



# Indian Round Table Conference

12th November, 1930—19th January, 1931

PROCEEDINGS OF SUB-COMMITTEES

(Volume V)

[SUB-COMMITTEE No. V (N.-W. F. P.)]

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### INTRODUCTORY NOTE.

Proceedings of the Indian Round Table Conference in plenary session, and in Committee of the whole Conference, are contained in a separate volume, the Introductory Note to which explains, briefly, the procedure adopted by the Conference.

Proceedings of Sub-Committees are contained in nine volumes as below:—

- Volume I.—Federal Structure.
- „ II.—Provincial Constitution.
- „ III.—Minorities.
- „ IV.—Burma.
- „ V.—North-West Frontier Province.
- „ VI.—Franchise.
- „ VII.—Defence.
- „ VIII.—Services.
- „ IX.—Sind.

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# INDIAN ROUND TABLE CONFERENCE.

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## SUB-COMMITTEE No. V.

(North-West Frontier Province.)

The sub-Committee was constituted as follows:—

Mr. A. Henderson ( <i>Chairman</i> ).	Sir B. N. Mitra.
The Earl Russell.	Raja Narendra Nath.
The Marquess of Reading.	Mr. H. P. Mody.
The Marquess of Lothian.	Sir A. P. Patro.
The Marquess of Zetland.	Nawab Sir Abdul Qaiyum.
Sir Samuel Hoare.	Sir Muhammad Shafi.
Maulana Muhammad Ali.	Sardar Sampuran Singh.
Sir Shah Nawaz Bhutto.	Dr. Shafa'at Ahmad Khan.
Captain Raja Sher Muhammad Khan.	Mr. C. E. Wood.
Dr. B. S. Moonje.	Mr. Zafrullah Khan.

with the following terms of reference:—

“To determine what modifications, if any, are to be made in the general provincial constitution to meet the special circumstances of the North-West Frontier Province.”

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### SUMMARY OF PROCEEDINGS OF THE FIRST MEETING OF SUB-COMMITTEE No. V (NORTH-WEST FRONTIER PROVINCE) HELD ON 18TH DECEMBER, 1930.

The sub-Committee had a short discussion on the best procedure to be adopted and on the time of holding the next meeting.

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### PROCEEDINGS OF THE SECOND MEETING OF SUB-COMMITTEE No. V (NORTH-WEST FRONTIER PROVINCE) HELD ON 29TH DECEMBER, 1930.

*Chairman:* If it would be agreeable to the sub-Committee, I propose to allow what we would call a Second Reading discussion this afternoon in order that we may have general guidance on the points of view of the respective speakers. Then at the close of to-day's discussion I shall ask the sub-Committee to decide what further procedure it will care to adopt.

As I promised at our last meeting, I have issued a paper\* in which there is set out the important points which ought to receive the attention of the sub-Committee. I hope it will prove itself of some service to the respective members who desire to speak.

The meeting is entirely open. I understand that Sir Abdul Qaiyum wants to address a few remarks to us, and I shall be very pleased now to call upon him.

*Sir A. P. Patro*: Before Sir Abdul Qaiyum speaks may I make a suggestion for the approval of the sub-Committee? This is a very difficult and technical problem, and it requires one who has really had some experience of it to enlighten us and guide us. With the permission of the sub-Committee may I suggest that Sir Denys Bray, who has enquired into the matter previously and who has been in charge of it as Political Secretary in the Government of India, be permitted to make a statement so that we may know where we are with regard to the North-West Frontier Province. It is a very important question, and I am sure we should like experts like Sir Denys Bray to enlighten us by giving us their own experience and opinion. I know that Sir Denys Bray is not a member of the sub-Committee, but he is an advisor and I am sure, if the sub-Committee approve of my suggestion, that it would be very helpful if he would give us his views of the matter. We all know that he is an enthusiast on the subject. I quite agree with Sir Abdul Qaiyum in his desire, but how best to bring that about both to the advantage of the people and of the administration is a matter of our responsibility, and if the Sir Denys Bray could be permitted to give us his views it would be very helpful. For instance, I come from the South. I have read the reports on the subject and I have gathered some information from the Blue Books but all that will not help me to be able to guide or help the sub-Committee. I am quite sure that Sir Denys Bray who has been in close touch with the problem will be able to help us better.

*Lord Reading*: Sir A. P. Patro's idea is a very good one, but I would suggest that it would be better if we heard Sir Denys Bray a little later on. I have had the advantage of Sir Denys Bray's advice and assistance during a very critical period of years, and I know its extreme value. There is no better official in India.

*Sir A. P. Patro*: I was diffident to ask for your views, Lord Reading, and I put forward Sir Denys Bray in the alternative.

*Lord Reading*: You are quite right in saying that Sir Denys Bray is an expert in this matter, and in addition he has had the experience of the years since I was there. I would myself very much like to hear his opinion a little later on, but I suggest we might get on with the discussion and, if you approve Mr. Chairman, at a later stage we might ask Sir Denys Bray for his view, and no doubt we shall want to put some questions to him.

*Chairman:* That would fall in with my suggestion—that at the close of our discussion to-day we might consider what our procedure would be. If it was the desire of the sub-Committee at that stage to hear Sir Denys Bray we would probably hear him first thing to-morrow. Is that agreed. (Agreed to.)

*Sir Abdul Qaiyum:* Sir, I am thankful to you and to the sub-Committee for having given me this opportunity of laying the North-West Frontier Province case before you. I shall be very brief; I have not very much to say on this subject. It may look to be a very difficult, delicate, and most important matter to some of my colleagues from the South, but if they had only taken the trouble of going through the literature which has been issued on this subject—especially Sir Denys Bray's Report to which my friend Sir A. P. Patro referred, they would not have found it necessary to cross-examine Sir Denys Bray orally. His views are solidly put down in a Report which is before us, and I am confining myself entirely to that Report this afternoon. I could not put my case more lucidly before the sub-Committee than by simply handing in this book to anybody who has any doubts on any points.

The case, as I have said, is not a difficult one to understand. It is a very simple one as anybody will see who cares to study it. As a matter of fact the introductory memoranda which you have so kindly supplied to us for our deliberation give all the points which have ever been raised in connection with this problem.

Whether it is Imperial policy, or Frontier defence, or special circumstances—whatever objections could have been thought of by this sub-Committee or by this Conference have all been considered from time to time by experts, and their notes upon them were laid before the Bray Committee when it went from the North to the South and from the East to the West visiting every nook and corner of that Province. Who were they? They were people who had devoted the whole of their lives to that Province. Sir Denys Bray himself was quite a young man, if not a boy, when he was posted to the Province. He was First Assistant Commissioner of that corner of India, and during his charge of that Province for thirty-two or thirty-four years he was in direct touch with this problem—not only from the local point of view of an administrator but also from the high Imperial point of view. He was Chairman of the Committee which went into the case. Who was the Secretary of that Committee? It was another gentleman of the same service and with similar experience of the Frontier, having put in thirty-five years of the best part of his life in that corner of India. He was the Revenue Commissioner of the Province at the time the enquiry started, and he ended his service by holding the charge of that Province. Both of these gentlemen are still alive. Fortunately both of them are in the British Isles at the moment. One is even in this room. If my friend Sir A. P. Patro wants to examine them I shall have no objection, but I hope they are not going to change their minds after the experience of last summer. As a matter of fact the Chief Commissioner told me

in so many words that he was very sorry that the matter had been delayed so long that it had brought about those results. Even now the attack is waiting at your gates, but you do not seem to be very keen or in a hurry to settle the matter and to dismiss the attack. This is my plea for delaying no longer. It is not only strangling our hopes and our existence, but it is also costing you money if not blood. This is all I can say.

As regards these various items, what one is there which has not been given consideration to in separate paragraphs in the Bray Commission's Report?

It is said that there are five districts and the trans-border area, and the two put together makes the case very complicated and very difficult of solution. I am a practical observer—an observer on the spot—of those difficulties, and I would not deny that there are difficulties. This very question was put to me in the Assembly last time by the present Foreign Secretary, and I replied to it that I could not see any insurmountable difficulty. Difficulties there are, but there are difficulties in every walk of life. Even in the South in Madras there is the difficulty of the Brahmins and non-Brahmins—a question much more difficult to solve than the trans-border area and the five districts. I do not think there is a single difficulty which is not solvable. I would suggest the solution of all and every one of them in just a few words, and my solution of them would be from the practical point of view, because I also have spent the whole of my life on that Frontier, not only in the Government Service which I entered in 1888, finishing in 1919 (during which I did not miss a single expedition on the Frontier for all of which I received some sort of recognition), but in my personal and private capacity. It is on the strength of that experience that I am speaking to-day.

Having said so much, the first point before us is whether the settled districts should be separated from the tribal area. That subject has been fully discussed in this document which I have before me. I was one of those who said that they should not be separated. Whether they can be separated or not is another matter, but I say it is better that they should not be separated. I was the first to be examined, more or less with the concurrence of everybody who was there, by the Bray Commission. I was the first witness, and I laid the case for the Province before that Commission. What was the last sentence? The last sentence of my statement was that if for any unknown reason it was not found possible to introduce a full fledged Province—(phrases and terms are always changing; in those days they used to say the whole paraphernalia of constitution)—then the people as a whole would rather like to go back to the Punjab and be amalgamated than to lose their right of civil citizenship.

Here is one little secret word which I should lay before the sub-Committee, and which ought to solve all our difficulties. Both the Hindus and the Mussalmans never spoke a word about ability or education, and so on—nothing at all. The point at issue was



whether we should go back to the Punjab or whether we should form ourselves into a separate full fledged Province. According to the Hindu idea then prevailing, we were quite fit to go back to the Punjab to work those reforms which were in existence in the Punjab, and that the settled districts could be separated from the rest of the tribal area.

As regards the Mussalman population the shrewder of us, the clearer of us, the more intelligent of us, and the leader of that group, Mr. Sa'adul Din Khan, who is the present day Additional Commissioner of the North-West Frontier Province, all say "Mind, they will find it very difficult to set up all this machinery in this Province. Why not take the easier course? Put the whole demand that we want, of amalgamation with the Punjab." We repented, and I repented, because I was the leader of the local Hanedi, and I said, "No, it will look very funny if we have a small Province of our own." There were many secrets, but we thought that we were going to be linked with the fountain head by some ties—you know what I mean—like the proposed Damascus oil pipe. Well, that was the idea. We thought, "Oh, there are plenty of services",—"If you are to take dust, take it from a big amount." So we linked ourselves. I will not refer to any other persons who are aspiring to better conditions at the present day, but, however, we made a mistake, and we thought, "We shall get all that we want now".

Well, time passed on and our first experience was a funny thing. When we were separated we were not given any share in the property of the Colony lands. Look at them. After thirty districts then comprised in the Punjab, five districts had at least some share in the common land of the Colonies. Not an inch of that was given to us. What an iniquity it is that even our people serving in the army and retiring there were told, "You cannot be given land from the Colonies because you are not a resident of the Punjab." People who are fighting shoulder by shoulder with brothers will be denied a share in the Colony because unfortunately, by a stroke of some pen or some whim, they were separated from the Punjab and lost it and had no share in the Colony land.

What were the services we used to get? Laymen with quite a small education got to the top of the services, and a man was appointed minister in Bahawalpur, and was recommended for a high position. But now-a-days that unhappy Province is not thought fit to send people even for the British Embassy at Kabul, because we have identified ourselves with the Frontier Province, so that they hate us like poison and the Amir of Kabul told me, when my name was suggested, that a man who had been recommended for these things at the age of 32 must be a Christian in the guise of a Muslim. We lost those services.

We are all Khans with historical traditions . . . . We were part of this Province in the early days. My friend over there, the Raja Sahib, knows how many of us were given the Statutory commission. When it opened to the Punjab, was it thought that we

were being given more than our proper share in the Imperial services? No. They said that physically, intellectually, traditionally, and for various other reasons, we were fine people, and we had our European rights. It is now, after the lapse of that time, that the Punjab has got some opportunity, since they got rid of these idlers from the North—I should call them capable people from the North—and they have improved their position. Our case is, I do not think anybody is likely to take us back over there, and I would not press that, because why? Ten years more possibly will be spent in considering this question whether the Punjab is prepared to take us back or not. I want to think that it will be settled once for all as early as possible; but there is one little suggestion here. I give you a guarantee that if that question was put to the people of the North-West Frontier Province scarcely one per thousand would vote against it, if even that one per thousand. That is the solution, but (Persian proverb) . . .

“A fool does the same thing as a wise man may do, but after a thousand years.” Well, we do not want to delay this; otherwise that is quite a fine solution for it. And why is it my solution? I wish there had been a map of this Province. The construction of the Province was a whim of somebody at the time of Lord Curzon. Lord Curzon could not have gone from inch to inch on the ground, and his successor, the noble Marquess here, could not have gone. He may have flown over the territory. Twice, I think, he visited it during his residence, and perhaps another member of this Committee has flown over those hills; but the bird's eye view of these things seldom gives an opportunity to people to learn the position. What is there on the trans-border area?

*(At this point copies of the map of the N.-W. F. Province in Vol. I of the Simon Commission Report were circulated.)*

Perhaps the Chairman may like to look at the map. I may be able to explain it. The present North-West Frontier Province was composed of two divisions of the Punjab. One was called the Peshawar Division and the other was called the Derajat Division. The Derajat Division had three districts. One was Dera Ghazi Khan, and the other was Dera Ismail Khan. The Peshawar Division had the same districts under it as at present, except that there is a little cutting. Dera Ghazi Khan is surrounded by the same tribesmen, at least on one corner, and those turbulent people are even more feudal than the people in my Province. That is again a very strong point to be considered. That is more feudal. Everybody at this table, especially the officers, know that Baluchistan is still more or less feudal under their feudal laws. That district, with its feudalism and feudalistic ideas, and bordering on the same turbulent tribes as my district, *at least* at one corner, is adjoining the Punjab. . . .

The present administration of the North-West Frontier Province has not yet found another road or means of communication between

its headquarters and the headquarters of the Hazara District, and they have to pass through that; and that says a good deal for that word "terrain"—military terrain. The military terrain is through that tahsil. The headquarters of the Northern Army is at Rawalpindi, and the troops have to be imported into Peshawar from Rawalpindi. Rawalpindi is the head base, the first-class base, the headquarters of that army, and the next outpost, as we may call it, of that army is at Peshawar, and they have to pass through that, the trains and the various things. As a matter of fact, the whole country beyond Jelum is a terrain for this expedition if there is any necessity for it. All this North part of the Punjab is under the same conditions as we are; there is no difference. The troops have to move about, but, as I said the other day, when you have to decide for a forward or backward policy or any expedition or anything of the sort, that thing will be decided at the centre, and when you find the men and money for carrying out that expedition, will that be the concern of the North-West Frontier Province only? Well, if those people supply you with men and money, the whole of India becomes your terrain for that purpose. Even my friends of Central India will not be free from that. There are many garrisons and many cantonments there. Well, the garrisons are not to be removed, the cantonments are not to be changed, the roads are not to be blocked, and my ambition in life, which I will deal with later on item by item, is that I should like that tribal area to be civilised. I do not attach very much value to this word civilisation; it is a very ambiguous term; but if the world is to be flooded by what is called civilisation—well, whether it is materialism or selfishness, or God knows what it is, there is such a thing as civilisation, so I should like the whole of the tribal area to be taken in that direction. As early as 1877 the Viceroy said in his note, "It is shameful for a highly civilised government like ours to be so indifferent to the trans-borders of India. We have not improved their conditions. If that is their policy we welcome it, we support it, we own it;" but what do you do? You simply treat us like bad boys. When they commit a mischief you punish them, but when they want extra tuition you say "Oh, no". But whether you did so in 1877 or not, you did undertake certain definite responsibilities in 1893 by the demarkation of the Durand line, and what have you done towards the civilisation of that? I was directly concerned with the Durand Mission from its inception, and when it was being demarcated from Bannu right down towards Waziristan I happened to be there. We thought we were going to civilise those people, we thought we were going to do them some good; and what have we done? At least the Amir did what he could for whatever small tribes fell into his power. Whether it was coercion or whether it was uplifting, or whatever it was, he applied the word "civilising" to them. Whatever civilisation his country had, he applied it to these people. But what about your people? You still treat them like step-sons. Then what justification have you got for claiming them to be under your sphere of influence? If there is any justification for your claiming that they

are under your sphere of influence, why do you say in this Memorandum which you have sent to us that it is India but not British India? What sort of India is it? India of the Hindus? India of the Muslims? India of the Christians?

*Dr. Moonje*: No-man's land.

*Sir Abdul Qaiyum*: What India is it? Some of you may make a claim over to Central Asia. You may call it India, but it is not British India. At one time people thought there was going to be another Central Asian Empire. Well, perhaps it will be linked to that, but that idea is not very practical just now; and if it is to be a part of the present-day India, then apply the same so-called civilisation to that people, bring them up to that level, or is it going to be a cancer for ever? What other measures have you suggested for bringing them up to the same level? In my opinion the same conditions should apply to the whole of India. Why should you deprive a man of his civil rights, of ordinary citizen's rights. I think the difficulties are surmountable; they can all be overcome without much difficulty. If we do not want any reform, then you must be prepared to meet the cost of building new roads and adding to the expenditure. The moment we ask for reforms, then there is expenditure to meet this and to meet that. The expenditure seems to be going up during recent years. Can money be found for an expedition to punish those people for their misbehaviour, and can it not be found for their education? That is a simple problem. You want money to punish them; even now there is money being spent.

They are foolish, I admit; but are there no other means of conquering their prejudices and suppressing their turbulence? Is there not such a thing as peaceful penetration? There is such a thing as peaceful penetration, penetrating into the hearts of the people. Do not frighten them by telling them you are going to locate a post here or a post there. Let us see if we cannot find a better way of dealing with the situation. There is education, and the mention of that reminds me again of that great man Sir George Roos-Keppel, who, when he opened the College, wrote to the five Agencies and said, "You will have to spend Rs. 150 a month on the education of your boys; you will have to send from five to ten people to be educated, to get to know one another, and to come under the sway of civilization." What is being done about that? I am not a Political Agent now, but I think that subsidy has already been spent on some new road or some new construction—God knows what!

Have you ever tried that? I do not know if my estimate is correct, but I should say that taking a rough estimate 40 crores of rupees have been spent and 40,000 troops employed within ten years on the Waziristan border alone in the ten years from 1919 to 1929. Let us take that figure for the purpose of my argument. Assuming a rate of interest of 5 per cent. on that sum of 40 crores, the interest will amount to 2 crores. I could bring these people under the sway of civilisation—I could even bring them under

something approaching slavery—with an annual expenditure of 2 crores. I am sure that I could do it, and even if I cannot there are others who would be able to do so.

I should like to turn for a moment to my friends from India, my Hindu and Muslim friends. Who is paying this bill? I am not paying it; it is you my Indian friends, who are paying this bill and who have been paying it all along. If you have any care for your money, you will give the method that I suggest a trial for some time. Give them civilisation; give them education. I do not assert for a moment that nothing has been done. Both I personally and my people are grateful to the British Government; the trans-border people as well as others are grateful for what has been done, but I cannot deny the fact that more might have been done; much more could have been done.

Some time ago I took one of the Indian Princes round and showed him the position, and he turned to me and said: "What have you been doing to bring about a more permanent understanding?" I gave him certain information, but it did not satisfy him, and he at once came to the question of education, and said: "Have you been giving education to them?" I said: "They are against education." He said: "Perhaps you have been putting a book into their hand and telling them to read it, and it may be they dislike that; but education can be given in many other ways." By education and opening up the roads, as you have done in the Waziristan, something may be done. You may remove estrangement and bring about a more peaceable situation. It is true that these people were first conquered by the Army, but it is now necessary to devise some other method of maintaining relations with them, and by education and in other ways a good understanding may be brought about.

You must make these people value their life; you must teach them to appreciate comfort; you must teach them to take an interest in what is going on in the world around them. Give them some practical education, and education along those lines and they will not throw away their lives so easily or hold life so cheaply. What is their present condition? Some time ago I had to take up a case in which two or three sheep were stolen and four people killed. I began to tell them my philosophy, saying "Is this right?" and "Is that right?" They said "The life these people of ours had to spend could not be spent at home in their beds." That is the fatalism which they have at present; but if they were more comfortable in their homes, if they could get better food and better clothing, they would not go in for raiding.

I assure you, Sir, that these trans-border people go to Australia to work, and your Army is full of them. My husbandry work in the settled districts is all done by them, but the small number who remain at home cannot get a living. They have rifles to protect their homes; they need them for their own protection, and so they find their way to a neighbouring village with them and get some-

thing! But those who earn a wage at Karachi do not do it. They do not shoot a police officer, for instance, for pleasure; they take to these things to satisfy their hunger. There is no political crime. In the olden times we used to have fanatical outrages, but they are now a matter of history. The noble Marquess will tell you nothing of that kind has happened since, I think, 1893. It is only a question of bread and butter, and if they can get that there will be no trouble.

I am afraid I am so full of this subject that I have prolonged my remarks somewhat, though I promised to be as brief as possible.

*Sir A. P. Patro*: What are your proposals, Sir Abdul?

*Sir Abdul Qaiyum*: Give us a constitution on an equal footing with the rest of India.

*Lord Reading*: What would you do with the Executive? How do you propose to deal with that?

*Sir Abdul Qaiyum*: I am just coming to that. Give me a constitution which will not put me on a footing of inferiority as compared with other parts of India. We are small and insignificant and apt to be forgotten; we cannot come to Parliament again and move this huge machinery to revise the Government of India Act for us, and God knows what the next Government will be, or what the third Government or what the fourth Government will be! It is not an easy thing to revise the constitution. Give us rights of equality in your constitution like any other Province. If you find any difficulty and can convince me of it—and I honestly tell you I shall be open to conviction—then, if for instance there are certain things which may give rise to anxiety, perhaps they may be guarded against for a short time; but provisions to that effect should be made in a thing I have learned of here for the first time, the Instrument of Instructions or the Rules—God knows what it is called! It is quite new to me; I never heard of it before. Let any such provisions be made in the Instrument of Instructions or in the Rules under the Government of India Act or in some other way whereby those things may be temporarily under the control of the Governor-General in Council.

As far as the Local Government is concerned, I was a silent member of the Provincial sub-Committee, and I think we made certain provisions for safeguards there. Some may not have considered them adequate, but I think they were adequate safeguards and would do for our Provincial Governor. By the way, I am not calling him a Lieutenant-Governor; I will cut out the word "Lieutenant"; I want a Governor, no matter what you pay him. Whether you pay him less or more, at any rate call him a Governor.

*Sir A. P. Patro*: May I ask another question? What is your criticism of the recommendations of the Statutory Commission and of the recommendations of the Chief Commissioner? The Chief Commissioner is now on the spot, and we have his memorandum to

the Government of India and the recommendations of the Government of India. Have you any criticisms on that?

*Sir Abdul Qaiyum*: Thank you very much, but what are your objections to the Simon Commission? If you are pleased with it, I am pleased with it!

*Sir A. P. Patro*: I am referring to the recommendations with regard to the North-West Frontier Province.

*Sir Abdul Qaiyum*: That is past history, my dear fellow. When the Bray Committee made their report, we might have been satisfied with what the Bray Committee recommended, for it was more than we expected at that time, since we were so out of touch with things. We should not be satisfied now with the recommendations of the Bray Committee. Similarly, if you had not criticised the Report of the Simon Commission but had been satisfied with it we should not have been meeting here and I should not have had a chance of bringing our case forward. As it is, I want to share in any revision that you may get.

The Simon Commission was only eyewash. Just tell me two things—and they are very pertinent things. They want us to elect half the members of the so-called Council, which is really no better than a District Board. But who will elect those people? People who will themselves be nominated! That is what the Simon Commission recommends. While the Simon Commission wants half the members to be elected, it wants them elected by those who themselves have been nominated, and the Report also says that the experience of elections has not proved very satisfactory. There they have rather given themselves away. When I brought this matter to Sir John Simon's notice the other day in London, it may be that he did not like to discuss it with me. He visited us in November, 1928, and certain elections took place in a municipality in 1929, a year afterwards, yet he closed his Report with a statement that the result of elections as introduced in a certain area was not satisfactory. Who could have supplied him with that information except some local official or some local interested person? Is it worthy of a Commission, and of a Statutory Commission composed of distinguished persons, to quote private information as to the unsatisfactory nature of elections? That is the kind of report which you have got. In the Assembly I said to them "You do not care to change even a comma of what has been supplied to you in the form of your Report for the North-West Frontier Province." I said that to Sir Joseph Bhole.

I look upon the Report of the Government of India as a great advance. It is not the goal, but it is a great advance, and I think on the whole they have treated us well, but it really comes too late. I may be prepared personally to accept what they suggest, but the people on the spot may not be satisfied with anything less than an ordinary Provincial Legislature on the same footing as the rest of India so far as the constitution is concerned. I must reserve my right to discuss the matter when the time comes, but with regard to the suggestion of the Government of India as to . . . .

*Sir A. P. Patro*: They are the suggestions of the Chief Commissioner.

*Sir Abdul Qaiyum*: We had better take the views of the Government of India, because the Government of India seems to be much more broad minded than the local Chief Commissioner. The suggestion of the Government of India is this. They say they do not want to introduce dyarchy, but they want to have one official Minister and one non-official Minister. I do not want dyarchy to apply to us either, and this is a very important point as far as the Executive is concerned.

Under that perhaps many things will be fairly safe—even law and order, if we had one official man for some time. But it ought to be made quite clear in the Rules that in future the withdrawal of these restrictions and safeguards will lie with the Governor-General in Council. Let him withdraw these conditions as time passes. Let some of the nominations disappear after a little time. Let one or two things, such as the Constabulary, be withdrawn later on as we get the experience.

What I cannot understand is this. Are you going to withhold powers from the Government of India of introducing any emergency measures? If so—if you are prepared to do that which I consider very dangerous in the case of India, then I shall have to reflect whether I am prepared to accept that.

*Sir A. P. Patro*: You propose that emergency powers shall rest with the Governor-General?

*Sir Abdul Qaiyum*: I will try to put it more clearly. I consider that there will be some emergency powers for the Viceroy and Governor-General for the whole of India, including the introduction of martial law. Some such emergency powers will be necessary, because the conditions which apply in my small Province do not apply elsewhere in India. There are important and grave relations between the trans-border area and the settled districts. There are other Frontiers on the East. There are other difficulties. If you are going to allow the Viceroy and Governor-General some special powers, I shall be prepared to accept them; I shall be rather delighted to accept them.

*Chairman*: Do you refer to special powers under normal circumstances, or to emergency powers under abnormal circumstances?

*Sir Abdul Qaiyum*: I refer to both. I will be prepared to give him both, and if, after that, you are able to convince me that any particular thing existing in my Province is to be safeguarded, I should be prepared to agree to some special extraordinary powers being given to the Governor. The Governor is in direct connection with the Viceroy, and if you were to give it to the Governor I would not mind, but it would look nicer if it were left with the Governor-General, because I do not want any differentiation between my Province and my Governor and the rest of the Indian Governors. I have to satisfy the people who are just behind me. I want an announcement to be sent “ We have decided to give you



equal rights," whether it tastes sweet, or whatever it tastes like; but the announcement must go to these people that the stigma of inferiority has been removed from them. That will help us all and will relieve me from my life-long worry, and it will relieve you of a good many inconveniences. Therefore I say, Provincial constitution applicable to the North-West Frontier Province *in toto*. If after discussing this item by item you can convince the sub-Committee that there is one thing which is special for the North-West Frontier Province which has to be guarded against in that area, then I will not be closed to conviction; I will be quite prepared to accept the position as it is. But vague terms as put down here, such as policy, and foreign policy, and relations and defence are meaningless.

*Chairman*: We want you to tell us how you would treat these very important questions.

*Sir Abdul Qaiyum*: Are you going to hand over foreign relations?

*Chairman*: We would like you to tell us how you would treat the problem of defence.

*Sir Abdul Qaiyum*: Defence does not lie with me. It lies with the whole of India. Are we going to defend the Province by ourselves, or shall we get supplies of men and money from the rest of India? And if men are supplied, will you put them in trains and send them up to our Province so that they will grow up like mushrooms.

*Chairman*: Not quite!

*Sir Abdul Qaiyum*: We do not want to remove the lines of communication, and if you can open them out we shall be prepared to find more labour. You are trying to get labour for your people, and we are trying to get labour for our people.

*Sir A. P. Patro*: You want the defence policy to remain as it is to-day, in the hands of the Government of India.

*Sir Abdul Qaiyum*: I will not come to loggerheads with you over it. You are always bringing up this question of defence against me. You are defended by the British Navy, but you never raise the question of meeting the cost of the British Navy.

*Sir A. P. Patro*: I fully sympathise with you; I am only trying to elicit information from you.

*Sir Abdul Qaiyum*: It is not the only border which has to be defended. Three sides of the sea have to be defended, and you have not been bearing the proper share of your cost of the Navy.

*Sir Samuel Hoare*: We should like you to tell us more about this very interesting question of defence. We have all been very much interested in what you have said. The point which is rather sticking in my mind is this: it seems so very difficult, in the conditions of the North-West Frontier, to draw a distinction between civil unrest of various kinds and something which develops very quickly into a military operation. I need not explain it to you.

because you have had so much experience of that kind of thing in your career, but it does seem to me, in view of that, very difficult to see how you can have law and order in the hands of one person, and the military side of it in the hands of another. I should have been afraid that there would be delay resulting from that, and that you might then have had the civil troubles, which have always broken out on the North-West Frontier, developing into a series of military operations, and great delay taking place. Can you tell us a little how, in your scheme, you intended to manage law and order under the kind of constitution which you have suggested, without impairing the military and the defence side of it both in the districts and in the trans-border area?

*Sir Abdul Qaiyum:* I will try to explain it, if I may. Is not military and civil administration separate at present? Is not the one managed by Army Officers under the Commander-in-Chief, and is not the other under the Viceroy, on the civil side, assisted by local Chief Commissioners and local G.O.C's.?

*Sir Samuel Hoare:* Would not it be fairer to say that both are directly under the Viceroy, as it is now? I should not have thought there was a division now, but that both of them are directly under the Viceroy.

*Sir Abdul Qaiyum:* In what sense? Do you mean that the Civil Governor requisitions the Army all at once, without referring to the Viceroy?

*Sir Samuel Hoare:* No—that the Viceroy is in unquestioned control of both of them. There is nothing in between him on the law and order side than the Governor acting direct with the Viceroy.

*Sir Abdul Qaiyum:* What would be the difference in future? I cannot see any.

*Sir Samuel Hoare:* I am asking for information. I should have thought the difference in future would have been this: supposing you do get your Provincial autonomy, law and order then would come under a Minister either responsible or not responsible to the Assembly. I should have thought that would have introduced a new complication into the problem.

*Sir Abdul Qaiyum:* The whole Province will be under the Governor-General and managed by the Centre. In that little tiny Province are you going to give him full autonomy without any connection with the Centre? Will there be no control from the Centre over this little tiny Province?

*Sir Samuel Hoare:* Perhaps it would be better to take it in detail. On the question of law and order, who would administer all these various police forces which now exist either in the trans-border area or in the settled districts?

*Sir Abdul Qaiyum:* The trans-border area is quite different. The trans-border area is something like the native States. You have not interfered with the native States so far. Personally I should like the civilising part of law and order to be introduced.

However, it is not yet introduced. All the affairs of the trans-border area are managed by the political agents under the direct control of the Chief Commissioner as such.

*Sir Muhammad Shafi:* Apart from the ultimate responsibility from a constitutional point of view of the Viceroy, in normal conditions who is it who controls law and order even now in the existing conditions in the North-West Frontier Province? Is it the District Officer, and the District Superintendent of Police, the Inspector-General of Police in the North-West Frontier Province, and the Chief Commissioner; or is it the Viceroy?

*Sir Samuel Hoare:* Surely the Commissioner acting in direct touch with the Viceroy?

*Sir Muhammad Shafi:* My point is this. Apart from the constitutional responsibility of the Viceroy in so far as the actual control of affairs from day to day in the matter of law and order is concerned, is it the Viceroy who runs the show? Is it the District Officer, the Collector, the District Magistrate, the District Superintendent of Police, the Inspector-General of Police and the Chief Commissioner? In normal conditions are existing state of things will continue. It will be the District Magistrate, the Superintendent of Police, the Inspector-General of Police and the Governor who will be in control of law and order—in normal conditions; I am not speaking of abnormal conditions.

*Sir Samuel Hoare:* Is it really quite the same thing? It seems to me it is not. In the one case the various police organisations are the agents of the Provincial Assembly acting through the Provincial Minister. In the other case they are the direct agents of the Viceroy. That appears to me to make a difference.

*Sir Muhammad Shafi:* Constitutionally, of course, it would make a difference, I agree; but my point was different. Constitutionally the position now is different from what the position will be if reforms are conceded to the Province. I quite agree. So it will be in the rest of India. When full provincial autonomy is granted to the other Provinces of India the position will then be different from what the position is to-day constitutionally. That is not the point. My point was "as a matter of fact".

*Sir Samuel Hoare:* "As a matter of fact" was the angle from which I was approaching it.

*Sir Muhammad Shafi:* At present, in spite of the fact that the ultimate responsibility rests on the Central Government or the Viceroy, who is it who, as a matter of fact, from day to day is in control of law and order in the North-West Frontier Province? Is it the District Magistrate, the District Superintendent of Police, the Inspector-General of Police and the Chief Commissioner of the five Districts; or is it the Viceroy—as a matter of fact?

*Sir Samuel Hoare:* I am afraid, even from the point of view of matter of fact, you do not entirely remove my doubts.

*Sir Abdul Qaiyum*: I am a layman and not a constitutionalist, so perhaps my reply will be more satisfactory! I understood that you thought that under the present conditions, as far as defence was concerned, the civil administration and the military work were together under one person at one and the same time. That is not the case. The command of the Army and troops lie in a separate person. The ordinary working of the administration is through the Chief Commissioner. Whenever any ordinary requisition arises for the employment of a police force, even including the Frontier Constabulary, it is the Chief Commissioner who is approached by the Superintendent or by the Deputy Commissioner, or whoever it is, and he decides about the employment of that force in larger numbers, if it is not an ordinary case. When anything extraordinary happens, requiring the use of troops, in that case higher authority is required, and that higher authority must rest with the Viceroy. That is the simple proposition as I understand it. If you allow a local officer—a district officer—to requisition troops or to employ any extraordinary machinery, you will be repeating the Peshawar case of the 23rd April. The City Magistrate says: "I can control the situation," and the District Officer says: "I must import armoured cars into your crowded city." That is idea. You must decide for yourself, but if you allow the local official to manage these things under the direction of the Chief Commissioner, it still exists; it will exist whether there is a minister over it or whether there is not a minister. Do we understand that a raiding party has arrived in the neighbourhood and is raiding a certain village, and the inspector of police hears about it, and that he will say, "Wait until I have approached the Chief Commissioner, and until he has consulted the Council, and until the Council has decided whether it is to be intercepted or not"? That actual authority of using that force will rest with the immediate officer under the direct control of the Chief Commissioner.

*Mr. Mody*: May I ask a question? The Government of India dealt with the whole position briefly, and, as has just been said by Sir Abdul, sympathetically also. I understood Sir Abdul Qaiyum to say that he personally had not much objection to the recommendations of the Government of India, but that he would like those recommendations to be altered to suit his own particular ideas. I think it would be convenient if Sir Abdul Qaiyum would let us have a note of the particulars in which he would like the Government of India recommendations altered. If he does not want to answer, now, he might perhaps let us have a note later. I realise that the Simon Commission Report has gone by the board, but the Government of India Despatch holds the field, or we would much appreciate Sir Abdul Qaiyum's criticisms of the Despatch; but may we take it generally that the Despatch represents the opinion of the North-West Frontier Province?

*Sir Abdul Qaiyum*: I wish I had not used that word "sympathetically," because that was only personal emotion. I was

realising the difficulties of the official machine, and how difficult it is to move it, and I appreciated it in that sense. There are many points in the Government of India Despatch which I should like to discuss when we go into details. I am not prepared to accept the Government of India's figures with respect to numbers and special powers and various details, but I am glad that one thing is there, and that is my charter now—that the position in that Province has been realised by the Government of India, and that they really believe that a discontented Province will be a loss and that a contented Province will be a gain, and that the matter has been too long delayed. Those two or three points are really most valuable to me. As regards details, if you raise any of your points and put them into the form of questions, I shall be prepared to answer them. If you would prefer that I should touch those details in a small written note I will do so, and lay it before you.

*Mr. Mody:* Take one of the central features of their recommendations—namely, the composition of the Executive, one official minister and one non-official minister. Are you agreeable to that constitution?

*Sir Abdul Qaiyum:* If you will drop the word constitution I shall be agreeable. I do not want any distinction to be made in the constitution. I should like the Province to be treated exactly as one unit of India.

*Lord Reading:* The difficulty that occurs to me in listening to you, as I often have done in the past—and I know your great value on these subjects—is touched upon there. You say you want the constitution—or, if you do not like that word, the government—to be just as that of the other Provinces, and you really want that in the main to get rid of what you called the stigma of inferiority.

*Sir Abdul Qaiyum:* Yes.

*Lord Reading:* You want to be put in the same position as the rest of India, and as they are going to get these great powers you want to have the same, and it has been a burning question for a long time. Now, the position is, from the point of view of the Government of India—only to deal with that—that they recognise that the time has come when there must be a considerable advance, and so far for the moment I will assume that that is right. The difficulty arises here. It is not a question of inferiority. The difficulty in giving exactly the same powers in the North-West Frontier Province as in the other Provinces is because of the geographical position of the North-West Frontier Province and because of the very special conditions which apply to the North-West Frontier Province, with all the difficulties that exist, as we know, with frontier raids, and so forth; so, as it seems to me—I am only expressing my own view; I think it is the view of the Government of India, too, and of everybody who has reported on it; it is very striking that all the reports that I have read take the same view—the Bray Committee, which I appointed, then later the Statutory Commission of Sir John Simon, the Indian Central

Committee, and later the Government of India Report, including the Chief Commissioner's Report—everybody is agreed, and I think you are (you must be from your unique experience there) that the North-West Frontier Province is a very special Province; you cannot apply general laws to the North-West Frontier Province as you would to other Provinces, and what I suggest to the Committee is that our problem is to try to find how we are to give effect to the very natural desire of the North-West Frontier Province to make an advance and to get rid of this stigma of inferiority whilst at the same time preserving the special position that must apply to the North-West Frontier Province, and which must mean that in a number of subjects, a number of considerations in which you give effect to the Provincial view in the other Provinces, in the North-West Frontier Province, you must keep them as Central subjects because you do get such an essential difference. The point was put by the question which Sir Samuel Hoare has just put, which has been puzzling me a good deal. We shall have to try to see how to deal with it. Take, for example, the police. I am not going into the different kinds of police that there are, but the police, law and order, we assume, will be transferred in the other Provinces to the Province. To transfer law and order bodily to the North-West Frontier Province seems to me an impossibility, because you would be immediately complicating and confusing conditions there, and in a place which is the very centre of danger to India, which must obviously be the most dangerous spot for India. Now, what I want to find out, and I would be glad if you would help us upon it, is how much could safely be given to the Province—that would mean to ministers, assuming that ministers are constituted—without interfering with the administration generally of the Frontier. I could understand this, for example—some difficulty arising, some local trouble, purely local, it may be between two or three men fighting over a woman or something of that kind, or over gambling. I can quite understand that the local police may be perfectly able to deal with that; but then, that is a very simple matter, and, of course, it is very often difficult to distinguish as between what is a simple and what is a complicated matter, especially on the Frontier. On the other hand, you may have the other kind of case, which you know so well, in which some difficulty arises, some of the Frontier tribesmen have acrossed over from the Frontier, crossed that imperceptible border and got into part of British India, the North-West Frontier Province, mixed there with the people, some sort of a signal given, some trouble arises; at first it may look merely a row between two or three men, but you suddenly find, very suddenly and quickly, as you know, that it is a more serious thing than that, and that it either involves a raid or some feud in which a number of persons are engaged, and which is a more serious matter than a mere local squabble. The difficulty arises in administration as to how that is to be dealt with. If, of course, the Executive power remains with the Chief Commissioner as it is at present—I am only speaking of at present—there is no difficulty. He is the agent of the Governor-General, he

has got all the powers behind him, subject to the direction of the Governor-General, and he has sub-agents; they are all under orders from the top, and so no difficulty occurs at all. It may be in some cases that it is necessary to consult the Governor-General. In most cases, as you and I know, it is not; the matter is dealt with at once, and then a Report is sent, and if it gets more troublesome, as it may do, further orders have to be sent; but in the generality of things they are dealt with under the general discretion which is vested in them to keep order. But, you see, it is very difficult to draw the line between the two, and the difficulty that is confronting me, trying to give effect to your views, is to see how you can transfer law and order in this particular Province. The difficulty is, I think, very, very great. You really cannot separate the keeping of law and order in the Province from the difficulties that arise in the trans-border, they are so mixed up, except in the very small matters to which I have made reference. Have you thought of that at all, because I think to most of us it is the puzzling matter. There are many other matters which are smaller, which we can all deal with later, but I do really think—at least it seems so to me—that this is the crux of it. Can you do it, or must you say at once, “In this Province, whatever else you may do, you make your Legislative Council and you have your ministers, but nevertheless you cannot transfer law and order”, or is it possible to transfer a portion of the law and order so that that might be dealt with by the ministry, reserving all the rest? My difficulty is to see how you can do the second.

*Sir Abdul Qaiyum*: I will try once more, if I may, confining myself to the question of law and order. If any one were to go on the spot, and see how the law and order works there, he will not find much difficulty in following my statement, but I am not sure if many people know the circumstances as they exist on the spot, and so I will put it. From time immemorial two kinds of police have been employed in that Province. One in the olden days used to be called the Border Military Police, and the present name of that police is the Frontier Constabulary. Then there is what we call locally the Black Police, a nick-name given to it because it deals with black things, crime and so on; in other words we call it the Imperial Police. They are two distinct bodies. They have got two distinct organisations and they have got two distinct commanders, separate commanders. The one is run in the form of armies—companies, battalions, squadrons—and they are commanded by a commandant, not by a superintendent of police as in the other police. The police officer has got this adjutant, his quartermaster, his various other officers, and the people who run them are called subadars, subadar-majors, and so on. They are semi-military; they are army officers. Well, those are the people who run the Frontier Constabulary, and the Civil Police, we will call it, or the Imperial Police, is under the Inspector-General of that Police, who is the head of that department under the Chief Commissioner. They have got the organisation of superintendents

of police, assistant superintendents of police, deputy superintendents of police, and so on. Their jurisdiction is quite different. Their limit of jurisdiction is very much defined. Their territorial jurisdiction is also very well defined. The border-police is posted on the border line inside the boundary, in what are called Constabulary posts, and their function is confined to checking raids and pursuing raiders on their return, to check them from entering into British territory and to pursue them when they have been there. They are all linked by telephones and things, and they are patrolling the uninhabited parts of those territories on the border line. That is the Constabulary mentioned by the Government of India and the Chief Commissioner in their Report. They realise the difference. As far as the other police is concerned, it is a poor little thing—half a dozen men posted in one police station for investigation purposes. They are neither able to intercept raiders nor even to defend themselves in their little post if attacked by those raiders; they have simply to shut themselves up in their police station, even if they happen to be near a city, and there is a very fine couplet in Pushto, “Look at the tor policeman. His first duty is to defend his own person.”

The poor fellow is very good after the occurrence has taken place and he can go with his handcuffs and put them on, but it may be said, “No, your father was connected with this murder and your mother was connected with this murder.” It is very fine to tease people in this way!

The functions are quite different. I shall not oppose it at all if the Frontier Constabulary are to be left under the charge of the Chief Commissioner as a reserved subject. That Constabulary fulfils certain duties. Side by side with them, sometimes at a distance of 50 to 100 yards, there is another line of posts held by the Frontier Militias belonging to the Agencies. There is an imaginary line between, and on one side of that line there are the posts of the Constabulary and on the other side the posts of the Tribal Militia. The jurisdiction is quite separate, and that will remain permanently under the Political Agent. This Frontier Constabulary will remain under the Chief Commissioner as a reserved subject. This Constabulary has no right to interfere in the investigation of crime; it is simply for defence purposes. That is quite clear and that is the distinction. I do not think that the investigation side must necessarily come as a reserved subject under the Chief Commissioner.

*Sir Samuel Hoare*: What sort of numbers do they consist of? There are about 6,000 Police in the North-West Frontier Province?

*Sir Abdul Qaiyum*: Yes.

*Sir Samuel Hoare*: What sort of number would there be of these poor little black police?

*Sir Abdul Qaiyum*: If for the sake of decoration you are going to supply a guard of honour for every Assistant Commissioner and



local man, to decorate his bungalow, you will require a larger number.

*Sir Samuel Hoare*: Yes, but how many are there now? I wondered what was the proportion and what were the numbers.

*Professor Coatman*: 6,000 Civil Police and 4,000 Constabulary.

*Sir Samuel Hoare*: It is a big force.

*Sir M. Shafi*: The 6,000 includes 4,000 frontier constabulary.

*Professor Coatman*: There are 2,000 police in Peshawar alone.

*Sir Samuel Hoare*: I understood the 6,000 did not include the 4,000. There are 4,000 Imperial Police altogether in the Province?

*Professor Coatman*: There are between 5,000 and 6,000 Imperial Police, and there are 4,000 Constabulary.

*Sir Abdul Qaiyum*: It looks fairly large, and I admit that, as mentioned in certain papers which have been supplied to us, proportionately the number of Imperial Police is larger than in the Punjab, but I can give you an idea why these numbers swell. There was some trouble in Kohat, in the Cantonments, and instead of the Army protecting themselves, a requisition was sent up to the Government of India—Sir Denys Bray was there—asking for additional police to guard the Cantonments. Do you put that on us? Take them away or add them to the Frontier Constabulary and get contingents of the Frontier Constabulary to guard you. My object is simply confined to the investigating police, called the people thana.

*Raja Sher Muhammad Khan*: The local police.

*Sir Abdul Qaiyum*: God knows how many are guarding the Peshawar cantonments! If you go there you will see big posts all over the place which are held by the police. I do not mind them being there, but let them be added to the Frontier Constabulary and do their guard duty like that, the investigation side being dealt with in another way.

*Sir B. N. Mitra*: The position is to some extent explained in the letter from the Chief Commissioner which appears in the Blue Book which we have. In recent years I think we have named this Frontier Constabulary "Frontier Watch and Ward Police," and they exist not only on the North-West Frontier but also on the North East and on the Siam Frontier, and also on the Burma Frontier. Even in Burma they are considered to be a Central subject and not a Provincial subject, and if the North-West Frontier Province is to receive a constitution on the lines which Sir Abdul Qaiyum wants, this Frontier Watch and Ward Police will still remain a Central subject to be administered by the Governor in his capacity as Chief Commissioner under the orders of the Governor-General. Even in this document there is no proposal to make the Police a reserved subject, once Frontier Watch and Ward has become a Central subject.

The position may have become a little confused because I do not think Sir Abdul Qaiyum made it clear that he wants Provincial autonomy of the type described only for the five settled districts.

*Lord Reading*: That does not answer the point. I quite realise from what Sir Abdul Qaiyum has said and from all the documents, that he only asks for this for the five settled districts, but that does not answer the difficulty that confronts us as to how you are going to work in those five administered districts with those complications in regard to police. On page 334 of the document to which Sir B. N. Mitra has referred, there is one paragraph on the classification of subjects which is worth reading. It says "With the devolution of authority to the Provincial Government there should be a classification of subjects into Central and Provincial, following broadly the lines of the classification in other Provinces. There will, however, be certain subjects peculiar to the North-West Frontier Province, chiefly relating to the tribal areas and the defence of India; for instance, the Frontier Constabulary, Scouts, Frontier remissions and allowances".

*Sir Abdul Qaiyum*: "Scouts" is not quite clear.

*Lord Reading*: "Strategic roads, the extra police and other forces necessitated by the geographical situation of the Province, etc., which would be classified as Central subjects, and would not come within the purview of the local Legislative Council." That sums up at any rate what seems to me to be the real difficulty in the matter.

*Sir M. Shafi*: Mr. Chairman, I should like, with your permission, to supplement the statement which has been made by my friend Sir Abdul Qaiyum; and during the course of this supplementary statement I propose to deal with the difficulty which is troubling Lord Reading.

Lord Reading spoke of the geographical position of the North-West Frontier Province. For the purposes of my statement, I want to speak of the geographical position of what are called the Agency Tracts in relation to the five settled districts of the North-West Frontier Province. I want to mention here that I have taken, very naturally, a great deal of interest in the position which exists in the North-West Frontier Province throughout my public life. The North-West Frontier Province, including the affairs of the Agencies, was originally under the Punjab Government, until the time of Lord Curzon. Sir William Mackworth Young was the Lieutenant-Governor of the Punjab at that period. Lord Curzon, for whom the partition of Provinces seems to have had some attraction, partitioned in the East Bengal and in the West the Punjab. The Bengalis did not take that partition lying down, and because their agitation was persistent and continued over a long period, they ultimately succeeded in getting that partition cancelled. The Punjab, on the other hand, took that partition lying down.

Well, if at that time Lord Curzon had done this in view of the situation on the Frontier, if he had taken over the Agency Tracts and the affairs relating to the Agency Tracts under the direct control of the Government of India, and left the five settled districts with the Punjab, those five districts would have enjoyed first of all the Morley-Minto Reforms and then the Montagu-Chelmsford Reforms, and they would now be given the same Reforms as are going to be given to the other Provinces of India. That is so self-evident, that one need not say anything about it.

I used to take an interest in the North-West Frontier Province then, and I continued my interest after the separation, just as I took an interest in other Indian affairs. I was on the Punjab Council and then on the Imperial Council, many times. The fact to which I invite your attention in particular is this, that when the Bray Committee was appointed to investigate the position and if possible to satisfy the demand of the people of the North-West Frontier Province for the introduction of the Reforms, I was a member of the Government of India myself at that time, when Lord Reading appointed the Committee. I was a member of the Government of India when that Committee submitted their Report, and of course their Report came under the consideration of the Government of India.

One thing more. When the Government thought of building a certain road and a certain big scheme was in contemplation, though I am not at liberty to go into the details of that affair this much is well known. Lord Reading's Government deputed Sir William Vincent and myself to go to the North-West Frontier Province and visit Waziristan and all the districts there. We went from North to South over the whole of the North-West Frontier Province and examined both non-official and official witnesses. The officials were civil officers, political officers and military officers. We visited the heart of Waziristan and went almost up to the Durand Line, and we went as far down as Wana in the South-West, and we saw things with our own eyes and examined critically and minutely into the position as it existed in these Agency Tracts and in what is called No Man's Land, as Dr. Moonje characterised it.

I do not want to go into the question of whether the policy adopted by the Government of India with regard to this No Man's Land is sound or unsound.

*Sir Abdul Qaiyum*: Or if there is a policy at all! There is no policy.

*Sir M. Shafi*: I have my own opinion as regards that policy, and I have expressed it elsewhere. At first I did so confidentially, but now my opinion is public property. I will mention one fact which may be of some interest to you, because I am not betraying any official secrets here. So far as the feelings of the resident officials on the North-West Frontier, actually stationed inside the heart of Waziristan, are concerned, we were at lunch in a certain cantonment, and an English military officer quietly

whispered into my ear "For the Lord's sake take us out of this hell". That is the feeling amongst the British regimental officers in those Tracts. I do not wish to dwell further on it.

The geographical position is this. There is a range of hills running from North to South along the Western Frontier. On the far side are the Agency Tracts; on this side, in the plains, are the five settled districts of the North-West Frontier Province. If Lord Curzon had taken over the affairs connected with those Agency Tracts, things would not have been what they are to-day; probably the heavy military expenditure under which India is groaning at present would have been much less. But he decided otherwise, and he mixed up the settled districts of the North-West Frontier Province with the Agencies. It is this mixing up of areas which has resulted in all sorts of troubles since that period, continuous troubles which the Government of India has had to face. However, as Sir Abdul Qaiyum has told you, Lord Curzon left out of the plan which he adopted for partition certain portions of what is really the North-West Frontier Province. These he left with the Punjab, though really no distinction can be made between those portions and the five settled districts.

*Sir Abdul Qaiyum*: That is the point.

*Sir M. Shafi*: Those portions are actually enjoying the present Reforms, along with the rest of the Punjab. Why then, should any distinction be made between these five districts and the Punjab or those parts of the Frontier which are still regarded as portions of the Province of the Punjab? There does not seem to be any reason for such a distinction.

The dissatisfaction in the North-West Frontier Province is so deep and so widespread that I have no hesitation in saying that the troubles which the Government of India have had to face—and I say this with all the consciousness or responsibility which must rest on the shoulders of a man like myself, who has filled responsible positions—and all the trouble which last year and this year the Government had had to face, are due to that very deep-rooted dissatisfaction amongst the people of the North-West Frontier Province. But for that dissatisfaction, the people who are interested in stirring up trouble would never have succeeded in those five districts or round about Peshawar as they actually did. If you will remove that dissatisfaction you will find the position will change.

Coming now to the point that troubles Lord Reading, as has been pointed out there is the military force spread over all these hill tracts and so on, and holding posts. I have seen those posts with my own eyes; there are posts on the top of hills containing a few men, whose life is miserable. Here and there there are cantonments. At Larkhwa there was a full brigade at the time I visited it, and in other places there may be a regiment or half a regiment living in barbed wire camps and not allowed to leave them before 9 in the morning or after 5 in the evening, and not

allowed to visit even the adjoining villages without the special permission of the commanding officer; in fact, undergoing simple imprisonment behind their barbed wire. That is the position of the poor people who are posted there. No doubt as a *quid pro quo* for these hard conditions they are given a Frontier allowance, which means more and more burdens on the taxpayers in India, but their position is pitiable; of that there is no doubt.

Well, there is that military force, and then there is the Frontier Constabulary force. When I went there that enthusiast Major Handyside was in command of the Frontier military force, and he told me that if the Government were to raise the number of Frontier Constabulary and build a road from North to South parallel to the hills and just a little distance from them, a road on which motor traffic could run, and build Constabulary posts at distances of two or three or four miles apart, connected by telephone—I forget the exact figure he gave me, but I can inform the sub-Committee later—he said he would guarantee the defence of the Frontier of India against any raids by Mahsuds or people from Waziristan. He said that all the heavy expenditure Government now incurred on the Frontier would become unnecessary. There is that Constabulary force, and it will interest you to know that this policy which he recommended, and which is called the Closed Border system, is in actual operation from Peshawar towards the North, but not from Peshawar to the South, towards Waziristan.

*Sir B. N. Mitra*: I do not want to interrupt, Sir Muhammad, but things have changed entirely in the last five years since you left. Practically all that has come into operation towards Waziristan since you left.

*Sir M. Shafi*: I am glad to hear that. There is that Constabulary force, and there is the ordinary civil police, as Lord Zetland characterised it. Incidentally, I think that if we keep to those names of Constabulary Force and Civil Police it will facilitate our discussion.

No doubt occasionally there may be raids from the trans-frontier people into the country. How to meet those raids is the duty of the Frontier Constabulary, assisted by the local police if necessary. The civil police's proper functions are to maintain law and order within their jurisdiction, and to investigate crime. That is a different force by itself. What I think my friend contemplates is this—that this civil police, which in normal conditions maintains law and order within its jurisdiction, and investigates crime, might be the charge either of the Viceroy or of the Chief Commissioner in the new conditions which he contemplates should be brought into existence in the Province, but that the Frontier Constabulary might be treated; as the military police on the Assam border is treated, as a Central subject, and should be under the control of the Chief Commissioner and the Government of India direct. That, I think, is a very fair solution which ought to be adopted for the North-West Frontier Province, so far as law and order is concerned.

*Sir Samuel Hoare*: There was one question I wanted to ask. Sir Abdul Qaiyum seemed to me to make out an overwhelming case against the existing Frontier, with tribes divided between one district and another. Do you contemplate, under any possible new system, any re-arrangement of the Frontier?

*Sir Muhammad Shafi*: No I do not. I think it would be an unnecessary disturbance of the existing conditions. That is the reason why I think such a redistribution is inadvisable. These tracts have actually been part of the Punjab ever since the partition. They have already enjoyed the reforms. They have gone through the training of the Montagu-Chelmsford Reforms. They have been living under those conditions continuously during all that period, and it is not necessary, for the purposes of giving reforms to the North-West Frontier Province, that there should be any such redistribution.

*Sir Samuel Hoare*: You agree generally with that, do you, Sir Abdul?

*Sir Abdul Qaiyum*: I will not alter the statement which I have already made to the Bray Commission. If I am deprived of any rights as the result of separation, I would rather give up this dream of a separate Province in order to save my civil rights. But if I am not deprived of any rights I prefer to have the present arrangement remain.

*Dr. Moonje*: I do not quite follow that.

*Sir Muhammad Shafi*: In a few words, he said he would like to have them back.

*Dr. Moonje*: Which back?

*A Member*: He would like to go back to the Punjab.

*Sir Abdul Qaiyum*: I put it in this way. Certain arrangements were made by Lord Curzon. I do not think they have borne any good results. At least in one case where the people concerned were very powerful it ended a settled fact—Eastern Bengal and Bengal. Where the people happened to be poor, and who loved peace and tranquillity, they suffered on account of this separation. I do not mind telling you that we had all sorts of hopes. We thought we were going to be linked direct with the fountain head of all blessings.

*Lord Reading*: Is it really for this sub-Committee to discuss this question? It seems to me to involve very big questions, if we are going into it, as to what the policy should be with regard to the Frontier. It hardly seems to touch the question which we are considering—which is, what is to be done with the North-West Frontier Province as it stands?

*Sir Abdul Qaiyum*: Quite so. I will not go into these details. I will simply say that if Waziristan, surrounded by turbulent tribes and being more feudal than ourselves, can enjoy without any great hindrance full fledged reform along with the Punjab, surely

we can do it. If it fails in the course of time the fault will not lie with us. If we are considered fit to run the Frontier Crimes Regulation and impose sentences of fourteen years' imprisonment, where the police and the magistracy have failed to trace the guilt or innocence of a person, surely we can be trusted with the construction of a road here and there. Even if you still insist that we shall have a little patience and not devour things which might be indigestible, I will not say a word about it on behalf of any people whom I represent. Provided the constitution is the same, I would not have any serious objection to the first Council exercising certain restricted powers and the Second Council exercising more, until we reach, in the ordinary course of, say, four, five, six or ten years —————

*Mr. Mody*: In other words, lay down the same constitution for the North-West Frontier Province as for the rest of India, but with the proviso that for the first ten years a slightly different constitution may have to be imposed upon them.

*Sir Abdul Qaiyum*: You need not take my last figure of ten years. I also said four, five or six.

*Sir Bhupendra Nath Mitra*: The tribes adjoining Waziristan, to whom you referred, are also politically administered by Agencies of the North-West Frontier and by Agencies of the Punjab.

*Sir Muhammad Shafi*: They will continue to be under the Government of India.

*Sir Abdul Qaiyum*: Though I should like them to be civilised a bit.

*Raja Sher Muhammad Khan*: It seems to me that we have gone far away from the question which Sir Samuel Hoare and Lord Reading put, namely, that if law and order is transferred to a minister in the new constitution what will happen then? They think it would confuse the question of constabulary and local police and the Army. That is the question we have to solve. I think it would be solved by co-operation between the Army and the Constabulary and the Police. I was at Bannu in 1917 when there were many raids from across the Frontier, and what happened then was that the police District Officer wrote to the military Commander saying that he wanted one or two companies. The Army, Constabulary and Local Police worked together very well. If law and order is transferred to a Minister, and if he works in co-operation with the Army and the Constabulary, which will be under a Governor, I do not think it will confuse the question.

*Lord Zetland*: If I may say so, I think the air has been very much cleared by this discussion. My difficulty also was the control of the Police, but I understand now that the control of the Constabulary and the Militia will remain under the Chief Commissioner as the Agent of the Governor-General.

*Sir Abdul Qaiyum*: Yes.

*Lord Zetland:* So that they will not in any sense come under a Reform Legislative Assembly in the North-West Frontier Province. That leaves under the Council—that is to say, under the Minister responsible to the Council—what I have described as the Civil Police. I understand that the Civil Police is a very large body in the North-West Frontier Province. The figure mentioned has been 6,000 men. The only difficulty I apprehend now is this. If the North-West Frontier Province is given a constitution the same as is proposed to be given to the other Provinces, the Civil Police will come under the Provincial Budget. Obviously the cost of the Civil Police in the North-West Frontier Province will be very high, and the question I want to ask is this: supposing the Minister and the Legislative Council decide that they are not in a position (and, after all, the North-West Frontier Province is a very poor Province) to find money for the barracks, the equipment and so on of this very large Civil Police Force, what is going to happen then?

*Sir Abdul Qaiyum:* To my mind that is very simple. In the first place the circumstances will be taken as they are. I hope that the coming in of the Council will not make things worse, requiring more Police. Things will be taken as they are with respect to the numbers. These numbers will be taken on, and unless things improve they will never be reduced. Nobody will dare to reduce these numbers. As a matter of fact we hope that with the Council coming in things will improve, but if an improvement does not come about the present strength will be maintained as long as it is required. That leads to the question whether that number, which is really more or less—that is, the proportion of the Civil Police which is really in addition to the proportion in the Punjab—could be more easily treated as Constabulary, because the Constabulary at present is occasionally required to perform certain duties at cantonments, and in some places their headquarters are at the cantonments.

*Lord Zetland:* That answers my question. I understand that a proportion of the existing force of civil police—a proportion of the 6,000 Civil Police—would be handed over to the Government of India and converted into Constabulary?

*Sir Abdul Qaiyum:* Yes. That is one way, but we do not want our Budget to be cut at once. We would like to have things as they are.

*Chairman:* It is nearly ten minutes to five. I do not know how much longer you would like to continue this general talk. Would you like to continue now and finish or would you like to hear Sir Denys Bray to-morrow morning? He has had an opportunity of hearing this discussion, and no doubt he will be prepared to deal with some of the difficult points which have been raised. We shall all value his opinion upon those points.

(The sub-Committee adjourned at 4-55 p.m.)



PROCEEDINGS OF THE THIRD MEETING OF SUB-COMMITTEE No. V  
(NORTH-WEST FRONTIER PROVINCE) HELD ON 30TH DECEMBER,  
1930.

*Chairman:* It was agreed last night that our first business this morning should be to hear the statement from Sir Denys Bray. I am sure, Sir Denys, the sub-Committee will be delighted to hear what you have to say.

*Sir Denys Bray:* Sir, I am inclined to think that if I make a very brief introductory statement it will suffice. I may possibly be more helpful in endeavouring to answer questions.

Looking back on yesterday's discussion, I feel that I may perhaps be most helpful if I try to bring out in more general form one of the aspects of this problem of giving the Frontier Province provincial status with safeguards; that is to say, the All-India aspect.

Yesterday, to a listener like myself, there seemed to be a slight tendency perhaps to treat the All-India aspects as confined to, or at any rate centring in, things like raids. I should like to look at the All-India aspects as I used to do as Foreign Secretary. From that angle it is seen that affairs in the districts very often have their unexpected repercussions in the tracts. I went on the Enquiry Committee as Foreign Secretary with a very strong bias in favour of any solution which would enable the Government of India to get rid of the responsibility for the districts, and enable them to concentrate themselves on the All-India problems of the trans-border. That was my very strong bias. I hoped against hope; I hoped against all my experience, both as Frontier Officer and Foreign Secretary, that a division between these two might be possible—that it might be possible to transfer the districts back to the Punjab, leaving with the Government of India the tracts. That would have solved many difficulties, and had that solution been possible this sub-Committee would not have been sitting now. The districts would have got their reforms along with the Punjab in the ordinary way, including all branches of the administration.

We found after a very patient investigation, treating the problem as a new one, that that solution was impracticable. I believe it myself to be quite impossible. Greatly to our disappointment that conclusion was forced upon us, and our statement of reasons is given in the Report. I went over that part of the Report a couple of weeks ago, and found very little, if any, that I should now care to alter. It is rather closely reasoned, and I am inclined to think that I may possibly be helpful if I try to put the same matter in a more homely fashion now, drawing on one's day-to-day experience as a Frontier Officer. What I am going to say will of course be A, B, C to Sir Abdul Qaiyum, but it may help to bring out the more general aspects of the All-India interest in the Province.

I was once in political control of the Orakzai, who share Tirah with the Afridis. My immediate office was sub-Divisional Officer

of an ordinary Sub-Division in British India, but in addition I had, as I say, the control of the Orakzai. How was I expected to control them? It seems on the face of it an impossible task, because I had the most strict and stringent orders not to set foot in their country. They themselves, ordinarily speaking, denied me the right to enter their country. True, when relations were established, they used to give one rather embarrassing invitations to go across to shoot or whatnot, but owing to these very stringent orders which I received from above I was not allowed to accept them—orders which, I may say, I thought then very foolish, but which I myself as Foreign Secretary afterwards re-established very stringently; for the risks are too great.

However, here I was told to control the Orakzai, and told that I could not enter their country. How did one exercise such control as we did exercise? Let me mention in order to leave it on one side one obvious means of control. When they raided into our districts, as they did from time to time, our police or constabulary, or what not, pursued them and gave them such punishment as was possible. That is one obvious means of control, but that was not really the day-to-day control. In the first place I used to receive regular visits from the tribal assembly—the Jirga as we call it. No one who has had to deal with the Pathan Jirga can doubt the extraordinary natural capacity of the Pathan for representative and democratic institutions. In Jirga we used to discuss and deal with the various troubles that had arisen between the district and the tracts, the claims and the counter-claims, and the various measures one had to take for the better preservation of the peace of the district and the better reinforcement of the rights, such as they were, of the tribes. I was reminded of this part by what Sir Abdul Qaiyum said yesterday on the necessity for the penetration of civilisation into the Frontier tracts. We have not done half as much as one would like to have done, but we have done a good deal—for instance, by encouraging the Maliks to send their lads to our schools. We used to encourage, if encouragement was really needed, the tribes to send their sick and wounded into our hospitals. The civilising work of our hospitals—government, private and missionary—on the Frontier has been tremendous. One used to do what one could to uphold the rights of the tribes in the district, such as grazing rights or the cutting of dwarf palms, and so forth. In those days the Sub-Divisional Officer was an autocrat, and he was able to ensure that the hospitals and the schools took in the sick and the trans-frontier boys.

Under the new regime, with a Minister, I can understand that difficulties may arise, but I should like to use that very valuable word which Sir Abdul Qaiyum used, and say that I cannot believe that insurmountable difficulties will arise. Supposing Sir Abdul himself were the Minister, or a man like him: I find it difficult to believe that difficulties would arise, because such a man would appreciate quite as well as any officer of the day—probably better—the inter-relations between the trans-border man and his cousin in

the district, and the repercussions of actions taken in the district in the tracts. But I do anticipate that difficulties might arise—I think they would arise—if the Minister were one of those men whom Sir Abdul described yesterday as the far more clever intelligensia. It struck us very much on our Commission how the further one went from the Frontier the less the appreciation of the real Frontier difficulties. We had Pathans before us who had been brought up in the towns, and their appreciation of the relations between districts and tracts, and Frontier difficulties generally, was very different from that given us, for instance, by our first witness Sir Abdul Qaiyum.

These considerations do suggest to me how desirable it will be to secure that the All-India interests, such as I have attempted to sketch, are safeguarded by power lying with the Head of the Province effectively to control action from time to time as necessity arises in cases where, in his opinion, All-India interests are being endangered or being critically impaired. It would be, for instance, a grim thing if the future Minister for Education were suddenly to say "The pressure on our own schools is so great that we cannot find any room for these trans-border fellows". Similarly with our hospitals. We have just built a magnificent hospital in Peshawar. The Government of India were induced gradually and under great pressure to make an adequate subvention towards it, and the argument I had to use the whole time was that this hospital is serving All-India interests. We want it to be open to the trans-frontier men. There is no greater civilising influence than a good hospital. Its influence will extend far beyond Peshawar into the trans-frontier and beyond into Afghanistan.

What I am trying to suggest is this. All-India has great interest in the Frontier Province. It is right therefore that All-India should foot a very large part of the Frontier Province bill. It is doing it now. It will have to do it under whatever regime is set up. A very large portion of the expenditure on the Frontier (I am not referring now to the trans-frontier expenditure)—a very large expenditure in the districts will have to be provided by the Government of India for the safe-guarding of All-India interests. It is right therefore, as they will have to pay, that they should also have a say in the day-to-day affairs of the Province. Not that I want to suggest for a moment that they should be interfering at every turn. I want to suggest that it is very difficult to see how All-India interests can be adequately safeguarded unless there is a reserve power somewhere to insist on action being so taken that All-India interests are safeguarded.

I have endeavoured, with these homely illustrations, to show the inseparability, as I call it, between the districts and the tracts.

*(Sir Denys Bray then proceeded to illustrate the constant reactions of district and tribal affairs on India's external relations.)*

*Chairman:* Thank you. Now, Sir Denys has said that he would be prepared to answer questions.

*Dr. Moonje:* I understand you to say, Sir Denys, that in view of the defence problems for which the British Government is responsible at the present moment you think that there is no insurmountable difficulty in the Frontier Province.

*Sir Denys Bray:* No insurmountable difficulties.

*Dr. Moonje:* You think it would be possible to distinguish expenditure in the Province required for the day-to-day administration from expenditure on what are called All-India interests?

*Sir Denys Bray:* I am not sure whether I have followed your question properly.

*Dr. Moonje:* I will explain it. Do you think it will be possible to differentiate in the expenditure one part of the expenditure which would be regarded as all-India expenses for all-India interests, and another part of the expenditure which would be regarded as the day-to-day administration of the Province?

*Sir Denys Bray:* Well, of course, quite clearly one can make the distinction at once between expenditure incurred in the tracts or over the tracts solely, and expenditure in the districts. When you come to the districts, of course, a certain amount of paper adjustment has to be made. Take, for instance, the Chief Commissioner. The Chief Commissioner—one might say that two-thirds of his salary ought to be debited to the tracts and one-third to the districts, and so on. If you understand what I am driving at, you can make at once one division, but having made that division and having got down to the districts themselves, you will then be left with a sum which can only be adjusted on paper.

*Dr. Moonje:* No, no; my point is that by granting reforms naturally the day-to-day expenditure in the Province will be increased. Do you think that even in that increase, all India will require to make some subvention, or to take part in it?

*Sir Denys Bray:* I find it very difficult. One starts off at once with the certainty that, however you may divide your expenditure, all India will have to contribute a very great deal still.

*Dr. Moonje:* My point was whether, as regards the day-to-day administration in the Province, the whole of India will also have to contribute to that?

*Sir Denys Bray:* Well, the figures are before you. You will understand them. I confess I do not; I mean, I am not a financier of any sort or description. But, speaking broadly, I am well aware from bitter experiences that the expenditure on the Frontier is so high that, distribute the charges as you may, all India must expect to foot a large portion of the bill in a Province where she has interests in a manner as she has not got interests in any other Province.

*Lord Reading:* And in which the deficit must be larger when you have made a Province of it with its own Executive and Legis-

tive Council. I mean, the amount of it is perhaps not easy to state at the moment, but what I really wanted to point out, following, if I may, what Dr. Moonje was putting, which seemed to me very pertinent, was this. You have got an expenditure at the present moment in which roughly speaking—I am just taking the figures as we have seen them at some time—the Central Government would contribute 111 lakhs for the purpose of the administrative areas, leaving out altogether the trans-border. Well, that is based on calculations of present conditions. The new conditions which would supervene, if we gave effect to the desire of the Province, must necessarily entail some further expenditure which would be chargeable to the Province for the mere domestic carrying on of the provincial government; I mean, it all carries expense with it. Well, what I wanted to point out was, it follows from that, does it not, that if 111 lakhs would be required at present, when you have got your change into a provincial administration there would be something more required. I am not asking you to say how much; nobody can, without a proper calculation.

*Sir Denys Bray:* That is so, Sir.

*Lord Reading:* One cannot say how much, but there must be an increase of expenditure which may not be very material, but it must be an increase.

*Sir Denys Bray:* That we accept.

*Lord Reading:* And, of course, it is an increase of expenditure which would have to be found from the Central Government, as the Province could not do it; and then, I suppose, it would follow, would it not, Sir Denys, from what you have told us, and on the assumption that you have the provincial government, that we should have to consider whether it would be necessary to impose any check upon the power of the provincial government to pass expenditure?

*Sir Denys Bray:* Yes.

*Lord Reading:* I mean for the reason—I want to be clear—that if there is a subvention from the Central Government in order to make the budget balance, to make up the deficit on the general administration when the provincial government has the power of voting grants for what I may call, for convenience only, social legislation and social administration, which naturally it would want to do—education, public health, and so forth—the expenditure will become greater?

*Sir Denys Bray:* Yes.

*Lord Reading:* And then the question is, if the amount has to be made up by the Central Government, if that was the case, of course you would want some check on it, and I suppose the answer that you might make, if I correctly apprehend what you have been saying and what has been put before us before, certainly before me in past days, would be to say, well, in that respect what the Central Government would have to do would be to

provide a certain amount of subsidy or subvention, or whatever you choose to call it, and the provincial government would have to balance its budget within that. It would get that assistance?

*Sir Denys Bray:* Yes.

*Lord Reading:* Otherwise, of course, it must control its own expenditure. If it made a greater deficit it would not get the subvention increased merely because it had voted more for social purposes. That is what I mean.

*Sir Denys Bray:* That is so.

*Dr. Moonje:* That is exactly what I meant, too.

*Sir Samuel Hoare:* To follow out what Lord Reading said, I suppose you would have your subsidy made over a term of years. Have you any opinion about that?

*Sir Denys Bray:* I personally think that a term of years would be found the most convenient all round.

*Lord Russell:* With a fixed subvention during that time?

*Sir Denys Bray:* For a term of years, yes.

*Sir A. P. Patro:* I believe that a 50 or 60 lakh subvention is being contributed now to the Amir.

*Lord Reading:* Not now. That was brought to an end by the Treaty of November, 1921, I think it was. I just want to put one or two questions. I am afraid I have to go to something later on which must prevent my attending here, and I should just like to ask Sir Denys one or two questions, therefore, only really for elucidating the argument. I wanted you, Sir Denys, if you would to direct your attention to two things only which I want to bother you about. One is the Executive power, and the other is, I want to ask you a question about this so-called Black Police. Have you come to conclusions—I am not sure that I ought to ask you what they are, but I should like to know whether you have come to conclusions yourself—with regard to the creation of an Executive? What I have in mind is, assuming that you would have a Legislative Council for the Province, and assuming again that you have two ministers—I am leaving aside altogether for the moment the question as to whether one of them should be official or otherwise—two ministers who would be entrusted with responsibility as ministers, and over them you would have the Lieutenant-Governor, or the Governor as Sir Abdul Qaiyum would call him (and I will not quarrel with him about that).....

*Sir Abdul Qaiyum:* "Lieutenant" does not sound well.

*Lord Reading:* No; it is a stigma of inferiority! Supposing you had your Governor over them, I wanted to direct your attention to a point that is very much in my mind with regard to it. Assuming all these conditions met—I need not go further into detail—are you prepared to express an opinion as to whether or not it would be possible for ministers to carry on the ordinary administration with the executive powers independent of the Governor? Do I make myself clear to you?

*Sir Denys Bray:* Yes.

*Lord Reading:* You see, you may have two different systems. One is a system in which the Governor presides over the ministers, and is really the chief of the Executive, whatever the ministers' view may be; that is one possibility; I am not saying it is right or wrong; the other is a system in which you have ministers who have responsibility to the Legislative Council to carry on both executive and administrative powers with a Governor over and above them with emergency powers. Those are two quite different considerations. Do I make that clear to you?

*Sir Denys Bray:* Yes.

*Lord Reading:* What I wanted to know, and I am not sure if I ought to ask you, and if you have any doubt about it do not answer.....

*Sir Denys Bray:* My difficulty is to make my answer sound right.

*Lord Reading:* I know enough of Sir Denys to say that if that is the only difficulty he will meet it.

*Sir Denys Bray:* I think myself that the Frontier is so *sui generis* that one must be prepared for a constitution which in some ways is *sui generis*. I feel very strongly—and if I may say so, I thought Sir Abdul was very impressive on the point—that one has somehow to remove the stigma of inferiority, somehow to give the Frontier Province the essentials of reforms, and especially the essential outward appearance of the reforms, and I was hoping myself that though what you are putting, Sir, would arise in vivid practical form in day-to-day work, yet actually in the appearance of the constitution the difference would not be so obvious.

*Lord Reading:* I follow what you mean, yes.

*Sir Denys Bray:* To put my answer perfectly plainly, of course I do consider that in view of the All-India interests, which are great, in view of the All-India contribution even to the parochial domestic administration, which also will be great, it is very desirable that All-India should be satisfied that there remains an ultimate power of control in the hands of some one who will be looking, not merely to the parochial aspect of things, but to the All-India interests. I would regard him not so much as an official, as the All-India representative, the trustee.

*Lord Reading:* You mean the Governor.

*Sir Denys Bray:* Yes.

*Lord Reading:* But, of course, the difficulty which occurs to me about that is this. I quite follow what is in your mind. I do not want to press it unduly at all. We may have to consider how to deal with it. As I understand, what you quite recognise and what we must all recognise, is that there are very special considerations which must apply to the North-West Frontier Province which must distinguish it from every other Province, because of its All-India aspects. I quite follow that; I quite follow that you

want to get rid of any stigma of inferiority. This is what was in my mind when I put my question to you. I have also in my mind the desire that I want to get rid of the stigma of inferiority which, according to Sir Abdul Qaiyum, is so prevalent. I want to be quite sure that, in our desire to do that, we are not taking undue risk with regard to All-India. My reason for putting the question to you about the Executive is to get your view, and I am not quite sure that I have understood it. I would like just to paraphrase it, only to see that I have got it right. I will not press it further, because it is not the kind of thing to which you can answer yes or no. I only want to get what is generally in your mind. As I follow you, you cannot give the Ministry exactly the same powers as you might be prepared to do in another Province, because of the very special conditions which apply in the North-West Frontier Province; but you should go as far in that direction as you possibly can, consistent with security in the North-West Frontier Province, and, having regard, of course, to the All-India interests. That is what I understood you to say.

*Sir Denys Bray:* Yes, Sir, that represents my point of view admirably.

*Lord Reading:* Then we can work it out; at least we have got to try to do so; it is not very easy, but we see what the position is. We have to assume, from what you tell us at any rate, that it is no good our attempting to consider the North-West Frontier Province in exactly the same terms as we would consider any other Province; it is idle for us to talk of it in that way. But what we want to do is to give the North-West Frontier Province the benefit of the reforms, whatever they may be, that are going to be instituted, in so far as we possibly can, having regard to their natural aspirations, bearing also in mind the very very important considerations affecting the All-India interest. That is the problem we have got to deal with, and I think, as far as I understand it, that what you say helps me very much.

*Chairman:* You had a second question you wished to address to Sir Denys.

*Lord Reading:* Yes, I am very much obliged. The second question I wanted to put to you is largely following out the same lines. I want to put it in order to get the benefit of your views. We had a good deal of elucidation of it yesterday from Sir Abdul Qaiyum in the course of the discussion. You were present, Sir Denys, and you heard the discussion about police?

*Sir Denys Bray:* Yes.

*Lord Reading:* I will not go through it all again, because we did discuss it at some length yesterday. What I was going to ask you is this: Do you see any practical difficulty? That is all I ask you, because we cannot settle the things here in this way. Supposing I myself came to the conclusion that although I quite realise that law and order (I am only going to use general terms) cannot be handed over generally in the North-West Frontier



Province, as could be done in another Province, because of the special conditions in the North-West Frontier, yet steps can be taken with regard to the so-called black police or the civil police, the Imperial police, within certain limitations. You know the conditions that apply there. Out of the 6,000 police that we were told there were, quite a considerable portion of those, if you wanted to separate the civil completely from the rest of the administration, with regard to the police, would have to go over to the constabulary. That is right is not it? That is what I understood we were told yesterday.

*Sir Denys Bray:* I did not follow that last point.

*Lord Reading:* I am only dealing with approximate figures and I wanted to get this right. We were told there are 6,000 so-called black police.

*Sir Denys Bray:* Yes.

*Lord Reading:* And 4,000 constabulary. What I understood from what we were told yesterday was, that if you carved out of the administration of all the police and constabulary taken together of the North-West Frontier, the police that would be applicable merely to the ordinary work of the civil police as distinguished from Frontier constabulary in any direction, you would lessen that number of 6,000, and there would have to be a transfer to the constabulary of a portion, whatever it may be, that you would require less than that 6,000 merely for the civil police. That is what I understood you to tell us.

*Chairman:* Yes, we were told that very definitely.

*Lord Reading:* That is what we were told yesterday. Knowing you, Sir Denys, I see that you are a little sceptical, not about what we were told but as to whether it was right.

*Sir Denys Bray:* Yes.

*Lord Reading:* If you have any doubt, I will not press it, except that I will put the other question. Can you answer it generally; I am not attempting to do more than get your assistance. You see what I have in my mind, speaking for myself only for the moment, is to see whether there is any portion of the police in the North-West Frontier Province that you could entrust to the Provincial administration. Really what I want to get from you is: Do you, from your experience of it, see any difficulty in handing over the police to a civil administration, or do you think that it would be desirable in the interest of security (I am speaking of course, quite generally, which is all you can do) to put all the police under one control which would not be purely a ministerial control.

*Sir Denys Bray:* It seems to be a question in which one has to weigh advantages and disadvantages. Quite clearly, from certain points of view the present arrangement is best. At present there is a certain amount of division. There is the black police under the Inspector General; there is the white police under the head of the constabulary, the Chief Commissioner remaining the co-ordinating

authority. From time to time we have thought that it might be better if there were one policeman over them both. I think co-ordination would be best served by leaving matters as they are; but that, of course is, only one of the considerations. I think you will find a very strong consideration on the other hand is the feeling which Sir Abdul Qaiyum would immediately voice that without a certain amount of handing over to the police of certain portions of law and order the Province might be very dissatisfied. Now, coming to the practical disadvantages, I have thought of this part of the case pretty carefully since yesterday's discussions, and I have also, by a happy accident, been able to discuss it with two distinguished soldiers, because I rather gathered from some of the questions that it was the soldier part of the case that was attracting interest and doubt. We all three came to the conclusion that difficulties might arise, but no difficulties really different in kind from the difficulties which will arise, let us say, in Lucknow, that the army do not come up against the black police at all except domestically. I asked both my military officers to cast their minds back; they are both distinguished Frontier officers; I asked them to apply their minds to the conditions, let us say, in Kohat, and the conditions, let us say, in Lucknow, and they could see no difference. They recognised that in Lucknow there will have to be a certain amount of give and take, and a *modus vivendi* will have to be arrived at somehow between the army and the ministers.

*Lord Reading*: I myself find that a little difficult to understand. I do not quite follow how that can be a just appreciation of the relative conditions in comparing Kohat with Lucknow.

*Sir Denys Bray*: On this subject of black police?

*Lord Reading*: Yes, I mean on that subject; that is what I am thinking of. Because, after all, in Lucknow you would not have the same conditions applying. The real problem that we are trying to solve in our minds is with regard to difficulties with the police arising out of raids, or out of some fight between one or two members of a tribe, it may be because of some blood feud even within the tribe, or it may be by one part of the tribe against another. Those are things with which you are very familiar and which you have reported to me. That sort of thing may happen in Peshawar and Kohat which will not happen in Lucknow.

*Sir Denys Bray*: At the moment I was dealing with the question simply from its military aspect.

*Lord Reading*: Yes; but I do not mind so much from that point of view, because I can see that, purely from the military side, if you leave out your Frontier constabulary, it might be treated as a military police; but supposing you leave that out altogether, and you are only dealing with an order given by an officer to the soldiers to march or fire or something of that sort, of course the line is very clearly demarcated both in the Frontier and all over India, as it is here. When you get to the police point of view, that is my difficulty in it, so far as I have difficulty. That is the

matter on which I want to clear my mind. I am thinking of matters such as I put to you just now, a series of incidents, any one of which may give rise to trouble, in which your black police may be assumed to be dealing, but require assistance straight away from the Frontier constabulary. They may require it at any moment.

*Lord Zetland:* But surely a District Magistrate in any part of India has the power to requisition troops in case of necessity.

*Lord Reading:* But really that is not the point I am on; I have said that; we need not go into that. That is the same thing, of course, all over India. I am asking you about the difficulties that you have in Kohat and Peshawar, of which we know and which we cannot get away from, which are quite different from the difficulties you have in Lucknow. I am asking you whether those considerations would make it more difficult to separate the local civil police from your Frontier constabulary; that is really what I want to get at. The calling in of the soldiers I agree, is the same everywhere.

*Sir Denys Bray:* I think I have tried to suggest my answer in my introductory remarks. So long as the Chief Commissioner can intervene at a critical moment or, to use the words of the Chief Commissioner's scheme, so long as there is secured to him adequate controlling authority, I think the difficulties will not in practice be very great. At the same time, without such controlling authority, which means in the ultimate resort a co-ordination of your forces, I think the difficulties would be great. But I certainly did not myself gather anything from Sir Abdul Qaiyum said the impression that he himself did not realise that co-ordination of that kind would be necessary.

*Sir Abdul Qaiyum:* The Chief Commissioner will be the head of both.

*Lord Reading:* It is no use arguing it for the moment, but that just raises the very difficulty.

*Sir Deivs Bray:* It does, of course.

*Lord Reading:* Of course it does; you see it at once. You see, if the minister has not the power of control except in emergency, he has not the controlling power. What we are discussing is on the basis that he has not. If he has control of both, we are agreed there is no difficulty.

*Sir Denys Bray:* The word "emergency" is of course the difficulty. On the Frontier you have got to anticipate the emergency.

*Lord Reading:* That is the whole point.

*Sir Denys Bray:* You have got to have a trained man who can realise that such and such action had better not be taken because of its trans-frontier repercussions, and so forth.

*Lord Reading:* A good deal of what I know of the Frontier I have learnt from your assistance; one of the things that I learnt

quite early in the Frontier and in everything to do with the Frontier, when the responsibility was upon me, was that you must take action. It may be that your strongest action is inaction, and that you give orders not to take a particular step, as you were just suggesting, because it may immediately inflame the Frontier. But whatever it is, you have got to be prepared to take action at once, over and over again. To come to your conclusions, there is no doubt about that, is there?

*Sir Denys Bray*: No, I accept that as true, Sir; but I would not like to be misunderstood to think that the corollary of what I have said is in my mind the impossibility of entrusting the police to the ministry.

*Lord Reading*: Yes, I think I follow. You do not think it is impossible, but there are difficulties and we have got to work out and think out how it can be done with safety.

*Chairman*: Is that all.

*Lord Reading*: That is all I want to say on that, thank you.

*Sir M. Shafi*: May I put one or two questions to Sir Denys? With regard to the first question put to you by Lord Reading, in connection with possible differentiation between the powers of the ministry in the North-West Frontier Province as compared with other Provinces, in view of the security of the Province, there are two facts: firstly, that defence will be a Central subject; secondly, that, according to the recommendations of the Simon Commission, approved by the Government of India, the Governor will have certain powers. Amongst the powers proposed by the Commission and approved of by the Government of India there are 1 and 4 to which I wish to invite your attention in particular. One is that in order to preserve the safety and tranquillity of the Province he may interfere; and the fourth is to secure the carrying out of any order received by the Provincial Government from Government of India or the Secretary of State. Bear these two special powers which are vested in the Governor in mind. Bearing those in mind, do not these special powers in the Governor provide the limitations on the powers of the ministry which you would think are necessary in the North-West Frontier Province, and carry out the object which you have in view, even from the All-India point of view?

*Sir Denys Bray*: If I have understood the question aright, I think my answer must regretfully be no. If I understand you aright, and you want me to say quite crudely that I consider that in the North-West Frontier Province the Governor should occupy the same position and have the same powers as, let me say, in Madras, I know the answer in my mind is quite clearly no. I think it would be very difficult; I think it would probably be an impossible burden to put on the Governor to preserve, to safeguard, all-India interests, which are not only those of security, by simply entrusting to the Governor powers to intervene to preserve safety and tranquillity or to carry out a particular order. I think the

whole fabric of life on the Frontier (by which I mean tracts and districts) is too interwoven to make such a clear cut division possible. I should have hoped myself that one would have found these solutions somewhat on the lines of the proposals of the Government of India, the keynote of which I quoted just now; it is believed that reliance on a nominated element in the Legislature and official assistance in the Cabinet, may secure to the Lieutenant-Governor adequate controlling authority by giving a Province a sufficiently flexible constitution, and so on. As I read the scheme, there is no suggestion that in fact the Governor should be relegated to the same position as, let us say, in Madras.

*Sir M. Shafi*: Let us just for a moment differentiate between the two considerations which you have in mind: the consideration of security and that of the All-India interests. Lord Reading's first question was directed mainly to the question of security; it is you who were thinking at the same time of the All-India interests as well. For a moment putting the second aside, the All-India point of view, and keeping only the point of view of security in mind, does not clause 1 of the powers which it is proposed to vest in the Governor adequately provide for that? Is not it intended to provide for that? The phrase used there is: Tranquillity and safety of the Province. Put aside for a moment the All-India view point.

*Sir Denys Bray*: It is extraordinarily difficult to put aside what to my mind is the all-pervading factor in the North-West Frontier Province.

*Sir M. Shafi*: But at the same time, if you have the situation in view, remember that defence will at the same time be a Central subject, and therefore the powers of the Governor under Clause 1, and the powers of the Governor-General in Council, the Central Government, in connection with defence, will be working at the same time. Therefore are these powers sufficient so far as the security point of view is concerned?

*Sir Denys Bray*: I doubt it. On that basis my mind would have to readjust itself from top to toe, and I should have to withdraw what I said about the advisability of transferring the black police, for instance. On the line that you are trying to draw me now, I would have to go over the various subjects again and say, what about health, education and so on; and when I came to the black police I think I would have to draw in my horns entirely, because putting the Governor in the position of an ordinary Governor and confining his powers to those given to a Governor elsewhere, I believe myself that the difficulties, which I recognise, over the transfer would become, to use Sir Abdul's word, almost insurmountable. I think the All-India risks would be too great.

*Sir Bhupendra Nath Mitra*: I want to pursue the same question. I will divide the subjects into two parts—firstly, the black police to which reference has been made. I shall invite attention to the

Report of sub-Committee No. 2 in regard to the statement made therein as to the powers of the Governor. I know that this provision has been dissented from by certain Indian members of that sub-Committee, but the provision is this—

“ The Governor’s power to direct that action should be taken otherwise than in accordance with the advice of the Ministers shall be restricted to the discharge of the specified duties imposed on him by the Constitution. These duties shall include the protection of minorities and the safeguarding of the safety and tranquillity of the Province.”

The question I should like to put to Sir Denys Bray in the first instance is: Will not that provision meet the requirements connected with the black police? This is quite distinct from special and emergency powers. If these powers were to be exercised by the Governor of the North-West Frontier Province, will they not meet the requirements in regard to the black police? I am not at the present moment talking of the All-India requirements.

*Sir Denys Bray:* You are visualising, are you, the Governor in the background—the Ministry carrying on and the Governor in the background, the Governor not intervening until he sees that the protection of minorities and the safeguarding of the safety and tranquillity of the Province are in danger?

*Sir Bhupendra Nath Mitra:* I am not now thinking at all of All-India requirements. I shall deal with them later.

*Sir Denys Bray:* I should have thought they were All-India requirements.

*Sir Bhupendra Nath Mitra:* We are discussing the black police, and I do not think that is an All-India requirement; but if I have to make my meaning clear I will say this: in regard to All-India requirements, in view of the subsidy which will have to be given from Central Revenue in order to maintain the day-to-day administration of this Province, it might be made clear that, because of that, the Governor should have special powers in that connection—that where he feels that All-India requirements necessitate his taking action independent of the advice of his Ministers there should be no bar to his doing that. Lord Reading separated the two points. I was confining myself at the moment to the black police, irrespective of All-India requirements. In the case of the black police will not the powers here contemplated for all Governors meet the requirements of the North-West Frontier also?

*Sir Denys Bray:* You realise that you are asking me to visualise a constitution for a Province which hitherto has been autocratically governed. This is far in advance of that put forward by the Government of India—and put forward with some rather grave remarks attached to it.

*Sir Bhupendra Nath Mitra:* I am not contemplating a constitution far in advance of that proposed by the Government of India. I am simply thinking of the methods by which the Government

of India's recommendation can be given practical effect to, and at the same time not imposing on the Province the feeling of stigma. Arising out of that, I am trying to find out whether a solution cannot be reached, firstly by giving to the Governor of this new Province the same powers as have been recommended for other Governors, and dealing specially with All-India questions.

*Sir Denys Bray:* I am very dull. I should have thought that, with regard to the Frontier Province, the protection of minorities and the safeguarding of the safety and tranquillity of the Province were All-India interests.

*Sir Bhupendra Nath Mitra:* I divide the matter into two portions, exactly as Lord Reading has done. He first referred to All-India interests, and he then referred to the question of this black Police. As regards the black Police, as I understood the position it was something like this—that black Police might be called upon to intervene in matters which later on, if not properly tackled, might lead to All-India questions. At that stage would the powers here provided be adequate for the purpose or not? It is not an emergency power. It is a power which can be exercised even if there is no emergency. In the other case, as I have said, in view of the large subsidy which the Centre has to make for the purposes of the day-to-day administration, some other safeguard might be introduced. I am referring to the safeguarding of the safety and tranquillity of the Province. I am on that now.

*Sir Denys Bray:* You will remember that the 6,000 black Police form a large portion of the subvention received from the Government of India.

*Sir Bhupendra Nath Mitra:* I quite agree.

*Sir Denys Bray:* If I may make a personal digression, I find myself in rather a curious position. For years I have been an advocate of removing from the Frontier Province the stigma of inferiority. I am a protagonist in favour of giving to the Frontier Province the essentials of the reforms, with safeguards for the better safeguarding of All-India interests. Now I am in the unfortunate position of finding myself asked to contemplate a constitution quite on the lines of an ordinary Province, if I have understood the point, although the Frontier up to now has had none at all. I had hoped that I might have been able to participate in a discussion in which one was trying to frame a constitution which will preserve as much of the essentials of reforms elsewhere, but you are asking me, "Take the constitution of Madras: cannot you carry on?"

*Sir Bhupendra Nath Mitra:* You have misunderstood me. I am simply trying to find out whether any solution is possible or not. I realise that, apart from the powers of a Governor in a Province like Madras, the Governor of the North-West Frontier Province must be given some special powers, the difference in the two cases being that in the case of a Province like the Frontier the Centre

will have to provide a recurring subsidy. Therefore the Centre is largely interested in the All-India aspects of the question. I am trying to find out whether it would not be possible to meet your requirements by giving to the Governor that power which is proposed for all Governors, and in addition giving him additional powers where he feels that this may in the end lead to an All-India complication. You talked, for example, about education of the sons of these tribes, and of providing them with hospital accommodation. I shall add to that also the more troublesome question of police intervention. I divide the matter into two parts, following Lord Reading. It is quite possible that in certain cases this Police question may not end up by becoming an All-India question. In a case of that sort it may simply affect the peace of the Province itself. In that case it seems to me there will be no difficulty in the Governor applying the powers which it is contemplated to give to all Governors. When it becomes a bigger question than that then the Governor will fall back on his special powers because of the large subsidy from Central Revenues. I confess that on certain occasions it may be difficult for him to discriminate between the two powers, and he may have to exercise the powers which have been vested in him as an Agent to the Governor-General in virtue of his receiving this large recurring subsidy.

*Lord Zetland:* Surely the real answer to all these questions which have been put to Sir Denys Bray is this—that, owing to the somewhat explosive nature of the North-West Frontier you must have a Governor who has his hand much more closely and much more constantly on the pulse of day-to-day administration than is necessary in the case of the other Provinces. In the case of the other Provinces the Governor is to be given special powers, but he is only expected to step in after the patient has developed a fever, if I may use that illustration. In the North-West Frontier Province you want to have your Governor with his hand on the pulse of the patient the whole time so that he can at once be aware if any fever is likely to develop. That, to my mind, is the distinction between the North-West Frontier Province and the other Provinces. That being so, it seems to me to be essential (and if I understood Sir Denys Bray correctly that was in his mind, too) that the Governor should be in daily touch with the administration of the Province. How that daily touch should be maintained is a matter no doubt for consideration. I would presume that the Governor would sit with his Ministers whenever they met as a Cabinet, and obviously, of course, sitting as Chairman of the Cabinet. But I do not want to go into details of that kind. All I want to stress is the point that that seems to me to be the essential difference between the North-West Frontier Province and the other Provinces—that for the present at any rate you must put your Governor in a position in which he is in daily touch with the administration.

*Sir A. P. Patro:* He should be the executive head.



*Lord Zetland*: Yes, assisted by his Ministers.

*Sir Abdul Qaiyum*: Sir Denys, I am very sorry that you should have been put to this cross-examination. You have been away from the arena for over a year now, and you have been cross-examined by your own late Chief who left India five years ago. Both of you had hesitations when you wrote your Report, and which were considered by your present Chief, and those doubts are still lingering in your minds. Under those circumstances I really sympathise with you for having exchanged certain views at certain times irrespective of the Report put before us.

I will merely ask one or two simple questions. When you were speaking of the North-West Frontier Province, and when Lord Reading was cross-examining you, the phrase "North-West Frontier Province" was used. Is there any distinction between the settled districts and the tribal area in that North-West Frontier Province, and do the troubles to which reference was made so often only exist in the tribal area or in the settled districts also; and are the repercussions of one on the other due to their close vicinity? If we take the present administration and study it a little, will not Lord Reading's questions be readily answered when we see that there is a Revenue Commissioner and a Judicial Commissioner for the settled districts, and that the two are working quite separately under the same common head, the Chief Commissioner, that the Chief Commissioner never consults the present Resident in Waziristan, Colonel Griffith, about affairs taking place in Peshawar City; all that he has to consult him about is Mahsud affairs, Waziristan and the Revenue Commissioner is consulted about matters connected with the settled districts, the two going apart, and the Chief Commissioner, when he becomes a Governor, will be running these two parts of the North-West Frontier Province under some similar system, with regular advance in the settled districts and things remaining as they are in the North-West Frontier Province. Well, if we take this into consideration, then I will just ask you whether you will change the opinion expressed by you in the Report, in which you suggested 60 per cent. elected majority in your proposed Council, working all the transferred subjects by a Minister for those transferred subjects. If in 1922, when the Montagu-Chelmsford Constitution had just started (only a year before), you were prepared within a year to recommend 60 per cent. elected majority with a Minister in charge of all the transferred subjects, do you feel any hesitation now, after what you have seen with respect to the pronounced determination of those people of the settled districts, to have a share in the advance, as to whether they should go backward? That is all, I think, Sir.

*Sir Denys Bray*: I just wished, in advance, to refresh my memory as to what the transferred subjects were going to be. Was Law and Order, or any part of Law and Order, mentioned, Sir Abdul?

*Sir Abdul Qaiyum*: Now Law and Order, because Law and Order was not a transferred subject.

*Sir Muhammad Shaft*: Even in the other Provinces it was not.

*Sir Denys Bray*: Then I have not this critical subject of Law and Order before me?

*Sir Abdul Qaiyum*: Well, let us confine ourselves to this critical question of Law and Order.

*The Chairman*: Let Sir Denys answer.

*Sir Denys Bray*: Might I remind Sir Abdul Qaiyum, whose knowledge of the Province is unrivalled, that he chose an extraordinarily bad example when he chose the Resident in Waziristan. He said that the Resident in Waziristan was never consulted by the Chief Commissioner about what was happening in the Peshawar district; but he is, just as he is consulted about what is happening in the Dera Ismail Khan and Bannu districts.

*Sir Abdul Qaiyum*: That will not injure my case.

*Sir Denys Bray*: It brings out, surely, what Sir Abdul knows far better than I do—the interlacing of affairs in the districts and the tracts.

*Sir Abdul Qaiyum*: May I remind you, Sir, that I never suggested the separation or the reversion of the five districts. I am still of the opinion that I expressed before you, that it is better to keep this Province as a separate unit.

*Sir Denys Bray*: You are putting it so far as I am concerned as I should like to put it. You visualise the Chief Commissioner running these two parts hereafter, with regular advance in the districts and matters in the trans-frontier very much as before; and that is the whole point. I myself want to see the Chief Commissioner running the two parts, with great help from the districts, and with the trans-frontier remaining more or less as it is.

*Sir Abdul Qaiyum*: Can anybody suggest anything for the Chief Commissioner with respect to extraordinary powers? I mean, can any other member, if he has any doubts that the Chief Commissioner should possess any extraordinary powers in view of the so-called extraordinary conditions prevailing in the settled districts of the North-West Frontier Province, which will not be met by the provisions just mentioned, suggest anything else?

*Chairman*: Had not you better be content with the reply Sir Denys Bray has given to you?

*Sir Abdul Qaiyum*: Yes; thank you, Sir.

*Sir Samuel Hoare*: I have got one or two questions, Sir Denys. The point I am still doubtful about is this, the point that is in doubt in all our minds, the point of Law and Order, and you, both in your Report and in what you have said to-day, emphasise the fact that frontier questions cannot be partitioned into watertight compartments, and I gather from you that your suggested solution is that the Commissioner, to be called Governor or Lieutenant-

Governor, would preside over his Council of two Ministers and would be acting in two capacities, one as agent of the Viceroy for the unsettled tracts, the other as Governor with more or less constitutional powers. A system like that seems to me to depend very much on personalities. I can quite imagine that with the High Commissioner who is there now, and Sir Abdul Qaiyum, there would be no difficulty at all; but I still have doubts in my mind how that is going to work as a permanent arrangement. It does seem to me that what has come out over and over again in our discussions is that even taking the black police you cannot dissociate the black police from the gendarmerie, you cannot dissociate the gendarmerie from the other frontier forces of various kinds, and I am afraid that, even after what you have told us this morning, I am still doubtful how that is going to work as a permanent system. Is it possible for you to give us any further information upon that subject? For instance, when you had your inquiry, I know four or five years ago, but at the same time a great deal of it is still relevant to the present position, did you have police evidence on questions of this kind?

*Sir Denys Bray*: The answer to that is No, because, as Sir Abdul has reminded us, we were not then concerned with the possibility of transferring Law and Order; but I would again remind you, Sir Samuel, that actually at the present moment the black police and the white police or gendarmerie or frontier constabulary are dissociated. One is run by the head policeman, and the other is run by the Commandant of the constabulary.

*Sir Abdul Qaiyum*: That is the point.

*Sir Samuel Hoare*: It is not my point at all, Sir Abdul. My point is that one really has the same capacity over both.

*Sir Denys Bray*: That, of course, is so; but under Sir Abdul's scheme, with the Chief Commissioner running both parts of the Province, that would remain so.

*Sir Samuel Hoare*: Yes; but how much would the Chief Commissioner, in actual practice, really be running both parts with the kind of Ministry that you and the Government of India have suggested? If he is running it from day to day, I quite admit that a great deal of my difficulty goes from my mind; but is that really possible, that he is going to run it as he is running it now?

*Sir Denys Bray*: Again it is a case of balancing considerations, and it is also a case of not over-emphasising one aspect. If one over-emphasises one aspect you get a difference in kind. I myself feel—I really have very little doubt about this particular subject—it is quite clear, for instance, that certain aspects of the black police one might remove from the category of doubt. Sir Abdul Qaiyum was saying it in his very reasonable way yesterday; he was mentioning, for instance, the investigation staff. This might conceivably help one. It might be worth while for the people on the Frontier of India to consider whether they could remove from the category of doubt other portions of the police. For instance, you

have got men in the city doing ordinary police work. You have got them out in the districts doing more armed police work. As it so happens, in the North-West Frontier Province, all the police are armed. In the other parts of India you have got armed police and you have got ordinary police, and it is quite possible that you might, if one wants to differentiate in the Black Police itself, remove another body of policemen, or remove them with any luck from what I call the trans-frontier repercussions so that one need not consider them as doubtful for your purpose. I believe myself that, provided the Chief Commissioner remains, as I say, the controlling authority, there is no real danger in handing over the Black Police to a minister, given—and this remains my proviso—the Governor as part of the Cabinet.

*Sir Samuel Hoare*: And have you thought at all how you would retain the controlling authority for the Governor? Would you do it by statute? Would you do it by instructions? How would you do it?

*Sir Denys Bray*: That leads me into areas where I should be timorous of treading. I would only, as regards this, emphasise very strongly what Sir Abdul Qaiyum has said, that you must make it sound well; you must make the constitution look well. I mean, we owe it to these people if we remember that had they remained part of the Punjab they would have had reforms like everybody else.

*Lord Lothian*: I cannot help thinking this way. If you have any measure of responsibility, even for any part of law and order, it does mean that the interests of the minister are running parallel with those of the Governor. You must not think of it as if they would be in opposition to each other. Provided it is perfectly clear that the executive head, the Governor, whenever he finds a situation which transcends merely local law and order, can say "I then have power to intervene and take control of it", it seems to me that you will have a better system of law and order, and a better way of working it, than if you maintain in the Province a situation in which the local people have no responsibility for law and order and therefore are tending to work in opposition to the administration instead of in co-operation. Would you agree with that?

*Sir Denys Bray*: Yes, I agree more or less with that.

*Sir Samuel Hoare*: I am afraid if I made an answer to that I would say "You have got to assume that organisations of this kind do not always work well," but I have got another point or two. Your report, Sir Denys, differs somewhat, no doubt owing to the date at which it was made, from the Report of the Government of India, and I want to ask you about one or two of the differences, and whether you attach importance to them. You suggest, for instance, one minister, not two, and you suggested that, if you remember, on the ground of economy. Do you still hold the view that one minister would be sufficient?

*Sir Denys Bray*: I think the Report visualised, did it not, a Member and a Minister? You see, we have got into a different region now.

*Sir Samuel Hoare*: Yes, I see. Then with the Legislature do you take the view of the Government of India that it would be possible to have direct election for the Legislature, anyhow to some extent?

*Sir Denys Bray*: I do. They have introduced it in the critical place of Peshawar, and I see no reason why elections to the District or municipality should be any easier than election to the Council.

*Sir Samuel Hoare*: How far, in actual practice—perhaps Sir Abdul can answer this if you cannot—has direct election worked in Peshawar? My only knowledge of it is the rather unfortunate instance of it mentioned in the Simon Report. What has happened since then?

*Sir Denys Bray*: Though the incident occurred when I was still Foreign Secretary, it was not grave enough to be reported to the Government of India.

*Sir Samuel Hoare*: It is a very damning instance all the same, if I may say so.

*Sir Abdul Qaiyum*: Perhaps I could add this one word on this subject. In this place one year after the visit of the Simon Commission, with no enquiry before them, this is quoted simply from some telegram that we might receive.....

*Chairman*: Yes; but you told us that yesterday!

*Sir Abdul Qaiyum*: Lord Reading has just gone, but I should like to make one point to two gentlemen who are still here. Do you think, Lord Zetland, that we shall be worse with ministers in charge of law and order than with what you have got in Bengal now and in the Punjab and in various other places, and shall we have less sense of responsibility if we shall ourselves have to suffer on that account?

*Lord Zetland*: No, Sir Abdul Qaiyum, I do not.

*Chairman*: Just a moment; we cannot have these dialogues across the table in this way, and we cannot have Sir Abdul's long statement brought out in chapters on the second occasion. I want Sir Samuel Hoare to finish his questions to Sir Denys Bray.

*Sir Samuel Hoare*: I shall not be a minute, but it was really on this point of election. I wish Sir Abdul to be satisfied about it, but the only instance that has been brought to our knowledge of direct election being tried is the instance quoted in the Simon Commission Report. Well, now, had there been subsequent elections in Peshawar to that election.

*Sir Abdul Qaiyum*: The election referred to in the Simon Report took place years afterwards, and what is the unsatisfactory part

of it? It is that good, educated, high-class barristers and pleaders were elected and not barbers and sweepers and street sellers as in other provinces.

*Lord Zetland*: To clear my own position, may I answer what Sir Abdul Qaiyum said to me? I can answer it in half a dozen sentences. My answer is: No, I do not. I am arguing in your favour. I want to see the civil police transferred, and I am quite prepared to see that done, provided the Governor is allowed to have his hand on the pulse of the administration, so that he may be in constant touch with what is going on.

*Sir Abdul Qaiyum*: I hope that will happen for the whole of India. The whole of India requires it.

*Chairman*: That is the work of another Committee, Sir Abdul.

*Sir Samuel Hoare*: Mr. Chairman, I will not press this point of the election further, but I have not had any answer to my question.

*Sir Denys Bray*: I am sorry.

*Sir Samuel Hoare*: I am not suggesting that Sir Denys could have answered it; but the only instance we have apparently is an instance of a breakdown of the election in Peshawar.

*Dr. Shaja'at Ahmad Khan*: I want to put one question.

*Chairman*: Is this a question to Sir Denys Bray?

*Dr. Shaja'at Ahmad Khan*: Yes. Do not you think the question of the transfer of police would be greatly simplified if we adopted the suggestion that the questions of recruitment, transfer and posting of police officers should be under the control of the Inspector-General of Police? If this proposal is considered and accepted by the Services sub-Committee, do you not think the question of the transfer of civil police would be greatly simplified?

*Sir Denys Bray*: It certainly would be simplified.

*Chairman*: Now have you finished, Sir Samuel?

*Sir Samuel Hoare*: I am finished, but not altogether convinced.

*Chairman*: Have you settled your problem with Sir Abdul, Lord Zetland?

*Lord Zetland*: I think so; I think I have convinced him that I am on his side.

*Chairman*: That is something gained.

*Sir B. N. Mitra*: May I ask Sir Abdul if he has any objection to Lord Zetland's proposal, which seems to me to be quite a good one, for a Province like this. That is that the Governor should preside at meetings of the Executive Council, and therefore should remain in touch with the day to day administration of the Province.

*Sir M. Shafi*: You mean the Ministry?

*Sir B. N. Mitra*: Yes, the Ministry.

*Sir Abdul Qaiyum*: Those are detailed, and I am not a constitutional lawyer.

*Sir B. N. Mitra*: I quite appreciate your point, that it will not appear in the constitution; otherwise the people will think they are being treated as inferior to people in other Provinces. But it might be dealt with in another way.

*Sir M. Shafi*: I would earnestly request the members of the Committee not to be too much influenced by hearing of incidents happening on the Frontier, and so on, I want to give you one illustration. Yesterday I mentioned that Sir William Vincent and I went on tour. When we were going from Kohat, had passed a certain point and had reached Dera Ismail Khan, news was received that a raid had been committed on the road, that a motor car following us had been stopped by the raiders, that four or five men riding in the motor were captured by the trans-border people and carried away. The inference was that the raid was really intended for Sir William Vincent and myself, two Members of Council, but having missed us, they captured those people.

*Sir Abdul Qaiyum*: Only ransom we want.

*Sir M. Shafi*: Just one moment. It is an interesting fact. That night Major Handyside left us and the police followed the raiders; but they were not able to capture the raiders. When we came back a week later, we received news that the persons who had been carried away had been restored—I suppose after payment of ransom. Now what I am going to tell you will amuse you; it opened my eyes, not then, but afterwards. Five years after this incident, when I had left the Government of India, my son Mauhmad Rafi went to Bahawalpur on a case. When he was returning from there, and was at the station where the people from Dera Ismail Khan get into the train—I forget the name of the station—two or three military officers, young fellows from the Frontier got into the same compartment where my son was. My son on arriving at Lahore mentioned this incident to me. He said they entered into conversation with each other, and, when they came to know that Rafi was my son, they laughed, and they said to him: “Do you remember that raid that took place when your father was on the Frontier, which was supposed to have been intended for him?” Rafi said: “Yes, I remember.” My son said to me: “Do you know what they said, these officers from the Frontier?” “It was all planned in order to bring home to your father the necessity of the forward movement”.

*(It was resolved that it was unnecessary to hear more expert evidence and that the Chairman should draw up a draft Report to form the basis of future discussion.)*

*(The sub-Committee rose at 1-5 p.m.)*

PROCEEDINGS OF THE FOURTH MEETING OF SUB-COMMITTEE No. V  
(NORTH-WEST FRONTIER PROVINCE) HELD ON 1ST JANUARY,  
1931.

The sub-Committee proceeded to discuss the following draft Report, paragraph by paragraph.

*Tentative Draft Report prepared to serve as a basis of discussion in sub-Committee No. V (North-West Frontier Province).*

1. Sub-Committee No. V submits the following Report subject to adjustment to the complete constitution.

2. The terms of reference to the sub-Committee are to consider " what modifications, if any, are to be made in the general provincial constitution to suit the special circumstances of the North-West Frontier Province ".

3. The sub-Committee comprises the following members—Mr. A. Henderson (Chairman); Lord Russell, Lord Reading, Lord Lothian, Lord Zetland, Sir Samuel Hoare, Maulana Muhammad Ali, Sir Shah Nawaz Bhutto, Captain Raja Sher Muhammad Khan, Dr. Moonje, Sir B. N. Mitra, Raja Narendra Nath, Mr. H. P. Mody, Sir A. P. Patro, Nawab Sir Abdul Qaiyum Khan, Sir Muhammad Shafi, Sardar Sampuran Singh, Dr. Shafa'at Ahmad Khan, Mr. C. E. Wood and Mr. Zafrullah Khan. It held meetings on the 18th and 30th December, 1930, and on the 1st January, 1931.

4. *The Need for Reform.*—The sub-Committee is unanimous in attaching urgent importance to the need for reform in the North-West Frontier Province. It recommends that the five administered districts should cease to be as they are at present a centrally administered territory under the direct control of the Government of India, and that they should be given the status of a Governor's Province, subject to such adjustment of detail as local circumstances require, and the extent of the All-India interests in the Province necessitate.

5. *The Classification of Provincial Subjects.*—The sub-Committee recommends that, as in the other Governor's Provinces, there should be a classification of provincial subjects entrusted to the charge of the provincial government. The precise discrimination of subjects between the Centre and the North-West Frontier Province will require careful investigation in detail, if necessary, by a specially constituted *ad hoc* committee. Subject to the findings of such a committee, the sub-committee contemplates that the charge of the ordinary civil police in the five administered districts excluding the frontier constabulary will pass to the provincial government of these districts, but in view in particular of the close relation of the Province with matters of defence and foreign policy the sub-Committee considers it essential that all matters of All-India importance and all matters connected with the control of the tribal tracts for instance the frontier constabulary, frontier remittances and allowances, and strategic roads (these subjects



being mentioned as examples only) should be excluded from the purview of the provincial government and classed as central subjects.

6. *The Executive*.—The sub-Committee recommends that the Executive should consist of the Governor, assisted by two ministers, of whom one should be an official. The Governor should also function as Agent to the Governor-General for the control of the tribal tracts, and the administration of central subjects peculiar to the North-West Frontier Province. With these subjects, since they will be not provincial but central subjects, the ministers will have no concern. The sub-Committee considers it essential—owing to the close inter-relation between the trans-border tracts and the settled districts and in order that All-India interests may be adequately secured—that in addition to possessing all the powers vested in the Governor of a Governor's Province, the Governor of the North-West Frontier Province should be the effective head of the Provincial administration and preside over the meetings of his own Cabinet.

7. *The Legislature*.—(i) A unicameral legislative Council. The sub-Committee recommends that there should be set up for the five administered districts a single-chamber legislative Council with power to pass legislation and vote supply in regard to all subjects that may be classed as provincial. In addition the legislature should possess the usual powers of deliberation and of interpellation.

(ii) Its size. The size of the legislature should be suited to the convenience of the constituencies. The sub-Committee contemplates a legislative council with a probable total membership, elected and nominated, of not more than 40 members.

(iii) Its composition. The sub-Committee considers that the legislature should be composed both of elected and of nominated elements. The nominated members should not exceed 49 per cent. of the whole house; and of the nominated members not more than 6 to 8 should be officials.

(iv) The franchise. The sub-Committee suggests that the franchise in the North-West Frontier Province should be examined by a special Franchise Committee with instructions to ascertain the extent of local feeling in favour of direct election. If there are difficulties in the way of a direct franchise for all constituencies, a solution might be found in a combination of the direct and indirect systems.

(v) Minority representation. Subject to such recommendations as the Minorities sub-Committee may make, this sub-Committee considers that if Muslims are given weightage in provinces where they are in a minority, the Hindus and Sikhs in the North-West Frontier Province should be given weightage in the legislature of that province. Their representation might be double the figure to which they would be entitled on a population basis.

8. *The Financial Settlement*.—The sub-Committee is satisfied from figures placed before it that on subjects which may be ex-

pected to be classed as provincial, the province will show a large financial deficit. It follows that the provincial government will require financial assistance from central revenues. The terms of the financial settlement will require very careful consideration. The sub-Committee suggests that there should be preliminary expert investigation into the allocation of expenditure between central and provincial heads to supply the basis from which the financial subvention from central (or federal) revenues may be calculated. The sub-Committee apprehends that if the subvention be open to debate annually in the central legislature, the substance of provincial autonomy in the North-West Frontier Province may be impaired. It suggests that the difficulty might be met by an agreed convention that each financial assignment should run undisturbed for a period of years.

St. James's Palace, London.

December 31st, 1930.

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#### DISCUSSION.

*The Chairman:* The draft Report has been circulated, and we will now proceed to consider it. I will assume that the members of the sub-Committee have read the Report, and so I will merely call the paragraphs, and unless some member desires to call attention to any point I shall assume that the paragraph is accepted. I think we can go straight to paragraph 4, the need for reform. Are there any remarks on paragraph 4?

Paragraph 5 deals with the classification of provincial subjects. Are there any remarks on paragraph 5?

*Sir Abdul Qaiyum:* Yes, I should like to make a few general remarks. I have read the Report very carefully and as far as my limited intelligence goes, I have studied it and tried to understand it. To me it is a great disappointment. For the first time in my life I see that I have failed to prove the position of the North-West Frontier Province with regard to its need for a proper constitution in a committee or assembly or general meeting of any kind. My disappointment is very great, more particularly because this is the last tribunal which will have to deal with this subject. If I had failed in Peshawar it would not have mattered much; if I had failed in Delhi it would have mattered perhaps less; but if I fail to prove my case at St. James's Palace my case is lost. I should therefore like, if I may, to make one last attempt to make it clear that we want equal status and equal rights of citizenship with the rest of India. That is the main thing we want. As has been repeated more than once, we want to remove this stigma of inferiority from ourselves. Nothing in this world will convince me we are inferior in any way to any other people in India, but I see that I have failed to prove that; hence my great disappointment.

We are worse off now with this Report than we were with the Report of the Simon Commission and than we at present are. Our Province is at present run despotically without any laws and regulations, but in future we shall be under a more despotic rule supported by a constitution. That is my difficulty, and I feel it very much. I honestly tell you that if it had been possible for me to take any action which would relieve me from this life-long worry and trouble I should adopt it, but, while there is a way out, it is not open to me according to my religion and my beliefs.

Only one thing would give me satisfaction, and that is if I do not get the satisfaction of having a proper constitution for the North-West Frontier Province I may at least have the opportunity of making a final attempt to show my position. We came here hoping for something better than this and hoping for something better than the local Chief Commissioner, a very conservative man, and the Government of India, less conservative but at the same time quite conservative, had recommended, and they had recommended certain things in our favour.

Here we are given a Report, paragraph 6 of which and particularly the last sentence of that paragraph, makes it entirely intolerable to accept a constitution with that power vested in the Government of the Province. The effect of that is to take back all that is given. I think I can see the object of these suggestions. A council is needed in the Province in order to relieve the Central Government from the worry of interventions, interpolations, questions and resolutions from day to day at the Centre on matters connected with the North-West Frontier. It seems to me it is with that object that a council such as this is proposed. We shall lose the right of getting some member of the Central Legislature to put a question for us at the centre. If any question is raised about the iniquities of local administration on the Frontier it will not be able to be dealt with at the Centre; it will be said that it is a local matter and had better go to the local council.

What will be that local council? It is said that there will be a bare majority of one person, of one elected member. Our people may not be very regular in their attendance and if one of them goes to the bathroom, as they call it, the majority may be lost. There are many stratagems which may be employed. Some one may ask a man to lunch purposely, and he may be lunching in an adjoining room when the vote is being taken.

But whether there is a majority or not, there will be people elected, and it may be that from among those who are elected a man will be chosen as a minister. It is not stated here that he will be an elected member; he may be a nominated member. At any rate, one man will be taken as a minister, and he will have a colleague who will be, perhaps, his own Revenue Commissioner or Judicial Commissioner, and who will therefore be controlling his mother, his father, and his family. He will have such a man as a colleague, and the two of them will be under the

Governor. The powers of the Governor will be increased; he will not be always looking with fear to the Centre, fearing to be over-ruled by the Viceroy; he will be a Governor now, and that Governor will sit in a small Cabinet with these two people. Well, I can see what the result will be.

*Chairman:* Did you not want a Governor?

*Sir Abdul Qaiyum:* Yes, but we wanted a constitutional Governor, Sir, not a despotic Governor who will control his Cabinet; I did not ask for that. I thought we should have a constitutional Governor, who would always, of course, be consulted by his ministers and would have a right to give an opinion; and when there was fear of wrong being done to minorities or fear of trans-border trouble, we are all agreed the Governor should have absolute power to deal with such matters. But this arrangement which is here proposed will be worse than dyarchy. Under dyarchy a minister was entrusted with certain subjects and, except for the money part of it, he was fairly free. It was difficult for him to get money for his subjects under the system of dyarchy, but in other respects his powers were all right. But now appointments will be a matter for the Public Services Commission, and nothing will be left with that minister except some little charcoal to blacken his face before the Council.

*Lord Reading:* Why do you say that, Sir Abdul? He will be a minister and will have charge of certain subjects, and he will be responsible to the Legislature with the rest of the Government, and of course the whole object of the Government will be to work in accordance with the views of the Legislature and not against them. That follows from the mere fact that you have a constitution.

*Sir Abdul Qaiyum:* If that is what is meant, then the powers of the Governor may be just the same as in the other Provinces. I could understand that, but here it is said that the Governor will be the effective head of the Provincial administration and will preside at the meetings of his own cabinet. No one can over-rule his own president, by whom he is appointed. It will not be the council who will appoint the ministers in this case.

I said I would not speak at any great length, and I shall not do so. You have a saying in your language about asking for bread and being given a stone, but we have got a still better proverb and it is this. A wife went to her husband to ask for some ornament for her nose, and he cut off her nose. That is what is going to happen to us.

*Lord Russell:* Why do you say he will have less power than the ministers in other Provinces?

*Sir Abdul Qaiyum:* Simply because he will be one of a cabinet of three, and will be subject to the will of his president, his Governor, who can hang him if he likes, because it is laid down here that the Governor alone shall deal with All-India matters, and anything can be interpreted as an All-India matter. The

council will have nothing to say as to what matters and what subjects shall be declared All-India, and what subjects shall be declared local. It will be just like the present Frontier Crimes Regulation; it will be worked in the same way. There is a sentence in that that where it is expedient the Deputy Commissioner may refer a case to the Council of Elders. Now, what is being done in practice about this at the present time? "Expediency" has been extended to include weakness in evidence. Where a case is weak and cannot be proved by the police by evidence, and the police and the judiciary are unable to prove the guilt of a person, he is handed over to a tribunal under that provision about expediency, although I should have thought expediency meant anything except weakness in a case, where, according to British law, the advantage goes to the accused.

*Sir M. Shafi:* If as a constitutional lawyer I may be permitted to answer Lord Russell's question, what I would say is this. A Governor acting on the advice of his Ministers is perfectly compatible with the responsibility of the Ministers to the Legislative Council, but to say that a Governor shall be assisted by Ministers, and at the same time to have a provision that the Governor shall be the effective head of the Government, is entirely inconsistent with the responsibility of the Ministers to the Legislature.

*Chairman:* Are not we beginning to discuss this report in the wrong way? I allowed Sir Abdul Qaiyum to go on, but are we to assume in his speech that the Report must not be given a second reading? I could understand it if when we got to the particular paragraph to which he has called attention he pointed out his objection, and tried to persuade this sub-Committee to alter it, but we had to put something before the sub-Committee in order to concentrate our discussions. I called para. 4; no remarks were made, and we passed on. I called para. 5, and now we get a general statement which has very little relationship, so far as I can see, to para. 5.

*Sir Samuel Hoare:* It seems really to relate to para. 6.

*Chairman:* If we are agreed about para. 5, we can pass to para. 6 and then attempt can be made to amend the draft, and the draft can be amended if that is the desire of the majority of the members of the sub-Committee.

*Sir Abdul Qaiyum:* May I just say one word to the Committee? I found this Report somewhat surprising last night. It came to me, and I must tell you that I had no sleep last night because of this. I thought that we had discussed the matter, and that this Report was going to be somewhat based, if not entirely, on the sense of the House as the result of our deliberations.

*Chairman:* And I claim that it is.

*Sir Abdul Qaiyum:* Yes, Sir; but so much importance is given to a solitary remark passed by Lord Reading in his cross-examination of Sir Denys Bray that the whole thing revolves on that

point. Neither Lord Reading nor Sir Denys Bray, with all his experience of the Frontier, has been able to trace a single subject which within the five settled districts could still be called a matter of All-India interest except that the Province itself is of All-India interest. That, I admit, that the province is of All-India interest; but the Chief Commissioner, with his scrutiny and great energy, could not find more than constabulary, frontier remissions and strategical roads. These things he could quote—constabulary, settled; frontier remissions, no objection; strategical roads—well, even the Viceroy does not attach much importance in his Report to the strategical roads. He says the supervision may be relaxed. There is the relaxation from the Viceroy about these three things. Now, what do we say in this Report?

*Lord Russell*: Hospitals and schools?

*Sir Abdul Qaiyum*: Well, they are in the trans-border area. That is what you mean. Part of the hospitals and schools are in the trans-border areas, and nobody is going to touch them. Similarly with irrigation in the trans-border; and then when it comes to the finances I shall be able to prove to you that the calculation is wrong.

*Raja Sher Muhammad Khan*: Would you take the lines that you object to in paragraph 5, Sir Abdul? Will you do it line by line?

*Chairman*: That is what I am asking for.

*Sir Abdul Qaiyum*: Yes.

*Raja Sher Muhammad Khan*: Please tell us which line you really object to.

*Sir Abdul Qaiyum*: "In detail" and "ad hoc." I know it is only for want of knowledge that I cannot follow the words "ad hoc".

*Sir Samuel Hoare*: By a Committee specially constituted for the purpose.

*Sir Abdul Qaiyum*: Well my reading would be something like this. Omit the words "in detail," so that it would read: ". . . discrimination of subjects between the Centre and the North-West Frontier Province will require careful investigation." I do not think "in detail" is necessary. Then it goes on: "if necessary, by a specially constituted committee". Those are very important words, "ad hoc committee" and "in detail". That is one omission which I request.

*Sir Samuel Hoare*: Shall we take that one first?

*Sir Abdul Qaiyum*: These are the only two omissions I require.

*Chairman*: You want to omit the words "in detail"?

*Sir Abdul Qaiyum*: "In detail" and "ad hoc." Well, that will not affect at all the object of the paragraph.

*Chairman*: Sir Samuel Hoare has explained what that means. It means a Committee set up for the specific purpose.

*Sir Samuel Hoare*: If Sir Abdul objects to "in detail" I have no view one way or the other. Omit it at once.

*Chairman*: We all agree to omit the words "in detail," and the Chairman does not agree because he thinks he has taken something from you, Sir Abdul; but if the Committee accepts it I accept it. These words were put in to show that it was the details of the thing that we are going to send to a committee, and not the principle; and if you judge the whole Report in the same way that you judge this point, I do not wonder at the speech you have delivered. However, it is agreed that the words "in detail" come out.

*Lord Reading*: If you want them out.

*Sir Abdul Qaiyum*: Thank you very much, Sir. There is the lack of constitutional knowledge which perhaps stands in my way.

*Mr. Mody*: What I feel about this particular sentence is that it leaves the door wide open for enlarging the sphere of Central subjects, and therefore, since we are all agreed that it is only in certain very special circumstances that the Provincial Cabinet and the Provincial Governor will not have the same powers as obtain in the other Provinces, I think it would be necessary to safeguard that position by making it clear that any departure from the provision which obtains in other Provinces between Central and Provincial subjects will not be made except for very special reasons.

*Sir Samuel Hoare*: I hope very much that we shall leave these words. Having met Sir Abdul over the words "in detail" and, if necessary, over the point "ad hoc," I hope we shall leave it as it is. My difficulty is this. I want to go as far as ever we can with the North-West Frontier Province, but I see the difficulties, and taking my own point of view I would find it very difficult to go further at this present stage, because there has been no detailed investigation of this kind. If there is going to be an investigation, of this kind, then I am prepared to agree to this paragraph; but I do regard this investigation of the details as quite essential for this reason. In principle I have got no objection whatever to the "black police" going over to the civil authority, but not having heard the details here I want to be satisfied that some expert committee is going to work those details out, and on that account I attach great importance to these words being left very much as they are, and to this Committee being formed. The Committee, as the Chairman has said, will not interfere with the general principle upon which we are agreed, but the committee will settle the details, without which the new constitution will not work.

*Dr. Shafa'at Ahmad Khan*: You see, the point which exercises us is this, that we may adhere to the reservation of certain subjects as central subjects, but if this is referred again to a committee the scope of those subjects may be so wide that whatever we do here

may be useless. If you empower your *ad hoc* committee to such an extent, then our fight here will have been in vain.

*Sir Samuel Hoare*: It means really that if we cannot accept a Committee of this kind I should then have to put in quite a definite reservation saying that I did not think that here we had had sufficient evidence, expert or other, to justify me giving in an opinion one way or the other.

*Lord Reading*: I cannot help thinking, if you will forgive me for saying so, that there is quite an unwarranted distrust of the findings as they are put here, with the notion that they may imply something a good deal more. I quite understand Sir Abdul Qaiyum's point about the Governor, which when we come to it we shall have to discuss. That, of course, is a definite point which he raises, on which there may be differences of opinion; but I would like to say to him myself how I read the draft. I thought that the draft had tried carefully to preserve what we had in mind, which was to say in two or three sentences that we wish to remove in every possible way, all of us, any stigma of inferiority. I thought that we were doing that, and making the reservation of the All-India subjects was what was essentially necessary, not for one second because of any notion that the inhabitants of the North-West Frontier Province are inferior in intelligence or in any way in status to those of any other province, but simply because of the geographical position of the Frontier Province, and of the difficulties which we discussed the last time, and which nobody knows better than Sir Abdul Qaiyum do recur frequently in the Province, and the consequence of that, the introduction of the All-India subjects, is to give them, if that does arise, the right in somebody to determine whether it is an All-India subject or not, and I cannot for myself conceive that you can leave that to anybody else except the Governor. You will have to do that whenever you come to questions of that kind, but you must not assume that the Governor is going to make some ruling which is unfair and unjust. I should have thought, in the other way, you would assume when you have got a constitution of this kind that the Governor could only take particular action if the subject matter really covered an All-India subject, in which case, for the benefit of all India, he has to exercise a right which he would not require to exercise in another Province, because they have not the same difficulties in another Province; and the whole essence of this, as I read it, I confess—I have not had any discussion about it, because I was not able to be present at the last part of the previous meeting—the whole point of it, as it seemed to me, was that this was carefully devised to put the North-West Frontier Province on the same footing as any other Province, subject always to the special conditions which we all agree do apply and must apply still in the five administered districts, but limiting them to All-India subjects. I am reserving the point about the Governor. I know your point very well there, and we will deal with that when it comes up; but I do think, really, that Sir Abdul is unnecessarily anxious about this point.



I read those words "in detail" in a certain way, but I certainly would not spend two minutes over them if Sir Abdul wants them out.

*Sir Muhammad Shafi*: And apart from the first words they are not very important.

*Lord Reading*: I am only just telling you how I read it; but putting in the words "in detail" was for the purpose of enabling them to consider things, but reserving the question of principle, which is settled here; but it is not worth spending a moment over, because they were introduced for you, Sir Abdul, and if you do not want them and dislike them, I am quite sure the Chairman and all of us will agree to strike them out.

*Sir Abdul Qaiyum*: Sir, but I am getting tired of these Committees. I do not like them, and I wish there could be an end to these Committees. A Bray Committee comes, and afterwards a Simon Commission comes, and then a Finance Committee, and then a Franchise Committee comes, and then a Birdwood Committee comes, and then somebody else comes; and I cannot send any messages to those people who are anxiously awaiting what is going to be their fate. They did tell me, "It is no use going there; you will come back with a half-a-dozen more committees".

*Sir Samuel Hoare*: But, Sir Abdul, you do really go back, I should have thought, with a very big thing: you go back with a Governor's Province.

*Sir Abdul Qaiyum*: I do not mind the word "Governor." It means a more despotic Governor than the Commissioner.

*Chairman*: Sir Abdul, we must keep to the point. We shall never finish if we go on at this rate. You say you cannot send any message to your people. This Committee has already passed a clause in which it says it recommends that the five administered districts should cease to be, as they are at present, a Centrally administered territory under the direct control of the Government of India, and that they should be given the status of a Governor's Province. You yourself object to our calling him a Lieutenant-Governor, and we have actually met you on that point. It seems to me that we cannot satisfy you whatever we do; and what is more you challenge the Report. The Report is based upon the discussion, and where I had not guidance from the discussion I have taken the Government of India Despatch, and on this very point that we are discussing, what does it say? "Instead of remaining a Centrally administered area under the direct control of the Governor-General in Council it is proposed to devolve authority upon the Provincial administration with a classification of subjects into central and provincial, following broadly the lines of the classification in other Provinces"; and we have made provision for that to be done, and that is all that we have done, only the language is different.

*Sir Muhammad Shafi*: I personally feel no difficulty whatever as regards the words "in detail" and "ad hoc." I have no

objection to the inclusion of these words in the paragraph. My difficulty lies in this, that you practically give express directions to this Committee with regard to what is not to be included in the list of Provincial subjects.

*Chairman*: This is your Report. This is a draft for you to discuss, and I am trying to get it right.

*Sir Muhammad Shafi*: Please do not take the word "you" to mean you personally, Sir. What I mean is that the draft Report gives an express direction to this Committee as to what matters are not to be included in the list of Provincial subjects, but does not lay down any principle such as is there in the Government of India Despatch which you were pleased to read to us just now.

*Chairman*: Then move where you want these words put in.

*Sir Muhammad Shafi*: That is why I intervened in the discussion carried on by my learned friend. I have no objection to "in detail" and "ad hoc" remaining. What I say is this, that a direction should also be incorporated here introducing those words, that the list of Provincial subjects shall, as far as possible, be on the lines of the Provincial subjects in the other Provinces.

*Lord Lothian*: At the end of line 3, you want to introduce the words you have just read?

*Sir Samuel Hoare*: Where exactly does it come?

*Chairman*: With the classification of subjects, page 76 of the Government of India Despatch, "following broadly the lines of the classification in other provinces".

*Sir Samuel Hoare*: As far as possible on the lines of the other classification.

*Dr. Shafa'at Ahmad Khan*: In the Report of the Committee the subjects are mentioned here, the constabulary, frontier remittances and allowances and strategic roads, and the Government of India Despatch says, on this point, at pages 76 and 77, where they mention, beginning at the last line of page 76, all these subjects, and they add this at line 6 on page 77: "We think it probable that on further examination these (subjects) should be classed as provincial". So the Committee should also be instructed to see that these subjects should be classed as provincial. The fact that we class them here should not completely tie the hands of the Committee and compel it to class them as central subjects.

*Lord Reading*: First of all there is an amendment that we should like to have before us which Sir Muhammad Shafi is proposing, and that would be, what? You would want to introduce what words were?

*Chairman*: "Following broadly the lines of the classification in other provinces".

*Sir Muhammad Shafi*: I would introduce those words here: "excluding the frontier constabulary, will pass to the provincial government of these districts". Then I would have a full stop.

Then I would begin the next sentence with the words of the Government of India Despatch, "Broadly speaking," and so on, and then make any reservation that you like following after that.

*Lord Reading:* You do not object to the subsequent exception which is made with regard to All-India subjects?

*Sir M. Shafi:* I have not come to that yet.

*Lord Reading:* It is important.

*Sir M. Shafi:* I quite agree. As regards that I have only some slight alteration to suggest. I would begin by saying broadly speaking that would be the principle but with the following reservations. The construction of the sentence should be like that: broadly speaking so and so but, in view of so and so the following things should be \_\_\_\_\_

*Chairman:* Where do you want to insert those words?

*Sir M. Shafi:* "government of these districts." There should be a full stop after that.

*Lord Reading:* Yes, you will get it with the exception following. That is better I think.

*Sir Samuel Hoare:* Just give us your words.

*Sir M. Shafi:* The very words of the Government of India Despatch.

*Sir Samuel Hoare:* Will some one read out the words?

*Chairman:* Following broadly the lines of the classification in other Provinces.

*Sir M. Shafi:* Yes.

*Sir Samuel Hoare:* It would have to be run rather differently.

*Sir M. Shafi:* "The list of Provincial subjects should follow broadly the line".

*Chairman:* "in other Provinces." You had better take the actual words.

*Lord Zetland:* "Subject to the findings of such a Committee, the sub-Committee contemplates that the classification will follow broadly the lines"—what is it?

*Chairman:* "The classification in other subjects."

*Lord Zetland:* And "that the charge of the ordinary civil police in the five administered districts excluding the Frontier Constabulary will pass to the Provincial Government of these districts." Then have a full stop there; and then you go on with the exception: but in view \_\_\_\_\_

*Sir M. Shafi:* Yes.

*Lord Zetland:* I think your words would come in better after the word "contemplates".

*Sir M. Shafi:* Yes, I think Lord Zetland's suggestion is better.

*Chairman:* Is there any exception taken to this?

*Sir B. N. Mitra:* But does that meet Sir Muhammad's point, because then you qualify by the words: "subject to the findings of such a Committee." As the words stand the Committee would be empowered to modify the general principle.

*Sir M. Shafi:* Yes.

*Sir B. N. Mitra:* I think that should come before that, because that will be a general direction to the Committee.

*Sir M. Shafi:* Yes, that should come before that.

*Sir B. N. Mitra:* I think it should come in at the end of paragraph 4.

*Chairman:* I think it should come in at the end of the third line.

*Lord Reading:* Should it not come in after the words "The precise discrimination of subjects between the Centre and the North-West Frontier Province will require careful investigation in detail, if necessary, by a specially constituted *ad hoc* committee."

*Sir M. Shafi:* And here the general principle should follow.

*Lord Reading:* Yes.

*Chairman:* "Following broadly the lines of the classification in other Provinces."

*Lord Reading:* Yes, that will do what you want.

*Sir M. Shafi:* That is where it should come.

*Chairman:* That these words be there inserted?

*Members:* Yes.

*Chairman:* There is no exception? Then that is agreed. Is there any other point with regard to this paragraph 5?

*Dr. Shafa'at Ahmad Khan:* Yes; I wanted to raise this point. The instance is quoted of several subjects which are regarded as being connected with Tribal tracts: "The Frontier constabulary, Frontier remittances and allowances, and strategic roads." It is taken for granted that they are matters concerned exclusively with tribal tracts. The Despatch of the Government of India at page 77, 6 lines from the top of the page, says: "We think it probable that on further examination these should be classed as Provincial." They mention the same subjects and they say that they think it probable that on further examination these should be classed as provincial subjects.

*Sir B. N. Mitra:* The first point there is: what does the word "these" refer to? As I read the paragraph "these" refers to frontier police and other forces. I do not think there can be any doubt about the first three subjects: Frontier constabulary, frontier remittances and allowances, and strategic roads. Do not they all refer to the Frontier?

*Lord Reading:* It says so clearly in the previous sentence.

*Sir Abdul Qaiyum:* That is not at all clear to me. The question is whether there are any of these things in your settled district.

My point is that the frontier militia, and tribal allowances and tribal remissions are meant here. As regards the constabulary which comes within the settled districts, that we have already agreed should remain at the Centre. Here, if it refers to the control of the tribal tracts, for instance, only the militia work in these tracts, not the constabulary. The constabulary work inside the district. There are frontier militia tribal remissions and allowances and strategic roads. If you think those apply to the settled districts too, then I cannot accept it because they do not apply here to the district. They all pertain to the tribal area and tribal tracts which will be outside the control of the administration.

*Sir A. P. Patro*: Quite so; that is what is stated here.

*Sir Samuel Hoare*: Mr. Chairman, you found it exactly, and I hope you will adhere to it. You found exactly the phrasing used by the Chief Commissioner and used in rather more general terms by the Government of India. There is no doubt whatever about the Chief Commissioner's report: frontier remittances and allowances, strategic roads, the extra police and other forces necessitated by the geographical position of the Provinces, etc. These should be classed as central subjects. It is quite clear.

*Sir Abdul Qaiyum*: It says here: "the sub-Committee considers it essential that all matters of All-India importance and all matters connected with the control of the tribal tracts for instance, the frontier constabulary, frontier remittances and allowances." "Remittances" does not mean anything.

*Sir B. N. Mitra*: That should be "remissions."

*Sir Abdul Qaiyum*: It says that tribal remission and allowances and strategic roads "should be excluded from the purview of the Provincial Government." In addition to these, which pertain to the tribal area, we have also excluded the Frontier constabulary which operates in settled districts, from the purview of the Provincial Government.

*Sir Samuel Hoare*: I should have hoped very much that we might have taken as the basis of our Report the Commissioner's recommendations supported by the Despatch of the Government of India. I found it difficult myself, being even more conservative than Sir Abdul, to go as far as that; but I have been able to bring myself up to going as far as that. But if we are to whittle that down, then I think one of two courses is quite inevitable; either we shall have a number of reservations in this Report, which I should very much regret; or, if we do not have that, we shall have to have a lot of other meetings with expert evidence and an opportunity of judging whether we should minutely make these classifications or not.

*Sir Muhammad Shafi*: I do hope it will not come to that, Sir Samuel Hoare. What I suggest is this, if I may, as a solution. Why give any instances at all? Leave it to the Committee to decide. There are these general words, that it is essential that all matters of All-India importance and all matters connected with the

control of the tribal tracts should be excluded from the purview. Leave out the intervening words. It will be for the Committee carefully to consider the whole thing.

*Sir Samuel Hoare*: Sir Muhammad, I should very much prefer to have these in. You may think I am very troublesome about this.

*Sir Muhammad Shafi*: No, I do not think that.

*Sir Samuel Hoare*: But my friends are very nervous of all these various issues connected with the Frontier Province. Not that we have not got the greatest effect for the population, but we do regard it as essentially a military area. On that account it would help me very much with my friends if we could have this in.

*Sir Muhammad Shafi*: All that I gather from my friend on my left is that Frontier remittances is an expression which really has no meaning; that "tribal remissions" should be substituted for "Frontier remittances," "and allowances" already there. He has no objection then.

*Sir Samuel Hoare*: I think it is much better to follow the wording of the Chief Commissioner.

*Lord Reading*: You know, Sir Muhammad, these words have got a meaning, and I have no doubt they must mean that. It is so much more desirable, if we can, to keep to the actual official language that is used.

*Chairman*: Would it assist the Committee if we could agree to leave the paragraph as it is, with the addition of the words on page 77 of the Government of India Despatch: "The broad point is that in making the dividing line between Central and Provincial subjects, regard would be had to the need for classifying as central certain subjects of All-India importance peculiar to the present administration of the North-West Frontier Province, which could not properly be entrusted to the Provincial Legislature?"

*Lord Reading*: I think that would do quite well.

*Chairman*: That makes it quite clear. Here are the words if you care to see them.

*Sir Abdul Qayyum*: Well, I have no objection. If the worst comes to the worst, we would rather entrust it to the Viceroy and Governor-General to specify it, instead of spending two more years over it.

*Lord Reading*: It will not take any time.

*Sir Muhammad Shafi*: You would retain the words: broadly on the lines of other Provinces?

*Chairman*: Yes, certainly; we have agreed to those words; but I wanted to see if Sir Abdul could be satisfied; I wanted to see whether, if he was not satisfied with the amended paragraph, those words would assist him.

*Dr. Shafa'at Ahmad Khan*: I would agree if you leave out these instances which are quoted here.

*Chairman* : Why should we?

*Lord Reading* : They all have their technical meaning, used in official language, and it saves you putting in a lot of qualifications.

*Dr. Shafa'at Ahmad Khan* : Then we decide it now?

*Chairman* : No, we do not; we decide them as matters which should be considered.

*Sir Muhammad Shaft* : I advise my friend the Nawab to accept the Chairman's suggestion. That, I think, is a very good solution.

*Chairman* : Then we agree to that?

*Sir B. N. Mitra* : Of course, the words "remittances" must be altered to "remissions."

*Chairman* : Yes, that is done.

*Lord Reading* : It has got in by mistake, I suppose.

*Chairman* : Now; that paragraph 5, as amended, stands?

*Sir Abdul Qaiyum* : How will it read?

*Chairman* : Just add these words at the end. I will hand them over to you to read (handing to Sir Abdul Qaiyum a copy of the Government of India's Despatch on proposals for constitutional reform, opened at page 77). It begins: "the broad point is——." It is the last sentence. That will be added to the end of this paragraph as amended, with the words that we inserted earlier.

*Sir Abdul Qaiyum* : Will that be double: These explanations and those examples?

*Chairman* : The words are on page 77, the last sentence in the first paragraph.

*Sir A. P. Patro* : It is only illustrative; it does not fix you to anything.

*Lord Reading* : That is all.

*Chairman* : The words here in brackets are not at all necessary, those subjects being mentioned.

*Sir Abdul Qaiyum* : Yes, that is rather what I wanted.

*Sir Samuel Hoare* : Then we can leave out the words in brackets.

*Sir Abdul Qaiyum* : Yes.

*Sir Samuel Hoare* : There is nothing in that; we do not object to leaving out the brackets; it is only illustration.

*Chairman* : That again was put in to assist you, Sir Abdul.

*Lord Reading* : Mr. Chairman, as you pointed out, in truth they are really redundant, because you have really got that by the words "for instance." You have done it.

*Sir Abdul Qaiyum* : We will not waste time.

*Chairman* : Very well then: paragraph 5, as amended stands part.

*Raja Narendra Nath*: Only those words are added; the rest remains.

*Chairman*: Yes, with the addition taken from the Report. Now we come to No. 6 with regard to the Executive.

*Sir Muhammad Shafi*: As regards 6, I would suggest with regard to the first sentence in this paragraph: "the sub-Committee recommends that the Executive should consist of the Governor, assisted by two ministers, of whom one should be an official," that that should be modified as follows: "the sub-Committee recommends that the Executive should consist of the Governor, acting on the advice of two ministers to be selected from among the elected members of the Legislative Council." I am entirely opposed to this suggestion of an official minister anywhere at all, in any part of India, for the reasons given by the Punjab Government in their Despatch in which they have discussed this question exhaustively, and given many cogent reasons against this institution of an official minister. It seems to me that the introduction of an official minister in any ministry anywhere in India will create difficulties which will be almost insurmountable, and will make the position of the official minister himself intolerable. It do not want to take up the time of the Committee by taking the Committee through those paragraphs dealing with this matter in the Despatch of the Punjab Government; but the reasons given by the Punjab Government seem to me to be conclusive on this question. I would therefore suggest that this proposal of an official minister should be left out here. When the Governor is head of the Government and has got powers which have been mentioned in the Report of the Simon Commission, and possibly, in regard to the North-West Frontier Province, other powers in addition, there is no necessity of bringing an official element into the ministry at all. I would therefore that this part of the paragraph should be amended.

*Sir Samuel Hoare*: Sir Muhammad, I hope you will not press this, because, if you think of the history of this, the Simon Commission only two or three months ago made a report definitely against any ministers at all, after very full enquiry. Since then we have had the letter of the Chief Commissioner going a very long step beyond the Simon Report, and giving the Province a very effective share in their own Executive. You have got that supported by the Government of India. At the same time, you have got many people, at any rate here, who are still very nervous as to whether that is not going too far. Now I have been one of the doubters; I have myself wondered whether we ought not, in view of the military character of the Province, to have adhered to the first step suggested by the Statutory Commission.

I am not going to say more than two or three sentences more. I have been—I say so frankly—very impressed by the Despatch of the Government of India; I have been impressed by the advice of the very experienced Chief Commissioner on the spot; I have been impressed by Sir Denys Bray's evidence; and—though I am



afraid he does not think so—I have been very much impressed by Sir Abdul Qaiyum. I want to go at any rate to the extent of making a first step in the Province, and I should like to make that first step with a general backing of unanimity here.

So far as I am concerned, and those to whom I speak, we are prepared to go as far as this. Very likely in the course of time we shall go much further, but this is the first step: It is very much longer step than was made, looking back to the days of the Montagu-Chelmsford Report, with any other Province; it is a sudden jump from no share in the Executive to a very considerable share, and I very much hoped we might all have agreed on this first step.

*Sir Shah Nawaz Bhutto*: Should the Province be allowed to suffer for not having been given an opportunity before? It is not their fault that it is going to be a big jump.

*Sir Samuel Hoare*: It is not their fault, no.

*Sir Shah Nawaz Bhutto*: We are anxious to have equal status only in the civil administration.

*Sir Samuel Hoare*: We do not want the Province to suffer at all, of course.

*Sir Shah Nawaz Bhutto*: The military can have any safeguards they please, but it will be very unfortunate if this is allowed to stand in the way of the Province.

*Mr. Wood*: With all due respect to Sir Samuel Hoare, I should like to say that I cannot see how in any Province an official Minister can be a success. I think it is a most invidious position in which to place an official; and, provided that the Governor of the North-West Frontier Province has the powers which we propose to give to him, I do think it is necessary to appoint the Ministers from the elected members of the Legislature. As I have said, the official Minister would undoubtedly be more efficient, but it is not a case of looking merely at efficiency. We have the safeguard of the Governor, and if the Province cannot be run under a Governor and two Ministers drawn from the Legislature, then I think we are going too far in suggesting what we are suggesting.

*Mr. Zafrullah Khan*: May I, with respect, submit that the real guarantee of security with regard to the difficulties Sir Samuel Hoare apprehends lies, as has been submitted by Sir Muhammad Shafi, in making the Governor in the North-West Frontier Province the head of the Executive Government. If you have both Ministers drawn from the elected members of the Council, you really are increasing the responsibility of the Council and associating it more with the administration, and any measures the Governor may finally have to take on any matter are likely to be far more acceptable to the Council and to the Province as a whole if it is felt that the Governor, before deciding the matter, has been advised by two of their representatives, rather than if they feel that it is really an official view to which one out of three members of the Government has really been forced to give his assent.

You have the real guarantee that, after all, whether in an emergency or otherwise the Governor is being given greater powers than those of the Governors of other Provinces; he is to be the head of his own Executive. Once that is secured, I think it will give far more support to the Governor if both his Ministers are non-officials rather than if he has an official Minister and the people feel that though one non-official has been appointed, yet as a matter of fact something is being conceded on the surface which is not really being conceded at all. My submission is that without an official Minister there will be greater stability for the Government and greater support for any policy decided on between the Ministers and the Governor than is otherwise likely to be secured.

*Lord Reading:* I should like to know whether Sir Muhammad Shafi would be prepared to accept this instead of the amendment he has proposed, following on the lines of what the last speaker has said. If it is agreed that the Governor is to be the effective head of the administration according to the words used here, with two Ministers, and that is to be the position, I should have thought, though I have some inclination to the other side, that it might be possible to give up the official Minister provided you get the Governor accepted as the effective head of the administration.

*Sir M. Shafi:* I have no objection at all to his being the head, and I think that is the right constitutional position; what I am doubtful about is the word "effective". What does that mean—"effective head"? He is certainly the head of the Government.

*Lord Reading:* I will tell you what I should construe it to mean. I should understand from that, and I did understand from that, that the Governor was not only to preside over the Cabinet of two Ministers but that he would be the effective head, so that if he wanted something done which the Ministers for the time being disagreed with, he would have the power to do it.

*Mr. Wood:* That is how I understood it.

*Lord Reading:* That is the essential point; at least, it seems so to me.

*Sir Muhammad Shafi:* It is the word "effective" which is frightening my friend here.

*Lord Reading:* I do not mind what word you use so long as we agree on the substance. I think I am rightly interpreting the sense of the sub-Committee when I say we all feel, or at any rate most of us feel, that in the special conditions of this Province, it being difficult at times to determine whether a thing is on this side of the line or on the other side of the line, the dominating subject must be the security of All-India, and the Governor should be in this Province the effective head of the Province. That is the sense in which I have used the word. If you limit it in the way proposed by Sir Muhammad Shafi by putting in the words "on the advice of his Ministers" you are at once cutting down his powers to those of a constitutional Governor, which, speaking for myself, I could never consent to in this Province on account of its special

situation. I have not the faintest distrust of the Ministers or other persons in the Province, but it is necessary to have one man at the top who is entrusted with responsibility and who will exercise his discretion fairly and justly and determine what shall be done if a question arises which at all involves the security of the Province.

For instance, with regard to the police, which we have been discussing, I think we all feel we should be perfectly prepared to give over the control of the local civil police to the Government in this way, provided we were satisfied that if any difficulty arose the Governor had effective powers to act. If he has not you are paralysed. I think what was in the minds of most of us was that if you had an Executive composed of the Governor as the effective head with Ministers, that gives you the security you want, which is not security against the Province—it is a mistake to introduce that—but security for all India. That is what you are trying to secure by this, and I would ask you to take into consideration the fact that if you have this new state of affairs the whole interest of the Governor will be to work in accordance with the views of his Ministers. He does not want to set himself up against them. On the contrary he wants to work with them. If you would agree to this I should feel you had security for all India and I should be prepared to give up the idea of having an official Minister.

*Sir M. Shafi:* What was troubling me when I suggested this phraseology was simply this; that unless you have some such phraseology as this, what is the meaning of the responsibility of the Ministers to the Legislative Council? I can quite understand, when we come to consider and define the powers of the Governor, the Governor being given some powers over and above the powers of the Governors in the other Provinces. I can quite understand that, and I entirely agree with you that something more is necessary in the North-West Frontier Province; but unless here in this paragraph you have some such words as “acting on the advice of two Ministers to be selected,” what is the meaning of the responsibility of the Ministers to the Legislative Council? That is my difficulty.

*Lord Reading:* I will answer that in a sentence if I may. When you have got a Government constituted with the Governor and the two Ministers, the Ministers are obviously responsible for the advice they give to the Governor; that is why they are ministers. But you do not force the Governor—that is what I am objecting to—to take the advice of his Ministers and act on it; you give him discretion in the interests of all India.

*Sir Abdul Qaiyum:* I want to know the meaning of a phrase which has often been used by Sir Samuel Hoare, who has spoken about the military exigencies, peculiar conditions, and so on. These things are quite good in words, but we have separated the tribal area from the settled districts; we have separated everything connected with the tribal area and placed it outside the scope of the provincial administration, and certain subjects, which are said to be of All-India importance, have been also taken away from the Province. In addition to that, you have the ordinary powers of the

Governor in other Provinces, where he can in any emergency exercise all sorts of powers and even suspend the whole constitution. In view of that it really puzzles me to know what else is wanted for these few small subjects, unimportant and unconnected with All-India matters, very local and very limited; what else is wanted in the way of powers for the Governor in regard to these?

*Lord Russell*: I should like to say a word in support of the suggestion which has been made by Lord Reading. Personally I should be very glad if the compromise which he has suggested could be accepted. I would very much rather see two Ministers responsible to the Legislature than one official Minister, and I think it is a good argument that you would not really weaken the power of the Governor in any way by that but would have better touch with the Legislature and give more obvious self-government to the Province. I should be very glad therefore, if that compromise could be accepted, but I think we must bear in mind Lord Reading's observation that the Governor must have control.

In answer to Sir Abdul Qaiyum's last remark, I cannot confess to know myself the conditions that obtain in the North-West Frontier Province, but I cannot help taking into account, as every member of the sub-Committee must, the fact that the Government of India, the Simon Commission and the Chief Commissioner of the Province consider that every matter in this Province is tied up with frontier defence, and you cannot separate the two.

*Lord Lothian*: Or is liable to be so tied up.

*Lord Russell*: Or is liable to be so tied up, and, though the Governor may not interfere in the day-to-day administration, you cannot feel safe unless you give him powers greater than those possessed by the Governors in other Provinces where there are not these difficulties. I should be very glad, as I have already said, if Sir Muhammad Shafi could see his way to accept the compromise which has been suggested.

*Dr. Shafa'at Ahmad Khan*: Lord Reading said that over and above the powers we are going to grant to any Governor in another Province, the Governor in this case should have additional powers, but I should like to suggest that his point might be met if, in addition to the powers conferred on other Governors, the provisions of Section 52 of the Government of India Act were also added. That section says:—"In relation to transferred subjects the Governor shall be guided by the advice of his Ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice." Suppose we invest him with all the powers we have agreed to in the provincial constitution and also confer this power on the Governor of the North-West Frontier Province that might meet Lord Reading's point.

*Lord Reading*: I see difficulties in it, because I do not want to put the Governor, or the Governor-General, if I possibly can avoid it, into conflict in any way with his Ministers. In view of ques-

tions which may arise you will have to reserve power to him, but I do not want him to be brought into conflict with his Ministers; I want him to sit with his Ministers and to discuss things with them and to hear what they want and what they think the Legislature will support. You must remember that from first to last he is wholly interested in doing what the Ministers want; he is not interested in doing the contrary. We are very apt—I have to correct myself sometimes—to think of these things in the mentality of what I may call the past condition of affairs, where there has been a good deal of conflict, mostly for reasons of constitutional agitation, which has led to the Governor-General, or a Governor, being in conflict owing to some constitutional demarche on the part of the majority. But that is not the way in which this is going to work.

What is going to happen now if you have a constitution of this kind is that the Governor will sit there with his Ministers with the whole object of carrying out, wherever he can, what the Ministers require, and what the Legislature requires. That is the system under which you are going to work, and in that way the last thing he will want to do is to be brought into conflict. If you keep him there discussing things with them and taking part with them in the work of the Government, I cannot help thinking you will find it will work quite satisfactorily, and that really you will very rarely get a question, if you ever do get one, where the Governor will have to exercise his powers. But those powers should be there, so that you have security, which is the one thing you have to keep in mind. However anxious we may be to meet the views of the North-West Frontier Province and the views of Sir Abdul Qaiyum, who has put them so forcibly before us, and all the time I was there I know we were largely guided by him on these frontier questions, you must preserve inviolate the security of the Frontier, which means the security of all India; you must take steps to do that.

*Mr. Mody:* I should like to support what Sir Abdul Qaiyum has said. Personally, I think the experiment we are going to try out in the North-West Frontier Province will succeed only if the ministers are invested with full responsibility in the very limited sphere that is going to be assigned to them. If the needs and the circumstances of the North-West Frontier Province are special, the safeguards which we propose to provide are also special safeguards. We have all agreed, including Sir Abdul Qaiyum, on certain special safeguards, namely, that over and above the very wide powers which the Governors of other Provinces will enjoy there is the fact that the troublesome tribal area is taken away from the jurisdiction of the Province, and there is also the fact that the list of Provincial subjects which will apply in other Provinces, will not apply in the North-West Frontier Province; the list there will be very much smaller. All matters, moreover, which we regard as matters of All-India interest will be dealt with not by the Province, but by the Central Executive and by the Viceroy. I think it would be a mistake, therefore, to emphasise the safeguards too much and to try to safeguard the position to an excessive degree. The greater the

responsibility you entrust to the ministers in this very limited sphere the greater will be your chances of success.

*Sir B. N. Mitra*: My difficulty in the formula suggested by Lord Reading is this, that those particular words will give the Governor power, at least on paper, to overrule his ministry in every case, irrespective of whether there are special circumstances or not, and any constitution which is given to the Province in that form is bound to cause a considerable amount of public feeling. It will seem to bear the stamp of inferiority to the people of that Province as compared with other Provinces.

It is for that reason that I prefer the form of words suggested by Sir Muhammad Shafi, coupled with such specific safeguards as may be required. I think we are all in agreement with regard to safeguards, and if that is so I do not see why we should try to put into our recommendations a form of words which will certainly give the people of the Province a considerable feeling of dissatisfaction. That is my only difficulty.

*Chairman*: Now we have two suggestions before the meeting, the one by Sir Muhammad Shafi, and the other by Lord Reading.

*Sir Samuel Hoare*: I am afraid, Mr. Chairman, that I do not at all like to find myself in opposition to a great many members of the Committee, but I definitely go in this matter beyond the recommendation of the Chief Commissioner—namely, that there should be two ministers, one of whom should be official; so that if the general feeling of the Committee is against me, I would ask to have that put in as a reservation.

*Mr. Mody*: Do I understand Sir Samuel Hoare to say that he also wants the Governor to be, in the words of this draft, “the executive head of the Province.”

*Sir Samuel Hoare*: Yes.

*Mr. Mody*: That is our interpollation, the word “effective”, is it not.

*Sir Samuel Hoare*: The adjective may be; the substance of it is not.

*Dr. Shafa'at Ahmad Khan*: May I, with your permission, again invite Sir Samuel Hoare's attention to the very cogent reasons given by the Punjab Government against this institution of official ministers, apart from the North-West Frontier Province or any other Province at all. This is what they say: “There is no doubt that the presence of an official in a Unitary Cabinet introduces an element of unreality into the joint responsibility of the Cabinet and their relations with the Legislature.” Nor will the position of such a Minister be easy. He may constantly have to subordinate his considered opinion based on his experience of administration to another view. If he goes out with one Ministry and returns with another, he is likely in popular estimation to come to be considered the unlikely genius of the Cabinet. While if on the fall of the Ministry he reverts to official duties, he stands the risk of being

considered quâ an official as influenced in favour of views which prevailed in the Cabinet in the time of the last Ministry. The inclusion of the official member is a feature of the proposed constitution which has been specially singled out for attack, and has and will be used as an argument to prove that the responsibility of Cabinet is meant to be but an illusion. With the wish that the responsibility in internal and provincial affairs should be as complete as circumstances permit we think it very desirable that no shadow of ground should be left for this allegation, and, after full consideration are prepared to abandon the official member considering that both requirements can be met by an amplification of the proposal made in paragraph 51 for the appointment of a Secretary to the Cabinet.

I venture to think that the position of an official member in a ministry is not only inconsistent with the responsibility of the ministry to the Legislative Council, but will create for the official minister himself from every point of view—administrative, political, from every point of view—an utterly impossible position. Therefore the real remedy for what Sir Samuel Hoare has in view lies in strengthening the position of the Governor in this Province and not in having this official minister. Judge this question on its own merits. An official minister, instead of being any good either to the Executive government or to himself or to the legislature, will be, if I may say so, neither fish, fowl, nor good red herring, and will be entirely a round peg in a square hole.

*Sir Samuel Hoare*: I am afraid if I made an answer to Sir Muhammad Shafi, which I will not do at length, because there is a difference of opinion between us, I am afraid, I would read out the corresponding passages in the Report of the Chief Commissioner, and in the Government of India Despatch. But I will not do that. I am afraid that here is a point on which we see to disagree. I am afraid I cannot alter my view.

*Sir Muhammad Shafi*: I am very sorry.

*Sir Abdul Qaiyum*: Is there anything such as effective control in the Government of India Despatch or that of the Chief Commissioner?

*Sir Samuel Hoare*: I think there is. It underlies the whole of this passage, I should have thought.

*Chairman*: I do not know whether I could bring Lord Reading and you, Sir Muhammad Shafi, nearer together. You, I think, in giving us your words, said: "the Governor acting on the advice of two ministers drawn from among the elected members of the legislature and responsible to the legislature." Would it ease the situation at all if we said "assisted by the advice"? You see, you are laying it down peremptorily.

*Dr. Shafa'at Ahmad Khan*: "Guided by the advice."

*Chairman*: Well, "assisted by the advice." I am trying to combine the two ideas, if Lord Reading would agree and Sir Samuel could be induced to waive his objection.

*Sir Samuel Hoare*: I am very sorry, Mr. Chairman. Quite obviously, all one's inclinations are always in the direction of agreeing with one's friends on a committee, but upon this point, I am afraid I cannot.

*Chairman*: Very well. Could we get the thing narrowed down a little by making it read; "The sub-Committee recommends that the executive should consist of the Governor assisted by the advice of two ministers drawn from among the elected members of the legislature and responsible to the legislature"?

*Sir Abdul Qaiyum*: You will keep those words, "responsible to the legislature"?

*Chairman*: Oh, of course.

*Lord Reading*: I am a little afraid of the last words. The last words are the words that trouble me. They are words for which I doubt whether you will find any precedent in any constitution that is laid down. I do not mind the first words at all. I would accept those.

*Chairman*: "Drawn from the elected members of the legislature."

*Lord Reading*: And I would accept also "from the elected members of the legislature."

*Chairman*: That is going a long way to meet you, you know, Sir Muhammad.

*Sir Muhammad Shafi*: Yes, I understand; but I thought the whole idea of the ministry was that it should be responsible to the legislature.

*Lord Reading*: I agree; but you are using technical words which have a very wide meaning, and it is rather difficult to say then what the position is. I should feel very troubled, as I think you would if I were asking your advice, to say what is the position of the two ministers vis-à-vis the Governor, or of the Governor vis-à-vis the two ministers. If you get it in in the words suggested by the Chairman, which go rather farther than I had thought, I would accept it; but it shows quite clearly that he has to be assisted by the ministers, and that the ministers should be drawn from the legislature. I accept that, and I think that covers all that you really can want.

*Chairman*: May I read again the opening sentence: "The sub-Committee recommends that the executive should consist of the Governor assisted by the advice of two ministers drawn from among the elected members of the legislature."

*Mr. Zafrullah Khan*: Why do you confine it to elected only?

*Sir Muhammad Shafi*: It must be elected.

*Chairman*: You must realise what we are doing if we accept this. We are going to have two ministers drawn exclusively from the elected members of the legislature, and they have to be the ministers to work with the Governor, and the Governor has got to work with their advice.



*Lord Reading*: That may lead you into a very difficult position, because you have a limited number of elected ministers; you have some nominated who may not be official at all and who may be nominated because of their knowledge and influence in the Province, as I often had the pleasure of nominating Sir Abdul Qaiyum to represent the North-West Frontier Province in the legislature. Well, you shut out then the power of taking any one of those ministers.

*Chairman*: In the other Provinces such a minister has to seek election within six months.

*Sir Muhammad Shafi*: The same provision might be embodied there.

*Chairman*: Would you accept a compromise by accepting the same provision here—that he may be nominated but must seek election within six months?

*Lord Reading*: I am looking at this rather more in the interests of the Province itself, of course, as one must do, and of the good government of it, than from the limited point of view of what may happen in this Committee. After all, what you do want to get is the two best men from the legislature to be the members of the executive. You may have a first-class man there who ought to be in, but who cannot go in because he has not been elected. It would be better if you could do that. You may get very good men, but one knows the difficulties.

*Chairman*: He might not be able to get elected, because there might not be a seat.

*Lord Reading*: There might not be a seat, and there might be other difficulties in it, but yet he may be the best man to put in there.

*Raja Sher Muhammad Khan*: The Governor may nominate a minister; he will not be appointed by the legislature.

*Lord Reading*: I should have thought you did not want to shut out from the Governor the power of getting from the legislature the two best men. You limit it so much, you know.

*Chairman*: You limit it so much that if the best man was among the nominated members you could not select him.

*Lord Reading*: Perhaps this would meet you. I have no objection to saying that one should be elected, but I suggest that you should confine that to one and leave it as regards the other. That is a way of meeting it, you see, so that you are quite sure of having an elected member of the legislature chosen, and you may have two elected members. The Governor may find that that is the best way of doing it. On the other hand, he may find that although there is a majority of elected members there is somebody else who is nominated who is the best man to put in the place. Well, I want to give him the power to get the best man.

*Mr. Zafrullah Khan*: Not an official?

*Lord Reading*: Not an official.

*Chairman*: May I call the Committee's attention to a point that was put up at the Plenary Session, that "a member nominated by the Council to represent a community which cannot be represented by election should not be debarred from appointment as a minister."

*Mr. Zafrullah Khan*: In the North-West Frontier Province there are not likely to be any such nominations.

*Lord Reading*: No, but what the Chairman is pointing out is rather a matter of principle, to show that that principle has already been accepted.

*Mr. Zafrullah Khan*: I have no objection to that.

*Lord Reading*: That is all, I think, that the Chairman pointed it out for.

*Chairman*: Yes, just to show that that idea had been supported.

*Lord Reading*: You might say, "Two members of the legislature, one of whom must be an elected member."

*Mr. Zafrullah Khan*: The other may be elected or nominated.

*Lord Reading*: Leave the other, one way or the other; but one must be elected. You may get both elected, but you do not make it obligatory.

*Chairman*: Do you agree, Lord Reading, as being responsible very largely for the suggestion we are dealing with, that both have to be members of the legislature?

*Lord Reading*: Yes.

*Chairman*: I was just trying to clear the ground.

*Lord Reading*: Yes, I would be agreeable to that.

*Sir Muhammad Shaif*: It is somewhat curious that just as I was myself going to make that suggestion, Lord Reading made it. I think it is a very fair compromise, and I would change the phraseology of that, "to be drawn from among the non-official members of the legislative council" to "at least one of whom shall be an elected member."

*Chairman*: Is that agreeable?

*Lord Reading*: I am quite satisfied with that.

*Chairman*: Now there seems to be a measure of agreement—the best measure we have had so far. Now, Sir Samuel?

*Sir Samuel Hoare*: Would you mind putting in a sentence saying that Sir Samuel Hoare, in accordance with the recommendation of the Chief Commissioner and of the Despatch of the Government of India, holds the view that one of these ministers should be official?

*Sir B. N. Mitra*: May I be allowed to make a reservation. I do not think that the words used, "assisted by the advice of", are any better than the words previously used. I may say this quite frankly. I have been an official all my life, I have served for ten years at army headquarters, and therefore naturally I am one of

the most conservative of men; but it was because I felt that it was necessary to bring peace back to India that some advance in constitutional reform was necessary that I did agree to come to this Conference. Well, I feel that the form of words put in will not have that effect so far as the North-West Frontier Province is concerned, and I feel that very strongly. That being so, I shall also ask to be allowed to record my dissent.

*Chairman*: To what point do you dissent?

*Sir B. N. Mitra*: I dissent from the use of the words "assisted by the advice of." I should say, "acting on the advice of, subject to",—specifying the powers.

*Lord Reading*: But that is impossible, because Sir Muhammad has accepted the compromise, so that we have not those words proposed now.

*Chairman*: You see, if we go on, we may have some one else dissenting, and it would take away the whole value of the compromise.

*Sir Abdul Qaiyum*: Of course, I am not very clear on this point, because a meeting which is putting into different shape our condition from that of the rest of India is one more nail into the body of that dying Province. Any wording different will not satisfy my people. They are very intolerant people there, and they will at once know the wording, the significance, and the conditions, and the difference that will be made about it, so the less distinction that is made, the more it will be leading to the satisfaction of those people. I agree with Sir Bhupendra Nath's remark that the phraseology should be exactly what it is in the other constitutions, "on the advice of these people." Sir Samuel Hoare's dissent, if it can be recorded, and Sir Bhupendra Nath Mitra's dissent, can be recorded with greater force if it is going to be a dissent in the Report.

*Mr. Zafrullah Khan*: I want to be clear on one point. These two words were put in by you as a sort of compromise, bringing Lord Reading's view and Sir Muhammad Shafi's view with regard to the position that the Governor would occupy closer together. What is the consequent amendment, after putting in these words, here, that you make with regard to the expressions employed in defining the Governor's powers?

*Chairman*: We have not got to that yet.

*Lord Reading*: It is part of the whole thing.

*Mr. Zafrullah Khan*: Then when we know what the whole thing is going to read like, we shall be able to express a view on this.

*Lord Reading*: I thought I was accepting your view on this, I accepted the view you put forward, which made me then propose what I did, and then give way to the suggestion later made, and then our minds coincided. That really decides the whole thing.

*Chairman*: We shall deal with that when we come to it. Can we get agreement on this? With the inclusion of the two reserva-

tions, one by Sir Samuel Hoare, and one by Sir Bhupendra Nath Mitra, is it accepted otherwise, with that amendment?

(Agreed.)

You will now call our attention to the consequential amendment, Mr. Zafrullah Khan?

*Mr. Zafrullah Khan:* As I understood it, the difference that arose was this. Lord Reading was pleased to point out that he would be prepared to agree to the non-official minister being taken out, provided that the Governor was accepted as the effective head of the Executive. To this Sir Muhammad Shafi took objection. I will not repeat the arguments about that. Then, in order to bring these two views closer together, you were supposed to put forward this form, that he should not be assisted by the ministers, but acting on the advice of the ministers. That was accepted by Lord Reading because it was felt that that change would bring him nearer to Sir Muhammad Shafi's view, and that the word "effective" or the words "effective head of the Executive" need not be there, is a necessary consequence.

*Chairman:* Well, what do you propose, and then we will discuss it on your proposal. Do you propose the deletion of the words.

*Sir A. P. Patro:* He wants to delete the words: "the Governor of the North West Frontier Province should be the effective head of the Provincial administration."

*Lord Reading:* If there is any question of withdrawal from that, I must withdraw everything I have said; because I started on this basis quite clearly; I started on the basis of what was said by the last speaker; I accepted that invitation; I came in with it; I said: "As he is to be the effective head." I made it quite clear what I understood it to mean.

*Sir Muhammad Shafi:* Mr. Chairman, I am satisfied with that.

*Sir Abdul Qayyum:* How is the paragraph to read now, Sir?

*Chairman:* "The sub-Committee recommends that the Executive should consist of the Governor, assisted by the advice of two ministers drawn from among the elected members of the Legislature."

*Lord Reading:* "from the non-official members of the Legislature."

*Sir Muhammad Shafi:* "One at least of whom must be an elected member."

*Chairman:* The Secretary has got the words; will he please read them out.

*The Secretary:* "shall consist of the Governor, assisted by the advice of two ministers drawn from among the non-official members of the Legislature, at least one of whom shall be elected."

*Chairman:* Is that right?

*Lord Reading*: Yes, that is quite right.

*Sir Muhammad Shafi*: It ought not to be "should be"; it ought to be "shall be".

*The Secretary*: I had "shall".

*Chairman*: Very well, that is the amendment; and the other remains as in the Report.

*A Member*: Yes, that is right.

*Chairman*: Now we come to 7 with regard to the Legislature. Is there anything on 7?

*Sir Muhammad Shafi*: 7 (ii).

*Chairman*: We will take 7 (i) first. Is there anything on that?

*Members*: No.

*Chairman*: Is there anything on 7 (ii)?

*Sir Muhammad Shafi*: I have nothing to say with regard to that.

*Sir Abdul Qaiyum*: I have something to say on (ii).

*Chairman*: Yes.

*Sir Abdul Qaiyum*: I want the words "for the present" to be inserted.

*Chairman*: Where do you want those words inserted? Do you want to say: "of not more than 40 members at present"?

*Sir Abdul Qaiyum*: No, Sir; I want it "elected and nominated."

*Raja Sher Muhammad Khan*: Yes, both of them.

*Chairman*: I think you are dealing with Clause (iii).

*Sir Abdul Qaiyum*: Yes, I am dealing with (iii). I am sorry.

*Chairman*: Then now we will come to (iii). What is your point?

*Sir Muhammad Shafi*: On (iii) I have two points. The words are: "The sub-Committee considers that the Legislature should be composed—". That is where the words "for the present" come in. "— both of elected and of nominated elements." Then we suggest: "The nominated members should not exceed one-fourth of the whole house." That is my amendment. That is to say, it should not be more than 10 out of 40.

*Lord Reading*: I would raise no objection whatever to the insertion of the words "for the present."

*Chairman*: Very well. Now the suggestion is to delete "49 per cent." and insert "25 per cent."

*Sir Muhammad Shafi*: Yes.

*Chairman*: That is the difference.

*Sir Muhammad Shafi*: I venture to think that nomination is really entirely out of place in the new state of things that is coming into existence in India; but, in view of the peculiar circumstances of the North-West Frontier Province, I am not prepared to exclude

nomination altogether from that Province. But the number of nominated members must be limited to the absolute necessities of the case, and to my mind 25 per cent. is quite enough to cover the necessities of the situation; 49 per cent. of nominated members is too large a percentage. As someone said, if two stay away, then the nominated members have a majority.

*Sir A. P. Patro*: I suppose he wants to make it 33½ per cent.

*Sir Muhammad Shafi*: I remember one case in the Punjab some years ago when a distinguished barrister, having a vote in connection with a certain matter, was engaged to go to the mofussil on an important case on a handsome fee, he not knowing that on that day there would be a meeting of that particular body; but the person interested in the success of the proposal came to know of it and he thought it worth his while to pay this handsome fee to the barrister in order to get him out of the way on the day that the matter was coming on.

*Lord Reading*: We still have something to learn from you in India; I have never known that.

*Chairman*: Here we have two figures; we have 49 and 25. There is room between 49 and 25 for compromise, if anybody cares to suggest one.

*Sir Muhammad Shafi*: This is not a case of compromise, Sir.

*Chairman*: Now, Lord Reading?

*Lord Reading*: I think I am going towards Sir Muhammad's view. He thinks 49 is too much. I think he ought to be satisfied if we reduce it to 33 per cent. That gives you very nearly what you want. It will give you the effect that you want just the same, you know.

*Sir Abdul Qaiyum*: There will be a suggestion from me, towards the end, that this constitution, say after five years, should be brought on the same level. So, in view of that amendment which I am going to suggest later on, I will not object to 33.

*Sir Muhammad Shafi*: Very well, 33.

*A Member*: One-third.

*Chairman*: Does anybody object to 33, or ⅓?

*Sir Saueel Hoare*: It is very difficult to make these bargains.

*Chairman*: Yes, but one often does it. I have been a Chief Whip.

*Sir Samuel Hoarse*: Yes, and I have been in the House of Commons for many years. If you take my own case, we have had three enquiries into this, and each of them says 49. It is extremely difficult for me to say 25, 30 or 33, whatever it may be. As soon as I get away from the accredited evidence, then I want more evidence. Unless it is quite obvious to me that this Committee does not want to go on with a lot of detailed investigations, I am in a very difficult position.

*Mr. H. P. Mody*: Having been given a constitution which is far in advance of that suggested by the Simon Commission, I do not think we ought to boggle at 33 and 66.

*Dr. Shafa'at Ahmad Khan*: The Bray Committee actually suggested 60 per cent. of elected members in 1921.

*Sir Samuel Hoare*: If I were in the mood for bargaining I would say 40.

*Lord Zetland*: May I ask what 33 per cent. of 40 people is?

*Sir Samuel Hoare*: It is 13; it is a very unlucky number.

*Lord Reading*: I would suggest that we get away from 13 and make it 14.

*Sir Muhammad Shafi*: "Not more than 14 of whom."

*Lord Reading*: Not more than 14 out of the 40.

*Sir Samuel Hoare*: Mr. Chairman, I will not here make a reservation about that. I must think that over. For the purposes of to-day I will agree to that. What my view will be hereafter I do not know.

*Sir Muhammad Shafi*: I hope you will agree to that; that is quite enough.

*Chairman*: Then it is: "shall not exceed 14." Has the Secretary got that.

*Secretary*: "Shall not exceed 14 members in a House of 40."

*Chairman*: Yes. Now "(iv) The franchise." Is there any question here?

*Lord Reading*: That is to be examined by a special committee.

*Chairman*: Yes, we cannot settle it here.

*Sir Muhammad Shafi*: That is all right.

*Chairman*: "(v) minority representation."

*Sir Abdul Qaiyum*: With regard to the franchise I want the principle to be the same as followed in other Provinces. I am not a good draftsman, but some words may somewhere be added to the effect that they will take into consideration the decisions of the Franchise Committee as a principle and as a guide.

*Sir A. P. Patro*: Each Province will depend upon its own conditions.

*Lord Zetland*: Could we remit this question to the Franchise Committee which is going to sit for the whole of India?

*Sir Abdul Qaiyum*: Yes.

*Sir Muhammad Shafi*: Yes.

*Lord Zetland*: We are proposing to recommend the setting up of an Expert Franchise Committee on the lines of the Southborough Committee. Why should not this question be remitted to that Committee?

*Dr. Shafa'at Ahmad Khan*: Yes.

*Sir Abdul Qaiyum*: Why not take out the last few lines? Why should we suggest it to them? We should leave it to the Committee.

*Chairman*: I understand Lord Zetland's suggestion is that we leave this paragraph out and insert words to say that this matter is referred to the Franchise Committee.

*Sir Samuel Hoare*: Yes; I should think in a matter of this kind we ought to do whatever Sir Abdul and his friends wish, I would suggest to him, however, that a special committee might get through the work quicker. You see you are now tying it up with a general enquiry into the whole of the franchise of India. It is for you to choose which you like. As far as I am concerned I do not mind which.

*Sir Abdul Qaiyum*: Thank you, Sir; but when a distinction is drawn between me and somebody else it is like a red rag before a bull.

*Chairman*: Now I think there is agreement that this should be suitably worded to say that it will go to the Franchise Committee.

*Sir Muhammad Shafi*: Yes, to the Franchise Committee to be appointed under the general scheme.

*Chairman*: "(v) minority representation."

*Sir Muhammad Shafi*: We accept that with pleasure.

*Dr. Moonje*: Of course I am in principle opposed to the weightage of any minority in any Province; I do not want to have that kind of thing anywhere; but if it is decided that it should be given anywhere, I should like to know what is the percentage of Sikhs and Hindus in the Province.

*Lord Reading*: That is already given us: 150,000 Hindus and somewhere about 28,000 Sikhs.

*Sir A. P. Patro*: You have it in the note circulated to us.

*Chairman*: 150,000 Hindus and 28,000 Sikhs.

*Dr. Moonje*: I want to know the percentage.

*Lord Reading*: In the settled districts the Hindus, including Sikhs, represent only 7.9 per cent., of the total population, against a Muslim percentage of 91.6.

*Dr. Moonje*: I am given these figures: that Hindus are 7 per cent. and Sikhs are 1 per cent.

*Lord Reading*: Yes.

*Raja Sher Muhammad Khan*: That is about right.

*Dr. Moonje*: It may be less or more; my information is that it comes to 6 per cent., but I do not quarrel about that.

*Sir Abdul Qaiyum*: May I say one word?

*Chairman*: Yes.



*Sir Abdul Qaiyum*: In towns the percentage will be very high, or higher than in villages. In villages there are only isolated houses and families who are there, just as at present in the district board their number is very small; but in the towns such as Peshawar, Bannu, Kohat, Abbottabad, they will be fairly high, even on their own rights; and if they are doubled, in some cases they will perhaps be in a majority.

*Dr. Moonje*: No, I do not mean that I am putting a different thing. The percentage of the total population is about 7.

*Sir Abdul Qaiyum*: Yes.

*Dr. Moonje*: Of course I am in principle opposed to any weightage; I would certainly oppose it to the utmost; but if the weightage principle is insisted on in this constitution, then I should like to know what is the proportion of weightage that has been given in other Provinces to similar minorities.

*Sir Muhammad Shafi*: I make an offer as regards that.

*Dr. Moonje*: Let me finish.

*Chairman*: Just a moment; Dr. Moonje has not yet finished.

*Dr. Moonje*: In my Province a minority is 4 per cent.; and we give them 15 per cent.; that is four times. I think in Madras it is 6 per cent.

*Sir A. P. Patro*: You are giving them 13. They are about  $6\frac{1}{2}$  per cent. and they are being given over 12 per cent.

*Dr. Moonje*: In my Province 4 per cent. receive 15 per cent. In Madras it receives double. What is the position in Behar?

*Sardar Sampuran Singh*: In Behar it is 3 times.

*Sir Muhammad Shafi*: No, that is not so.

*Sir Abdul Qaiyum*: Whatever is given, it will never be less than that; it will be more if possible.

*Sir Muhammad Shafi*: I make this proposal, Sir. In the United Provinces 14 per cent. of the population have been given 30 per cent. representation; that is to say, a little over double.

*Dr. Moonje*: Yes, quite right.

*Sir Muhammad Shafi*: I offer to my Hindu and Sikh brethren three times their proportion in the population. They can divide it among themselves as they like; I leave that to them.

*Sir A. P. Patro*: Good.

*Sir Abdul Qaiyum*: You are being very generous, but we shall not quarrel over it!

*Chairman*: Is that satisfactory? (Cries of assent.) That is a very handsome offer. We shall put "three times" instead of "double". Number 8 is Financial Settlement.

*Dr. Moonje*: There is one point I wish to make a note of here, and I hope my friend Sir Abdul Qaiyum will not be annoyed with me. My hope is that there may be no need for the Central Govern-

ment to give a subvention for the expenditure on the day to day administration of the Province.

*A Member*: That is inevitable.

*Sir Abdul Qaiyum*: With regard to Finance, my idea is quite clear. If the subjects which are to be transferred to provincial administration are brought up to the level of the neighbouring province then after that I myself do not believe there will be much need for an extraordinary allotment for those subjects thereafter. If they are lagging behind now it is not due to any want on the part of the population or a desire for educational and medical facilities, and we should not be stopped on the dawn of the reforms—

*Dr. Moonje*: On the New Year's Day!

*Sir Abdul Qaiyum*: Yes, we should not have this stopped at the beginning. All I want is that we should be brought up to the same level as the neighbouring Province in these matters, and I have an amendment which I should like to move later in regard to an excess or a surplus at the Centre to be allocated. Provided these Provincial subjects are brought up to the same standard as prevails in the neighbouring Province I do not think we shall require much assistance.

I pay my taxes at the same rates as do people in other Provinces; I am paying a higher land revenue than is paid in the neighbouring Province, and I pay a higher rate of Court fees for my litigation than obtains in the neighbouring Provinces. If after paying all that my transferred subjects, or nation-building subjects, as they are called, are not up to the level which prevails in the neighbouring Province, I should not suffer, I contend.

*Lord Reading*: This matter must be inquired into by the Committee which will be appointed.

*Dr. Shafa'at Ahmad Khan*: We have committed ourselves to the principle of a subvention.

*Lord Reading*: We say "It follows the Provincial Government will require a subvention from Central revenues."

*Chairman*: We say that clearly.

*Dr. Moonje*: My proposal is that that should go out.

*Lord Reading*: That should be left to the Committee which must inquire into this matter. Any Committee which is going to inquire into this will not want to prolong assistance from the Central Revenues if it is not needed.

*Dr. Moonje*: We might express the opinion that if it is really needed it might be made for the next five years and then cease.

*Sir A. P. Patro*: That is just what Sir Abdul Qaiyum does not want.

*Sir B. N. Mitra*: From the Central Revenues year after year a certain sum of money is being paid to the Province. I think it is in the neighbourhood of two crores at present, of which about a

crore goes to meet the day to day administration of the five settled districts, the balance being for defence and political expenditure in the tribal tracts, so that the liability of the Centre is there. I shall suggest a slight verbal alteration later on, but that liability is there. Simply because you form the settled districts into a Governor's Province they cannot possibly make their expenditure and revenue balance. They must receive that grant from year to year, and I for one would not put any period to it, because if you put five years it may be that afterwards members of the Federal Assembly like Dr. Moonje will say "We will not give any further subsidy to this Province", and then what will happen to the Province? I say it should be a permanent subsidy. I do not think any precedents are required, but if they are they will be found in some of the other Dominion constitutions.

In addition to that, if the Centre or the Federal Centre has got a divisible surplus to be distributed amongst the various Provinces, the new North-West Frontier Province will get its share.

*Dr. Moonje:* That is a different point.

*Sir B. N. Mitra:* But I do not agree with the suggestion made by Sir Abdul Qaiyum that we must raise the level of the administration in the Services in this Province to the level of the Punjab. If we start any theories of this sort, Bihar and Orissa will immediately claim that we must raise the standard of their various Services to that of those in Bengal, and Bengal will claim that the standard of their Services must be raised to that of those in Bombay, though, of course, Bombay is not contiguous to Bengal. It is well known that the standard of the various Services is at the highest level in Bombay, and then there is a graduated scale all over India. I cannot accept, therefore, either Sir Abdul Qaiyum's suggestion as it stands, nor that of Dr. Moonje. The fact is that this annual liability is there and the money should be distributed in the future as a subvention for all time to come to the new Government of the North-West Frontier Province as far as a part of it is concerned, the balance being the Central expenditure on Frontier Watch and Ward and Political Services, etc., in the tribal territory or connected therewith.

*Sir A. P. Patro:* That is why the Committee will have to go into all these details.

*Lord Reading:* I agree entirely with Sir B. N. Mitra that we should not put in a limited time.

*Chairman:* I understand there is a verbal amendment to be made on this.

*Sir B. N. Mitra:* I think we should put in "(or Federal)" after the word "Central," because I cannot yet see what class of expenditure it will be; it may be a Federal expenditure and not Central.

*Chairman:* You want the word "Federal" to remain, and you want the words "or Federal" to be added after "Central."

*Sir A. P. Patro*: We are not drafting the statute.

*Sir B. N. Mitra*: After "Central" we should put in brackets "or Federal."

*Lord Reading*: I think that is right; it is carrying out what we suggest later. It is not easy now to say whether it is Central or Federal.

*Chairman*: That amendment will be made in the fourth line. Is there any other amendment?

*Sir B. N. Mitra*: The last sentence should go out.

*Sir Abdul Qaiyum*: I have two amendments to this. I think the sentence "The terms of the financial settlement will require very careful consideration" is superfluous. The Committee which goes into the matter will be careful, but to my mind it is not necessary to have this in.

*Chairman*: Is anyone wedded to this sentence? (*No!*) Then we can do that. I think you have another amendment. You are getting it all your own way to-day.

*Sir Abdul Qaiyum*: Except on the main point. I wish to suggest that the following words be added at the end of the paragraph, so that it will read "An agreed convention that each financial assignment should run undisturbed for a period of years until an excess is required or there is a surplus at the Centre to be distributed."

*Lord Reading*: It is all covered by the words that are there.

*Several Members*: Leave it to the Committee.

*Sardar Sampuran Singh*: As it stands, no time limit is put to the financial help which will come from the Centre. I do not want any definite period to be fixed, but I should like some such words in the fourth line as "It follows that the Provincial Government will require financial assistance from the Central Revenue for some time."

*Sir B. N. Mitra*: No, indefinitely.

*Lord Reading*: Why not leave it to the Committee? They will have all that before them.

*Sardar Sampuran Singh*: After all, our intention is to separate the heads which are Provincial from those which are political and Central. We are going to keep the Political Department and all the expenses which come under that head separate and eventually our intention and ideal should be to make the Province independent financially.

*Mr. Zafrullah Khan*: The Committee will find out about that.

*Chairman*: Surely the Committee will take that into consideration?

*Sardar Sampuran Singh*: As it stands it seems that help is going to be given for ever.

*Sir Samuel Hoare*: The real check is that the Central or Federal Government will watch these figures closely, and I think we can rely on them, if the Province is self-supporting, to cease their grants-in-aid.

*Sardar Sampuran Singh*: This will only make our intention more clear.

*Chairman*: I think the majority of the sub-Committee is against putting in these words.

*Sir Abdul Qaiyum*: I should like an amendment to be made to add words to the effect that these special reservations and safeguards will last only for the life of the first Assembly, and that then things will return to their normal condition, or there will be some revision.

*Chairman*: I am much obliged to you, gentlemen.

*(The proceedings then terminated.)*

**Sub-Committee No. V (North West Frontier Province).**

REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE, HELD ON 16TH JANUARY, 1931.

1. Sub-Committee No. V submits the following report subject to adjustment to the complete constitution.

2. The terms of reference to the sub-Committee were to consider "what modifications, if any, are to be made in the general provincial constitution to suit the special circumstances of the North-West Frontier Province."

3. The sub-Committee comprised the following members:—

Mr. A. Henderson ( <i>Chairman</i> ).	Sir B. N. Mitra.
Lord Russell.	Raja Narendra Nath.
Lord Reading.	Mr. H. P. Mody.
Lord Lothian.	Sir A. P. Patro.
Lord Zetland.	Nawab Sir Abdul Qaiyum Khan.
Sir Samuel Hoare.	Sir Muhammad Shafi.
Maulana Muhammad Ali.	Sardar Sampuran Singh.
Sir Shah Nawaz Bhutto.	Dr. Shafa'at Ahmad Khan.
Captain Raja Sher Muhammad Khan.	Mr. C. E. Wood.
Dr. Moonje.	Mr. Zafrullah Khan.

It held meetings on the 18th and 30th December, 1930, and on the 1st January, 1931.

4. *The Need for Reform.*—The sub-Committee is unanimous in attaching urgent importance to the need for reform in the North-West Frontier Province. It recommends that the five administered districts should cease to be as they are at present a centrally administered territory under the direct control of the Government of India, and that they should be given the status of a Governor's province, subject to such adjustment of detail as local circumstances require, and the extent of the All-India interests in the province necessitates.

5. *The Classification of Provincial Subjects.*—The sub-Committee recommends that, as in other Governors' provinces, there should be a classification of provincial subjects entrusted to the charge of the provincial government. The precise discrimination of subjects between the Centre and the North-West Frontier Province will require careful investigation, if necessary, by a specially constituted

committee following broadly the lines of the classification in other provinces. Subject to the findings of such a committee the sub-Committee contemplates that the charge of the ordinary civil police in the five administered districts excluding the frontier constabulary will pass to the provincial government of these districts, but in view in particular of the close relation of the province with matters of defence and foreign policy the sub-Committee considers it essential that all matters of All-India importance and all matters connected with the control of the tribal tracts, for instance, the frontier constabulary, frontier remissions and allowances, and strategic roads, should be excluded from the purview of the provincial government and classed as central subjects. The broad point is that in making the dividing line between central and provincial subjects, regard would be had to the need for classifying as central certain subjects of All-India importance peculiar to the present administration of the North-West Frontier Province, which could not properly be entrusted to the provincial legislature.

6. *The Executive.*—The sub-Committee recommends that the Executive should consist of the Governor assisted by the advice of two ministers drawn from the non-official members of the legislature, at least one of whom shall be elected.

The Governor should also function as Agent to the Governor-General for the control of the tribal tracts, and the administration of central subjects peculiar to the North-West Frontier Province. With these subjects, since they will not be provincial but central subjects, the ministers will have no concern. The sub-Committee considers it essential owing to the close inter-relation between the trans-border tracts and the settled districts and in order that All-India interests may be adequately secured—that in addition to possessing all the powers vested in the Governor of a Governor's province, the Governor of the North-West Frontier Province should be the effective head of the Provincial administration and should preside over the meetings of his own cabinet.

*Note I.*—Sir Samuel Hoare holds the view that in accordance with the recommendation of the Chief Commissioner of the North-West Frontier Province, and the Despatch of the Government of India, one of the ministers should be an official.

*Note II.*—Sir B. N. Mitra suggested the words “acting on the advice of two ministers” in place of the words “assisted by the advice of two ministers” in the first sentence of the paragraph.

7. *The Legislature.*—(i) A unicameral legislative Council. The sub-Committee recommends that there should be set up for the five administered districts a single-chamber legislative Council with power to pass legislation and vote supply in regard to all subjects that may be classed as provincial. In addition the legislature should possess the usual powers of deliberation and of interpellation.

(ii) Its size. The size of the legislature should be suited to the convenience of the constituencies. The sub-Committee contemplates a legislative Council with a probable total membership, elected and nominated, of not more than 40 members.

(iii) Its composition. The sub-Committee considers that the legislature should for the present be composed both of elected and of nominated elements. The nominated members shall not exceed 14 members in a house of 40; and of the nominated members not more than six to eight should be officials.

(iv) The franchise. The sub-Committee suggests that the franchise in the North-West Frontier Province should be examined by the Franchise Committee to be set up to report on the franchise in all provinces.

(v) Minority representation. Subject to such recommendations as the Minorities sub-Committee may make, this sub-Committee considers that if Muslims are given weightage in provinces where they are in a minority, the Hindus and Sikhs in the North-West Frontier Province should be given weightage in the legislature of that province. Their representation might be three times the figure to which they would be entitled on a population basis.

8. *The Financial Settlement.*—The sub-Committee is satisfied from figures placed before it that on subjects which may be expected to be classed as provincial, the province will show a large financial deficit. It follows that the provincial government will require financial assistance from central (or federal) revenues. The Committee suggests that there should be preliminary expert investigation into the allocation of expenditure between central and provincial heads to supply the basis from which the financial subvention from central (or federal) revenues may be calculated. The sub-Committee apprehends that if the subvention be open to debate annually in the central (or federal) legislature, the substance of provincial autonomy in the North-West Frontier Province may be impaired. It suggests that the difficulty might be met by an agreed convention that each financial assignment should run undisturbed for a period of years.

St. James's Palace, London.

1st January, 1931.

(Signed) ARTHUR HENDERSON,

*Chairman.*



## APPENDIX I.

## Sub-Committee No. V (North-West Frontier Province).

**A BRIEF INTRODUCTORY MEMORANDUM ON THE QUESTION OF CONSTITUTIONAL REFORM IN THE NORTH-WEST FRONTIER PROVINCE, WHICH WAS CIRCULATED TO SUB-COMMITTEE NO. V BY DIRECTION OF THE CHAIRMAN (MR. HENDERSON).**

**1. Introductory note.**—In strict terms the North-West Frontier Province consists only of the five administered districts, the Hazara district east of the Indus and four districts west of the Indus, namely, the Peshawar, Kohat, Bannu and Dera Ismail Khan districts. But since the charge of the unadministered tribal tracts (which, though India, are not a part of British India) is also in the hands of the Chief Commissioner, as Agent to the Governor-General, it is common to refer to the whole area as though it formed the Province. The tribal tracts comprise not only the five political agencies, *viz.*, North and South Waziristan, the Kurram, the Khyber, and the Malakand, but also areas of almost equal extent, the control of which vests in the Deputy Commissioners of the neighbouring districts.

The country on both sides of the border is inhabited by peoples of the same race.

**2. Area and population.**—The British area of the five administered districts covers 13,400 square miles, populated by 2½ millions of people; the tribal tracts, including the States of Dir, Swat and Chitral, which fall within the Malakand agency, cover 25,500 square miles with a population of nearly three millions. The Muslims are throughout in an overwhelming majority. The population figures for the five administered districts are as follows:—

Muslims	. . . . .	2,063,000
Hindus	. . . . .	150,000
Sikhs	. . . . .	28,000
		2,241,000

**3. The present constitutional position of the Province.**—In 1919 the authors of the Montagu-Chelmsford Report recommended (section 198) that for reasons of strategy the Province must remain entirely in the hands of the Government of India. It did not participate in the last reforms, and possesses to-day the same form of government which it was given in 1901 when the five districts were separated from the Punjab. The announcement of 1917 remains unexpressed in the present constitution of the North-West Frontier Province. There is no Legislature in the Province, and no popular element in the Executive. In 1922 a committee over which Sir Denys Bray presided recommended constitutional reform in the North-West Frontier Province, but communal differences on the subject were an obstacle in the way, and the position remained unchanged.

**4. The relation between the five districts and the tribal tracts.**—In any examination of the problem of constitutional advance in the North-West Frontier Province, it is necessary to be clear that for obvious reasons the form of government set up will apply only in the five administered districts which are themselves part of British India. Any new constitution that may be devised will not operate in the tribal tracts. At the same time, the close inter-relation of the five districts and the tribal territory has always been considered to necessitate a unified control of both areas as essential to the security of the frontier.

**5. The special circumstances of the North-West Frontier Province.**—The terms of reference to the Sub-Committee are “to determine what modifications, if any, are to be made in the general provincial constitution to meet the special circumstances of the North-West Frontier Province”. The more important special features may be summarised somewhat as follows:—

*I. Its geographical position*, involving the close relation of the Province with—

- (a) the defence problem, and
- (b) foreign policy.

Points in this connection are—

(1) that law and order, which in other parts of India is a domestic and internal matter, here raise much wider issues;

(2) that the North-West Frontier Province is the terrain in which the Army must be expected to operate for the defence of India against external land attack; and

(3) the need, which has already been mentioned, of unified control over the five administered districts and over the tribal territory.

*II. Political inexperience.*—The Province has practically no experience of the elective system or of representative institutions. Elections have, however, recently been introduced in the Peshawar municipality, and it has now been decided to introduce direct representation for the constitution of local bodies.

*III. Deficit finances.*—A note is appended to indicate in a readily intelligible form the financial position of the North-West Frontier Province in the Budget of 1929-30 compared with the audited accounts of 1924-25. It is estimated in the note that the “provincial” excess of expenditure over revenue amounts to Rs. 1.11 lakhs. Since the North-West Frontier Province is still a “centrally administered” area its present budget is included within the central budget.

**6. Points at issue.**—Suggestions are sometimes made that the problem of constitutional advance in the North-West Frontier Province should be solved by the re-amalgamation of the five districts with the Punjab. It is possible that the Sub-Committee may wish to indicate its own view on that particular proposition.

Assuming for the moment that the North-West Frontier Province remains a separate unit, the following issues would appear to arise in any consideration of revising the form of government in the Province:—

(a) Should a Legislative Council be established in the North-West Frontier Province?

(b) If so, how should it be composed, and what should be its powers?

Under this head, matters arising for consideration would be the franchise, whether direct or indirect; the representation of minorities; and the proportions of nominated and elected elements; and, as regards powers, the legislative and financial powers of the Legislature.

(c) How should the Executive be composed?

The present Executive is purely official. The questions at issue would be the substitution in its place of a popular Executive or an Executive in which popular and official elements may be combined; and, secondly, the position of the Chief Commissioner or Lieutenant-Governor (by whatever name the head of the administration may be called).

(d) The relations between the Executive and the Legislature.

These relations must necessarily depend to a large extent on the powers of the Legislature.

- (e) What should be the special powers vested in the Chief Commissioner or Lieutenant-Governor?

The point at issue will be whether, owing to its special circumstances, the special powers to be given to the Governors in the British Indian Provinces should be increased in the North-West Frontier Province.

- (f) The classification of subjects.

For reasons peculiar to the conditions of the North-West Frontier Province, and in particular repercussions on External Affairs and Defence, it is possible that the classification of provincial subjects in the Provinces generally may require some modification. Thus, to take some examples, frontier constabulary, frontier remissions and allowances, strategic roads may all require to be classed definitely as central subjects.

- (g) The financial settlement.

The issue is of particular importance owing to the heavy deficit in provincial revenues and the consequent demand on central revenues for the balance. It may be found appropriate that assignments of revenue from the centre to the North-West Frontier Province should run for a term of years.

### The Financial Position of the North-West Frontier Province.

The attached\* statement, which shows the financial position of the North-West Frontier Province in the Budget of 1929-30 as compared with the audited accounts of 1924-25, might be of interest to the sub-Committee. The statement separates the heads of account which would, in the case of a Governor's Province, involve, as affecting Central subjects, a charge upon the Central Government. One correction only has to be made in order to obtain a true picture of how the Province would stand financially if it were placed in the same position as other Provinces; *viz.*, some of the expenditure under Civil Works should properly be debited to the Central head "Frontier Watch and Ward" in so far as it concerns frontier works. If this correction is made, the "provincial" excess of expenditure over revenues will be reduced, in 1929-30, to 1.11 lakhs and the "Central" excess will be raised to 1.34 lakhs. The Province as a whole remains, according to the Budget of 1929-30, a deficit Province to the extent of nearly 2½ crores of rupees.

Looking at the provincial figures alone, after making the suggested reduction under Civil Works, it will be seen that the Province would require a subvention of 1.11 lakhs to enable it to finance, *on its present scale of expenditure*, what are classed as provincial subjects in Governors' Provinces. Its outlay of these subjects has grown, during the past six years, by 34½ lakhs, while its "provincial" revenue has remained practically stationary. This anomalous financial position is due to the position of the Province as the Warden, on behalf of the whole of India, of its North-Western Frontier.

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\* Statement overleaf.

*Figures in thousands of Rupees.*

Revenue Heads, <i>Net.</i>				Expenditure Heads, <i>Net.</i>			
Head.	Accounts, 1924-25.	Budget, 1929-30.	Increase (+) or Decrease (—).	Head.	Accounts, 1924-25.	Budget, 1929-30.	Increase (+) or Decrease (—).
Land Revenue . . . . .	15,52	16,57	+1,05	Irrigation . . . . .	7,93	3,02	—4,91
Excise . . . . .	5,04	4,14	—90	General Administration . . . . .	16,33	18,16	+1,83
Stamps . . . . .	11,85	11,30	—55	Administration of Justice . . . . .	2,79	5,25	+2,46
Forest . . . . .	81	60	—21	Jails . . . . .	4,82	6,86	+2,04
Registration . . . . .	72	64	—8	Police . . . . .	26,78	29,02	+2,24
Miscellaneous . . . . .	4,89	5,78	+89	Scientific Departments . . . . .	4	5	+1
				Education . . . . .	11,01	19,64	+8,63
				Medical . . . . .	3,92	4,02	+10
				Public Health . . . . .	1,72	1,07	—65
				Agriculture, etc. . . . .	92	1,74	+82
				Miscellaneous Departments . . . . .	5	2	—3
				Civil Works . . . . .	50,24	85,63	+35,39
				Pensions . . . . .	2,70	4,68	+1,98
				Stationery and Printing . . . . .	87	68	—19
				Miscellaneous . . . . .	68	69	+1
					1,30,80	1,80,53	+49,73
Total "Provincial" subjects	38,83	39,03	+20	Excess of Expenditure over Revenue.	91,97	1,41,50	49,53
Customs . . . . .	—8	—13	—5	Territorial and Political Pen- sions.	53	48	—5
Taxes on Income . . . . .	6,02	8,07	+2,05	Interest . . . . .	—8,63	—9,34	—1,21
Opium . . . . .	72	—	—72	Ecclesiastical . . . . .	96	82	—14
Currency . . . . .	6	2	—4	Political . . . . .	22,11	24,46	+2,35
				Frontier Watch and Ward . . . . .	92,69	95,62	+2,93
					1,07,66	1,11,54	+3,88
				Excess of Expenditure over Revenue.	1,00,94	1,03,58	+2,64
Total "Central" subjects .	6,72	7,96	+1,24		2,38,46	2,92,07	+53,61
				Excess of Expenditure over Revenue.	1,92,91	2,45,08	+52,17
Gross Total for Province .	45,55	46,99	+1,44				

## APPENDIX II.

## SUB-COMMITTEE NO. V (NORTH-WEST FRONTIER PROVINCE).

## Notes on the North-West Frontier Province.

Circulated to the Sub-Committee at the request of Dr. Shafa'at Ahmad Khan.

(1) Strictly the North-West Frontier Province consists only of the five administered districts as, however, the charge of the tribal tracts is also in the hands of the Chief Commissioner, who acts as Agent to the Governor-General, as far as these tracts are concerned, the term is loosely applied to the total area covered by the five districts and by the tribal tracts. The tribal tracts, including the States of Dir, Swat and Chitral, cover 25,000 square miles with a population of nearly three millions. The population of the five administered districts is 2,241,000. The total area of the five districts is 13,400 square miles.

(2) From the time of the British annexation of the Punjab in 1849, down to 1901, the five frontier districts remained with the Punjab, and the Punjab Government also assumed responsibility for the control of the adjoining frontier tracts. In 1901, in consequence of the decision "that the conduct of external relations with the tribes on the frontier should be more directly than hitherto under the control and supervision of the Government of India," the whole area was taken under the immediate charge of the Government of India, a separate Frontier Province was created, and the Punjab lost the five districts.

(3) There are two points which should be vividly grasped in this connection. In the first place, the Frontier Province was an equal partner in the Province of the Punjab. All the Acts, legislative, executive and judicial, which were the product of the energy and foresight of a long line of British Administrators in the Punjab were applied automatically to the Province. There was no distinction between the various parts of the Punjab Province, and the five districts benefited considerably by the ample resources, greater opportunities, and wide scope which the Province as then constituted offered to the inhabitants of the Frontier. The five settled districts which now constitute the Frontier Province supplied some of the smartest, most enterprising and ablest officers to the Punjab Government, and the executive ability, driving power, and capacity no less for leadership than for teamwork and discipline which the Indian officials of the then Punjab Government displayed were borne in upon all who came into contact with them.

(4) In the second place, the Province was separated from the Punjab, not because its inhabitants were either illiterate, backward or unprogressive, but because military considerations necessitated it. The Government of Lord Curzon came to the conclusion that the external relations with the tribes on the frontier could be more effectively conducted by the Central Government. That the regulation of external relations, and the needs of the defence of India, were not regarded as an obstacle to the political development of the new Province, will be clear from the 5th paragraph of the Despatch of the Secretary of State for India, dated December 20th, 1900. "In the case of the settled districts," which were to be detached from the Punjab, "it is clearly undesirable that the people having already enjoyed the benefit of a highly organised administration, with careful land settlements, its laws and regulations and the various institutions of a progressive civil government, should be thrown back from the stage which they have already reached." Lord Curzon's Government made it perfectly clear that the administration which was to be organised for the new Province would not fall short of the standards which had hitherto been maintained in the Punjab.

On the contrary, it was assumed throughout, at that time, that the people of the new Province will suffer no diminution either in the political, or in the administrative reforms which the Punjab no less than other Indian Provinces might introduce. Separation from the Punjab was not intended to imply political stagnation, or constitutional inertia, and the Province was assured of a progressive administration, adapted with a view not only to the defence of the Frontier, but also to the political and economic needs and aspirations of the people of the Province. Its strategic position, instead of being a chief hindrance to its constitutional development, was regarded then, and has been rightly considered since, by the Frontier people, as the most effective, and the most potent argument for political advance. The promises made to the Frontier people were not, however, redeemed. While the Punjab and other Provinces of India forged ahead; while the benefits of the Minto-Morley reforms were conferred throughout India in 1908-09, the new Province was treated as a special, or rather a backward area, and the inhabitants deprived of all means of representation of their views and feelings. The period that followed was one of intense political activity in the Province. The white area pulsated with life and energy, and its people were in sympathy with movements, ideals and ideas which the rest of India expressed in no uncertain terms. The masses were roused; the educated classes increased in number and influence; while the discharged soldier who returned to his native village imparted a new element of energy and discipline to the national movement. While maintaining strict discipline and self-control, and preaching loyalty to the British Government, he demanded a voice in the government of his village or town, so that he might improve his lot. The people were no longer content to remain passive and passionless spectators in their own land. They demanded change in the method of Government, and they do so for eminently practical purposes. They insisted on facilities for the education of their children; they asked for cleaner and better houses, and asked for all the amenities of modern life. They were by no means content with a change in method; they went further, and insisted on change in the form of their government. They felt that mere tinkering with a few things here and there would not be sufficient. They must be masters in their own household and permitted to shape their own destiny, consistently with the peculiar military and strategic position of their Province. They compared and contrasted their position in 1912 with that occupied by the other Provinces, after the Montagu-Chelmsford Reforms, and the more they reflected, the more discontented and dissatisfied they became. In the meanwhile, though the Report of the Bray Committee was published in 1923, the Government of India took no action on it till 1927, and even *then* they deliberately shelved the point to which the Frontier people attached supreme importance, *viz.*, the introduction of reforms in the Province. Meanwhile public opinion had undergone a most remarkable change in the brief interval. All classes and communities in India gradually acknowledged the justice and equity of this demand, and the Hindu community which had originally offered some opposition to the demand, ranged itself solidly behind the champions of reform, and expressed itself in unambiguous terms in favour of this proposal. Lala Lajpat Rai wholeheartedly supported the motion in the Legislative Assembly on March 11th, 1923, which demanded the introduction of reforms in the Frontier Province on the same footing as in other Provinces of British India.

(5) The position at the present time may be briefly summarised as follows:—The question of Frontier Reforms is not a "Communal" question any longer and an overwhelming number of Frontier Hindus support this demand. The Nehru Report which considered the problem with the greatest care, came definitely and deliberately to the conclusion that the Frontier Province should be placed on the same footing as other Provinces of British India. Let me quote here a passage from the memorandum on the North-West Frontier prepared by the Government of India for the Simon Commission (Volume IV, page 253), "Hindu political opinion outside the Province has become largely, if not entirely, reconciled to a constitutional advance."

(6) It will, indeed, be correct to state that practically all organised political parties in India, whether Hindu or Muslim, support the demand in its entirety. It is admitted by all parties that the reforms to be granted to the Provinces must in no case fall short of those which the latter may enjoy. In the Province itself, the differences between the Hindus and Muslims have completely disappeared. The Hindu community is as anxious for the constitutional development of the Province as the Muslim and the fears of a microscopic minority among the Frontier non-Muslims which had often been trotted out as the greatest obstacles to advance, have given way to a feeling of trust, security, confidence and goodwill which are without a parallel in the history of the Province. There is a solidarity of national interest, a bond of common patriotism, and common pride in the glorious history of their Province, which have knit together classes, creeds and communities in the Province. The recent events in the Province have now made this demand the dominant issue in the lives of the people. The whole Province has been roused. There is not a single hamlet in the remotest village; not an adult in the five administered districts, who do not take the keenest and intensest interest in the political future of the Province. The movement has acquired a momentum, and exercises an influence on the daily lives of the people which would have been inconceivable a year ago. All the people, from the highest to the lowest, are animated by the resolve to place their province on precisely the same level as other provinces. The whole Province is in a ferment, and is watching anxiously for the fulfilment of a promise which has been made on numerous occasions, but never redeemed. In India, the problem has exercised and is exercising profound influence, and the Indian National Congress and other political organisations have been made it one of the most important planks in their programme; while on the trans-border tribes are discontent, and their intense dissatisfaction with the status of their Province, has produced very serious effects.

I have tried to describe as briefly as I can the events that have led up to the present movement. The Frontier people are a brave, virile and high-spirited race, whose extraordinary valour and unique administrative vigour are recorded in the history of India, Afghanistan and Persia. They are democratic by instinct, tradition, environment and religion. Their manly virtues, sterling qualities, and practical ability are testified to by all who have come across them. They find other Provinces enjoying the blessings of reforms, they find education, sanitation, medical relief, and co-operative credit-societies developed in the Punjab as well as other Indian Provinces with remarkable success. They could have achieved the same results, had they been given the opportunity. Yet, in their present condition, they are virtually powerless and helpless. While possessing qualities which are the surest foundation of a self-governing nation, they are deprived of the merest rudiments of self-government. They have no voice in their own land; laws are made for them, but not by them, while they serve merely as cogs in a great machine. They feel humiliated. Their pride receives a shock from the consciousness of their political impotence and insignificance. It is sometimes said that they have received no training in local bodies and that it would be dangerous to give them so much power as at the start. If they have received no training in local bodies, it is through no fault of their own. Nor have local bodies always been recognised as indispensable links in the chain of constitutional reform. The following extract from the Despatch of the Government of India is conclusive on the point. "The five districts of the North-West Frontier Province are not behind the adjoining districts of the Rawalpindi and Multan Divisions of the Punjab in point of intelligence and capacity. In these Punjab districts the method of direct election to district Boards and Municipality was still unknown when the reforms of 1919 were introduced. Nevertheless, they have participated with success in the dyarchical constitution of the Province. The people of the North-West Frontier Province may well claim that the absence of direct representation for local purposes should no more obstruct the introduction of responsible government in their Province now, than it did in the Punjab in 1919."

(7) Nor has the British Government invariably insisted on preliminary training in local self-government before granting a legislature with full powers, either to a province or to a nation. The Boers who had laid down their arms to the British Government in 1901 had not gone through the stages either of local self-government or of a Parliamentary legislature. They lived a life and followed a programme which cannot be regarded as either advanced or modern, when compared with those of the Pathans. Yet the British Government virtually handed over an extensive area to them. No one has suggested that their early deficiency in political training really stood in the way of their efficient administration. Many other examples could be given. It is not the training so much as the foundations of character which are necessary to the maintenance of that equipoise in a State which is the pre-requisite of its stability. The Pathan has all the qualities which go to the making of an administrator and a legislator. The best evidence of this is the work he has accomplished in India and elsewhere during the last seven hundred years. If the Province is given Reforms, it will greatly assist in the restoration of peace to India, and will lead to the building up of a healthy, prosperous and contented Province which be the best security against invasion. The Province acts as the doorkeeper of India. It is the sentinel which watches the foes outside and guards its teeming millions with a loyalty and energy which have won unstinted praise from everyone. If the people are contented and happy they can be of the greatest help to India. It is through them that the turbulent tribes are kept in check. It is through them that peace, law and order reign supreme. His work in the Army is so well-known that it is not necessary for me to describe it. It is a truism to state that the British Government cannot afford to have a discontented Province while the foes are knocking at the gates outside. A discontented Province on the Frontier is a source of the greatest anxiety to the Central Government. This anxiety is multiplied tenfold when and if trans-border tribes invade the Province. If to the enormous cost of punitive expeditions and the tremendous outlay of men and money which they involve, are added deep dissatisfaction among the masses of the Province, the position of the Government becomes one of extreme difficulty and delicacy. From every point of view—from the point of expediency, equity, and statesmanship—it is necessary to satisfy the desire of the people of the Frontier Province, and thus to ensure peace not only in the Province but also on the trans-border and throughout India.

(8) The demand of the Frontier people may be summed up in the phrase—placing of the North-West Frontier Province on the same footing as other Provinces. If other Provinces are granted complete provincial autonomy, the Frontier Province should also be guaranteed precisely the same status. We are as fit to participate in the new Reform as any other Province in India, and we see no reason why our Province should be treated as a “depressed” Province. We want a fair field and no favour. Unless this is done, unless we take an honourable and equal place in the units that will constitute the Indian Federation, we would rather go without any reforms. Educationally, socially and economically, we are as good as the neighbouring Province or other Provinces of India. We admit that the strategic position of the Frontier Province may render slight modification in details necessary, and a few subjects such as the Frontier Constabulary may have to be reserved for a certain period. This can be adjusted, when we discuss the classification of subjects and divide them into Federal and Provincial. The fundamental principle must, however, be kept constantly in view, viz., that no subject should be classified as Central or Federal in the Frontier Province which is not classified as such in other Provinces of India, unless the strategic position of the province makes it imperative.

The new province will be justified in asking for a subvention from the Central Government for the administration of certain provincial subjects in order to meet the deficit. The details can be worked out later on by the sub-Committee.



(9) Before I conclude, I should like to draw your attention to the case of Assam. When Assam was separated from Bengal in 1911, it was given a legislature, and was assured a progressive and efficient administration. Assam though a small Province, has enjoyed a separate legislature, and progressive and efficient administration, in spite of the fact that it contains a large number of backward tribes. It participated in the Montagu-Chelmsford reforms, and is now on a footing of absolute equality with other Provinces. Separation benefited Assam greatly, and the Province is able to stand on its own feet. Compare and contrast this with the treatment meted out to the Frontier Province. This Province, instead of benefiting by separation, has lost heavily by the change. Its administration cannot be said to be as good as, or better than, that of the Punjab or other Province of India. Its education has been retarded by the policy of retrenchment pursued by the Government of India, and the Hartog Committee on Education makes a pointed reference to it in its Report:—"How relentlessly the policy of retrenchment was applied may be gathered from the fact that in the North-West Frontier Province alone, within two years, the expenditure from the Government Funds was reduced by nearly two lakhs, 125 primary schools were closed, one of the two posts of Circle Inspector was abolished, the junior Anglo-vernacular training school for men was closed, all the three training classes for men attached to the Government high school were abolished, the only normal school for women was given up, and grants-in-aid were generally reduced." It may be said that generally the standards of most of the "nation-building" departments of the Frontier Province fall considerably short of those attained in other Provinces. In the sphere of law and order, it is worth remarking that the Jirga system shows no sign of decline. Hence, separation, instead of being a blessing, has proved to be a Dead Sea apple.