

# THE FUTURE GOVERNMENT OF INDIA

BY

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**THE FUTURE GOVERNMENT  
OF INDIA**

**BY THE SAME AUTHOR**

**GREEK POLITICAL THEORY: PLATO AND HIS  
PREDECESSORS**

**THE FUTURE  
GOVERNMENT  
OF INDIA  
AND THE INDIAN CIVIL SERVICE**

PAPERS EDITED BY

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# THE FUTURE GOVERNMENT OF INDIA

## I

### INTRODUCTION

I OWE it to all who may read this little book to explain its origin—to explain, too, the small and incidental part that I have played in its composition.

In the spring of last year Mr. Lionel Curtis was good enough to give me a copy of his book—*Letters to the People of India on Responsible Government*. I read it with the interest and profit with which I read anything that comes from his pen. Shortly afterwards I received a copy of what has come to be called the Montagu Report; and I studied this report with a curiosity whetted by my previous reading of Mr. Lionel Curtis's book. I was led in this way to take "the future government of India" as the subject of a number of lectures which I delivered at the end of last year to members of the Students' Christian Union; and I was also led to write a short article (which is

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simply an explanation of some features in the Montagu Report) for the magazine of that Union. That article I have ventured to reprint as the first of the papers contained in this book, thinking that it might serve, for those who are not familiar with the Montagu Report, as an introduction to the papers that follow.

It was in consequence of one of the lectures of which I have spoken (of which he had heard from a friend) that a member of the Indian Civil Service came to send me the letter and the papers which form the substance of this book. In doing so he asked me to publish what I thought fit, in order to ensure full discussion of the Bill which has been introduced to give effect to the Montagu Report, and of the alternative proposals submitted in the papers which he enclosed. I have felt it my duty, after consideration and consultation, to do what he asked. The views of the Indian Civil Service which are here represented—so far, at any rate, as some of the members of the Service in one of the provinces of India are concerned—are of the first importance, and indeed only next in importance to the views of the people of India, in any solution of the problem of the future government of India. The co-operation of the members of the Service is agreed to be necessary to the successful working of any scheme for the introduction of responsible government into the provinces of India. The papers printed in this little book contain a statement of the conditions under which some of the members



of the Service feel that they can most easily and most readily co-operate in the introduction of such a system of government. The writers of the papers, it will be seen, welcome its introduction, and only differ from the scheme of the Montagu Report in regard to the methods and means by which it should be introduced. As I read the papers, I was impressed both by their argument and by the candour with which it was advanced; and that is why I have felt it would be a dereliction of public duty if I failed to give such publicity as I could secure to a point of view which seemed to me at once so important in itself and so fairly stated by those who held it.

I will only add that I have been compelled, as time is of the first importance, to put these papers together hastily, in the midst of the busiest term that I remember. I hope that readers of the book will pardon any imperfections of which its editor is guilty, and will be good enough to believe that *fecit quod potuit*.

## II

### THE MONTAGU REPORT<sup>1</sup>

**A**MONG all the great problems of reconstruction by which Great Britain is confronted there are perhaps three of outstanding importance. One is the problem of the future peace of the world and its maintenance by a League of Nations. Another is that of the future organization of industry, a problem for which the Whitley Report, with its scheme of joint standing councils in each industry, has sought to provide some solution. The third is that of the future government of India.

Here the scheme which holds the field is that contained in the Montagu-Chelmsford "Report on Indian Constitutional Reforms," which was issued in the midsummer of 1918. The scheme contained in the Report is based upon, and is intended to carry into effect, a pledge given in an announcement—a very fundamental announcement, almost of the nature of a Magna Charta for India—made by the Secretary of State for India in the House of Commons on 20th August 1917. According to that pledge, the policy of Great

<sup>1</sup> Reprinted from *The Student Movement* (January 1919).

Britain in India is henceforth to be "the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in India as an integral part of the British Empire." The terms of this pledge contain three implications. In the first place, the ultimate goal is "responsible government": that is to say, government by ministers responsible to a representative assembly: that is to say, in two words, *cabinet government*. Secondly, the progress towards that goal is to be "gradual," and to be made by successive stages. Lastly, at the end of that progress, India is still to remain a part of the British Empire, or, as many would prefer to say, of the British Commonwealth, in the same sort of status and position which the self-governing Dominions at present enjoy.

#### PROVINCIAL GOVERNMENT

India consists of two parts—the part ruled by British administration, and the part ruled by Native Princes. It is with the first part that we are here concerned. The part of India which is ruled by British administration is quasi-federal in character. It consists, roughly speaking, of nine provinces, with an average population in each not far short of that of England. In the progressive realization of responsible government in India the provinces come first in order of importance. It is true that a fuller development of local self-government within the province is a necessary basis for

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any structure of provincial self-government—just as the system of local self-government in counties and boroughs has been the necessary basis of English self-government ever since Edward I began to summon representatives of counties and boroughs to Westminster. It is true, again, that provincial self-government will itself, in its turn, be the basis of general Indian self-government—just as self-government in the different States of Australia and Canada has been the basis on which the general self-government of the Commonwealth of Australia and the Dominion of Canada has been erected. But the provinces remain the centre of the arch of self-government; and the central feature of the Montagu-Chelmsford Report is its scheme for provincial self-government in India.

### THE EXISTING POSITION OF AFFAIRS

It is necessary first of all to state the existing position of affairs, before we consider the changes in that position suggested in the Report. The Indian provinces have provincial councils, and those councils contain elected members; but “the composition has been generally so arranged as to give a combination of official and nominated non-official members a small majority over the elected members.” The powers exerted by these councils have been powers of criticism; and thus the position has been that a permanent British executive governed Indian provinces subject to

the criticism of councils on which (except in Bengal) the elected members were in a minority. This did not satisfy advanced Indian opinion; and at the end of 1916 a scheme, which the Hindu Congress and the Mahommedan League joined in supporting, and which is known as "the Congress-League Scheme," was put forward by Indian nationalists. The gist of that scheme was that four-fifths of the members of provincial councils should be elected, and that the councils should have power not merely to criticize, but also to check, the action of the administration—without, however, having power to remove it. The scheme thus went on the assumption of division between the executive and the legislature. There was to be an executive responsible to the British Secretary of State for India; there was to be a legislature which could thwart and even paralyse that executive, without being able to remove it. In a word, the scheme was constructed on the lines of the system which broke down in North America in 1776, and led to the loss of the North American colonies—the system of division of power between a British executive and a local elected legislature. The system which since Lord Durham's famous report of 1839 has held the field—the system of local representative bodies controlling executive organs responsible to themselves—this is entirely absent from the Congress-League scheme. In this sense, therefore, the Congress-League scheme is an anachronism.

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### THE MONTAGU-CHELMSFORD REPORT

The Montagu-Chelmsford Report follows the lines of Lord Durham's Report, in advocating a scheme under which executive and legislature can co-operate. The plan which it suggests is one of cabinet government in instalments. Under this plan each province will have an enlarged council with a substantial elected majority. (A committee has been appointed—and is now at work in India—to examine the constituencies, the franchise, and composition of the council, in each province.) This council will co-exist with a double executive. It is this double executive which is the new and original feature of the Report. One part of the executive will continue to be responsible to the British Secretary of State for India, and this will handle what are called "reserved subjects." Another part of the executive will be responsible to the provincial council, and this will handle what are called "transferred subjects." The members of the executive responsible to the council will be Indians, selected from the council by the Governor of the province because they have the confidence of their colleagues, and holding office as long as they remain members of the council and continue to enjoy that confidence. The subjects which should be "transferred" are to be determined by a committee, which is to visit the provinces and recommend what subjects should be transferred in each province. The subjects which

it is suggested that the committee may recommend for transference are subjects such as (1) education, primary, secondary, and technical; (2) medical and sanitary matters; (3) local self-government, rural and urban; (4) some departments of agriculture, of forests, and of public works. But this is only the transference that is suggested *in the first instance*. A further and most important suggestion, which accords exactly with the pledge already mentioned, is that there should be "gradual" and "progressive" transference of new subjects from time to time, until all subjects are transferred, the distinction between transferred and reserved subjects has disappeared, and complete cabinet government is at work. Five years after the first meeting of the new provincial councils the Government of India is to consider any applications made by the provinces for a modification of the line of division between transferred and reserved subjects. Ten years after the first meeting of the new provincial councils a body of commissioners, whose names are to be submitted to the British Parliament for its approval, is to consider the constitutional position of the provinces; and similar commissions are thereafter to be appointed at intervals of not less than twelve years.

It may be suggested that this scheme only avoids the perils of division between a British executive and an Indian legislature to fall into the dangers of division between a British executive and an Indian executive. But it should be

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noticed, first, that of the two members who are to compose the British executive in each province, one is to be an Indian ; secondly, that the Governor of the province sits with both parts of the executive ; and, lastly, that both parts of the executive are to deliberate together as one body, though the Governor of the province may summon either part for separate deliberation, and though decisions on reserved subjects are to rest with one part, and decisions on transferred subjects are to rest with the other. Pains are thus taken to maintain the unity of the executive ; and though it may prove difficult to maintain such unity in practice, it must be remembered that the dualism of the executive, so far as such dualism exists, is a temporary phase, and that the policy of gradual transference will bring such dualism automatically to an end.

A number of suggestions are made in the Report with regard to the general government of India at large, as distinct from the government of the several provinces of India. The chief suggestion relates to the Indian Legislative Council. At present the council is unicameral, and it contains a minority of elected members. The proposal made in the Report is that there should be constituted a bicameral Indian Legislature. The first chamber would be a Legislative Assembly with a two-thirds majority of elected members, and one hundred members in all. The second chamber would be a Council of State, with fifty members,



of whom twenty-one would be elected. In the ordinary procedure bills are to pass through the two chambers, and, in the event of a disagreement between the two, recourse is to be had to a joint sitting of both. A different procedure is to be adopted in regard to bills which the Governor-General certifies to be necessary to peace and order or good government. If the Legislative Assembly refuses to adopt such bills, they may be referred to and passed by the Council of State alone; and the Governor-General may also, in case of emergency, refer to and pass through the Council bills which have never been before the Assembly.<sup>1</sup> Finally, it remains to be mentioned that the same body of parliamentary commissioners which is to consider the constitutional position of the provinces at intervals is also to review the constitutional position as regards the government of India at large; and room is thus left here, as well as in the provinces, for the gradual development of the principle of self-government.

<sup>1</sup> In the provinces also, it may be mentioned, the governor of the province may "certify" a bill in much the same way. A bill so certified is to be referred to a grand committee of the provincial council, on which the governor has power to nominate a bare majority. After being passed in grand committee, a bill is reported to and may be discussed in the provincial council; and it then passes automatically into law, though the council may record its dissent by resolution, and transmit such resolution to the Secretary of State for India.

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Criticism may be, and has been, passed on the details, and even the principles, of this scheme. It may be urged, as it has been urged by some writers and speakers in England, and by some of the Indian missionaries, that the effect of the scheme is to put in power a small minority of literate Brahmins (only 6 per cent of the population of India is literate), and to hand over to their control the "submerged sixth" (50,000,000 out of a population of over 300,000,000) of out-castes—not to speak of the lower castes. It may be urged, again, from the opposite point of view, that the scheme does not go far enough to satisfy Indian nationalists—that the transferred subjects are few, and that the provincial councils will not possess sufficient financial resources to manage those subjects adequately: that dualism of the executive means friction: that the Council of State for India, far from being a stage of "progressive" realization of self-government, is, on the contrary, actually, reactionary. But a scheme which draws the fire of two opposite camps has probably much in its favour for that very reason; and a full study of the Report, and of the criticisms which have been levelled against the Report, will probably convince most of us that the scheme which it contains is true to the best tradition of English politics—the tradition of a freedom that broadens down gradually, and of a statesmanship that does not seek to reach the end before it has made sure of the beginning.

### III

## A LETTER FROM INDIA

**I**T will be seen from what has been said in the last section that the scheme of provincial government contained in the Montagu Report is distinguished by two characteristics. One of these is positive: the other is negative. One is the presence in the scheme of what has come to be called "dyarchy"—a system of two governments: a government for reserved subjects, and a government for transferred subjects; a government responsible to the Viceroy and Secretary of State for India, and a government responsible to an elected Indian Council. The other is the absence from the scheme of any suggestion of a second chamber in the system of provincial representation.

Even before the Report had appeared, and while evidence was being collected, plans for a different system had been adumbrated. In the succeeding papers of this volume the main features of one of these plans are reproduced. I am told that it would have been accepted by all parties of Indian politicians and, with some modifications, by the Services. It is an essential element in this

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plan that instead of dyarchy there should be co-operation—co-operation of British officials and Indian members in the single and undivided action of a single and undivided provincial executive. That executive, responsible at first to the Viceroy and Secretary of State for India, would gradually, by a process of evolution analogous to that which produced the British Cabinet, become responsible to the elected council of the province. Instead of a new and mechanical scheme of bifurcation (so it is argued), India would attempt an old and—if it may so be termed—biological scheme of evolution. That is one of the essential elements of this plan. It is another essential element that instead of a unicameral council there should be a bicameral body which would permit a system of *territorial* representation in the lower chamber and one of representation of *interests* in the upper. This is a matter that needs, or at any rate deserves, some explanation. In the scheme of the Montagu Report the single council, which it is there proposed to institute, is to contain both territorial representation and representation of interests. This may be said to contravene a generally accepted principle of politics. If there are any "principles of politics" (and some have doubted their existence), it is such a principle that representation should normally be bicameral, and that, while the first chamber represents a country as a single territory, on the basis of merely geographical constituencies, the second should represent it as a plurality, on the basis of

its different interests. This was the line followed by the Irish Convention in 1918. That Convention proposed a bicameral Irish Parliament. While the Irish House of Commons was to represent uniform territorial divisions, the Irish Senate was to represent the different facets and aspects of Irish life. It was to contain representatives of Churches, Lord Mayors of cities and representatives of county councils, members drawn from commerce, industry, and the world of labour, elected peers and nominated members. "The Senate," as I have written elsewhere, "was thus to represent interests, ecclesiastical, local, and economic; and it was thus constituted on a basis which many have advocated for second chambers in general—that they should represent the plurality of the community and its different mental factors, while the first chamber should represent the homogeneity of the community and the different material areas into which, for purposes of such representation, it is divided." It is this line which, as will be seen, is adopted in the plan adumbrated in the following papers.

When I wrote the paper on the Montagu Report which is printed in the preceding section I was concerned, as my readers will have noticed, simply to explain and not to criticize. It was written in December 1918. I will not say that I have changed my mind since I read the letter and the papers which reached me this May (1919), and are printed in the remaining sections. I will

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only say that they make a very strong appeal to such historic knowledge, and to such knowledge of the theory of politics, as I possess. The development of a provincial cabinet system which they suggest corresponds to the historical development of the British Cabinet, the members of which, originally holding<sup>1</sup> their position from and owing their responsibility to the King, gradually came to hold their position from and to be responsible to the Parliament. The constitution of bicameral provincial parliaments which they suggest corresponds to what I have believed and taught, for many years, to be theoretically the true composition of a representative body.

I do not know personally the writer of the letter which occupies this section, or the writers of the papers which fill the remaining sections. I know their names, and I know that they are for the most part old Oxford men. I have been educated in the same ideas in which they have been educated. I belong to the same mother to whom they also belong. I earnestly commend what they say to the readers of this book. It is made of the stuff of good liberal education and good liberal thought.

With this preface I proceed to print the letter which I received this month from India—the letter that is the cause of this book.

LETTER FROM A MEMBER OF THE  
INDIAN CIVIL SERVICE

“What I want to put before you is the necessity of extremely full criticism of the Montagu-Chelmsford Scheme, both in Parliament and in the Press; for without such criticism—and subsequent amendment of the proposals—there is a grave risk, almost amounting to a certainty, that India will be saddled with a makeshift artificial constitution which will be unworkable in practice, and probably lead to most dangerous results. That is our general opinion.

“Now you will ask at once why should I bother you when we have our own special mouthpiece out here in the shape of Chief Commissioners, Lieutenant-Governors, and Members of Council, who were all consulted before the scheme was framed. My answer to that would be:—

“(a) That the great majority of the younger men in the service—men, like myself, ‘in the street’—were never asked for a constructive opinion.

“(b) That we do not accept as our spokesmen the old officials—most of all those in Simla—whose time is over. They will not be called on to put their theories into practice, and, as we too frequently have cause to believe, their opinions are tinged with expediency.

“(c) That as a body we are rigidly prevented by the rules and regulations from sub-

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mitting any collective memorial or memorandum on the subject; and on the other hand, the opinion of the individual is either disregarded or burked.

“(d) That the Southborough Committees have refused entirely to listen to any criticism of the scheme as a whole.

“You will understand that I speak only for the men of my own province—but I expect it is the same elsewhere also. At the present time the third of the above reasons is all-important—it is there that I venture to ask you to come in! We are precluded from expressing our own opinions publicly: all we ask is that, if our opinions appear to you sound and reasonable, you will publish them yourself.

“I will now get on to the history of the case, so far as I know it.

“When the Viceroy and Montagu were touring the country, two members of the Service in this province put up a scheme which, with small minor modifications, we would all accept—and, what is more, all the Indian politicians of every creed would have accepted gladly. As you require constructive criticism, I may summarize this scheme as involving a Governor (nominated by the Crown), with an Executive Council, undivided and jointly responsible for the government of the provinces, but individually administering the various departments—a Cabinet, in fact, with portfolios allotted to each member by the Governor. Of this Cabinet one would at the outset be a non-official member



of the Elective Chamber; and by easy stages all would later be elected.<sup>1</sup>

"This, we maintain, is the only *natural* method for the evolution of regular self-government from the peculiar circumstances obtaining in India.

"The next stage in the proceedings, so far as we are concerned, is the Montagu Report, with its dyarchy. Beautifully written up by —, that scheme fetters itself with the axiom, 'Responsibility lies in amenability to constituents.' And to my mind—and many others agree—it waves that axiom in front of itself to hide its author's fear that though we have definitely promised to give *full responsible government we may now be giving TOO MUCH*. 'Their scheme of an undivided council goes too far'—I know they thought it, but they did not say it. That is clear enough from the list of subjects transferred. But I am wandering from the point.

"Third stage. The Report is published for opinions—with a telegraphic benediction from Simla before a single man in the Services, whose assent is proclaimed, has been able to read it. That was smart work. At this stage we tuned up our feeble little pipe—remembering (i) that no collective opinion was allowed to be published and (ii) that long screeds from individuals would never be read. But we did get a chance, for the Chief Commissioner—though I believe he was the only head of a province to do so—asked opinions *on*

<sup>1</sup> This scheme is printed below as No. IV.

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*the scheme* from representative committees of the Services. I have underlined <sup>4</sup>the above words because we were to criticize only and not construct. The Bill was already drafted, the schedules alone were incomplete: it was put before us both publicly and privately as a settled scheme. Many of us accepted that explanation: the moderate Indian politician did so, as more than one of them has privately told me, because they thought it was this or nothing. To sum up, those who accepted the proposals for the most part did so because they thought it idle to suggest or press for an alternative, and they wanted to get on with the work. Only the extremist among Indian politicians ventured to construct, after his or her own fashion.

"On our part, the committee of which I was a member, while condemning dyarchy, suggested the alternative scheme. It is interesting to know that this scheme was put forward by a committee which included officials of standing in Education, Police, and Public Works; and only one of us knew anything whatever about the similar scheme suggested before the Report was written: I have already alluded to this. The opinion we offered was forwarded without comment, and to the best of our belief will meet no better fate than the representations made by individuals.<sup>1</sup>

"The fourth and present stage. The Southborough Committees have been out here, have

<sup>1</sup> The scheme mentioned here is that printed below as No. V.

dealt with their terms of reference, and no more; and though I gathered from them that they agree with us in condemning dyarchy, they will certainly, unless the thing is thrashed out fully, conceal that fact—or forget it.

“Now, when the Southborough Committees were here, they heard in these provinces some evidence for which they were not prepared. In the first place, the Local Administration at the outset refused to submit any scheme for division of subjects: they later did so, though under protest, holding as they did that dyarchy is unnatural and impossible. But when asked for his private opinion, one of the members of the administration advanced the—to them—astounding proposition that if any subjects were transferred, those subjects should be Revenue Administration, and Law and Justice. As I enclose his arguments in print, I will not repeat them here.<sup>1</sup> This opinion will most certainly be burked. We cannot publish it; and the point will never be raised in England unless we do, for nobody there understands the position, or Indian administration.

“It is really a *reductio ad absurdum*. If we are right in claiming that the easiest managed and at the same time most important departments should be transferred, and the dyarchists disagree with our logic, their dyarchy is wrong and should go by the board without further discussion.

<sup>1</sup> These arguments are briefly summarized, in the editor's words, in No. VI.

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“ At this point, if you are, as we believe, interested, we would ask you to take up the case. We feel that we are honourably pledged to do our best towards the attainment of responsible self-government ; we welcome that step, and feel that if we do not strive all we know now we, as a Service, shall later be blamed for sitting quiet while an impossibility is attempted, when the open road lies clear in the scheme we want.

“ We feel that we have been misunderstood throughout. We have never been seriously asked to help in construction, because it was believed that the Services were opposed to all reformation : that is our complaint against the Viceroy, the Secretary of State, and all the old hands who claimed to speak for us. In this I know that I express the opinion of the Service of my province generally. I am no crank.

“ You will observe that I have said so far nothing about the Services. This, you will agree, is quite apart from constitutional reform : we had to deal with it because it was, in the very worst taste, included in the M.C. Report. We resent its inclusion, for it argues that we are so small-minded as to think only of our own interests when we should be building a constitution. For the same reason, most of us look with disgust on the rushing tactics for improvement of pay. We cannot afford to lose increment ; and we do not charge the Secretary of State and Viceroy with a conspiracy to bribe us, the Police, the I.M.S., and all others.

But we have a very poor opinion of the men who walk into an open ditch, putting themselves in the position of offering, and us of accepting, a bribe in order to stifle comment. That is the aspect of 'the position and emoluments of the Services' in the Press—and the Indian politician can see it.

"Now, if you have read so far, perhaps you may read to the end. So I will put down exactly what we would like you to do. You are at liberty to make whatever use you like of the enclosures: I have marked those which can be published as they are, suppressing our signatures. But so long as the arguments themselves are put forward for all—especially the M.P.—to read, we would perhaps prefer that our action in the matter is not known until the Bill, whatever it is, is passed: otherwise we may be branded as irreconcilable malcontents.

"We would suggest that you reproduce our arguments, so far as you agree with them, as you personally may best think fit, in order to ensure full discussion of the Bill and the alternative proposals. If we can effect that only, we shall be satisfied.

"Finally, if you decide that this is outside your sphere, pop the whole into the fire and send me a postcard to say so. I feel that I have no more right to trouble you in this matter, than you would have to worry me over the abolition of Greek."

## IV

### A PRE-REPORT SCHEME (1917)

#### PREFATORY

"THIS note expresses the views of two members of the Indian Civil Service, who accept unreservedly the announcement of 20th August, and honestly desire to fulfil the British Government's promise to establish responsible self-government in India, by progressive stages, but at the earliest possible date. We are not political theorists to whom constitutional reform is a fascinating game. Nor are we so senior as to be prejudiced by any desire to escape the deluge. We are so placed that we are bound to play a part, however small, in the great change, and whatever the future may be, we are of those who will be called upon to face it. On these grounds we claim at least a sympathetic hearing.

#### I. THE EXECUTIVE

##### *The Provincial Government—Present Constitution*

"The Provincial Government is antecedent to the central or Federal Government, which, when the goal is reached, will derive its powers solely by

## A PRE-REPORT SCHEME (1917) 25

delegation from the Provinces. This note, therefore, is confined to the development of self-government in the Provinces. And it seems desirable for the sake of clearness to set out the present constitution of the Provincial Government and the constitution at which we aim.

"The present form of government, then, as established by the Morley-Minto reforms, is—

- (1) A Legislative and Advisory Council, consisting of—

- (a) elected non-officials elected indirectly through 'electoral colleges,'

- (b) nominated non-officials, and

- (c) nominated officials,

in which the non-officials can just out-vote the officials, but the officials, backed by the nominated non-officials, have a substantial majority ;

- (2) An Executive, consisting of a Governor, Lieutenant-Governor or Chief Commissioner, with or without an Executive Council, appointed by, and responsible to, the British Parliament through the Secretary of State.

### *Forecast of Final Constitution*

"The ultimate constitution of a self-governing Province, as we conceive it, is—

- (1) A bicameral Legislature, consisting of—

- (a) a Lower Chamber, elected by territorial constituencies, and

- (b) an Upper Chamber, partly nominated by the Crown or Executive Government and partly elected by definite classes ;
- (2) An Executive, consisting of—
- (a) a Ministry, responsible through the Legislature to the electorate, and
- (b) the Governor,<sup>1</sup> appointed by and representing the Crown.

#### *Criticism of Present Constitution*

“ Regarded merely as a legislative and advisory body, the Morley-Minto Council has failed on two accounts—

- (i) Indirect election has so facilitated wire-pulling and corruption that the elected members seldom represent the classes or interests which they purport to represent.
- (ii) The official *bloc*, which was apparently introduced for legislative purposes as a substitute for the more logical and straightforward veto and ordinance, has welded the ‘non-officials’ into a permanent opposition, whose functions are to criticize and attack without any regard to the merits of the case, and has made debates unreal.

is, ved again as a first step to responsible

min<sup>n</sup> Governor means the Head of the Province, FE<sup>n</sup>urce he may be appointed, and does not hed, permanent officials.



government, the Morley-Minto scheme has failed because it has not attempted to correlate the Legislature and the Executive. Even the occasional 'non-official' member of the Executive Council has not hitherto been chosen from the elected members of the Legislature, who have thus been excluded from all insight into the details and difficulties of administration.

### *The Transition*

"This criticism indicates the line of advance by which we can most easily and safely pass from the present to the final form of the constitution. It has been admitted by one of its authors that the Morley-Minto reforms were not intended to contain the germ of parliamentary institutions. And it has therefore been postulated by some that the present constitution must be scrapped as a necessary preliminary to any development of responsible government. It seems to us, however, to be something of a reflection on Liberal statesmanship to assume that the Morley-Minto scheme is inevitably a *cul de sac*. It is not impossible that its potentialities are greater than were intended by its authors. Now, if responsible government can by any means be developed from the present constitution, this line of advance is obviously preferable to more heroic measures. Nor is it without importance that political India is practically united in this view. They prefer to advance on 'horizontal rather than on vertical lines,' as they

put it. So self-evident, indeed, are the advantages of this line of advance that the burden of proving its impracticability seems to us to lie heavily on its critics. We ourselves, however, will now endeavour to show that it is not only practicable, but that it provides an easy and natural transition to full responsible self-government.

*The Relation of the Executive to the Legislature and the Electorate*

“The crux of the problem is the relation of the Executive to the Legislature and the electorate. If this can be solved, we shall begin to see light; and we will therefore face this first. There seems to have been a good deal of loose thinking on this vital issue. It has been assumed, not only by the Congress and the Moslem League but by others who should have been better instructed, that the Executive must be the servant of the Legislature. In fact, it is and must remain the master: under the present form of government, because it commands the confidence of the Crown; under a democratic form of government, because it will command the confidence of the electorate. Its mastery continues until that confidence is withdrawn: in the former case, by an order of dismissal; in the latter, by defeat, not in the Legislature, but at the polls.

“In the first and the last stage the responsibility of the Executive is clear and simple. In the first

it is solely responsible to the Crown ; in the last it is solely responsible to the electorate. But is it possible that, at an intermediate or transitional stage, the Executive should be partly responsible to the Crown and partly to the Indian electorate? Or that some members of the Executive should be responsible to the one authority and some to the other? It is in answer to this question that the various schemes of dyarchy, or government by A and B compartments, have been propounded. We shall now endeavour to show that such a division of government is not the best or the only way to solve the problem.

#### *The Control of the Executive*

“It will clear the ground to consider by what means the ultimate authority removes an obnoxious Executive.

“The procedure under the present form of government is simple. If any person holding office under the Crown in India wilfully disobeys, or wilfully omits, forbears, or neglects to execute any orders or instructions of the Secretary of State, he shall be guilty of a misdemeanour (Government of India Act, 1915, section 124). And in certain circumstances (section 45), any Governor, Lieutenant-Governor or Chief Commissioner, or any Member of Governor's or Lieutenant-Governor's Executive Council, may be suspended or removed and sent to England by the Governor-General in Council.

“Under a democratic form of government the means by which the electorate asserts itself are less direct. The Legislature, as delegates of the electorate, may express dissatisfaction with the Executive by an adverse vote. But the Executive is not compelled thereby to resign. To take a modern instance, Lord Rosebery has been criticized for resigning on the cordite vote in 1895. And in more recent times, Governments in England have not infrequently refused to accept an adverse vote as a vote of want of confidence.

“The Legislature can only force the issue by withholding ways and means; and even then the Executive can still dissolve the elected chamber and appeal to the country for a renewal of its confidence. On the other hand, the Legislature may cease to represent the electorate, which must then wait for a general election to reassert its power over the Executive. And it constantly happens even in the most democratic countries that a Government outlives the support of the electorate.

“The moral of all this is that the control of an electorate over its Executive Government is comparatively loose and indeterminate. There is no law by which the Executive can be compelled to surrender office. The reasons for resignation are often temperamental — subjective rather than objective. Ordinarily, a Government resigns when it feels that it has lost the confidence of the country. The *ultima ratio* is control over ways and means. But in India,—and here perhaps is

the key of the problem,—even this does not operate. For ways and means do not depend on annual votes, but on permanent sources of revenue.

“What is true of the Executive as a whole, applies with still greater force to its individual members. The resignation of the individual does not necessarily involve the fall of the Government.

*The Extent to which Dual Control is possible*

“We have then to consider whether, during the period of transition, the ultimate authority of the Crown can be combined in any way with this looser control by the electorate. Two things must, we think, be admitted:—

- (1) An Executive Government can only be responsible to one authority. During the transitional period, this authority must be the Crown. With the consent of the Crown, the Executive may bow to the will of the Indian electorate as expressed by the Legislature. But so long as it is responsible to the Crown, it must retain the power in the last resort to override the Legislature.
- (2) The Executive, however composed, must be one, and its members must be jointly and severally responsible for the Government as a whole. The indivisibility of government, both in theory and in practice, is generally admitted.

“We must refer here to a proposal whereby, it is thought, the Executive might be made responsible

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to the Legislature during the transitional period in some of the less important branches of government. Such a division of the functions of government is admittedly proposed as a dangerous but unavoidable step on the road to full responsibility in all subjects. We submit that even if it were practicable, it would be unnecessary, and further that it would be the worst possible preparation for Cabinet government. The members of the Executive must learn from the first the principles of collective responsibility. A system which would limit the responsibility of an Executive Councillor to his own portfolio, and leave him free to attack the policy of his colleagues and of the Executive as a whole, would not easily evolve into responsible Cabinet government.

“But it does not appear to us to be impossible that members of the Executive appointed from the Legislature, while accepting the ultimate authority of the Crown and the joint responsibility of the Executive as a whole, should still admit the control of the electorate.

“Some such divided allegiance is indeed inherent in every coalition. In England, to-day, for instance, the Labour members of the Ministry, while jointly responsible with the rest of the Government to the British people as a whole, still owe a separate allegiance to the Labour Party. Sir Edward Carson, again, has felt his special obligations to the Ulstermen so strongly that he has left the Cabinet. Or again, General Smuts

could hardly remain in the Government if the Union of South Africa ceased to support the Government's war policy. Members of the Executive who are appointed from the Legislature, would presumably resign if they felt unable to accept the policy of the Government on a vital issue, and knew that that policy would not be supported by the Legislature and the electorate; for apart from the sense of obligation to their constituents, defiance of the electorate would mean their political extinction at the next general election.

"It will be argued, no doubt, that threats of resignation will cause perpetual friction. For ourselves, we do not believe that the Executive Councillor will have so poor an appreciation of his high office. We do not expect him to be uncompromising over every difference of opinion. He will not, in our view, force a crisis, unless backed by an overwhelming majority of the Legislature; and when such is the case, the Government will be practically bound to reconsider its position.

"In any case, there will be no deadlock. Resignation might weaken, but would not destroy the Government, so long as it retained the confidence of the Crown. To avoid the clash, the Government would, no doubt, go far to meet the Legislature's demands. But, in the last resort, it could face the clash and continue to govern. For ways and means, as has already been explained, are not dependent on the Legislature.

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“To sum up: Dyarchy implies division. We suggest that co-operation is the true solution of the problem. It is undoubtedly the solution which is expected by the Indian politicians; and though this is not necessarily the determining factor, it would be foolish to ignore altogether their hopes and fears. While resenting exclusion from the so-called A subjects, the politicians notoriously shirk complete responsibility even in the most trivial affairs. It is easy to jeer; but it is scarcely their fault that their ignorance of practical administration is complete. And there is something pathetic in this confession of dependence on the despised bureaucrat, which compels a generous response. If they ask our guidance, we cannot refuse it; and in their admitted need of us there is fair hope of a spirit of good-will and mutual confidence, without which no peaceful solution seems possible.

“Dyarchy, on the other hand, has already been represented as a Machiavellian plot to prove Indian incompetence even in the minor branches of administration, in order that the pronouncement of 20th August may be annulled. And fantastic though this imputation is, it suggests at least a presentiment of failure.

### *Constitution and Development of the Executive*

“We will now consider in detail the progressive development of our constitution on these lines to the goal of full responsible government.



“It is generally admitted that the Executive Council must be introduced at once where it does not exist already, and that at least one member of it must be a ‘non-official’ Indian. As will have been inferred from what has gone before, we suggest that this Indian member must be appointed from among the members of the Legislature; and he will hold office during the Governor’s pleasure, or for so long as he retains his seat in the Legislature.

“The Congress-League scheme demands that the Indian Executive Councillors should be elected by the Legislature, or should at any rate be appointed by selection from an elected ‘panel.’ It is contended, we understand, that past experience has shown that direct selection by the Crown limits the choice to subservient nonentities. We confess to some sympathy with this mistrust, but we are not prepared to admit the principle of election on this account. We concede that the panel would probably contain at least one or two names which were not obnoxious to the official members of the Executive. We concede also that the panel would lessen the danger which was spontaneously admitted by a prominent member of the Central Provinces Council, that election would merely mean sale to the highest bidder. But we must look to the end; and the principle of election seems to us to be subversive of Cabinet government, as we understand it. In the ultimate stage, we cannot contemplate the possibility of a Prime Minister with a Cabinet of uncongenial

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colleagues, of possibly incompatible views, foisted on him by the chances of election. We are convinced, moreover, that the suspicions of the Congress-League politicians will prove ill-founded. They have overlooked the practical certainty that the disappearance of the nominated majority from the Legislature will compel the inclusion in the Executive of men who command the confidence of the elected deputies. It is obvious that the Executive must ordinarily attempt to carry the Legislature with them, and that the veto and the ordinance must be reserved for emergencies.

"We do, however, agree with the Congress and Moslem League that the choice should be limited to members of the Legislature. Such a limitation is in accordance with sound parliamentary practice, and is essential to the development of our plan. The control of the Legislature and the electorate over their representatives in the Executive would be real—far more real indeed than in the Congress-League scheme, in which the Executive Councillor, when once elected, is irremovable for his five years' term of office, and if ineligible for re-election is straightway emancipated from all control. We would therefore make it obligatory that members of the Executive, other than the permanent officials, should be chosen only from the Legislature. Not less than a certain proportion should be chosen from the elective chamber; but subject to this, members of the upper chamber should not be disqualified."

“It will be objected, no doubt, that this limitation of choice may exclude the best men from the Executive. But it is not to be supposed that the Legislature will contain no men of reasonable capacity; moreover, the prospect which will now be opened, will be an incentive to the best men to enter the Legislature. It was shown in paragraph 7 that the Morley-Minto scheme failed because it did not correlate the Legislature and the Executive. The first link in that correlation should clearly be to select the “non-official” members of the Executive from the Legislature. This therefore must be obligatory, even at the cost of some efficiency.

*The Stages*

“The natural stages in the development of the Executive Council, exclusive of the Governor who would preside throughout, would appear to be:—

- (1) Two officials and one member of the elective chamber.
- (2) Two officials and two members of the Legislature, of whom at least one must be a member of the elective chamber.
- (3) One official and three members of the Legislature, of whom at least two must be members of the elective chamber.
- (4) Four members of the Legislature, of whom at least two (or perhaps three) must be members of the elective chamber.

“It is possible also that before the last stage is reached, the growing complexity of administration may necessitate an even larger Executive Council.

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“ From the first the member or members selected from the Legislature will be jointly responsible for the acts of the Executive as a whole. It follows, therefore, that there is no reason for the arbitrary limitation of their portfolios to transferred subjects. Portfolios must be distributed as is most suitable and convenient, with due regard to the capacities of each member of the Council.

“ It has been urged against the first stage that the single member of the elective chamber would be overwhelmed by his official colleagues. We doubt this. His position in the Legislature and his power to resign would give him an indisputable advantage in pressing his views on his colleagues whenever he knew that he had a strong backing in the Legislature. But we recognize that the suspicion that he might be thus overwhelmed would be likely to affect his influence in the Chamber. Again, if he was always in a minority, his sense of responsibility might be blunted; and he might even drift into permanent opposition or agreement under protest. On the other hand, he would be more restrained if nothing but the casting vote of the Governor stood between his advice and its adoption. There is undoubtedly a strong feeling amongst Indian politicians that a full half of the Executive Council should be members of the Legislature. We should be prepared to concede something to this, and to agree to the disappearance of the first stage. For minor Provinces, where there is not yet enough work for four

members, a preliminary council of two—one official and one from the elective chamber—would be consistent with our principles.

“The third stage, again, is of doubtful value. When members of the Legislature constitute three-fourths of the Executive, they may just as well constitute the whole. The position of a solitary official on the Executive Council might well be embarrassing. Official advice will still be available in the Secretariat.

“The last stage might thus be reached with only one intermediate step, viz :—

- (1) Two officials and two members of the Legislature.
- (2) Four members of the Legislature.

“This does not necessarily mean that full responsible government will come any sooner; for the elimination of a stage will not accelerate the political education of the electorate, which is the determining factor. But it will clear the issue. Progress through a long series of intermediate stages means continual agitation to get on to the next. But our first stage will begin presumably on the ‘appointed date’; and when it is realized that the very next step is the final plunge, agitation for a premature advance is likely to subside.

#### *The Final Stage*

“When all the members of the Executive Council are members of the Legislature, full responsible

government will be in sight. Hitherto, and perhaps for some time after, we may suppose the Governor to appoint to his Executive Council men who command the confidence of the Legislature as a whole. But as the lines of political cleavage harden, he will begin to call into consultation the leader who commands a majority in the elective chamber, and, acting on his advice, will select his Executive Councillors from the dominant party or combination of parties. Theoretically, we suppose, autonomy will not be complete until the Government of India, responsible to the Crown, has been replaced by a Federal Government deriving its authority by delegation from the Provincial States. Only then will the Governor be able to surrender the presidency of the Executive Council to the popular Prime Minister, and retire to the position of a constitutional ruler.

*Parliamentary Secretaries versus Standing  
Committees*

"It has been argued, however, that the Executive Council with its one or two members drawn from the Legislature is not enough to associate and train 'non-officials' in the practical business of administration, or, as we would prefer to put it, to correlate the Legislature and the Executive. To associate more members of the Legislature in the practical business of administration, it will be necessary to enlarge the Executive. We admit the necessity; we also feel the need for a strong body

of prominent members of the Legislature, who, with full responsibility, will advocate and explain the measures of the Government in their respective chambers. To put it bluntly, one or even two Executive Councillors are not enough to allay suspicion. We propose, therefore, that a member of the Legislature should be appointed as Parliamentary Secretary (corresponding to the Under Secretary of State in the British Constitution) to each Executive Councillor, or, at any rate, to each official Executive Councillor. According to our plan, the Parliamentary Secretary would become a salaried member of the Executive, holding his appointment during the pleasure of the Governor, or for so long as he retained his seat in the Legislature. He also, like the Councillor, would accept collective responsibility. If he openly opposed a government measure, he would be required to resign. As explained above, he would, like the Executive Councillor, be bound to admit, to a very considerable extent, the control of the Legislature and the electorate, and he would thus be another powerful link in the correlation of the Legislature to the Executive, which is our aim.

#### *The Provincialisation of the Services*

“There remain the administrative services. It does not seem to be sufficiently recognized that imperial services appointed by the Crown for India as a whole are incompatible with provincial

autonomous and responsible governments. The announcement of 20th August was the death-knell of these services. The blank astonishment with which a shrewd Home Ruler greeted the idea of the ultimate disappearance of the Indian Civil Service, was as flattering as it was amusing.<sup>1</sup> The idea of an India without the Indian Civil Service is, indeed, scarcely conceivable even to the most advanced politician. Indigenous schemes of reform seem generally to contemplate the continued existence, subject to 'Indianization,' of all the Imperial services. But the first attribute of any Government is the power to appoint and remove its own administrative servants. The existence of a Government, dependent for the execution of its orders on administrative services which are neither

<sup>1</sup> The following extracts from reports of speeches recently delivered by one of the most prominent Home Rulers in India can be appropriately quoted here :—

- (i) "The Executive in all departments should remain as at present, but all control should be made over to Indians."
- (ii) "They did not want to drive the King's officers out of India. On the contrary, these had their sympathy, affection, and respect. They simply wanted a voice in the management of their own affairs."
- (iii) "They did not want to change their King or Parliament. They wanted the same officers and the same Police. They had no power to remove the Police from their offices, and when they got this power they would call it Home Rule. They wanted the same Telegraphs, the same Railway and Police, but they also wanted a voice in their management."



responsible to nor removable by it, is obviously impossible. The theory underlying the Congress-League scheme, that a popular Indian Government can both enjoy and control the services of officers of the Crown, is untenable. Therefore, autonomous self-government cannot be realized until all the Imperial services have been eliminated. If this is to be within a calculable period, recruitment for the public services should be provincialized without delay. Whatever method of recruitment is adopted, henceforward all appointments must be made subject to an undertaking to serve in a particular province under whatever form of government may hereafter be established. Otherwise, when the final stage comes, the new Government may find itself without the necessary administrative services.

## II. THE LEGISLATURE

### *Necessarily Bicameral*

“So much for the Executive. It remains to consider the Legislature, which, we hold, must be bicameral. It is now generally accepted that an upper chamber, which is an integral part of almost every democratic constitution that has hitherto been known, cannot ultimately be omitted from the constitution of an Eastern people. But there is a strong disinclination to call it into being until a later stage. The arguments for this procrastination are diverse and not always consistent. It is contended, for instance, that the upper chamber

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will be 'nobbled,' as it is picturesquely put, by the lower chamber, and in almost the same breath that it will block legislation affecting class interests. It is argued that the upper chamber will only make it more difficult for the Executive to exercise its veto; and again it is heroically asserted that the Government must govern, and must not shelter itself behind a collection of nominated dummies. The real reasons for this curious opposition to the immediate creation of an upper chamber can, we believe, be reduced to three :—

- (1) A feeling amongst officials that one council is trouble enough, and a desire to be spared a second until the last possible moment;
- (2) A fear amongst officials that the upper chamber will be intimidated by the lower, and lack of confidence in their own nerve to veto wrecking legislation passed by both chambers;
- (3) A suspicion amongst 'non-officials' that the upper chamber will be intimidated by the Executive into throwing out popular measures.

"The first reason can be rejected without comment. The second and third balance one another, and suggest probable independence. We would add that fear and suspicion are an unfavourable atmosphere for the realization of responsible government, and are not likely to be dissipated by delay.

*Postponement impossible*

“We would insist that postponement is not only inadvisable, but impossible. The Indian politicians with whom we have discussed the question admit this. The transitional period may be regarded as primarily educative; but the upper chamber must be educated as well as the lower, and, if introduced later, it would be hopelessly handicapped in prestige and experience. Further than this, we are convinced that an upper chamber, if omitted from the constitution now, will never be introduced later. Obviously, no elective chamber would willingly accept a new limitation on its powers; every politician whom we have consulted has admitted that it would fight to a finish. Is it wise gratuitously to court a crisis? And in such a crisis would the Government of India, or the British Government behind them, stick to their guns? Would they be prepared to suspend the pronouncement of 20th August? The answer is obvious: the victory of the elective chamber would be assured. It is therefore now or never. If we begin with single chamber government, we shall end with it.

“The conditions of single chamber government have thus been defined by Bagehot:—

‘With a perfect lower house it is certain that an upper house would be scarcely of any value. If we had an ideal House of Commons, perfectly representing the nation, always moderate, never passion-

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ate, abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration, it is certain that we should not need a higher chamber. The work would be done so well that we should not want anyone to look over or revise it.'

"These conditions admittedly do not yet exist; nor is there any convincing reason to suppose that Utopia will first be realized in India.

### *The Upper Chamber. (1) Composition*

"The composition of the upper chamber will naturally vary from province to province.

"It is suggested that members of the upper chamber should ordinarily be nominated for a period of ten years. Definite classes, however, who have a common interest, might elect their own representatives: just as the Peers of Scotland and Ireland elect representatives for the British House of Lords.

"Apart from the Governor, who would preside, there would be no official members. The Government case would be stated by the members of the Executive Council, who, when not members of the upper chamber, would have the right to appear for this purpose, and also by any parliamentary secretary who was a member of the upper chamber.

### *(2) Powers*

"The powers of the upper chamber would be the

revision of legislation passed by the lower chamber, including power to return for amendment or to reject altogether. In case of conflict between the two chambers, the principles of Mr. Asquith's Parliament Act might be admitted; that is, a Bill passed at three successive sessions of the lower chamber would, if still rejected by the upper chamber, go straight to the Governor, who would, of course, still retain his power of veto.

"It is also considered necessary for the prestige of the upper chamber, as well as desirable in the interests of good government, that the upper chamber should, as far as possible, exercise the same original powers as the lower chamber; that is, interpellation, resolution, and the power of initiating legislation other than taxation bills.

*The Lower Chamber. (1) Composition*

"The official members of the Executive Council must be *ex-officio* members of the lower chamber. With this exception, the lower chamber should be wholly elective. An official minority, such as is proposed by the Congress-League, would merely stimulate opposition to the Government. The elected members would succumb to the delights of official-baiting; and the old line of cleavage would continue to vitiate the chamber's proceedings. Nor is it desirable that officials who are not members of the chamber should appear to state the Government case. This will be the work of the parliamentary secretaries. It would be difficult

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for the officials to avoid a pedagogic air, which would be justly irritating.

“With the Governor in the upper chamber, it is generally assumed that the senior member of the Executive Council would preside. Personally we consider that it would be an advantageous, as well as harmless, concession to popular feeling, to allow the chamber to elect its own Speaker, and leave the senior member of the Executive Council free to debate. It would indeed be embarrassing for one man to double the parts of Speaker and Leader of the House.

### (2) *Representation*

“It is generally admitted that communal representation is the negation of responsible government. If then responsible government is our goal, it seems to us to be neither wise nor honest to set out on a road which admittedly leads in the opposite direction. The argument that there is a strong and steadily growing popular sentiment for communal representation merely emphasizes the necessity of making a clean cut at once. We do not believe that communal representation can be admitted now ‘as a temporary deviation from the right path.’ A temporary concession will rapidly become a permanent right, which will be demanded with irresistible force by an ever-increasing number of communities. Like the upper chamber, territorial representation can be insisted on now, as an

essential condition of responsible self-government, but not afterwards.

“The arguments against territorial representation can be reduced to two:—

- (1) At the present stage of political development, territorial constituencies will be swept by professional politicians, who are not really representative of the electorate.
- (2) We are irrevocably committed to special Muhammadan representation by the pledge of 1906.

“The first argument seems to us mere opportunism. The electorate must learn for themselves by experience who are their true representatives; and territorial representation is, in our opinion, the only school in which this lesson can be learnt. With communal representation, political education will stagnate. Nor do we admit as inevitable the assumption that the lawyer politician will always be elected, or that, if he is, he will not represent his constituency. In any case, we cannot gerrymander the constituencies against our political critics, and we should not even be successful if we tried. The lawyer will get in anyhow; and to be frank, it is difficult to see how the Legislature would get on without him. Deliberate wrecking is improbable; but if it is attempted, the upper chamber will adequately represent the sober interests of the country, and when backed by a determined executive, will make short work of impossible legislation.

“The pledge of 1906 is the only immediate obstacle to territorial constituencies. The problem fortunately does not arise in the Central Provinces, where there is admittedly no possible Muhammadan electorate. In other provinces, we understand, Muhammadan feeling has been dangerously inflamed by recent events in Bihar; and we must admit that the immediate annulment of the pledge of 1906 is not practical politics. It must, however, be plainly put to the Muhammadans that the pledge was given at a time when responsible government for India was not contemplated: it is incompatible with the pronouncement of 20th August, which they have accepted, and cannot therefore be continued indefinitely. If the Muhammadans want constitutional government, they must learn to assert the rights of minorities by ordinary constitutional means, which in practice will actually be more effective than separate representation. Advanced Muhammadans, with whom we have discussed the question, see all this; but they urge that the Muhammadans, as a community, are too backward at present to give full expression to their votes. They also object that the immediate abolition of separate representation would force religious hatred and distrust to the front at the first elections, and would thus give the reforms a bad start. We accept these arguments; but we would strongly urge that an absolute time-limit should be fixed by statute. It is idle to talk of reconsideration at a later date, submission to a referendum, and so on.



Whenever the question came up for reconsideration, bitter religious antagonism would be aroused ; and the intervening period would be devoted, not to educating the Muhammadans to territorial electorates, but to stirring up agitation against the suspension of privileges, which would, of course, be represented as religious rather than political. From discussion with prominent Moslem Leaguers, we believe that so long as the question is open, the Muhammadans will protest and agitate ; but if the time-limit is absolute, they will acquiesce.

(3) *Powers*

“The powers of the lower chamber would be :—

- (1) interpellation, including, of course, the coveted right to put supplementary questions ;
- (2) resolution ;
- (3) the right to initiate legislation, including measures affecting provincial taxation, and, as suggested in paragraph 29, the right, in certain circumstances, to carry legislation over the head of the upper chamber to the Governor.

Here again it should be understood that we do not provide for any statutory power to exert different degrees of authority in different departments of government. All legislation alike must be subject to the veto of the Governor, who must retain full power to use it on any vital issue, in whatever department of government it may arise.

*Summary*

“Such in outline is our plan. We submit that it sets up the four walls of a democratic constitution, within which complete self-government can be attained without any radical change of structure and with a minimum of intermediate legislation. This alone is a guarantee of good faith, which will go far to satisfy serious Indian reformers. It provides for the steady growth of popular control over all departments of the administration, while still maintaining the essential indivisibility of government. It rejects all dyarchical delusions that it is possible for two separate governments, responsible to different authorities, to exist side by side in the same territorial area.

*The Fallacy of Dyarchy*

“The arguments against dyarchy have been repeated *ad nauseam*. Yet it still survives, an imminent danger to the peace and good government of India. Its strength would appear to be its intangibility. Dyarchy is not a practical scheme of government, which can be assailed by practical criticism. It is, as it were, a mental abstraction, evolved by syllogistic argument; and so long as its premises are unchallenged, it is invulnerable.

“The major premise of dyarchy seems to be this: *Full* responsibility, it is asserted, is the only training for responsible self-government. And this assertion, which at best is no more than a half-

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truth, has been generally accepted as axiomatic. The unanswerable criticisms of experienced administrators have been brushed aside, and practical schemes of government have been rejected as failing to fulfil a first principle of political science. Pushed to its logical conclusion, dyarchy postulates that the Indian people can only learn by doing unjust acts what a hateful thing injustice is. And the British Raj is to hold the ring while they learn the lesson. There never was a more dangerous fallacy. 'By doing unjust things we become unjust, and by doing good things we become good,' said Aristotle; and he would certainly have contemplated a period of tutelage and partial emancipation until the practice of justice had become a habit. And so must we now act by India. Not by complete responsibility for a few things, but by an ever-increasing share in the responsibility for all, will the Indian people work out their freedom.

**NOTE SUBMITTED TO THE LOCAL  
ADMINISTRATION, EMBODYING  
THE PRIVATE OPINIONS OF  
CERTAIN OFFICERS SERVING IN  
THE CENTRAL PROVINCES ON  
THE PROPOSED CONSTITUTIONAL  
REFORMS, REFERRING IN PARTI-  
CULAR TO THE SUITABILITY OF  
THOSE PROPOSALS, WITHOUT  
MODIFICATION, TO CONDITIONS  
EXISTING IN THE CENTRAL  
PROVINCES**

**PREFATORY**

**“WE** have examined these proposed constitutional reforms from the standpoint of men who will be asked to put them into execution. We desire to lay emphasis on this point, for throughout this report its authors presume, and rightly, that the members of all Services will do their loyal utmost to make this or any other similar scheme a complete success: the tradition of giving their best to the country under all and any circumstances will, so far as

present members of the Services are concerned, be maintained to the end of their service, to the exclusion of the wishes and opinions of the individual. Our attitude therefore is not that of the destructive critic, but is that of the man who desires to perfect and improve details only; and we would ask that the opinions given be interpreted strictly in the spirit in which they are offered. We claim and honestly believe that we have approached the subject with exactly the same motives as have inspired the authors of the report.

2. "We would at the outset underline the penultimate sentence of paragraph 264 of the report—'We wish to attain complete responsibility where we can and as early as we can, and we intend that its attainment should depend upon the efforts of the Indian people themselves.' That sentiment is the basis of the report, and is repeated in various forms and phrases throughout its text; and the essence of all reform is contained in its last dozen words. We are strongly convinced that the success of this scheme or of any other depends entirely, not on our efforts, but on the attitude adopted and the part played by the responsible educated Indian. In past years such men have not accepted to the full their duty in connexion with the political progress of their country: many have, it is true, asked and occasionally agitated openly for reform and advance, but others—we believe the great majority—have been content with our own guidance, that is

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either with things as they were, or with any reforms which their rulers (for there is no escaping the word) thought fit to introduce. On our part, speaking as officials, we feel, and for years have felt, that our own official policy has been too slow and circumspect: Government has hesitated, deliberated—and then pigeon-holed—when it should have gone boldly forward.

3. "The question, then, at the back of our minds, in criticizing and amending, is whether this scheme is the best that could be devised—firstly, for making up the way that we have lost; and, secondly, for stimulating the responsible Indian to step forward boldly, and in his full numbers, and undertake in co-operation with officials the full responsibilities of government. We must point out that co-operation is essential to the success of any scheme, and this implies free exchange of opinion, and give and take on both sides. On our part we are ready and anxious to give our best for the common good; but we have very grave doubts as to the material and *personnel* of the other party which will form the compact. If the direction of the lines of thought on the other side is left to the man who shouts the loudest and catches votes by the simple and easy process exploited to the full by the Parliamentary expert staff, of vilifying his opponent and his opponent's party, we can see ahead of us nothing but chaos and ultimate disaster for the country. If, on the other hand, the true Indian realizes and accepts

his responsibilities and uses his power with sincerity, moderation, and due caution, we believe, and hope, that the devolution of fully responsible government upon the people themselves is possible at a reasonably early date. The rate of progress depends, however, less on us than on the Indian non-official.

“We will now deal with the chief points in the concrete proposals, in the order given in the report, for facility of reference.

4. “We accept as a *fait accompli* the pronouncement of the Secretary of State of 20th August 1917, and make the following recommendations :—

#### PARAGRAPH 213

“The control of the Government of India over administration in the Provinces should be restricted to the control of matters affecting the whole of India or matters of general policy. We do not accept the dictum that ‘Any general relaxation in the control of the Government of India over the Provinces would not be approved by Indian opinion’; on the contrary we believe that Indian opinion would be strongly in favour of such relaxation, and there have been cases in which the unanimous opinion both of the Provincial Government and of non-officials has been overruled by the Government of India in important matters affecting purely local interests. The Committee would like to invite the attention of Government to paragraph 90 of the report, in which the authors

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have given an example of the clash of views between the Government of India on the one hand and the Local Government supported by non-officials on the other, and we agree entirely with the words of the authors in this paragraph of their report. 'If we are to give the Provincial Councils power, Parliament and the Secretary of State and the Government of India also must realize this.' In this connexion we would invite a reference to our opinion on the proposal to create a permanent Central Secretariat. We believe that excessive centralization of the supreme control has, both in Provincial policy and in detail, had a deterrent effect upon the progress of the country, both political and material: the natural tendency of a central organization, particularly if its component members are not adequately represented, is to treat all members alike. Yet no treatment could be more unsuitable and baneful than generalization in India, where the circumstances and conditions, both material and political, of not only the different Provinces, but the different districts in a Province, vary enormously. We contend therefore that any scheme for constitutional reform must, as the words above quoted appear to indicate, embrace measures for complete relaxation of control except in matters that affect the whole of India.

### PARAGRAPHS 214 TO 227

5. "We consider that the proposals for the con-



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stitution of the Provincial executive are unsatisfactory for the following reasons :—

- (1) The necessity for a division of the functions of the Provincial Government (paragraph 215) is assumed to be axiomatic without adequate argument. In this paragraph responsibility is defined as 'consisting primarily in amenability to constituents and in the second place in amenability to an assembly,' and the postulate is laid down that some responsibility must be given at once, but that complete responsibility cannot be given immediately. Accepting these views, we would point out that the alternative plan of an undivided Executive Council, of which at least one member would be an elected member of the Legislature, would equally satisfy the postulate. In paragraph 217 of the report it is admitted that the defect of irresponsibility could be cured by the appointment of Indian Executive Members of Council from among the elected members of the Assembly.
- (2) The alternative plan (paragraph 217) of an undivided Executive Council, of which at least one member would be an elected member of the Legislature, has been summarily rejected on the ground that 'we should have formed a Government, all the members of which were equally responsible for all subjects but were, though to a lesser extent than in the Congress-League Scheme, account-

able to different authorities.' We admit this difficulty, which we consider to be inevitable in any transitional scheme, and would point out that the proposals of the report are open to precisely the same objection. In these proposals the Minister is not solely accountable to the Legislature, but he is also 'subject to the advice and control of the Governor,' who is responsible to the Crown (paragraph 219). The authors of the report reserve to the Governor a power of control over transferred subjects, 'because we regard him as generally responsible for his administration.' Again, it is said to be essential to the scheme that the executive 'should present a united front' to the outside (paragraph 221). Finally, the dual influence to which the Minister will be subjected is definitely stated in paragraph 222, viz : 'It is our intention that the decisions of the Government should be loyally defended by the entire Government, but that the Ministers should feel responsibility for conforming to the wishes of their constituents. It is true that these two forces may pull different ways ; but though the analogy is clearly not complete, there are occasions when members of a Government, and indeed members of Parliament at home, have to choose between loyalty to the Government and to their own constituents.'

- (3) The report omits to define the position of

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a Minister who feels his responsibility for conforming to the wishes of his constituents so strongly that he disloyally attacks the decisions of the Government on reserved subjects. The united front which is admittedly essential to the scheme appears to be merely a pious intention backed by no legislative force which could compel the resignation or dismissal of an openly dissentient Minister.

- (4) The practical difficulties of a scheme of divided government have been slurred over in paragraph 222 and are nowhere fairly or fully stated. It is unnecessary for us to recapitulate the detailed objections which have been urged by many experienced administrators against a Scheme which is without any historical precedent. We would merely invite attention to illustrative List II, showing Transferred Subjects, on page 177 of the report, which is presumably intended to be as plausible as possible. This list transfers not merely subjects, but branches of the same subject. For instance, primary, secondary, and technical education are transferred, while university education is reserved; agriculture generally, including presumably cattle breeding, etc., is reserved, but diseases of animals are transferred; forests (unclassed and some protected) are transferred, but other forests are reserved; minor irrigation, again, is

transferred, but major irrigation is reserved; and so on. The proposal to administer one department by different authorities, guided probably, or even certainly, by different policies, is surely a *reductio ad absurdum*. It will be argued, no doubt, that it will be the duty of the Governor to effect a compromise and unify the policy of the department as a whole. That is, either 'reserved subjects, over which popular control is not at present intended to operate,' will be influenced by the popular Minister; or else 'transferred subjects, for which responsibility is intended,' will be influenced by the irresponsible Executive Councillor. In either case the *raison d'être* for the division of subjects will disappear.

- (5) The division of subjects, though likely to generate friction in the Executive and in the Legislature, and perpetuate the cleavage between the official *bloc* and the elected element which was the worst feature of the Minto-Morley Scheme, still fails to emphasize the responsibility of the Minister to the electorate. In paragraph 259 it is definitely stated: 'The objection may be taken that the same authority may not be felt to attach to orders coming from Ministers as to orders coming from the Executive Council. We do not admit that they will come from either. All orders will come from the Government, and they will all be Government orders.'

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6. "To conclude, we reject the proposed Provincial Executive for the same reason for which the proposal for a separate council to deal with reserved subjects (paragraph 250) is rejected, viz., 'because it appears to us to emphasize most unwisely (and we would add gratuitously) the severance between the two elements in the administration which it should be our consistent aim to bring together as closely and continuously as possible.'

"We therefore urge that the Executive should be an undivided Council, nominated by the Governor and holding office at his pleasure. Half of the Council should be non-officials and at least one an elected member of the Legislature. We note that the authors of the report (paragraph 217) 'do not think that such a scheme would have been unfavourably received in India,' and we have reason to believe that it would be widely accepted as a reasonable modification of the Congress-League Scheme, to which political India is generally committed. We are of opinion that the demand for a further advance by an increase in the non-official element in an Executive Council would be less insistent than the continuous and bitter agitation for a revision of the schedule of transferred subjects, which would, in our opinion, be the inevitable consequence of any compartmental scheme of government. No better proof of the certain imminence of this agitation could be wanted than is furnished by the speeches of the elected members

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of the Central Provinces Legislative Council at its recent meeting on 11th September 1918, when demands were made for the immediate transfer of by far the larger part of the Administration to the control of the responsible Minister, without any reference to the practical possibilities of the situation. Finally, we consider that our proposals are more in consonance with the spirit of the pronouncement on which the report is based than are the proposals made in the report itself; and that they provide an easier road to the full attainment of the ambition expressed in that pronouncement.

### POST OF GOVERNOR. PARAGRAPH 218

7. "We consider that for the present it is essential in the Central Provinces that the Governor should be an official. The non-officials of these Provinces are comparatively backward in administrative experience, and the careful guidance of an experienced official is essential in the first stages on the road to responsible government. We note that it is not the intention of the authors of the report to make any alterations in the salary of the Head of the Provinces. We consider that the present emoluments of the Chief Commissioner of the Central Provinces are not sufficient to secure as Governor a man of ability from England with the necessary administrative knowledge; and we recommend that as the need for direct official guidance ceases, if the finances of the Province admit, the emolu-

ments attaching to the post of Governor should be increased and the Governor should be appointed from England by the Crown, wide experience of public affairs being considered an essential qualification for that post. We believe that an essential feature of colonial self-government is the link which is formed between the Colony and the Crown by the appointment of a Governor from England, and we consider that when responsible government is granted to India it is essential for the welfare of all the Provinces that a similar direct connexion should be maintained.

**PARAGRAPH 219**

8. "We hold strongly that the complete future constitution of India should be embodied in a statute, and we look with extreme distrust on any measure of constitutional reform which cannot be brought fully and completely within the four corners of an Act, and has to be put into execution by means of instruments of instruction. Parliaments change, and the Secretary of State for India holds no permanent appointment. We have all seen during the course of our service how differently the relations between the Secretary of State and the Viceroy are interpreted according to the personality of the former; and we cannot avoid the belief that the instruments of instruction to be issued to Provincial Governors on their appointment would be coloured largely by the taste of the individual who issued them.

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### PARAGRAPHS 225 TO 234

9. "We are all agreed that the arguments against communal representation which are put forward in the report are convincing, and that a system of territorial electorates is the only possible basis for the development of responsible government. Responsibility is defined in paragraph 215 'as consisting primarily in amenability to constituents.' But the idea of a Minister primarily amenable to a religious or racial minority appears to us to be the negation of responsible government. At the same time we recognize that it is impossible to withdraw the pledge given to the Muhammadans in this matter, unless they are prepared to relinquish their claims voluntarily; and we consider that it is impossible to deny to the Sikhs and to other minority communities the same concession which has been given to the Muhammadans. If no alternative were before us, we should consider this position to be a fatal obstacle to the adoption of territorial representation for elections to the Legislative Assembly and consequently to the realization of responsible government. But, as will be seen in paragraph 10 below, we press very strongly for the constitution of an Upper Chamber, and our suggestion is that communal interests should be safeguarded by the election to this Chamber instead of to the Legislative Assembly, of responsible leaders of the various communities into which the electorate is divided. It appears to us that our



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proposal for an Upper Chamber thus constituted would not only permit the Lower Chamber to be elected on entirely territorial lines, as should be the case, but would also satisfy both the desire of minorities for adequate representation and the urgent need for a bicameral as opposed to a unicameral system of government.

### UPPER HOUSES. PARAGRAPH 258

10. "We deprecate respectfully the somewhat summary manner in which the important subject of the establishment of an Upper House has been treated, and we strongly press on the attention of Government the following quotation from Bagehot in regard to single-chamber government:—

'With a perfect Lower House it is certain that an Upper House would be scarcely of any value. If we had an ideal House of Commons, perfectly representing the nation, always moderate, never passionate, abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration, it is certain that we should not need a higher chamber. The work would be done so well that we should not want anyone to look over and revise it.'

"It cannot be maintained that these conditions exist or are likely to exist in India for very many years to come. It has been urged that at present there is no adequate material for constituting a Second Chamber in the Central Provinces. We

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would reply that it is in our opinion very doubtful whether there is adequate material for an enlarged Legislative Assembly, or for that matter, for the constitution of an electorate on a broad basis, and we believe that the development of an Upper House may be expected to be quite as rapid as the development of the Legislative Assembly. It is true that the need for an Upper Chamber is not so great while official control continues, but we are now legislating for the gradual extinction of that control, and must look to the ideal of responsible government which we have in view; and it will be difficult to initiate bicameral government later, if its necessity is not recognized at the outset. We are therefore unanimous that, whether a Second Chamber is instituted at once or not, the statute must provide for its institution at least as soon as complete responsible government is attained.

### GRAND COMMITTEES. PARAGRAPH 252

11. "The suggested method for passing essential legislation by means of Grand Committees is in our opinion cumbrous, artificial, and dilatory. We believe that it would emphasize the antagonism between official and non-official views, and would undoubtedly lead to friction. We note that legislation by means of Grand Committees would only be introduced when the Bill was a measure 'essential to the discharge of the Governor's responsibility for the peace or tranquillity of the Province, or of any part thereof, or for the dis-

charge of his responsibility for the reserved subjects.' The objection is anticipated that 'the Grand Committees so proposed offer the official executive no absolute guarantee that its measure will get through.' But the authors of the report consider that no great harm will ensue if Government defers legislative projects which are opposed by the whole elected element and for which it cannot secure the support of six out of seven members nominated by the Governor. We cannot subscribe to this opinion, for inasmuch as the measures to be passed by the Grand Committees are certified to be necessary for the maintenance of peace and tranquillity, it appears to us that their possible rejection by the Grand Committee may involve the most serious consequences. If legislation is 'essential,' there is very little else to be said about it; it must be passed, and the sooner it is passed the better. The submission of a Bill to a Grand Committee—if the Bill is to be passed—is merely a concession to the professional orator which we deprecate; if the Bill is thrown out *we consider that the debate alone in this Committee may have done irretrievable harm so far as law and order are concerned.* We anticipate that at an early stage it may be found possible to entrust 'essential' legislation to the Second Chamber; and from that point onward in the natural sequence of events the necessity of reserving any abnormal powers to the Executive Council will gradually disappear, all legislative powers being vested ultimately, except in the case of extreme

urgency, in the elected Council. In the transition period before this result is attained we consider all 'essential' legislation should be passed by the direct and candid method of promulgating ordinances, a method with which the Indian politician is perfectly familiar, and which would, we believe, be more acceptable to reasonable Indian opinion than the alternative proposed in the report.

12. "We are convinced that the evolution of an efficient Second Chamber cannot safely be left to a future parliamentary generation, and in support of our conviction we would point to the difficulties which have been experienced in reconstituting the English House of Lords. It may be accepted as certain that no Indian Legislative Assembly, after tasting for five years or more the 'rare and refreshing fruit' of personal power, will of its own accord impose upon itself the restraining authority of an Upper Chamber; and any official attempt to bring such a restriction into being would meet with almost insuperable opposition. The future generation of officials may have ample knowledge and experience of the country, but they will not have the authority with which the present generation can still speak, and we would therefore urge very strongly that the registered design of the machine which is to be created should include from the outset the brake as well as the body of the engine. The majority of us would go further and say that the new Second Chamber should be established immediately, so as

to enable its development and the training of its members to proceed *pari passu* with those of the Legislative Assembly, and to facilitate the adoption, as indicated in paragraph 9 above, of a system of territorial electorates for the Legislative Assembly by the inclusion in the Upper House of the representatives of communities. On the detailed constitution of the Upper House, on the respective function of the two Houses, and on their relations with the Executive Council we offer no opinion; the elaboration of these points can be entrusted to the Committee which is to be appointed. We wish, however, to express our full approval of the recommendation made in paragraph 237 of the report that resolutions—of either House—should not be binding on the Executive Government.

#### GOVERNMENT OF INDIA. PARAGRAPH 269

13. " We do not feel ourselves in a position to criticize at length the proposed constitution of the Government of India, but we would refer at the outset to paragraph 269. The suggestion that the Government of India might be entrusted to a permanent clerical bureaucracy completely out of touch with district administration fills us with honest apprehension. If the suggestion is given effect to, it will certainly accentuate the lifelessness and unreality of the present system. We consider that the inefficiency of the headquarters staff expressed in paragraph 269 has been overstated, and the real cause of delay in disposing of pro-

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vincial references is partly the number of those references, due to the retention of control over meticulous matters of purely provincial interest, and partly to the minute examination and criticism of details in such references. As we have already indicated, we anticipate that the development of a popular and responsible Government in the Provinces will and should be accompanied by more free decentralization of authority, and the logical result therefore should be a decrease, and not an increase, in the Central Secretariat. We would point out that any decrease in the *personnel*, or even the maintenance of the members of the present staff, cannot be effectively combined with the creation of a permanent staff; for the many and changing conditions in the various Provinces can only be appreciated by officers who have extensive personal and local experience. The proposal to create such a permanent staff would in our opinion involve a sacrifice of efficiency to personal interest. We would prefer, on the other hand, to enforce a rule that a Secretariat post should be occupied by an officer for three years only, and that he should serve at least three years more in an ordinary executive appointment before returning to the Secretariat. In this connexion we would remark that not only the Government of India but the India Office should be invigorated by a regular interchange of staff, as recommended in paragraph 293, but long residence in the Government of India Secretariat should in itself be a

disqualification for such employment in the India Office, the Simla Secretariat having little personal first-hand acquaintance with the changing conditions of the various Provinces. This point is, however, of somewhat minor importance compared with the question of the constitution itself. Of the proposals made in this connexion we generally approve. We think, however, that at the outset it might be possible to entrust essential legislation in the case of the Supreme Government to the Council of State as constituted in section 282. With that Council in existence the necessity for proceeding by ordinance, which we find in the Provinces, will disappear in the Central Government; and legislation in this Council appears to us a less cumbrous method than that suggested in section 279.

14. "We now turn to the question of the existing Services, and would preface our remarks with the request that our opening paragraphs may be read again and our motives thoroughly understood. We have in our proposals done our best to efface self-interest; but we cannot get away from the fact that by our own words and deeds we are asked deliberately to change, to our detriment, the conditions under which we serve and for which our successors will be recruited. To put the matter bluntly, we are doing our best to devise plans whereby the allegiance of the English official will pass from the Crown to the people of this country. To quote from paragraph 324 of the

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report—'It may conceivably be that the utilities of the European official in India will gradually undergo a change; that, instead of continuing to the same degree as now as the executive agency of Government, he will stand aside more from the work of carrying out orders, and assume the position of a skilled consultant, a technical adviser, and an inspecting and reporting officer.'

### PARAGRAPH 259. RELATIONS OF THE SERVICES TO GOVERNMENT

15. "As we have said already, the success of the measures proposed by the authors of the report or of our own emendations depends less on the details of the reforms than on the question of co-operation between Indian politicians and the members of the Services. We therefore have considered that we are at liberty to discuss the proposals as a whole and to indicate those conditions which we consider essential in order to secure the harmonious relations essential to success. The proposals which we now put forward are made with a full sense of responsibility, and we urge most strongly on Government that due weight should be attached to them. On a careful perusal of the report it appears to us that, while the greatest efforts possible in present conditions have been made to secure the co-operation of Indian politicians, the obstacles in the way of co-operation by the Services have not been fully realized, or, when realized, the method of their removal has not been



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plainly stated. We welcome the purpose expressed in paragraph 326 of the report that 'any public servant whatever of the Government under which he is employed should be properly supported and protected in the legitimate exercise of his functions and that any rights and privileges guaranteed or implied in the conditions of his appointment shall be secured to him.' We regret, however, that the measures contemplated have not been specified in greater detail. It appears to us that any step forward in the direction of responsible government will entail such changed conditions as to make the incidents of service entirely different to those under which we were recruited. As regards the Indian Civil Service we would refer to paragraph 126 of the report: 'It has long been a tradition of the Service that men in it are entitled not merely to administer but to advise. From the outset of their career they have been habituated to the exercise of responsibility, they have had to take important decisions of their own in emergencies, and they have acquired at first hand and not merely from precedent or prescription a stock of practical knowledge which they have used and been encouraged to contribute to a common purpose. Because they have looked forward to attaining positions where they could decide or help to decide policy, they have, within the restraints imposed by discipline and good order, been accustomed to express their ideas freely as to India's needs and to criticize and to advise a Government which has in essentials

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been one with themselves.' We maintain that this change of status is so far-reaching in effect that it constitutes a distinct alteration in conditions of service, and that the Services as reconstituted will be entirely different from those to which we were recruited. We have given the case of the Indian Civil Service as an illustration, but we believe that the same change in status in other Services also is entailed by the proposals contained in the report. And further, as we have said above, we have accepted this change as inevitable, and we have done our best in these proposals to subordinate our own and our successors' interests to the work of reconstruction.

16. "We would, however, underline the words of paragraph 323. 'We are certain that the English members of the Service will continue to be as necessary as ever to India. They may be diminished in numbers but they must not fall off in quality.' Our experience in the past leads us to believe that without very special measures of protection it will be impossible to secure European members of the right stamp in future: no impartial student of the Congress-League Scheme, who has read the public speeches both of the moderates and the so-called extremists in the past few months, can deny that the essential point, on which the greatest emphasis is laid, is the proposal that recommendations and resolutions of the Legislative Councils shall be binding on members of the Executive. That power may be denied, but there

are other methods both direct and indirect of making the conditions of official life difficult, if not insupportable, and the speeches of Indian politicians in the last few months clearly show that none of these methods will be overlooked or neglected. We cannot, therefore, ignore the plain fact that whatever may be the heading of the order, or the designation of the authority issuing it, our master in the near future is to be, not the Viceroy or the Secretary of State, whom we elected to serve, but the Indian public.

17. "But it is not to the immediate present that we have to look. Many of us have to serve ten, some fifteen, and some even twenty years. We must look ahead. In ten years or fifteen years' time possibly, with an Indian Governor and a complete Indian Executive Council, 'the majority of the higher appointments will, not unreasonably, be given to Indians.' The authors of the report propose as compensation a system of incremental pay. We would respectfully point out that no system of incremental pay can afford compensation for the loss of future honour, position, and prestige entailed on the present members of the Services. Moreover, this proposal of incremental pay has been scouted and ridiculed in the last few weeks by the Congress, the Moslem League, and the National Indian Liberal League. Facts must be faced, even though they are opposed to our own wishes or to the best interest of the country. And unless the Services are protected in a manner which we shall later suggest, any efforts for their protection

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will only give the extreme section of Indian politicians fresh grievances and fresh party cries. It is difficult to find an analogy to the position in which the Services are placed. But let us suppose that the Generals and Colonels of our Army were informed that inasmuch as the Trades Union Leaders understood the working classes best, it was desirable that in future the posts of Generals or Colonels should be entrusted to Trades Union Leaders; that the latter would be responsible for strategy, tactics, promotion, and discipline, but inasmuch as they knew little of the details of army life, while the present Generals were accustomed to train and discipline men, the latter might continue to enjoy their emoluments and train the rank and file, and their advice, if asked for, might be given; and that in the initial stages the present Generals would be responsible to Parliament, and the Trades Union Generals responsible only to their Trades Unions—and some idea may be formed of the position in which the Imperial Services in India will very shortly find themselves. We therefore would ask that all present members of the Services should be given the option to be exercised within a reasonable period of the reforms now proposed coming into force, of retiring on a pension porportionate, not only to the length of the service which they have rendered, but to the pecuniary prospects of which they have been deprived. Less than this we cannot ask, not only in our own interests, but in the interests of the scheme itself.

“ We will briefly recapitulate the arguments in favour of this proposal :—

- (1) The proposed reforms involve a definite change in the conditions of service which were never contemplated when the present members of the Services were recruited, and which in fact change the character of the Services.
- (2) In the interest of that co-operation which the authors of the report consider so desirable, it would be wise and statesmanlike to treat in a generous spirit such members, as, through no fault of their own, find (in the words of the report paragraph 128) the change irksome.
- (3) We hope that when such a right is recognized by statute it will have the effect of inducing a more reasonable spirit among Indian politicians and moderating that fierce criticism and invective to which we have been subjected in the past, and which in future we cannot otherwise avoid.

18. “ We wish to add that a precedent for the course which we suggest occurred at the time when Her Imperial Majesty, Queen Victoria, took over the administration of India from her Agent the East India Company in the year 1858. At that time, we understand, every member of the East India, Company was given the option of retiring on a pension or of continuing in Her Majesty’s service. We wish it to be clearly understood that we are in no way opposed to reform, and that we hope the constitutional experiment

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now proposed may prove successful. We shall certainly do our best to make it a success. Should the power of retiring on the terms laid down be granted, we are certain that the Services would not exercise their right of retiring unless the conditions became insupportable. At the same time the future is uncertain. We hope for the best, but we appeal to Government to afford in the only manner which we consider effective that support which the authors of the report have already, in paragraph 325, assured us that we may confidently expect from them, and that 'the rights and privileges guaranteed or implied in the conditions of appointment shall be secured to the members of the public Services.' We would, however, here repeat the point that we have emphasized in another connexion, that is, the necessity of regulating in full the present alterations of conditions *by Statute and by Statute only*. Terms of service must now and in future be defined very clearly indeed, and must not be liable to change. With conditions gradually changing, for better or for worse, neither we nor our successors can find any security in the pious expressions of hopes or desires to safeguard our interest. Recruitment, character of service, extent of responsibility, and, above all, definitions of our masters, must be laid down by statute in no uncertain words. Failing that, India will not get what she has popularly obtained in the past, that is, the best that Great Britain can give her."

## VI

### TRANSFERRED AND RESERVED SUBJECTS

**T**HE essential element in the scheme of provincial government suggested in the Montagu Report is a dichotomy between "transferred" and "reserved" subjects. Dyarchy can only be instituted on the basis of such a dichotomy. It is important, therefore, to discover whether there is, or can be, any agreement about the basis of a division of subjects into "transferred" and "reserved." We have seen that the actual division is to be made by a committee; but the Report contains a suggestion both of the proper basis of division and of the actual division which might be made. The suggested basis for transference is that the transferred departments should be—

- (1) Those which afford most opportunity for local knowledge and social service ;
- (2) Those in which Indians have shown themselves to be keenly interested ;
- (3) Those in which mistakes, though serious, will not be irremediable ;
- (4) Those which stand most in need of development ;
- (5) Those which concern the interests of the

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classes who will be adequately represented in the Legislature, and not those which vitally affect the well-being of the masses who may not be adequately represented.

On this basis it is suggested that the transferred subjects might include education, public health, local government, industrial development, and certain departments of agriculture and forestry, but should not include the maintenance of law and order or matters connected with land revenue and tenancy right.

Both the basis of division and the actual division suggested have been vigorously criticized. I propose to state the lines of such criticism, as it is advanced in a Note written by an experienced civil servant, partly because they illustrate the difficulties of any system of executive dualism, partly because, if such a system is to be adopted, they may serve to suggest a reconsideration of its basis and method.

In the first place it is urged by the author of the Note that the maintenance of law and order, and matters connected with land revenue and tenancy right, *ought* to be transferred. "These departments," he argues, "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 ago been laid down, and are well understood. The Service has great traditions



behind it which will ensure that that compartment of the Government which is responsible for controlling their administration will get the best assistance and most outspoken advice. . . . It is admitted that the people of India are a 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 this Province. . . . 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."

In the second place it is urged by the author of the Note that subjects such as education and industrial development ought *not* to be transferred. He argues that these are matters "which

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most need continuity of policy and will be most likely to be ruined by those political influences which the Minister, even though himself imbued with the greatest goodwill, may have to encounter from other members of the Legislature. . . . The administration of the Education Department as such should, as far as possible, be kept clear of politics, as it is particularly liable to be upset by political influences. . . . It is most necessary that its development should be carried on on continuous lines of policy. . . . Again, take industrial development, which it is proposed to transfer. Why should the authors expect inexperienced, untrained ministers to be more capable of undertaking the development of industry than the trained administrator? . . . The industrial development of India under bureaucratic British rule has struck unprejudiced observers as marvellous. . . . I do not say that the Government might not have done more than it has. But I do say that if it had only followed popular demand instead of preceding it, industrial development would not have been as great as it has been, and I can see no reason for anticipating that it would benefit by popular control in the immediate future, until a genuine industrial sense has been aroused in the community." Here the author of the Note refers particularly to questions affecting the conditions of Indian labour in factories—a most vital question, which affects international standards. "The Industries Department," he writes, "controls the

administration of the Factories Acts, and he is a bold man who would say that either the Minister or the Legislature will be fit to take charge of that ticklish problem."

In addition to criticizing the actual division of subjects tentatively suggested in the Report, the author of the Note also criticizes the suggested basis of division. He disagrees particularly, as will already have been noticed, with the fourth of the five canons of division—that the subjects transferred shall be those which stand most in need of development. "I understand that the idea underlying it is that, as money will be needed for those departments which need development, and as the Legislature will have . . . to impose the necessary taxation, therefore it is only fair that these departments should be transferred to the Minister, so that on him may rest the burden of proposing the taxation. The argument does not seem to me very sound, or altogether fair to the Minister. I can see no reason why the whole odium of proposing new taxation should be placed on the Minister, or why some of it should not fall on the other half of Government."

The writer of the Note then proceeds, adopting the first two and the last of the canons of division suggested in the Report, to put forward other canons which he regards as important. Into these I shall not enter, but I propose to state the subjects which, in conformity with his canons, he desires to see transferred to the Indian Minister in

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a system of dyarchy, if such a system is to be adopted. They are five in number: Local Self-Government, Land Revenue Administration (which includes General District Administration carried on by the officers of the Indian Civil Service and the Provincial Civil Service), Survey and Settlements, Land Records, and Law and Justice. No Indian politician can complain that this is an illiberal list: on the contrary, the inclusion of the second and the last of these five subjects makes the list likely to appeal more strongly to Indian politicians than the list suggested in the Montagu Report. It goes more to the core of politics: it lingers much less around the husk.

There is a final point raised in the Note to which I should like to direct attention. The writer raises the question of the extent and methods of the control to be exerted by the Governor of a Province, and what may be called the permanent side of the Executive, over the Indian Minister, and what may be called the parliamentary side. He makes a suggestion which seems to me more consonant with liberal principles than any suggestion which is made on this point in the Montagu Report. I quote his argument on this point in full.

“There seem to be three, and only three, possible ways in which the Minister can be controlled—

- (a) By the Governor alone having the power to overrule his Minister colleague as well as deciding on cases which concern

both the Executive Council and the Minister.

- (b) By giving the Governor in Executive Council power to intervene in certain circumstances.
- (c) By prescribing that important cases and matters of policy and questions overlapping reserved and transferred subjects shall be referred to the whole Government, which will sit as one and will pass the final decision as a single Cabinet.

"In most cases the Report seems to prefer the first method, while in paragraph 240 the second method is suggested to meet certain specified eventualities. The third method has been nowhere recommended in the Report.

"The system of government contemplated in the Report seems to be one which will depend largely on the balance between the two halves—the Governor in Executive Council and the Governor with his Minister or Ministers. The Governor is to be a member of each half, but at the same time he is entrusted with the independent task of keeping the balance even between the two halves. This at least is my reading of a somewhat complicated proposition.

"Now if my interpretation of the scheme is correct, the first of the three possible methods of control is a perfectly legitimate one, and is consistent with the general principles of the scheme. The only objection to it is, that it appears to involve the supersession of the principle of Council

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Government, which is one of the primary essentials of the scheme, and to reconvert the Government into a one-man Government with two advisory bodies—the Executive Council and the Ministry. It also throws on the Governor a very heavy responsibility which he will find it very difficult to bear. It will also expose his Executive Council to a charge of interfering with the transferred subjects, as whenever he does so interfere it will always be suspected that he has done so on the advice of the Executive Council.

“The method of control advocated in paragraph 240 seems to me to cut across every principle of the scheme, as it gives one half of the Government the power to intervene in the work of the other half. In practice it will differ very little from control by the Governor alone, except that it gives the Members of Council a vote on the decision instead of merely the position of irresponsible and informal advisers.

“The considerations set forth above, read in the light of the intention expressed in paragraph 222 of the Report that the decisions of the Government should be loyally defended by the entire Government, force me to the conclusion, which is shared, I know, by other witnesses, that the third of the three above-mentioned methods of control is probably the best.”

This is the whole of the case which I have been asked to present. I feel that most men of liberal opinions will agree that it is a case which deserves to be presented, and merits sympathetic and serious consideration. There are three main points in the case—

- (1) That dyarchy is not a good executive system for the provinces of India.
- (2) That a unicameral council, composed of representatives both of territorial divisions and of classes or interests, does not constitute a good legislative system for the provinces of India.
- (3) That if dyarchy is none the less to be introduced, the suggested division of subjects into "transferred" and "reserved" is not good, either in its basis or in its details, and should be reconsidered.

The criticism thus advanced is far from being merely negative. The authors are constructive, and their constructive policy is liberal. They suggest—

- (1) A united provincial executive, containing an Indian Minister or Ministers, which is gradually to become responsible to a provincial parliament, as that parliament develops strength and vindicates power.
- (2) A bicameral parliament, with an upper house representing interests, and a lower house representing territorial divisions.

- (3) If dyarchy is to be introduced, a division of subjects more favourable to India, which will give into the hands of the Indian Minister or Ministers subjects such as the maintenance of law and order and land revenue administration.

The first of these suggestions shows a grasp of history, and proposes for India, in place of a mechanical progress arranged in carefully timed stages, a progress by natural evolution exactly analogous to the progress by which the British Cabinet system has been developed. The second shows a grasp of the principles of politics, and finds a close parallel in the Report of the Irish Convention. The third shows at once good sense and goodwill towards the aspirations of India.

“ For many years of my life I used to lecture, in each midsummer, to young men who were intending to compete for places in the Indian Civil Service. I came to know many of them; and many of them were successful in the examination, and have served in India for years. I admired them before they went to India; and as I read the papers which are printed here, I could only admire them more than ever. They had not let their minds grow rusty, or their courage grow faint, in India. They still remembered what they had learned and thought when they were young men among us; and they had enriched with a fuller experience, and carried forward to broader and



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deeper consequences, all they had learned and all they had thought. I hope that my readers will feel some of the admiration, and some of the pride, which I cannot but feel when I think of my fellow-countrymen in the Indian Civil Service."

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