be considered to be an agriculturist in reference to a certain transaction unless he, or the person through whom he claims was also an agriculturist as hereby defined at the time when the transaction took place.

(d) A party to a suit who is not described as an agriculturist in the decree of the original court which tries the suit shall be barred during any proceedings consequent on that decree from claiming the status of an agriculturist. The words "proceedings consequent on that decree" shall include all miscellaneous applications, execution proceedings and appeals except an appeal in which the finding about the status is challenged.

#### STATEMENT OF OBJECTS AND REASONS.

The present definition of an "agriculturist" in the Deccan Agriculturists' Relief Act, XVII of 1879, is far from satisfactory. Under the present definition a rich trader or a rich money-lender having lands can get himself declared an agriculturist and claim special advantages under the provisions of this Act. Messrs. Arthur and Bodus, Commissioners appointed by Government to report on the working of this Act in 1914, had also reported that the present definition of an "agriculturist" in the Act should be changed. A person having no lands of his own but merely working as a labourer in the fields is at present included in the

[Appendix 10—*contd.*]

definition of an agriculturist. There is absolutely no reason why legislation should differentiate between a labourer in a field and a labourer, say, in a factory. There is again no reason why there should be special protection for well-to-do agriculturists who are generally quite competent to take care of their own interests. In the definition proposed has been included as an agriculturist only such a person as owns lands in his own right, whose income from non-agricultural sources is not very substantial and whose net annual income from all sources does not exceed Rs. 1,000. Minors and females dependent upon an agriculturist have been included in the proposed definition. Provision is also proposed to be made for non-exclusion of agriculturists who are temporarily prevented from following their agricultural pursuit by age, infirmity or any other sufficient cause. At present the status of an agriculturist can be claimed by a party even after the decree, in execution or other miscellaneous proceedings; not only that, but even if it is once decided in one Darkhast it can again be raised in another Darkhast from the same decree (say a year or two later). It is neither desirable nor just that the same question should be allowed to be reopened and tried afresh every now and then. A decree passed must have some finality attached to it. This evil is also proposed to be remedied by the present amendment.

The amendment suggested in this Bill is, with some modifications, the same as that recommended in the Arthur Bodus Committee report in this connection. The Bill is necessary in the interests of the Civil Administration as well as the class of the agriculturists for whose benefit the Act was originally intended.

H. V. PATASKAR.

## APPENDIX 11.

## BILL No. VIII OF 1929.

*A Bill further to amend the Bombay Port Trust Act No. VI of 1879.*

(As introduced on the 15th March 1929 and published in the "Bombay Government Gazette" of the 9th April 1929.)

WHEREAS it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter provided, it is hereby enacted as follows :—

Bom.  
VI of  
1879.

1. In sub-section (1) of section 5 substitute the word "twenty-six" for "twenty-one" and "eleven" for "seven".
2. In sub-section (2) of section 5 substitute the word "eleven" for "seven" and after the word "Brigade" add "and not less than five shall be representatives of labour".

## STATEMENT OF OBJECTS AND REASONS.

This Bill seeks to bring the Port Trust Act in line with the Improvement Trust Act and the Bombay Municipal Act.

The right of labour to representation has been conceded by the Bombay Improvement Trust. The Bombay Municipal Act is also being amended with a view to give representation to labour on the Corporation. The Port Trust is the largest employer of labour and it is very essential that there should be representation of labour on the Trust.

(Signed) S. K. BOLE.

## APPENDIX 12.

## BILL No. XVIII OF 1929.

*A Bill further to amend the Bombay Medical Act, 1912.*

(As published in the "Bombay Government Gazette" of the 9th July 1929.)

WHEREAS it is expedient further to amend the Bombay Medical Act, 1912, in manner hereinafter appearing; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the

Bom.  
VI of  
1912.

[Appendix 12—contd.]

5 & 6  
Geo. V,  
c. 61. Government of India Act has been obtained for the passing of this Act ;  
It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Medical (Amendment) Act, 192 .

Bom.  
VI of  
1912. 2. *Amendment of section 7 of Bom. VI of 1912.*—After sub-section (1) of section 7 of the Bombay Medical Act, 1912, the following sub-section shall be inserted, namely :—

“(1a) Every person for the time being registered under any Act for the registration of medical practitioners in force in any other province in India with the Medical Council of such province shall, if reciprocity of registration has been arranged with such Council, be entitled, on production of his registration certificate, to have registered under this Act, free of charge, such qualifications entered in the said certificate as are registrable under this Act.”

#### STATEMENT OF OBJECTS AND REASONS.

Under the existing provincial Medical Registration Acts practitioners registered in any one province are required to pay a fresh fee if they wish to be registered in any other province. The only exception is Punjab Act II of 1916 under which persons registered in other provinces are eligible for registration without further payment of the registration fee. In order to remove the hardship and inconvenience involved by double payment of fees all local Governments have agreed to make reciprocal arrangements for the free registration in all provinces of practitioners who have once been registered in any one province. The Bill is intended to give effect to this arrangement.

17th June 1929.

(Signed) GHULAM HUSSAIN HIDAYATALIAH.

#### APPENDIX 13.

#### BILL No. XIX OF 1929.

*A Bill to provide for the establishment of Borstal Schools in the Presidency of Bombay.*

(As published in the “Bombay Government Gazette” of the 19th July 1929.)

WHEREAS it is expedient to provide for the establishment of Borstal schools in the Presidency of Bombay ; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the

5 & 6  
Geo. V,  
c. 61. Government of India Act has been obtained for the passing of this Act ;  
It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bombay Borstal Schools Act, 192 .



[Appendix 13—contd.]

2. *Extent and commencement.*—(1) This Act shall apply to the whole of the Presidency of Bombay.

(2) It shall come into operation on such date as the Governor in Council may, by notification in the *Bombay Government Gazette*, appoint in this behalf.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context :—

(a) "Borstal School" means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(b) "Inspector-General" means the Inspector-General of Prisons *Cf. VIII of 1897, s. 4* and includes any officer appointed by the Governor in Council to perform all or any of the duties imposed by this Act on the Inspector-General ;

(c) "prescribed" means prescribed by rules made under this Act.

4. *Establishment of Borstal schools.*—(1) For the purposes of this Act the Governor in Council may establish one or more Borstal schools. *Cf. 8 Edw. 7, c. 59, s. 4.*

(2) For every Borstal school, a visiting committee shall be appointed in such manner as may be prescribed.

5. *Application of the Prisons Act, 1894, and the Prisoners Act, 1900.*—*Cf. 8 Edw. 7, c. 59, s. 4(2).* Subject to any alterations, adaptations and exceptions made by this Act, and the rules framed under it, the Prisons Act, 1894, and the Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. *IX of 1894, III of 1900.*

6. *Court may pass order for detention in a Borstal school.*—Where an offender is convicted of an offence for which he is liable to be sentenced to transportation or imprisonment, or of an offence punishable under Chapter VIII of the Code of Criminal Procedure, 1898, whether any previous conviction is proved against him or not, and it appears to the Court— *Cf. 8 Edw. 7, c. 59, s. 1. v of 1898.*

(a) that the offender is not less than sixteen or, in any district or place in which the Bombay Children Act, 1924, is not in operation less than fifteen, nor more than twenty-one years of age ; and *Bom. XIII of 1924.*

(b) that by reason of his criminal habits or tendencies, or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, an order for the detention of the offender in a Borstal school for such term, not being

[Appendix 13—*contd.*]

less than two years nor more than five years, as the Court, subject to rules made under this Act, thinks fit :

Provided that before passing such an order the Court shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal school, and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

7. *Power of Government to exempt.*—The Governor in Council may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal school.

*Cf. Bom. XIII of 1924, a. 5.* 8. *Courts empowered to pass order for detention.*—The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a salaried Presidency Magistrate, a Magistrate of the first class or any Magistrate of the second class specially empowered by the Governor in Council in this behalf, and may be exercised by such Courts whether the case comes before them originally, or on appeal, or in revision.

*Cf. Bom. XIII of 1924, a. 6 ; 4 and 5 Geo. V. c. 58, s. 10 ; and VIII of 1897, s. 9(1).* 9. *Procedure when Magistrate is not empowered to pass an order under this Act.*—(1) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender convicted by him is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate or the Chief Presidency Magistrate, as the case may be, to whom he is subordinate.

(2) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, or, as the case may be, to a salaried Presidency Magistrate.

(3) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

*V of 1898.* 10. *Limitation on powers conferred by section 6.*—Any offender detained in a Borstal school for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1898 shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

*Cf. 8 Edw. 7, c. 59, s. 3.* 11. *Transfer from prison to Borstal school.*—The Inspector-General may, if satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed either before or after the commencement of this Act, being within the limits of age within which persons may be ordered to be detained in a Borstal school under this Act, might

[Appendix 13—*contd.*]

with advantage be detained in such school, direct him to be transferred from prison to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in such a school, the provisions of this Act shall apply to such person as if he had been originally ordered to be detained in a Borstal school.

12. *Transfer of incorrigibles, etc., to prison.*—(1) Where an offender detained in a Borstal school escapes, or is reported to the Governor in Council by the Inspector-General to be incorrigible or to exercise a bad influence on the other inmates of the school, the Governor in Council may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Governor in Council may determine, but in no case exceeding the shorter of the following two periods :—

(a) the unexpired residue of the term of detention, or

(b) the maximum period of imprisonment provided by law for the offence of which the offender was convicted or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal school.

(2) Such offender may be confined in any prison within the Bombay Presidency by warrant under the hand of a Secretary to Government and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

13. *Government to determine the Borstal school in which a person shall be detained and may order removal.*—(1) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the Governor in Council may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that, if accommodation in a Borstal school is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the Governor in Council may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

(2) The Governor in Council may order the removal of any offender from any one Borstal school to any other Borstal school, provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

*Cf. s. 8  
Edw.  
7,  
c. 59,  
s. 9.*

14. *Power to release on license.*—(1) Subject to the prescribed conditions, the Inspector-General may, on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will

[Appendix 13—*contd.*]

abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written license in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(a) officer of Government,

(b) secular institution,

(c) religious society, or

(d) responsible person, as may be approved by the Inspector-General and willing to take charge of the offender.

(2) A license under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(3) The period during which an offender is absent from a Borstal school during the continuance of a license granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

15. *Revocation of license.*—(1) Subject to the prescribed conditions, the Inspector-General may at any time, and shall, at the request of the institution, society or person under whose supervision and authority the offender has by license been permitted to live, revoke a license granted under section 14, and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school.

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by license permitted to live, his license shall be deemed to have been revoked from the date on which he has so removed himself.

16. *Subsequent supervision.*—(1) When the Inspector-General and the Visiting Committee report that the conduct of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the Governor in Council may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to rules made under this Act, may direct.

(2) The Governor in Council may also direct that any offender who is under supervision in accordance with sub-section (1) shall again be detained in a Borstal school for such period as he may think fit, provided that the total period of detention under this section shall not exceed one year.

17. *Period of detention.*—No person shall be detained in a Borstal school after he has, in the opinion of the Governor in Council, attained the age of twenty-three years, or, if in any particular case the Governor in Council so directs, after he has attained the age of twenty-five years.

## [Appendix 13—contd.]

18. *Arrest of offender escaping from Borstal school, or escaping from Cf. VIII of*  
*supervision.*—Any offender who, in contravention of the provisions of 1897,  
 this Act, has escaped from a Borstal school, or has escaped from the a. 29;  
 supervision of any authority, institution, society or person under whose 8 Edw.  
 supervision he has been directed to remain, or has been permitted to 7,  
 live by license under section 14, may be arrested by any officer of Police c. 59,  
 without warrant and without the order of a Magistrate and sent back (3) and a. 5  
 to the Borstal school or to such authority, institution, society or person, (5).  
 as the case may be.

19. *Rules.*—(1) The Governor in Council may make rules for the Cf. 8  
 regulation and management of any Borstal school and for the carrying Edw.  
 into effect of the provisions of this Act. 7,  
 c. 59,

(2) In particular, and without prejudice to the generality of the fore- and  
 going power, such rules may provide for or determine— VIII  
 of  
 1897,  
 a. 26.

(a) the control and management of Borstal schools established under  
 this Act ;

(b) the appointment, powers and duties of officials in such schools ;

(c) the constitution, powers and duties of visiting committees ;

(d) the classification, control, discipline, training, instruction and  
 treatment of offenders ordered to be detained in a Borstal school and  
 for the temporary detention of such offenders until arrangements can  
 be made for sending them to such school ;

(e) the regulation of visits to, and communication with, offenders  
 detained in such school ;

(f) the restriction or prohibition of the supply to, or possession by,  
 offenders detained in such school of any specified articles or kinds of  
 articles ;

(g) the period for which offenders or any class or classes of offenders  
 may, within the limits fixed by this Act, be ordered to be detained in  
 such school ;

(h) the class or classes (if any) of offenders who shall not be ordered  
 to be detained in such school ;

(i) the form and conditions of licenses granted under section 14 ;

(j) the supervision of offenders after the expiration of the term of  
 their detention ;

(k) the transfer of incorrigible offenders from a Borstal school to  
 prison.

(3) All rules made under this section shall be published in the *Bombay  
 Government Gazette* and, on such publication, shall have the same effect  
 as if enacted in this Act.

20. *Removal of disqualification.*—The Governor in Council may, on  
 the recommendation of the Inspector-General and the Visiting Committee,  
 remove any disqualification incurred by an offender ordered to be detained  
 in a Borstal school on account of such detention.

[Appendix 13—*contd.*]

V of 1898. 21. *Appeal or revision.*—For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period :

V of 1828. Provided that nothing contained in the Code of Criminal Procedure, 1898, shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of an offender or the substitution of an order for detention in a Borstal school for transportation or imprisonment.

### STATEMENT OF OBJECTS AND REASONS.

1. The Reformatory Schools Act, 1897 (VIII of 1897), applies only to boys under 15 (or 16, where the Bombay Children Act, 1924, is in force) at the time of their conviction, and involves a sentence of imprisonment, although the sentence is not carried out. The Children Act, 1924, applies to children and young persons of both sexes under 16 years of age. This Bill is intended for youths of criminal habits, tendencies or associations whose reformation has not been attempted by other means. It applies to persons below 21, whom the Children Act does not protect and an order for detention is substituted for a sentence of imprisonment.

2. The establishment of Borstal institutions in England was rendered possible by the Prevention of Crime Act, 1908 (8 Edw. VII, c. 59) which was subsequently amended by the Criminal Justice Administration Act, 1914 (4 and 5 Geo. V, c. 58). The success which has attended such institutions in the United Kingdom renders it highly probable that their introduction into the Bombay Presidency will be attended with beneficial results. The system aims at the detention of youthful offenders with a view to their real reformation under conditions which do not carry the stigma of imprisonment.

3. The Bill is based on the English Acts cited above and the necessary references are made in the margin of the bill : particular points requiring notice are mentioned in the following notes on clauses.

#### *Notes on clauses.*

*Clause 3 (b).*—The functions of the prison commissioners under the English Acts have been transferred to the "Inspector-General" in the bill. The prison commissioners are appointed under the Prison Act, 1877 (*see* sections 6 and 9) : their place is taken in India by the Inspector-General of Prisons (the Prisoners Act, 1894, section 5). The bill enables the local Government to appoint the Inspector-General of Prisons, or if necessary, any other authority, to exercise all or any of the powers conferred on the Inspector-General.

*Clause 5.*—In order to simplify the legal provisions for the administration of Borstal schools it is provided that, subject to the provisions of this Act, the provisions of the Prisons Act, 1894, and of the Prisoners Act, 1900, and the rules made thereunder shall apply to all Borstal schools as if they were prisons and their inmates prisoners.

[Appendix 13—*contd.*]

*Clause 6.*—The maximum period of detention has been raised to 5 years ; in the English Acts it is three years, but as in England it has been found by experience that short periods of detention are useless and it is probable that in many cases a period of 3 years will be found too short in India, it is proposed to fix a limit of five years.

*Clause 7.*—This power has been added in order that offenders convicted of acts of gross immorality, habitual criminals and others likely to exercise a bad influence on the inmates of the schools may, so far as may be found practically desirable, be excluded from the schools, and to limit admission to those classes which are most likely to profit by the system.

*Clause 9.*—In section 10 of the English Act of 1914 it is provided that, in certain cases of summary conviction by a magistrate, the magistrate, if he considers the offender suitable for detention in a Borstal school, may send him before a court of quarter sessions and the court of quarter sessions may pass a sentence of detention. As the English magisterial system is very different from anything obtaining in India and the above provisions are unsuitable, it is proposed to adopt the procedure laid down in section 9 of the Reformatory Schools Act, 1897, and section 6 of the Bombay Children Act, 1924.

*Clause 10.*—This limits the detention in a Borstal school of persons ordered to give security under section 106 or 118 of the Code of Criminal Procedure, 1898, until the security is furnished or an order is passed under section 124.

*Clause 11* empowers the Inspector-General to transfer offenders within the age limits prescribed by the Act undergoing sentence in any jail to a Borstal school.

*Clause 12* provides for the removal to jail of inmates of Borstal schools who are incorrigible or exercise a bad influence on the other inmates of the schools.

*Clause 13, proviso,* provides that if accommodation is not immediately available in a Borstal school a person ordered to be detained in such school may be detained temporarily but separately in an ordinary prison, the period of detention so undergone being counted as detention in a Borstal school.

*Clauses 14 and 15* introduce a system of conditional release on license, with the necessary provision for the revocation of a license once issued.

*Clause 20.*—If the object of the Borstal system is to be fulfilled, no stigma should attach to persons who, owing to having fallen under evil influences in their youth, have been inmates of Borstal schools. Certain disqualifications are imposed by the law on persons who have been convicted, and this clause gives power to the Governor in Council to remove such disqualifications, so that persons, whose conduct in Borstal schools has been satisfactory, may enter on a new career without the handicap of any legal disability.

30th May 1929.

(Signed) J. E. B. HOTSON.

## APPENDIX 14.

*Statement of Demand for a Supplementary Grant.*RESERVED 1. The Honourable SIR GHULAM HUSAIN  
HIDAYATALLAH.

Grant for the Rent Controller's Department, Karachi.

The Bombay Rent Act ceased to operate at the end of December 1928. Prior to this Mr. N. A. Bechar, M.L.C., had given notice of his intention to introduce a Bill in the Legislative Council to restrict the increase of rent of certain premises in the Municipal District and Cantonment of Karachi. This Bill was passed by the Legislative Council in the February-March Session, 1929, and having received the assent of the Governor General, has passed into law as the Karachi Rent Restriction Act, 1929 (Bom. III of 1929). At the time of preparation of the budget for the current year (1929-30) it was difficult to anticipate that the Bill would pass through all its stages at the February-March Session, and it was accordingly decided not to make any provision in the budget under the head "37—Miscellaneous Departments—Reserved" on account of the Rent Controller's Department at Karachi, but to ask, if necessary, for a supplementary grant on this account at the July Session. A grant of Rs. 6,290 is now required for the following establishment, etc., entertained with effect from May 1929, the month from which the Act was brought into force:—

(a) One Inspector at Rs. 275 per mensem.	} Total for the 10 months from May 1929 to February 1930 = 5,490	Rs.
(b) One Clerk at Rs. 98 per mensem.		
(c) One peon at Rs. 24 per mensem.		
(d) Two peons at Rs. 22 per mensem each.		
(e) House rent to two peons at Rs. 4 per mensem each.		
(f) Allowance to Rent Controller at Rs. 100 per mensem.		
(g) Office expenses, e.g., stationery, contingencies, etc. ..	800	
	Grand Total ..	6,290

The sanction of the Legislative Council is requested to a supplementary grant of Rs. 6,290 under the head "37—Miscellaneous Departments—Reserved" by a reappropriation from the Reserve of Rs. 3,50,000 at the disposal of the Finance Department.



[Appendix 14—contd.]

*Reappropriation suggested.*

Demand voted and now reduced— 47, Miscellaneous—Reserved. Rs. 7,58,000 — Rs. 6,290.	Demand voted and now increased— 37, Miscellaneous Departments— Reserved. Rs. 3,48,000 + Rs. 6,290.
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FINANCE DEPARTMENT : }  
11th July 1929. }

APPENDIX 15.

*Statement of Demand for a Supplementary Grant.*

TRANSFERRED 2. The Honourable MOULVI RAFIUDDIN  
AHMAD.

Revision of pay of Assistant Surgeon H. M. La Frenais, I.M.D.,  
Officer in Charge, Anti-rabic Section, Haffkine Institute, Bombay.

The anti-rabic department of the Haffkine Institute is second only  
to the Pasteur Institute, Kasauli, in importance and volume of work.

The monetary transactions of this Institute for the purchase of stores,  
and sale of vaccines, etc., run into some lakhs of rupees and the personnel  
is over a hundred strong. The Director is not in a position, without  
injury to his scientific work, to attend to the administrative details un-  
aided. Proposals have been put forward from time to time for the  
engagement of a special man of the responsible type as personal assistant  
or business manager to the Institute, on a salary of about Rs. 1,000  
monthly. Financial stringency has made the creation of this appoint-  
ment impossible so far. In the absence of a special officer Assistant  
Surgeon La Frenais is very helpful in attending to the administrative  
details of the Institute.

Assistant Surgeon La Frenais was appointed to this post in July 1924.  
The scale of pay sanctioned for him until recently was Rs. 500—50,2—750  
*plus* an allowance of Rs. 50 per mensem in lieu of fees for anti-rabic work.  
He accepted his present appointment on a definite understanding that  
he would receive a percentage of fees for anti-rabic work for paying  
patients, or an adequate allowance in lieu of the fees. To his predecessor,  
in a little over a year, Government paid, besides his salary, the major  
part of Rs. 10,700 as fees for anti-rabic work. This fact was known to  
Dr. La Frenais, when he applied for the appointment. But after he  
had relinquished his previous post and joined the department here, the  
payment of fees was discontinued. Considering the importance of his  
work and in order to retain his services in a post which he had otherwise

[Appendix 15—*contd.*]

determined to give up, Government have revised his pay to Rs. 500—50—900 *plus* an allowance of Rs. 200 per mensem in lieu of fees for anti-rabic work with effect from 1st April 1929. This revision entails an extra expenditure of Rs. 1,800 during the year to meet which a permanent cut of Rs. 2,000 has been sanctioned in the Customs Duty grant of the Haffkine Institute. This change, however, could not be carried out in the budget estimates for 1929-30. The charge of Rs. 1,650 during 1929-30 will therefore be met by reappropriation from "33—Public Health—Haffkine Institute, Bombay—Contingencies—Customs duty on imported stores" to "33—Public Health—Pasteur Institutes—Pay of officers". As the expenditure is on a new service and as the funds have been made available by reappropriation within the same grant, the sanction of the Legislative Council is requested to a token grant of Rs. 10.

*Demand voted and now increased.*

33, Public Health—Transferred.

Rs. 31,29,000 + Rs. 10.

FINANCE DEPARTMENT :

Bombay Castle, 15th July 1929.

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#### APPENDIX 16.

##### *Statement of Demand for a Supplementary Grant.*

**TRANSFERRED 3.** The Honourable Dewan Bahadur HARILAL D. DESAI.

Reconstruction of masonry bridge No. 25 in mile 12/1 of Kim-Mandvi Road in the Surat and Broach Division.

In September 1928 the Superintending Engineer, Northern Circle, submitted for administrative approval preliminary plans and estimate, the latter amounting to Rs. 26,500, for the work named above. In explaining the necessity for the work he reported that the water-way of the bridge was inadequate for high floods in the nala and that all the wood work of the decking of the bridge had decayed and the brick masonry abutments and stone masonry return walls had cracked to a dangerous extent at several places. It was therefore necessary to declare the bridge unsafe for bus traffic. As this caused great hardship to the travelling public, the reconstruction of the bridge became a matter of great urgency. The plans and estimate were examined and returned to the Superintending Engineer for certain modifications. The modified plans and the estimate amounting to Rs. 27,836 were approved by Government and sanctioned by the Superintending Engineer. In February 1929 that officer reported that owing to the importance of the crossing it was necessary to maintain uninterrupted communication by bus traffic

[Appendix 16—*contd.*]

with Mandvi and other villages beyond the nala in the rains of 1929 and represented the necessity of taking up the work immediately. It was however then too late to provide for the work in the Budget for 1929-30. As the work was imperatively urgent, an allotment of Rs. 27,800 was sanctioned early in April 1929 in anticipation of the sanction of the Legislative Council so as to ensure its very early completion with a view to preventing accidents during the rains. As the expenditure incurred is on a new service and as the funds have been made available by re-appropriation within the grant under the head "41-Civil Works," the sanction of the Legislative Council is requested to the demand for the grant of a token sum of Rs. 10.

*Demand voted and now increased.*

"41-Civil Works—Partly Reserved and partly Transferred."

Rs. 1,43,20,000 + Rs. 10.

FINANCE DEPARTMENT :

Bombay Castle, 15th July 1929.

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APPENDIX 17.

*Statement of demands for supplementary grants to cover the excesses shown in the appropriation accounts of the Government of Bombay for the year 1927-28 and in the report of the Accountant General thereon.*

4. The Honourable Mr. G. B. PRADHAN.

In his report on the Appropriation Accounts of the Government of Bombay for 1927-28 the Accountant General, Bombay, has pointed out excess expenditure in the final accounts under the following heads which requires the sanction of the Legislative Council :—

	Amount of excess.
	Rs.
(1) 22-General Administration—Transferred ..	4,497
(2) 42-Bombay Development Scheme—Reserved ..	33,064
(3) 55-Construction of Irrigation Works not charged to Revenue—Reserved .. ..	3,83,063

The excesses are briefly mentioned below :—

(1) 22-General Administration—Transferred.

A provision of Rs. 13,000 was made in the budget estimate of 1927-28 for travelling and hill journey allowances of the Honourable Ministers.

[Appendix 17—contd.]

The expenditure under this head, however, amounted to Rs. 17,497 in the accounts of 1927-28. As the actual excess over the sanctioned grant was only known in September 1928, i.e., after the close of the year, the sanction of the Legislative Council could not be obtained in the financial year 1927-28. The extra expenditure is due to extensive touring undertaken by one of the Honourable Ministers. The Legislative Council is now requested to sanction the extra expenditure of Rs. 4,497.

(2) *42-Bombay Development Scheme—Reserved.*

Provision for expenditure during the year 1927-28 on the Industrial Housing Scheme was originally made under the capital head "59-Bombay Development Scheme" as the opening of a revenue head for that scheme was not sanctioned when the budget was framed. During the course of that year it was decided to open a revenue account for the Industrial Housing Scheme as capital expenditure thereon had ceased. Accordingly a new revenue major head "42-Bombay Development Scheme" was opened with a corresponding receipt head "XXXI-Bombay Development Scheme" and in its September-October 1927 session, the Legislative Council voted a supplementary grant of Rs. 3,16,284 under the new head "42-Bombay Development Scheme," against a corresponding provision made for this scheme under the head "59-Bombay Development Scheme." This voted grant fell short of the actual expenditure and an excess expenditure of Rs. 33,064 was incurred during that year.

This excess has occurred for the following reasons :—

(1) When the supplementary demand was obtained the *pro-rata* share of the cost of Secretariat establishment charges debitable to the Industrial Housing Scheme was not calculated and included in the amount of the supplementary demand, because at that time it was not decided on what basis the cost of that staff should be distributed between the different activities of the Department. Full provision for the Secretariat staff was, however, made under the head "59-Bombay Development Scheme" under which, therefore, there are corresponding savings to cover the excess under "42."

(2) The basis of the *pro-rata* distribution included in the supplementary demand of the cost of the engineering establishment debitable to the Industrial Housing Scheme was different from that adopted in the accounts for the year. Therefore in this item also there are corresponding savings under "59-Bombay Development Scheme" to cover the excess under "42."

(3) Arrears of municipal taxes on chawls outstanding on 1st April 1927 had to be paid during the year 1927-28, for which no provision was made in the supplementary demand obtained during that year.

The sanction of the Legislative Council is requested to the excess of Rs. 33,064.

[Appendix 17—contd.]

(3) 55-Construction of Irrigation Works not charged to Revenue—Reserved.

There was an excess of Rs. 3,83,068 over the voted grant for 1927-28 under the head "55-Construction of Irrigation Works not charged to Revenue" as shown below :—

		Rs.
Voted grant .. .. .	.. .. .	2,15,64,000
Actual expenditure .. .. .	.. .. .	2,19,47,068
Excess .. .. .		3,83,068

The excess was wholly due to the excess expenditure on the Lloyd Barrage and Canals Construction Project as shown below :—

	Grant.	Expenditure.	Excess (+) or Saving (-).
	Rs.	Rs.	Rs.
Lloyd Barrage and Canals Construction Project .. .. .	2,00,92,000	2,06,51,750	+5,59,750
Other Irrigation Works .. .. .	14,72,000	12,95,318	-1,76,682
	2,15,64,000	2,19,47,068	+3,83,068

2. The excess on the Lloyd Barrage and Canals Construction Project was mainly due to increased expenditure under "Works" and "Suspense" partly counterbalanced by savings under other minor heads as shown below :—

Minor head of account.	Final grant.	Expenditure.	Excess (+) or Saving (-) on the grant.
	Rs.	Rs.	Rs.
Works .. .. .	1,65,13,700	1,67,84,766	+2,71,066
Establishment .. .. .	24,86,000	24,47,308	-38,692
Tools and Plant .. .. .	1,51,300	1,48,820	-2,480
Suspense .. .. .	5,12,000	9,39,301	+4,27,301
Pensionary charges .. .. .	4,29,000	4,30,186	+1,186
Deduct—Receipts and Recoveries on capital account .. .. .	....	-98,631	-98,631
Total ..	2,00,92,000	2,06,51,750	+5,59,750

[Appendix 17—*contd.*]

The reasons for the excesses under "Works" and "Suspense" are explained below.

3. *Works*.—The demand for 1927-28 for I-Works made by the Chief Engineer, Lloyd Barrage and Canals Construction, was Rs. 1,78,33,000 but in view of savings on his grants in previous years a lump deduction of Rs. 25 lakhs was made by Government from his demand and the grant was fixed at Rs. 1,53,33,000. This reduction was made by Government on the distinct understanding that if additional funds up to this amount were required by the Chief Engineer during the course of the year, they would be placed at his disposal. Progress on works in 1927-28 was, however, so satisfactory and up to expectations that in January 1928 the Chief Engineer applied for an additional allotment of Rs. 11,80,700 under I-Works. Out of this amount, Rs. 4,64,700 were met from savings on the grant for tools and plant at the disposal of the Chief Engineer, Rs. 50,000 were met from savings on other Irrigation Works under the head "55" and the balance of Rs. 6,66,000 was met from the supplementary grant of Rs. 14,19,000 for the Project obtained from the Council in March 1928. Thus the final grant under "Works" at the disposal of the Chief Engineer was Rs. 1,65,13,700. On 27th February 1928 the Chief Engineer, however, applied for an additional allotment of about Rs. 7 lakhs for "Works" to cover all payments for work done and to liquidate all liabilities incurred but as the application was received too late for submission to the Legislative Council, Government had to instruct the Chief Engineer to restrict expenditure to the sanctioned grant. Accordingly instructions were issued by the Chief Engineer to the Superintending Engineers that payments should be limited to the grants but that the progress of works should not be checked. Actually certain payments were stopped but there happened to be various liabilities which it is always not possible to postpone. For instance, liabilities for the freight of coal and for the stores purchased through the Indian Stores Department had already been incurred. The Departments concerned raised their debits and though contractors' payments could be postponed, it was not possible, according to the accounts procedure, to defer adjustments of the departmental debits raised. Also more work was turned out than expected and payment for this could not be deferred. These factors contributed to the excess of Rs. 2,71,000 under "Works." Had it been possible to sanction the additional allotment of Rs. 7 lakhs asked for by the Chief Engineer at the end of February 1928, the excess would not have occurred.

4. *Suspense*.—The excess of Rs. 4,27,301 under this minor head was due to increased debits against the sub-head (i) Stock on account of the transfer of some articles of tools and plant to stock, increased purchases of stock materials and the non-adjustment during the course of the year of the cost of articles issued to some of the Divisions, (ii) Miscellaneous Public Works Advances owing to the non-adjustment of freight on coal and of the cost of articles received from the Indian Stores Department by debit to works concerned for want of sufficient information and also to the debit of certain amounts to this head pending

[Appendix 17—contd.]

proper allocation, and (iii) Workshop Suspense which had not been sufficiently provided for. The Chief Engineer, Lloyd Barrage and Canals Construction, had anticipated this excess at the end of February 1928 and had applied for an additional allotment of Rs. 4 lakhs to cover it, but as his application was received too late for submission to the Legislative Council, the allotment asked for could not be sanctioned.

5. The excess of Rs. 5,59,750 on the Lloyd Barrage and Canals Construction Project is partly covered by the saving of Rs. 1,76,682 on the grant for other Irrigation Works in Sind and Deccan under the head "55." The net excess on the total voted grant is therefore Rs. 3,83,068 and the sanction of the Legislative Council is requested thereto.

FINANCE DEPARTMENT :

17th July 1929.

#### APPENDIX 18.

*Statement of demand for a supplementary grant for the increase in the Bombay City Police force.*

RESERVED 8. The Honourable Mr. J. E. B. HOTSON.

"26-Police."

Current year—				Rs.
Recurring	..	..	..	1,01,464
Non-recurring	..	..	..	49,238
Ultimate annual recurring		..	..	2,45,254

Owing to the general demand for reduction in expenditure in every department of Government in 1922 retrenchment was ordered in the police of the whole Presidency. Consequently every possible economy was made in the Bombay City Police force, in reliance on the peaceableness and goodwill of the people of the City. At the time Government were doubtful as to the wisdom of such severe pruning of the force, but thanks to the zeal and the organizing ability of Mr. Kelly, the Commissioner of Police, the City Police, shorthanded though it was, managed to preserve peace and good order, even through the long continued strain of the general mill strike until the outbreak of the disturbances in February of this year. The events of that month demonstrated conclusively that the existing police and the transport at its disposal were insufficient for the needs of the City.

2. Among the causes necessitating an increase in the police are the development of the suburbs, and the recent enormous increase in motor traffic. Experience during the recent riots showed that most of the

[Appendix 18—*contd.*]

police stations were undermanned. It was also found that the amalgamation of the E and F Divisions, effected as a measure of economy in 1927, imposed an altogether excessive quantity of work on the Superintendent of the combined division, and the revival of the old F Division, which includes a number of mills and in which disturbances are frequent, was essential. Orders separating it again from the E Division were therefore issued in February, and it is proposed to retain it as an independent division permanently.

3. At the request of Government the Commissioner of Police prepared a scheme providing for the increases, in various branches of the City Police, which he regarded as the minimum necessary for the safety of the City. The total cost of that scheme including the opening of a new Police Station at Kalachowki, which had previously been administratively approved, but postponed for lack of funds was Rs. 3,42,997 recurring and Rs. 38,828 non-recurring. This scheme has been carefully examined and approved in principle, but in view of the financial situation of the Presidency, it has not been found possible to provide the whole amount required either in the present year, or as far as can be foreseen in the budget to be prepared for next year. On financial grounds therefore the Commissioner was asked to draw up a smaller scheme being given the limits of Rs. 1,00,000 recurring and Rs. 50,000 non-recurring for this year and Rs. 2,75,000 for next year. His proposals, in accordance with these instructions, are as follows :—

	Recurring.	Non-recurring.
	Rs.	Rs.
1. Staff for the new Kalachowki Police Station ( <i>vide</i> statement A) ..	24,797	2,538
2. 34 Sergeants, 9 motor lorry drivers (Constables) and Armed Police Constables at the rate of about 10 men per month ( <i>vide</i> statement B).	76,667	8,500
3. Six motor trucks at Rs. 4,150 each (already sanctioned by Government) .....	.....	24,900
4. Two prison vans at Rs. 6,650 each (already sanctioned by Government) .....	.....	13,300
	<hr/>	<hr/>
	1,01,464	49,238

This scheme has been most carefully considered and is regarded the best method of expending the limited funds which can be made available for the most urgent needs of the Bombay City Police, for it is only a part of the complete scheme.

The opening of the Kalachowki Police Station has been postponed from time to time because funds were not available, but it has now been found imperative to bring it into action. The buildings at Kalachowki are already built and ready for occupation.



[Appendix 18—*contd.*]

The experience of recent disturbances in Bombay has proved that Sergeants are invaluable for traffic control and in dealing with disorder, and the 34 Sergeants mentioned above are considered to be the minimum number necessary.

The six motor trucks and the two prison vans have already been purchased. They were found essential for the speedy movement of the police from one place to another and for conveying prisoners to and from the courts. Sanction to their purchase was given because hiring would have been much more expensive in the end.

As it is not possible to provide funds for this scheme from the Police budget, the sanction of the Legislative Council is required to this supplementary demand.

*Demand voted and now increased.*

26-Police—Reserved.

Rs. 1,66,73,000 + Rs. 1,50,702.

FINANCE DEPARTMENT :  
Bombay Castle, 24th July 1929.

[Appendix 18—contd.]

## STATEMENT A.

## KALACHOWKI POLICE STATION.

*Staff administratively sanctioned.*

- 1 Inspector.
- 1 Deputy Inspector.
- 2 Sergeants.
- 3 Sub-Inspectors.
- 1 Jemadar.
- 11 Head Constables.
- 102 Constables.

Cost—

	Rs.	Rs.
1 Inspector .. .. .	300	
1 Deputy Inspector .. .. .	275	
2 Sergeants .. .. .	400	
Sub-Inspectors (cannot be recruited at once as selected candidates must undergo training at the Police Training School, Nasik).		
	<hr/> 975	
*Deduct .. .. .	125	
	<hr/>	
For 6 months ..		850 × 6 = 5,100

\*The appointments of Inspector and Deputy Inspector will be filled by promotions which would cause 1 vacancy in the Sergeant's rank and 1 vacancy in the Sub-Inspector's rank as Sergeants and Sub-Inspectors are now promoted alternatively; but as we shall not be able to recruit a Sub-Inspector there would be a saving to that extent.

1 Jemadar .. .. .	60	
11 Head Constables .. .. .	418	
	<hr/>	
For 6 months ..		478 × 6 = 2,868

The appointments of Jemadar and Head Constables will be filled by promotion thus causing 12 vacancies in the Constable's rank. These 12 *plus* 102 new Constables can be recruited at the rate of about 25 recruits per month over and above our normal vacancies. This would cost in 6 months .. .. . 13,620

Carried forward .. 21,588

[Appendix 18—contd.]

		Rs.
	Brought over ..	21,588
<i>Allowances—</i>		
		Rs.
Writer's allowance .. ..	20	
Clothing allowance to 4 officers ..	40	
Conveyance allowance .. ..	75	Rs.
	<hr/>	
	135 × 6 =	810
Clothing for Jemadars, Head Constables and Constables (114)—		
113 × 21 =	2,373	
1 × 26 =	26	
	<hr/>	
		2,399
		<hr/>
		3,209
	Total recurring ..	24,797
<i>Non-recurring—</i>		
* 3 Sergeants' clothing on enlistment at Rs. 250 each .. ..	750	
Furniture .. ..	1,788	
	<hr/>	
	Total non-recurring ..	2,538
		<hr/>
	Total recurring and non-recurring ..	27,335

\*This includes 1 Sergeant that will have to be taken in place of one of the existing Sergeants who will be promoted to the rank of Deputy Inspector in one of the Deputy Inspector's vacancies.

[Appendix 18—contd.]

## STATEMENT B.

*Extra staff asked for by the Commissioner of Police.*

It is proposed to enlist 34 Sergeants, 9 drivers and Armed Police at the rate of about 10 Constables every month.

The cost will be as under :—

	Rs.	Rs.
<i>Sergeants 34—</i>		
Pay at Rs. 200 each .. ..	6,800	
Conveyance allowance at Rs. 15 each .. ..	510	
Clothing allowance at Rs. 10 each .. ..	340	
Rent at Rs. 90 each .. ..	3,060	
	<hr/>	
Monthly .. ..	10,710	
	For 6 months .. ..	64,260
<i>Drivers 9—</i>		
Pay at Rs. 30 each .. ..	270	
Special pay—	Rs.	
1 at Rs. 40 .. ..	40	
3 at Rs. 35 each .. ..	105	
5 at Rs. 30 each .. ..	150	
	<hr/>	
	295	
House-rent at Rs. 7 each .. ..	63	
	<hr/>	
Monthly .. ..	628	
	For 6 months .. ..	3,768
<i>Armed Police Constables—</i>		
At the rate of about 10 men each month—pay at Rs. 30 each .. ..		6,000
House-rent at Rs. 7 each .. ..		1,400
<i>Drivers 9—</i>		
Clothing at Rs. 21 per head per annum .. ..		189
<i>Armed Police Constables—</i>		
Clothing at Rs. 21 per head per annum .. ..		1,050
	<hr/>	
Total recurring .. ..		76,667
<i>Non-recurring—</i>		
<i>Sergeants—</i>		
Outfit to 34 Sergeants at Rs. 250 per head on enlistment .. ..		8,500
	<hr/>	
Total non-recurring .. ..		8,500

## APPENDIX 19.

*Statement of Demand for a Supplementary Grant.*

RESERVED 5. The Honourable SIR GHULAM HUSSAIN HIDAYAT-ALLAH.

(Improvements to the Fuleli Canal System.)

A provision of Rs. 10 lakhs for improvements to the Fuleli Canal System was made in the current year's budget under the head "55-Construction of Irrigation Works" but as some members of the Council required further information on certain points the provision was temporarily withdrawn by Government at the last session with the intention of bringing it again before the House. The points and objections raised in connection with this scheme during the last Council debates have been carefully considered by Government and they adhere to the opinion previously expressed that the scheme is absolutely necessary for safeguarding the interests of the zamindars in the Fuleli tract after the Barrage Canals begin to operate. A note fully explaining the necessity for the scheme and scope of the complete project and dealing with all the points and objections raised during the last Council debate has already been supplied to all members of the Council for their information. It is therefore unnecessary to recapitulate here the facts and figures already given in that Note.

It is proposed to commence the scheme in the current financial year. The amount required for expenditure under I-Works is Rs. 7,42,000 and the sanction of the Legislative Council is requested thereto. Details of the works on which this amount is proposed to be spent are given in the attached statement.

*Demand voted and now increased*

"55-Construction of Irrigation Works  
(except Lloyd Barrage)—Reserved."

Rs. 12,70,000 + Rs. 7,42,000.

FINANCE DEPARTMENT :

Bombay Castle, 20th July 1929.

## [Appendix 19—contd.]

Statement showing the details of works on which it is proposed to spend the sum of Rs. 7,42,000 required in 1929-30 as 1st instalment of improvements to the Fuleli Canal System

Serial No.	Name of work.	Total cost of I-Works.	Amount proposed to be utilised up to 31st May 1930.	Amount to be spent in the financial year 1929-30.	Remarks.
		Ra.	Ra.	Ra.	
1	Constructing a new regulator at mile 70/3 of the Fuleli.	68,166	68,166	48,000	The work will be completed before 31st May 1930.
2	Re-sectioning and regrading the Fuleli from mile 70/3 to tail and moduling all direct karias, taking off direct from the main canal, not otherwise provided.	67,486	67,486	50,000	Do. do.
3	(A) Constructing a new distributary on the left bank from above the new regulator at mile 70/3 to feed the existing Shadiwah right bank distributary and all direct karias up to Alhbahar Karo, and (B) Remodelling and moduling Shadiwah right distributary.	92,925	76,888	60,000	Item (A) will be completed before 31st May 1930, while item (B) the cost of which is about Rs. 17,000 will be taken up in the working season of 1930-31.
4	Remodelling and moduling Alhbahar Karo excluding the portion coming under the Lloyd Barrage and Canals Construction Scheme.	37,456	37,456	33,000	The work will be completed before 31st May 1930.
5	Remodelling and moduling Sherwah large system.	73,696	30,696	24,000	The work is proposed to be done up to mile 10 before 31st May 1930 and the work of the remaining portions will be done in the working season of 1930.
6	(A) Constructing a new distributary on the right bank from above the new regulator at mile 70/3 to feed the Saidawah, Kazawah and all direct karias ex-Fuleli up to Mithnawah, and (B) Remodelling and moduling Saidawah.	1,89,114	1,71,834	1,20,000	Item (A) will be completed before 31st May 1930, while item (B) the cost of which is about Rs. 17,000 will be taken up in the working season of 1930-31.
7	Remodelling and moduling Ghar Kadhan.	46,582	46,582	37,000	The work will be completed before 31st March 1930.
8	(A) Constructing a new distributary on the right bank from above the Alipur regulator to feed direct karias ex-Fuleli up to Mirwah Talhar head and Jamsherwah, and (B) Remodelling and moduling Jamsherwah.	1,08,662	99,162	86,000	Item (A) will be completed before 31st May 1930, while item (B) the cost of which is about Rs. 10,000 will be taken up in the working season of 1930-31.
9	Constructing a new distributary on the left bank from above the Alipur Regulator to feed direct karias ex-Fuleli up to Nasirwah head.	1,18,349	1,18,349	1,00,000	The work will be completed before 31st May 1930.
10	Remodelling and moduling Aliwah large system.	91,048	51,958	42,000	The work is proposed to be done in the first 10 miles only up to 31st May 1930 and the balance in the working season of 1930-31.
11	Remodelling and moduling Sanhi Gunl.	1,49,754	1,15,166	95,000	Do. do.
12	Widening the Fuleli from head to mile 29 at necessary places (total cost Rs. 2,85,740). It is proposed to carry out the work in the first 5 miles only up to 31st May 1930 the cost of which is about Rs. 47,238.	47,238	47,238	47,000	
	<b>Total ..</b>	<b>10,90,476</b>	<b>9,30,956</b>	<b>7,42,000</b>	

## APPENDIX 20

*Statement of Demand for a Supplementary Grant.***TRANSFERRED 6. The Honourable Mr. B. V. JADHAV.**

Establishment of the officer appointed to the combined posts of Director of the Sakrand Agricultural Research Station and Deputy Director of Agriculture in Sind.

Government have recently undertaken a comprehensive survey of the progress of the Lloyd Barrage and Canals Construction Scheme in all its aspects, and a white book has been circulated to the members of the Council detailing the results of this survey. Section 4 of the book deals with the main head of agriculture, and a perusal of it will indicate to the Council that large developments are necessary in every direction, if the agricultural part of the scheme is to keep pace with the irrigation and the revenue parts. It will be remembered that two of the recommendations of the Advisory Committee that was appointed in 1923 were that two or more experimental stations were required in Sind, and that a separate Director of Agriculture should be appointed. Government were at the time unable to accept these recommendations *in toto*, and a start was made with one experimental station at Sakrand which was put in charge of Dr. H. Mann, the then Director of Agriculture, in addition to his own duties from October 1925. Dr. Mann held the post until his retirement in October 1927. The position of things on his retirement showed that much further development was required, and Government have from that time onwards been considering the best method of improving the administrative machinery so as to ensure that the requisite development shall follow. They have also had the advantage of the opinion of the Royal Commission on Agriculture that Sind required an independent Director of its own with a Deputy Director in charge of Sakrand and the other sub-stations. Without going so far as to provide two such officers, Government have now reached the conclusion that in order that the development of agriculture on the general lines discussed in the white book may take place in accordance with a fixed programme which might be designed say for five years, it is necessary that an additional farm on the Right Bank of the Indus should be established without delay to be followed by others where necessary, and that for the purpose of organizing this farm and working out the lines of development both there and throughout Sind, a single officer should be placed in charge of all agricultural work in Sind both within and without the Barrage area. Accordingly, they propose to combine the already existing sanctioned post of Director of the Sakrand Agricultural Research Station, and that of Deputy Director of Agriculture in Sind and to appoint an officer of the Imperial Agricultural Service to it. The officer so selected will receive pay at the rate of Rs. 1,500—50—1,750 for doing duty as Director, Sakrand Agricultural Research Station, with a special pay of Rs. 500 per mensem for the additional duties which will devolve upon him as Deputy Director of Agriculture for the Province: This officer's headquarters will be at Karachi where he will be a member of the standing

[Appendix 20—*contd.*]

committee on the Barrage, which is now being formed, and like other officers stationed there, he will be entitled to the benefits of the compensatory local allowance for Karachi and the Karachi house allowance. It is intended that for the present the officer shall be nominally under the authority of the Director of Agriculture at Poona, but experience may show that it is desirable, as recommended by the Royal Commission on Agriculture, to put him in independent charge. It is anticipated that an expenditure of about Rs. 15,000 will be required during the current financial year. This can be met by reappropriation from the non-voted provision of Rs. 18,000 made in the budget under the head "34-Agriculture—Agricultural Development under the Lloyd Barrage". This sum is however non-votable. But in order that the Council may have an opportunity of expressing its opinion upon this development of the policy of Government, a supplementary demand is presented for the officer's establishment.

2. The present clerical staff of the Deputy Director of Agriculture consists of one head clerk on Rs. 150—5—200 and three clerks on Rs. 30— $\frac{5}{2}$ —80 per mensem each. The Director of Sakrand Research Station has no clerical staff. In view of the combination of the two appointments and the corresponding addition to the clerical work that will ensue, an additional clerk on Rs. 40 in the grade of Rs. 30— $\frac{5}{2}$ —80 is proposed. The clerk will be eligible for the Karachi local allowance. The charge of Rs. 336 during the year 1929-30 will be met by reappropriation from savings under the head "34-A-Agriculture—Agricultural Research and Propaganda—Pay of Establishment". As the expenditure is on a new service and as the funds have been made available by reappropriation of funds within the same grant, the sanction of the Legislative Council is requested to a token grant of Rs. 10.

*Demanded voted and now increased.*

34-Agriculture—Transferred.

Rs. 28,30,000 + Rs. 10.

FINANCE DEPARTMENT :

22nd July 1929.

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## APPENDIX 21.

### BILL No. XX OF 1929.

*A Bill to make the offence of criminal intimidation cognizable in times of emergency.*

(As published in the "Bombay Government Gazette" of the 27th July 1929.)

WHEREAS it is expedient to take power to enable the police to deal effectively with the offence of criminal intimidation in certain areas of the Bombay Presidency ;



[Appendix 12—contd.]

And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act;

5 & 6  
Geo.  
V,  
c. 61,

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Prevention of Intimidation Act, 1929.

(2) It extends to the Presidency Area.

(3) This section and sections 2 and 3 shall come into operation forthwith; section 4 shall come into force on the date or dates on which a state of emergency is declared to exist by notification under section 3, and shall continue to be in operation for the period specified in such notification or, if no period is therein specified, until such notification is cancelled by the Local Government.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Presidency Area" means the City of Bombay, the Bombay Suburban District and any other area adjacent to the City of Bombay or the Bombay Suburban District which the Local Government may, by notification in the *Bombay Government Gazette*, include for the purpose of this Act within the Presidency Area;

(b) "Criminal Intimidation" has the meaning assigned to it by section 503 of the Indian Penal Code.

XLV

3. *Declaration of state of emergency.*—The Local Government, if satisfied that the public tranquillity in the Presidency Area or any part thereof is endangered by the prevalence of intimidation, may, at any time by notification in the *Bombay Government Gazette*, declare that a state of emergency exists and shall set forth the reasons for such declaration in the notification.

of 1860.

4. *Offence of criminal intimidation to be cognizable.*—Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898, the offence of criminal intimidation shall be a cognizable offence as defined in that Act and the rest of the provisions of that Act shall have effect accordingly.

V of 1898.

#### STATEMENT OF OBJECTS AND REASONS.

It has been found that intimidation is very commonly practised in times of excitement in Bombay City and its neighbourhood and that the Police cannot deal effectively with it under the existing law since the offence of criminal intimidation is not cognizable. It is necessary that the powers of the Police should be increased in times of emergency in those areas. The Bill, therefore, provides that the offence of criminal intimidation shall at such times be made cognizable by a notification which can be cancelled when the emergency has passed away.

(Signed) J. E. B. HOTSON.

## APPENDIX 22.

## BILL No. XXI OF 1929.

*A Bill for safeguarding life and property in the Presidency Area in times of emergency.*

(As published in the "Bombay Government Gazette" of the 27th July 1929.)

WHEREAS it is expedient to make provision in manner hereinafter appearing for the safeguarding of life and property in the Presidency Area in times of emergency;

And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act;

5 & 6  
Geo.  
V,  
c. 61.

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Presidency Area (Emergency) Security Act, 1929.

Cf.  
Bengal  
Act,  
III of  
1926,  
s. 1.

2. *Extent, commencement and duration.*—(1) This Act shall extend to the whole of the Presidency of Bombay.

(2) Section 5 shall come into force on the date or dates on which a state of emergency is declared under section 4 and shall continue in force for three months from such date or dates. The rest of the Act shall come into force at once.

Cf.  
ibid.,  
s. 2.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

"Presidency Area" means the City of Bombay together with—

(i) the Bombay Suburban District, and

(ii) any other area adjacent to the City of Bombay or the Bombay Suburban District which the Local Government may, by notification in the *Bombay Government Gazette*, include within this definition.

Cf.  
ibid.,  
s. 3.

4. *Power to declare state of emergency.*—The Local Government, if satisfied that the public tranquillity and security of life and property in the Presidency Area or any part thereof are endangered, may at any time, by notification in the *Bombay Government Gazette*, declare that a state of emergency exists and shall set forth the reasons for such declaration in the notification.

Cf.  
ibid.,  
s. 4.

5. *Power to order removal of turbulent character.*—(1) Whenever the Commissioner of Police or District Magistrate exercising jurisdiction in the Presidency Area is satisfied that any person within his jurisdiction is committing or has committed or is likely to commit or is assisting or abetting the commission of—

(a) a non-bailable offence against any person or property, or

(b) the offence of criminal intimidation, or

(c) any offence involving a breach of the peace,

[Appendix 22—*contd.*]

so as to be a danger to or cause or be likely to cause alarm to the inhabitants of the Presidency Area or any section thereof, the Commissioner of Police or the District Magistrate, as the case may be, may, subject to the control of the Local Government, by written order direct such person to remove himself from the Presidency Area within such time and by such route as may be specified in the order and not to return thereto for a period (not exceeding one year) to be specified in the order without the written permission of the Commissioner of Police or the District Magistrate, as the case may be.

(2) An order under sub-section (1) against any person may, unless the Commissioner of Police or the District Magistrate, as the case may be, is satisfied in respect of such person that both he and his father were born in the Presidency of Bombay or that he is a member of a family which has settled in the Presidency of Bombay and is himself so settled, direct that such person shall remove himself from the Presidency of Bombay within such time and by such route as may be specified in the order and shall not return thereto for a period (not exceeding one year) to be specified in the order save with the written permission of the Commissioner of Police or the District Magistrate, as the case may be.

(3) An order under sub-section (1) shall be served personally on the person against whom it is directed in such manner as the authority making the order thinks fit.

6. *Procedure to be adopted in making order under section 5.*—(1) Before making an order under section 5 the Commissioner of Police or the District Magistrate, as the case may be, shall give an opportunity to the person against whom the order is proposed to be made to show cause against the order, and shall consider such representation as he may make verbally or in writing. *Cf. ibid. s. 5.*

(2) Within forty-eight hours from the making of an order under section 5 the Commissioner of Police or the District Magistrate, as the case may be, shall forward in writing to the Local Government his reasons for making the order.

7. *Power to modify order under section 5.*—When by an order under section 5 any person has been directed to remove himself from the Presidency of Bombay and has complied with the order, or when any person has been removed in police custody outside the Presidency of Bombay under section 9, the Commissioner of Police or the District Magistrate, as the case may be, may, of his own motion or upon application made to him in this behalf, if he is satisfied that both such person and the father of such person were born in the Presidency of Bombay or that such person is a member of a family which has definitely settled in the Presidency of Bombay and is himself so settled, modify the order in such manner as to permit such person to return to and remain in any part of the Presidency of Bombay outside the Presidency Area. *Cf. ibid. s. 6*

## [Appendix 22—contd.]

*Cf. ibid.*  
s. 7. 8. *Right of appeal.*—When an order has been served on any person under section 5 and has been complied with by him, his agent authorised by him in writing may petition the Local Government to revoke or modify the order and thereupon the Local Government shall consider such facts and circumstances relating to the case as may be placed before it, and may confirm, modify or revoke the order.

*Cf. ibid.*  
s. 8. 9. *Failure to comply with order.*—Any person who, having been directed by an order made and served on him under section 5—

(a) to remove himself from the Presidency Area or from the Presidency of Bombay, fails to remove himself therefrom within the time specified in the order,

(b) not to return to the Presidency Area or the Presidency of Bombay within a specified period, returns thereto within such period without the written permission of the Commissioner of Police or the District Magistrate, as the case may be,

may be arrested without a warrant by any police officer, and—

(i) may be removed in police custody outside the Presidency Area or the Presidency of Bombay, as the case may be, or

(ii) on conviction before a Presidency Magistrate or a Magistrate of the first class, may be punished with rigorous imprisonment for a term which may extend to one year.

*Cf. ibid.*  
s. 9. 10. *Indemnity.*—No suit, prosecution or other legal proceeding whatever shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.

## STATEMENT OF OBJECTS AND REASONS.

During the riots in Bombay City in February and May 1929 most of the casualties were due to sudden and sporadic attacks by hooligans on unwary persons whom they met on roads and in bye-lanes. It was found that the powers conferred under Chapter VIII of the Criminal Procedure Code and under the Bombay City Police Act of 1902 were inadequate to allow the authorities to deal promptly with a state of extreme emergency such as existed on those two occasions. The experience then gained showed that a summary remedy is required by which bad characters, who engage in the commission or abetment of offences so as to be a danger or a cause of alarm to peaceful citizens, can be removed from the Presidency Area. It is, therefore, proposed to pass a Bill to enable Government promptly and adequately to deal with any similar emergency which may arise in future.

2. The Bill is entirely based on Bengal Act III of 1926, which was passed by the Bengal Legislative Council in consequence of riots in Calcutta similar to those which occurred in Bombay. Under clause 4, if the Local Government is satisfied that a serious situation has arisen or is apprehended in the Presidency Area or any part thereof, it may declare that a state of emergency exists in such area. Thereupon, the

[Appendix 22—concl.]

Commissioner of Police in the City of Bombay and the District Magistrate elsewhere, if satisfied that any person within his jurisdiction is concerned in the commission or abetment of offences of the nature described in clause 5 (1) so as to be a danger to or to cause alarm to the inhabitants, may direct such person to remove himself from such area and not to return thereto for a period not exceeding one year without the written permission of that officer. Clause 6 provides that such person shall be given an opportunity to show cause why the order should not be made and that within forty-eight hours from the making of such order the officer concerned shall forward in writing to the Local Government his reasons for making the order. Clause 8 gives a right of appeal to the Local Government against an order under clause 5. The provisions of the Bill are limited to the Presidency Area and to a state of emergency, and under clause 2 (2), the provisions of clause 5 continue in force for three months only from the date of the notification under clause 4.

(Signed) J. E. B. HOTSON.

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#### APPENDIX 23.

##### *Statement of Demand for a Supplementary Grant.*

RESERVED 9. The Honourable Sir LOUIS RIEU.

Grant for gratuitous distribution to meet the immediate needs of those rendered destitute or homeless by the recent floods in Sind.

The Commissioner in Sind has reported to Government that he anticipates that the recent rains in Sind may have done as much damage as occurred in 1927. On that occasion Rs. two lakhs were placed at the Commissioner's disposal from 43-A-Famine Relief for gratuitous distribution to meet the immediate needs of those rendered destitute or homeless by the floods. It is now proposed to ask the sanction of the Legislative Council to the provision of a similar sum. A sum of Rs. one lakh has already in anticipation of the sanction of the Council been placed at the Commissioner's disposal, in response to his urgent request, and the remaining Rs. one lakh will be placed at the Commissioner's disposal, when further details come to hand and the necessity of it is established.

*Demand voted and now increased.*

43-A, Famine Relief—(Reserved).

Nil + Rs. 2,00,000.

FINANCE DEPARTMENT:

ona, 5th August 1929.

## APPENDIX 24.

## AGENDA.

**Supplementary Agenda for the second Session (1929) of the  
Bombay Legislative Council which commenced on  
Monday the 22nd July 1929.**

[*Vide* Standing Order IV, 2 (2) and X, 1 (i) (d).]

## GOVERNMENT BILLS.

(1) Bill No. XX of 1929 (A Bill to make the offence of criminal intimidation cognizable in times of emergency).—*First Reading.*

(2) Bill No. XXI of 1929 (A Bill for safeguarding life and property in the Presidency Area in times of emergency).—*First Reading.*

## GOVERNMENT RESOLUTION.

*Resolution by the Honourable Sir Louis Rieu, K.C.S.I., I.C.S.*

“That this House proceed to elect a representative to serve on the Local Advisory Committee of the Madras and Southern Maratha Railway in place of Mr. D. A. Janvekar, M.L.C., deceased, for the remaining period of office as member of the Committee, *i.e.*, up to 16th March 1930.”

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

*Resolutions by Dr. M. K. Dixit, M.L.C.*

1. “This Council recommends to Government to appoint at an early date a committee of officials and non-officials to enquire into and report on the administration of Mussalman Wakfs (Charitable Endowment) in the City of Bombay.”

2. (As No. 2 of Mr. Syed Munawar in main Agenda.)

*Resolutions by Mr. N. R. Gunjal, M.L.C.*

1. “This Council recommends to Government that cow slaughter should be totally forbidden by law in this Presidency.”

2. “This Council recommends to Government that all liquor shops, country as well as foreign, should be closed.”

3. “This Council recommends to Government that early orders be issued to reduce the water-rate leviable under the provisions of the Bombay Irrigation Act of 1879 to a maximum of Rs. 20 per acre of sugarcane in the whole Bombay Presidency.”

4. “This Council recommends to Government that village Patils should be given an annual income from Government of at least Rs. 300 either in cash or in land or partly in cash and partly in land to enable them to keep up their status.”

[Appendix 24—*contd.*]

5. "This Council recommends to Government that orders be passed to restore the Kulkarni Vatan system as it existed before the commutation of Kulkarni Vatan."

6. "This Council recommends to Government that they should remit permanently the land revenue assessment to be paid by an agriculturist in a village, if it be below Rs. 8 a year."

7. "This Council recommends to Government that the photo-copying system introduced recently in the Registration Department of this Presidency be abolished forthwith and the old system restored."

8. "This Council recommends to Government that a Committee with a non-official majority be appointed to inquire into the grievances of the agriculturists and aboriginal tribes in the Presidency regarding forced labour being exacted by touring officers and other Government servants and to suggest measures for the prevention of such practices."

9. "This Council recommends to Government to reduce by one-half the minimum rates of house-taxation prescribed in Government Notification No. 55-A dated 7th May 1922 regarding village Panchayats with a view to increasing the number of 'Panchayats' in the Presidency and popularising them and to substitute for the words 'Capital Value' occurring in the said resolution the words 'Market Value'."

10. "This Council recommends to Government that they be pleased to issue directions to all heads of Departments to reply directly to members of this Council if they ask for information of public interest."

11. "This Council recommends to Government that they should encourage the spread of commercial education in this Presidency by making provision of Rs. 1,00,000 (one hundred thousand) exclusive of the expenditure at present being incurred on the Sydenham College of Commerce and Economics, Bombay, in the budget from this year for giving grants-in-aid and other kinds of help to private and Government institutions carrying on the work of imparting commercial education."

12. "This Council recommends to Government that district boards and Municipal boards be urged to issue orders for the use of indigenous medicines in place of foreign ones in charitable dispensaries under them."

13. (As No. 46 of Mr. J. C. Swaminarayan in main Agenda.)

14. (As No. 47 of Mr. J. C. Swaminarayan in main Agenda.)

15. "This Council recommends to Government to appoint a committee of the non-official members of this Council to bring into force a system of permanent land revenue assessment in this Presidency."

16. "This Council recommends to Government to extend to non-gazetted officers serving at Bombay and Karachi Cities the benefit of the grant of compensatory allowance at the rate of 20 per cent. of their pay with effect from the 1st March 1928."

[Appendix 24—*contd.*]

17. "This Council recommends to Government that the scheme of Primary Teachers' pay as recommended by Sathé-Paranjpe Committee should at once be put into effect in pursuance of the resolution of this Council passed in July 1926 with retrospective effect from March 1926."

18. (As No. 51 of Mr. J. C. Swaminarayan in main Agenda.)
19. (As No. 52 of Mr. J. C. Swaminarayan in main Agenda.)
20. (As No. 53 of Mr. J. C. Swaminarayan in main Agenda.)
21. (As No. 49 of Mr. J. C. Swaminarayan in main Agenda.)
22. (As No. 19 of Rao Bahadur S. K. Bole in main Agenda.)
23. (As No. 4 Mr. H. V. Pataskar in main Agenda.)
24. (As No. 5 of Mr. H. V. Pataskar in main Agenda.)
25. (As No. 3 of Mr. C. R. Shroff in main Agenda.)
26. (As No. 4 of Mr. C. R. Shroff in main Agenda.)
27. (As No. 5 Mr. C. R. Shroff in main Agenda.)
28. (As No. 1 Mr. C. R. Shroff in main Agenda.)
29. (As No. 2 of Mr. C. R. Shroff in main Agenda.)

*Resolution by Mr. S. C. Joshi, M.L.C.*

1. "This Council recommends to Government that a Provident Fund system be introduced in place of the present pension system, for all Government servants in the subordinate services, including clerical and other inferior services."

*Resolutions by Mr. H. A. Lalljee, M.L.C.*

1. "This Council recommends to Government to appoint a Committee of officials and non-officials to enquire into the causes that have led to the cessation of work of the Excise Advisory Committees in Bombay City and to suggest measures for their immediate revival."

2. (As No. 1 of Dr. M. K. Dixit in Supplementary Agenda.)

*Resolutions by Mr. R. G. Pradhan, M.L.C.*

1. (As No. 4 of Mr. H. V. Pataskar in main Agenda.)
2. (As No. 5 of Mr. H. V. Pataskar in main Agenda.)
3. (As No. 1 of Dr. M. K. Dixit in Supplementary Agenda.)
4. (As No. 2 of Mr. Syed Munawar in main Agenda.)

*Resolutions by Dr. P. G. Solanki, M.L.C.*

1. "This Council recommends to Government to separate the Labour office from the Public Information Bureau."

2. "This Council recommends to Government to create a post of Commissioner of Labour and Protector of the Untouchable Classes"



[Appendix 24—*contd.*]

in the Bombay Presidency providing him with a staff selected from amongst the educated untouchable young men."

*Resolution by Mr. Syed Munawar, M.L.C.*

1. "This Council recommends to Government that liquor shops in the mill areas and localities inhabited by working class population in Bombay city be kept open only up to 6 p.m. daily on the pay day and two succeeding days every month."

*Resolutions by Rao Saheb D. P. Desai, M.L.C.*

1. "This Council recommends to Government that a Committee presided over by a judicial officer not inferior in rank to a permanent District Judge be appointed to re-investigate and review in terms of the Land Revenue Code, all the revision settlements of Land Revenue made in the different talukas of this Presidency during the last fifteen years, that every facility and access to Government records be given to the agriculturists and their representatives to present their case before such a committee and that the reports and decisions of these inquiries be placed on the table of the Council two months before any final orders of the Government are passed thereon."

2. "This Council recommends to Government that a committee of official and non-official members elected by the Council be appointed to draft a Land Revenue Bill repealing the existing Land Revenue Code and providing for a just and equitable land tax and just and fair land revenue administration consistent with the existing economic and social condition of the holders of land."

*Resolution by Dr. M. K. Dixit, M.L.C.*

3. "This Council recommends to Government to open a secondary school for girls in the city of Surat at an early date."

*Resolutions by Mr. Shaikh Abdul Aziz, M.L.C.*

1. "This Council recommends to Government to re-introduce immediately the scheme of medical inspection of school-boys which existed in 1921 and was abolished in 1922 as a measure of retrenchment."

2. "This Council recommends to Government to establish at Malegaon a normal school for Muslim girls on the lines of that of Poona for the training of school mistresses."

*Resolutions by Mr. V. A. Surve, M.L.C.*

1. (As No. 3 of Mr. C. R. Shroff in main Agenda.)
2. (As No. 5 of Mr. C. R. Shroff in main Agenda.)
3. (As No. 4 of Mr. C. R. Shroff in main Agenda.)
4. (As No. 49 of Mr. J. C. Swaminarayan in main Agenda.)

[Appendix 24—concl.]

*Resolutions by Rao Saheb R. V. Vandekar, M.L.C.*

1. " This Council recommends to Government to appoint an expert committee to enquire into irrigation possibilities in the Presidency from rivers and wells and to frame a programme of work in the subject providing particularly for the organisation of power lift irrigation from wells."
2. (As No. 4 of Mr. H. V. Pataskar in main Agenda.)
3. (As No. 5 of Mr. H. V. Pataskar in main Agenda.)

*Resolutions by Sardar G. N. Mujumdar, M.L.C.*

1. (As No. 19 of Rao Bahadur S. K. Bole in main Agenda.)
2. (As No. 49 of Mr. J. C. Swaminarayan in main Agenda.)

G. S. RAJADHYAKSHA,  
Secretary to the Legislative Council of the  
Governor of Bombay.

Poona, 29th July 1929.

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