

JOINT COM
INDIAN CONSTITUTIONAL
REFORM

[SESSION 1933-34]

VOLUME I
(PART I)
REPORT

[The PROCEEDINGS of the Joint Committee [Session 1933-34] will be found in Volume I (Part II).]

[The RECORDS of the Joint Committee [Session 1933-34] will be found in Volume II.]

[The PROCEEDINGS, EVIDENCE, and RECORDS of the Joint Committee [Session 1932-33] will be found in the following Parliamentary Papers of 1933: H.L. 79 (I), (II A, B, C, and D), and (III); or H.C. 112 (I), (II A, B, C, and D), and (III).]

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REPORT

BY THE SELECT COMMITTEE OF THE HOUSE OF LORDS
APPOINTED TO JOIN WITH A COMMITTEE OF THE
HOUSE OF COMMONS TO CONSIDER THE FUTURE
GOVERNMENT OF INDIA AND, IN PARTICULAR, TO
EXAMINE AND REPORT UPON THE PROPOSALS
CONTAINED IN COMMAND PAPER 4268.

ORDERED TO REPORT:—

That this Committee was appointed at the commencement of the present Session.

The Minutes of Evidence taken before, and Records reported from, the original Committee were referred to us. For purposes of convenience this Report treats the present Committee as though it had been in existence since the appointment of the original Committee on the 11th April, 1933.

We record with profound regret the death of two of our members, Lord Burnham and Miss Pickford, and we are deeply sensible of the loss which we have sustained by being deprived of the aid of their experience and judgment in the preparation of our Report.

We were empowered to call into consultation representatives of the Indian States and of British India, and we accordingly invited the following Delegates to attend our deliberations:—

Delegates from the Indian States

Rao Bahadur Sir V. T. Krishnama Chari, G.I.E.
Nawab Sir Liaqat Hyat-Khan, O.B.E.
Nawab Sir Muhammad Akbar Hydari.
Sir Mirza Muhammad Ismail, C.I.E., O.B.E.
Sir Manubhai Nandshanker Mehta, C.S.I.
Sir Prabhashankar Dalpatram Pattani, K.C.I.E.
Mr. Y. Thombare.

Delegates from Continental British India

His Highness the Right Honourable Sultan Sir Mohamad Shah,
 Aga Khan, G.C.S.I., G.C.I.E., G.C.V.O.
 Sir C. P. Ramaswami Aiyar, K.C.I.E.
 Dr. B. R. Ambedkar.
 Sir Hubert Carr.
 Mr. A. H. Ghuznavi.
 Lieut.-Colonel Sir Henry Gidney.
 Sir Hari Singh Gour.
 Mr. A. Rangaswami Iyengar.
 Mr. M. R. Jayakar.
 Mr. N. M. Joshi.
 Mr. N. C. Kelkar.
 Begum Shah Nawaz.
 Rao Bahadur Sir A. P. Patro.
 Sir Abdur Rahim.
 The Right Honourable Sir Tej Bahadur Sapru, K.C.S.I.
 Sir Phiroze Sethna.
 Dr. Shafa'at Ahmad Khan.
 Sardar Bahadur Buta Singh.
 Sir Nripendra Nath Sircar.
 Sir Purshotamdas Thakurdas, G.I.E., M.B.E.
 Mr. Zafrullah Khan.

Delegates from the Province of Burma

Sra Shwe Ba.
 Mr. C. H. Campagnac, M.B.E.
 Mr. N. M. Cowasji.
 U Kyaw Din.
 Mr. K. S. Harper.
 U Chit Hlaing.
 U Thein Maung.
 Dr. Ba Maw.
 U Ba Pe.
 Dr. Ma Saw Sa.
 U Shwe Tha.
 Mr. S. A. S. Tyabji.

All the above were able to attend with the exception of Mr. Kelkar, who was prevented by illness from coming to England. We have learned with very great regret of the death of Mr. Rangaswami Iyengar since his return to India.

The Delegates took part in more than seventy of our meetings, some of which were devoted to discussion between the Delegates and ourselves, and others to the hearing of evidence.

We desire to place on record our appreciation of the assistance which we have derived from our full and frank discussions with the Delegates, for many of whom so long an absence from their own country must have caused great personal inconvenience and sacrifice. Their advice and co-operation have been of the greatest value to us. Many of them have furnished us with separate memoranda on various points, but we would mention in particular the Joint Memorandum signed by all the British Indian Delegates who were still in England, which has been of great service to us as focussing British Indian views and to which we shall have occasion often to refer in the course of our Report.

We have held 159 meetings in all and have examined over 120 witnesses, whose evidence has been printed in Volumes 2A, 2B and 2C of the Minutes of Evidence published in the autumn of 1933. We are much indebted to all the witnesses for the assistance which they gave us, but our special gratitude is due to the Secretary of State for India, who, though a member of the Committee, took the perhaps unprecedented course of tendering himself as a witness, and who replied to nearly 6,000 questions during the nineteen days over which his evidence extended. In no other way could we have been so effectively enabled to distinguish, and to examine in all their bearings, the intricate and difficult issues which we are charged to consider.

We have also been fortunate in having at our disposal the practical knowledge of Indian affairs acquired by many of our own number from their personal experience in high office or in other work in India.

**REPORT OF THE
JOINT SELECT COMMITTEE
ON INDIAN CONSTITUTIONAL REFORM**

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APPENDIX I.

(PART I.)

List of principal existing Rights of Officers appointed by the Secretary of State in Council.

NOTE.—In the case of sections the reference is to the Government of India Act, and in the case of rules to rules made under that Act.

1. Protection from dismissal by any authority subordinate to the appointing authority (Section 96B (1)).
2. Right to be heard in defence before an order of dismissal, removal or reduction is passed (Classification Rule 55).
3. Guarantee to persons appointed before the commencement of the Government of India Act, 1919, of existing and accruing rights or compensation in lieu thereof (Section 96B (2)).
4. Regulation of conditions of service, pay and allowances, including Burma allowance, and discipline and conduct, by the Secretary of State in Council (Section 96B (2)).
5. Power of the Secretary of State in Council to deal with any case in such manner as may appear to him to be just and equitable notwithstanding any rules made under Section 96B (Section 96B (5)).
6. Non-votability of salaries, pensions and payments on appeal (Sections 67A (3) (iii) and (iv) and 72D (3) (iv) and (v)).
7. The requirement that rules under Part VII-A of the Act shall only be made with the concurrence of the majority of votes of the Council of India (Section 96E).
8. Regulation of the right to pensions and scale and conditions of pensions in accordance with the rules in force at the time of the passing of the Government of India Act, 1919 (Section 96B (3)).
- 9.—(i) Reservation of certain posts to members of the Indian Civil Service (Section 98).
(ii) Appointment of persons who are not members of the Indian Civil Service to offices reserved for members of that service only to be made subject to rules made by the Governor-General in Council with the approval of the Secretary of State in Council (Section 99), or in cases not covered by these rules to be provisional until approved by the Secretary of State in Council (Section 100).
10. Determination of strength (including number and character of posts) of All-India Services by the Secretary of State in Council, subject to temporary additions by the Governor-General in Council or Local Government (Classification Rules 24 and 10).
11. Provision that posts borne on the cadre of All-India Services shall not be left unfilled for more than three months without the sanction of the Secretary of State in Council (Classification Rule 25).
12. Appointment of anyone who is not a member of an All-India Service to posts borne on the cadre of such a Service only to be made with the sanction of the Secretary of State in Council, save as provided by any law or by rule or orders made by the Secretary of State in Council (Classification Rule 27).
13. Sanction of the Secretary of State in Council to the modification of the cadre of a Central Service, Class I, which would adversely affect any officer appointed by the Secretary of State in Council, to any increase in the number of posts in a Provincial Service which would adversely affect any person who was a member of a corresponding All-India Service on 9th March 1926, or to the creation of any Specialist Post which would adversely affect any member of an All-India Service, the Indian Ecclesiastical Establishment, and the Indian Political Department. (Provisos to Classification Rules 32, 40 and 42.)

14. Personal concurrence of the Governor required to any order affecting emoluments, or pension, any order of formal censure, or any order on a memorial to the disadvantage of an officer of an All-India Service (Devolution Rule 10).
15. Personal concurrence of the Governor required to an order of posting of an officer of an All-India Service (Devolution Rule 10).
16. Right of complaint to the Governor against any order of an official superior in a Governor's Province and direction to the Governor to examine the complaint and to take such action on it as may appear to him just and equitable (Section 96B (1)).
17. Right of appeal to the Secretary of State in Council, (i) from any order passed by any authority in India, of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach of orders, suspension, removal or dismissal, or (ii) from any order altering or interpreting to his disadvantage any rule or contract regulating conditions of service, pay, allowances or pension made by the Secretary of State in Council, and (iii) from any order terminating employment otherwise than on reaching the age of superannuation (Classification Rules 56, 57 and 58).
18. Right of certain officers to retire under the regulations for premature retirement.

(PART II.)

List of principal existing Rights of Persons appointed by Authority other than the Secretary of State in Council

NOTE.—In the case of sections the reference is to the Government of India Act, and in the case of rules to rules made under that Act.

1. Protection from dismissal by any authority subordinate to the appointing authority (Section 96B (1)).
2. Right to be heard in defence before an order of dismissal, removal or reduction is passed, subject to certain exceptions (Classification Rule 55).
3. Regulation of the strength and conditions of service of the Central Services, class I and class II, by the Governor-General in Council and of Provincial Services by Local Government subject, in the case of the latter, to the provision that no reduction which adversely affects a person who was a member of the Service on the 9th March 1926 should be made without the previous sanction of the Governor-General in Council (Classification Rules 32, 33, 36, 37, 40 and 41).
4. Personal concurrence of the Governor required to any order affecting emoluments or pension, an order of formal censure, or an order on a memorial to the disadvantage of an officer of a Provincial Service (Devolution Rule 10).
5. Right of appeal from any order of censure, withholding of increments or promotion, reduction, recovery from pay of loss caused by negligence or breach of orders, suspension, removal or dismissal, and any order altering or interpreting to his disadvantage a rule or contract regulating conditions of service, pay, allowances or pension, and in the case of subordinate services the right of one appeal against an order imposing a penalty (Classification Rules 56, 57, 58 and 54).

(PART III.)

NON-VOTABLE SALARIES, &c. (CIVIL)

The salaries and pensions of the following classes of persons are non-votable :—

- (a) persons appointed by or with the approval of His Majesty or by the Secretary of State in Council before the commencement of the Constitution Act or by a Secretary of State thereafter ;

(b) persons appointed before the first day of April 1924, by the Governor-General in Council or by a Local Government to Services and posts classified as superior ;

(c) holders in a substantive capacity of posts borne on the cadre of the Indian Civil Service ;

(d) members of the Public Service Commission ;

(e) holders in a substantive capacity before the commencement of the Constitution Act of posts in an Indian Central Service.

The following sums payable to such persons fall also under item (v) of paragraph 47, namely :—

Sums payable to, or to the dependants of, a person who is, or has been, in the service of the Crown in Burma under any Order made by the Secretary of State in Council, by a Secretary of State, by the Governor-General in Council, or by the Governor of Burma upon an appeal preferred to him in pursuance of Rules made under the Constitution Act.

For the purposes of the proposals in this Appendix the expression "salaries and pensions" will be defined as including remuneration, allowances, gratuities, contributions, whether by way of interest or otherwise, out of the revenues of Burma to any Provident Fund or Family Pension Fund, and any other payments or emoluments payable to, or on account of, a person in respect of his office.

APPENDIX II.

(See paragraph 18 of Introduction.)

PROVISIONAL LIST OF AREAS TO BE INCLUDED IN SCHEDULE A AND SCHEDULE B TO THE CONSTITUTION ACT.

		<i>Schedule A.</i>		Area
District				
1. Federated Shan States	Northern Shan States. Southern Shan States.	
2. Arakan Hill Tracts	Arakan Hill Tracts (late Hill District of Arakan).	
3. Chin Hills	Chin Hills (including the Pakòkku Hill Tracts).	
4. Myitkyina	Myitkyina Kachin Hill Tracts. Mogaung Kachin Hill Tracts. Kamaing Kachin Hill Tracts. Sadôn Kachin Hill Tracts. Htawgaw Kachin Hill Tracts. Putao Sub-Division (late Putao District).	
5. Bhamo	Sinlum Kachin Hill Tracts. Shwegu Kachin Hill Tracts.	
6. Upper Chindwin	Somra Tract. Kanti State. Thaungdut State.	
7. Katha	Katha Kachin Hill Tracts.	
<i>Schedule B.</i>				
1. Myitkyina	Other than the Hill Tracts specified in item 4 of Schedule A.	
2. Bhamo	Exclusive of the Hill Tracts specified in item 5 of Schedule A.	
3. Upper Chindwin	Homalin Sub-division and the Tamu Township of the Mawlaik.	
4. Salween		

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JOINT COMMITTEE ON
INDIAN CONSTITUTIONAL
REFORM

[SESSION 1933-34]

VOLUME I
(PART I)
REPORT

[The PROCEEDINGS of the Joint Committee [Session 1933-34] will be found in Volume I (Part II).]

[The RECORDS of the Joint Committee [Session 1933-34] will be found in Volume II.]

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