

JOINT PARLIAMENTARY COMMITTEE'S REPORT

A Critical Analysis

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J. P. C. REPORT'

More Reactionary Than White Paper

The report of the Joint Parliamentary Committee has no individuality of its own. It enunciates no new principles and covers no new ground. It is based on the White Paper, is a replica of it and is worse in certain important respects than that reactionary document. Forecasts have been persistently made of this fact and as they have turned out to be more or less correct Indians need not have the slightest disappointment. Nobody expected the new proposals would be better, and it is merciful on the part of the thirty-two members of the two Houses of Parliament to whom the task of deciding India's political fate was entrusted, that they did not make them more retrograde than they actually are and as illiberal as they could have made. It is not to be hoped that the labour and expense incurred in preparing the groundwork for and the outline of the reform scheme in the shape of the famous White Paper would be rendered nugatory from the standpoint of the Britishers by reversing its recommendations wholly or substantially. Nor has anybody been exhilarated into optimism by the course of events that have transpired either in England or in India. In the course

of about 280 pages the Indian question has been dealt with in pleasing platitudes, elegant expressions and sweet euphemisms. But none of them can and should mar a correct appreciation of the views and policy expounded therein and of the directions in which the existing scheme is worsened and requires drastic alterations in order to be satisfactory to educated and unbiassed Indians. [The advocacy of indirect election for both the houses of the Central Legislature is unsound in theory and unacceptable in practice, and will tend to place at a premium unprogressive influences.] It will multiply and impart magnified importance to the narrow communal class and interest considerations which will be the guiding principle of the members of the provincial lower house and of the voters throughout the country under the White Paper scheme of franchise and legislature. The real and larger interests of the country will be made subservient and subordinate to the pettifogging ones of individuals and groups some of whom at least may not belong to the educated or the political-minded or even the literate sections of the people. No doubt the difficulties and disadvantages of direct

election have been described by the Joint Parliamentary Committee with the quantum of force demanded by an undesirable departure from a political doctrine and device which civilised world has held indispensable for progressive government and which could be successfully adopted in India despite extensive franchise, but the Committee have not at all been able to make a case in favour of the backward change. Another matter on which the report has taken a decidedly objectionable line is the curtailment of the powers of the provincial legislature and the amplification of the Governor's special powers. Numerous and great as they already are, the extension of latitude now recommended will undoubtedly enhance the possibilities of an autocratic administration, encourage him into a defiance of the opinion of the ministers and the legislature and discourage independent action by the latter. The evil is aggravated by the attitude of leaving undefined the nature or extent of these special powers. This is nothing but giving the Governor a *carte blanche*. With undisguised plainness the Committee assert that it would be 'undesirable to seek to define the Governor's relations with the ministers by imposing a statutory obligation upon him to be guided by their advice' and that it 'appears to us undesirable to seek to define them with meticulous accuracy.'

Neither the proposals of the White Paper nor of the Joint Parliamentary Committee are, as it is pointed out, final. It is true. It only means that, when they will be embodied in legislation, we should be prepared for a more unprogressive scheme. We can hold our souls in patience both till then and after then. For the last half a century India has voiced her demand for self-government in no uncertain or feeble terms. Almost uniformly since the Montagu-Chelmsford reforms came into existence, and particularly unceasingly during the last five years it has been emphatically repeated by all sections, classes and communities of Indians, ranging from the most moderate to the most extremist that nothing short of self-government of the Dominion design will satisfy us. The more sincere, earnest and honest our demand is, the less are the Britishers disposed to grant it. The history of the Government's transactions with India on her constitutional and political problems has been one of broken promises, and progressively reactionary proposals. The answer to India's legitimate aspirations and ambitions has been given, almost once for all. How will India take up this challenge and respond to this wanton and contemptuous defiance of universal public opinion? Not by 'rejecting' the reforms partly because we have not the power to do so, and partly because it

would be tantamount to direct action which has blasted India's progress and which cannot be altogether exonerated from its share of responsibility for this compulsory retrogression. It would be impossible for anybody to ignore the predominating temperament of the Britisher today of absolute distrust in the Indians' head or heart. This is most regrettable and, in spite of our wishes, is bound to bring about a reaction equal in severity and volume to the initial impact

of the blow. However much some may be willing to work out even reactionary reforms, the value and utility of their intentions and actions will be largely discounted by the atmosphere of gloom and tension which will surround them. This is a circumstance which the diehard Tories who rule the roost in England now will do well to recognise; for reforms introduced and worked in such conditions will emphasise their defects and not bring about their benefits.

RESPONSIBILITY AT CENTRE

Government And Princes

The Simon Commission, the gentlemen who were responsible for the White Paper, the thirty-two members of the Joint Parliamentary Committee and almost every British politician who is anything in public life, must have been aware that Indians have insisted on a suitable reform of the central Government. The bitter lessons of the past and serious apprehensions about the future have convinced them that provincial autonomy, however complete and genuine, will not improve matters as long as irresponsibility and autocracy continue at the centre. In spite of this fact, the Committee do not recommend a liberalisation in the central Government. They even devise measures to worsen the existing system. If it is sought to display cleverness in inventing devices to nullify something in effect and action though not in word, nobody could succeed better than this body has done in the proposals relating to federation. The sum and substance of the affair is this. No responsibility at the centre can and will be contemplated except after the materialisation of the federation. The unity of India must be developed and demonstrated by the cultivation of constitu-

tional relations with the Indian states. The first requisite is that ruling princes must come into the federation in sufficiently large numbers. The Government in India or in England will not exercise any degree or kind of pressure on them. Not even a word of persuasion or counsel in this behalf will be spent. If their Highnesses are reluctant to bless the scheme by participation, British Indians must labour to make them cast off their unwillingness. All the blandishments which necessity can create must be tried. Some inducement, some attraction, some bait will have to be offered in order to obtain their consent. British India should grudge no sacrifice of any sort. Considerations of self-respect, political advancement, economic prosperity, administrative efficiency have to be given up if federation is to be an accomplished fact. In other words, if British Indians want that there should be even an apology and a show of responsible government they should leave no stone unturned, stop short of no surrender or agree to the deprivation of any right, concession, or privilege now enjoyed or always claimed, in order to get the rulers of Indian India round to our side. If

they will not come, India will continue to be governed by an irresponsible executive. And to bring them in we should even degrade or impoverish ourselves. The net result will, therefore, be the same: that the central Government of India will remain bureaucratic.

Why are the authorities so concerned that the princes must enter into a constitutional partnership? Not because the political advance of British or Indian India would be brought about, accelerated or ensured. But because, in the words of the Committee's report, 'ruling princes who, in the past, have been the firm friends of British rule, have sometimes felt their friendship tried by decisions of the Government of India running counter to what they believed to be the interests of their states and peoples. Ruling princes, however, as members of a federation, may be expected to give steadfast support to a strong and stable central Government, and to become helpful collaborators in policies which they have sometimes in the past been inclined to criticise or even obstruct.' In these few words are revealed the intentions of the authors of the scheme. Should the British be involved any day in a European war and British Indians refuse to aid or support them in effectuation of the object that have been expressed for some time by the leftwing-

ers, the strength and sympathy of the Indian princes could be secured in a much larger measure than in the past. If internal peace in India is threatened by communal or anti-Governmental ill-feeling, the forces moral, material and military, of the Indian states should combine with those of British India in quelling disturbance. If the Government is to follow a policy of undiluted repression with the object of suppressing legitimate but inconvenient agitation and checking the rightful aspirations of the people, the princes may, by virtue of an effective control over policies and measures, make them more adamant. If, in the past, the support that may have been given to the Government of India did not amount to active and enthusiastic action but was limited to lukewarm verbal sympathy, the bid for the future is for 'steadfast support to a strong and stable central Government.'

It is expected that in every manner and respect the entry of the princes will enable the grip of the iron hand to be tightened whenever desired. From the standpoint of the authorities themselves this cooperation is not without advantage. It will enable the British element, be it the one at the top of the federal Government or the one in power in England, to have a corresponding part in the determination of matters peculiarly relat-

ing to the states. It will provide ample and unfettered opportunities for the British capitalist to explore the hidden resources of the states with a view to further enrichment. It will open out congenial fields for obtaining service for the British unemployed. 'Give and take' is the rule. In their humble way the subordinate Government of India have already given proof of their solicitude for the princes' welfare by passing special legislation for their benefit at the expense of the freedom and liberty of the British Indian politicians and pressmen, by playing the role of an arbiter in the internal affairs of the states and by lending the services of their civil and military officers to preserve the tranquillity and integrity of the state and put

the administration on a sound footing so as to free the ruler from care and worry. These are the mutual benefits which the Britisher and the Indian prince derive from a federation. If, owing to a non-recognition of the innumerable advantages or any other reason, the majority of the Indian princes will not persuade themselves into entering the federation and therefore the scheme remains unfructified, there is nothing to be lost for the Government as they can continue to be what they now are. To us, however, the difference is that between tweedledum and tweedledee. The federal scheme now in the field does not take British Indians one inch nearer the goal of self-government—as we shall show in a later article.

RESPONSIBILITY AT CENTRE

British India A Non-Entity

Assuming that the Indian states, will agree to join hands with British India and facilitate the creation of a federation, how does the scheme now outlined react on British Indians? What will be the voice that they will have in the legislatures, what their representation and what the power they will be able to wield in shaping the policy and affecting the spirit of the executive? According to the proposals made by the White Paper and corroborated by the Joint Parliamentary Committee, the federal legislature is to be a bicameral body consisting of an Upper House or the Council of State and a lower one or the House of Assembly. The former would consist of not more than 260 members, of whom 150 would be representatives of British India, not more than 100 would be appointed by the rulers of states who accede to the federation, and not more than 10 would be nominated by the Governor-General in his discretion. The House of Assembly would consist of not more than 375 members, of whom 250 would be representatives of British India and not more than 125 would be appointed by the rulers of states who have acceded to the federation. That is, in one chamber the states would have

about 40 per cent. of representation and British Indians 60 per cent. In the lower and fictitiously styled democratic chamber the ratio is two to three. In the whole legislature, we find that, out of a total membership of 635, about 400 would be from British India and as many as 225 from the Indian states, leaving out of account the ten that may be nominated by the Governor-General. In their very face these figures reveal that exaggerated importance has been given to one section of India and contemptuous treatment accorded to the other. Judged by the area, population and taxation, British Indians deserve a much larger representation and potentialities for a much more potent voice than have been conceded at present. It is not merely in strength of numbers that the states gain an undue advantage. The spirit in which the distribution has been made tends to throw cold water on the enthusiasm of British Indians in the discharge of their responsibilities as members of the Federal Legislature, as they have been treated as non-entities and as if the fate of the British Empire in relation to India hangs upon the princes. The chief governing factor is a burning zeal to bring in the latter

into the orbit of federal activity. 'Unless the representation is generally acceptable to the princes as a whole,' says the Joint Parliamentary Committee's report, 'they may be unwilling to federate and the first condition precedent to the establishment of the federation would not be fulfilled.' Further: 'The general body of states would be unwilling to accept any arrangement which assigned to the states less than 100 seats in the Federal Upper House.' It is but natural that the most perfect and the most modest of men will be misled by constant flattery into belief in their deserts and into vain and haughty action and behaviour. It would be no wonder if, after the constitution of the houses of legislature on this model, the holders of the princes' patronage will indulge in a career of self-glorification.

The method of selection of the princes' representatives to the two houses, too, intensifies the disparity between them and their colleagues from British India. The allocation of seats among the states would, in the case of the Council of State, take account of the relative rank and importance of the state indicated by the dynastic salute and other factors, and in the case of the House of Assembly, would be based in the main on population. In the former there will always be scope for jealousies and

bickerings among the members, the prevalence of superiority complex among some and inferiority complex among others, and the intrusion of questions of dignity, honour and status into everyday affairs. In the latter there will be subservience and a bid for the support of the princes on trivial as well as important issues and consequent susceptibility to corruption and demoralisation. Even in the lower house not all the members are to come in by the straight road of election. States' members will be nominated directly or indirectly by the rulers and will always be at their beck and call and seldom exercise independence of judgment or of vote. The numerical strengths of British India and states' representatives will be the crucial factor in important decisions. The responsibility of the Federal Government will be to both houses of the Federal Legislature. In effect the responsibility will be to the majority element. A second and more consequential direction is this. In cases of serious difference of opinion between the two houses on legislative matters the Governor-General may summon a joint session of the two Houses and the majority of votes given will shape the result. If the reactionaries preponderate in numbers, progress will be jeopardised and *vice versa*. Under the proposals now adumbrated this seems to be almost a certain

contingency specially in view of the fact that the upper house, which will reflect the aristocracy of princedom, will have about the same powers as the lower where the popular element is expected—though futilely—to make itself assertive. The most glaring feature, however, is this. At the most critical juncture, when the fate of the ministry hangs in the balance and when motions of confidence or no-confidence are discussed, irrespective of the circumstance that they deal with subjects relating to British India, the members belonging to, nominated by and representing the states enjoy the right of voting in the same manner and to the same extent as British Indians themselves who are most intimately affected by the questions. The life of the ministry is thus dependent not only on

the view which those affected take of its actions and their consequences but on the feelings which those who are mere spectators and have no *locus standi* entertain. Besides, no less than two-thirds majority can carry a vote of no-confidence. In an assemblage of 635, the number of votes required for the purpose will be 424. Or, 212 can defeat it. And the states themselves command at least 225. Which means that they can nullify the British Indian majority though the question may be one of life and death to British India. How shadowy and unreal the responsibility of the executive to the legislature is specially so far as British India is concerned, thus becomes patent. This is the federation whose plaudits we are asked to sing!

RESPONSIBILITY AT CENTRE

Federation Anomalies

Let it be granted that the requisite number of Indian princes will be agreeable to enter the federation and that they will cause no hitch in any manner whatsoever. Still there are many slips between the cup and the lip. Mere signification of their willingness will not avail. Members of Parliament do not drop themselves out of the transaction even after the passing of the Constitution Act which, according to current reports, will incorporate provisions regarding federation and the central authority. Both Houses of Parliament should present an address to his Majesty praying that a proclamation bringing a federation into existence may be issued. This requirement leaves opportunities for diehards to indulge in their campaign of vilification and fresh avenues for the exploration of any measure of constitutional reform, nominal or real. As long as anti-Indianism will reign rampant in England—and present tendencies do not give proofs of its early death—Indians should not suppose that the last word has been said or the last act done or the last attempt made in the process of perpetuating Indian subjection and subordination. During the old days of

British and Indian simplicity and straightforwardness it was held as an inviolable truth that the Labour members of Parliament would be India's saviours. We have since had experience of their attitude and actions, promises and performances, and it belies past beliefs. India will never be a party question in England in the sense that risks to reputation will be faced and political careers will be determined by enthusiastic support of Indian demands or fanatical opposition to them. Liberal, Conservative or Labour ministries and members have moved in the same groove, and future parties, whatever their labels and principles be, will be liable to be permeated by the same prejudice. As long as the present or the immediately succeeding generation will be allowed to exercise their voice in the shaping of Indian destinies, it would be in consonance with facts to assume that it will be cast wholly and always against the Indians. Of course, no Britisher is to blame from the standpoint of narrow-minded imperial patriotism which is the normal and natural feeling. Indians have been bit many times and therefore are many times shy. It is not unjustified

ble or groundless pessimism that induces in them the suspicion that when the question of the issuing of the proclamation will be raised, numerous members of either House of Parliament will endeavour to further narrow down the scheme of central responsibility.

There is an additional and substantial reason why the introduction of responsibility at the centre may be regarded as arbitrary. Let us see the conditions by which it is limited. In the words of the report, 'Parliament has to satisfy itself not only that the prescribed number of states have in fact signified their desire to accede, but also that the financial, economic and political conditions necessary for the successful establishment of the federation upon a sound and stable basis have been fulfilled.' Any one who has even the most imperfect knowledge of English will be able to comprehend the meaninglessness of the epithets used by the Joint Committee. The state of affairs that will answer the description cannot be visualised even by the gentlemen who have drafted them. Can it be affirmed by anybody that there is any country in the world, not excluding the thirty-two members' native land, where 'financial, economic and political' conditions are not militating against soundness

and stability and do not tend to shake the 'sound and stable basis' of the structure of society and government? England and America condemn themselves as being unfit for responsible government if they are judged by the standard proposed for India. Besides, our country suffers from a serious disability that is not of her own making. She has no right to regulate her 'financial, economic or political conditions.' The power to do so rests in the hands of others, who are masters of the situation. They can inflict upon her a policy that will plunge her into financial bankruptcy, economic dependence and political chaos by a mere stroke of the pen. Recent measures of the Government of India are eloquent examples of such capacity and inclination. Let the burden of taxation be increased quickly and heavily. Let the military expenditure remain unbearably, unnecessarily and unjustifiably high. Let money be spent on projects that may enhance the comforts of officials but diminish their utility and impoverish the people. Let facilities be given for the promotion of the interests of the Britisher at the expense of the Indians. As a result why should not financial and economic conditions become inimitably and inconceivably perfect? Of political conditions the less said the better. Pursue a policy

of repression which will drive the most patient and submissive of men into exasperation and aggressiveness. And politically, calmness, soundness and stability are at once assured. This is the condition precedent to the establishment of a federation. The question is shrouded in complexities and anomalies. Who is to be the arbitrator about the prevalence of conditions that make

or mar the soundness and stability of the basis? The Britishers. Who is the author of such conditions—good, bad or indifferent? The Britishers themselves. Whose then is the responsibility for the establishment or otherwise of the federation? The Britishers'. A mere mention of these facts will suffice to show how the whole thing is left to be decided by their sweet will and pleasure.

FEDERATION

Disparity Among Units

The federation that may materialise under the Joint Parliamentary Committee's report scheme will work unsatisfactorily for another reason besides those we have already mentioned. It will be ill-balanced. There is a disparity in the constituent units in respect of status, privileges and responsibilities. While the British Indian provinces will come wholly under the jurisdiction of the Federal Government, the states, which are also expected to be units, will be affected only partially. The British Indian provinces, which will form one aggregate whole for federal purposes, and the Indian states, which have also to be treated as a collective entity, will not enjoy the same amount of freedom, independence and power at the hands of the Central Government. In the former, there is no restriction to the subjects over which the Central Government will have full mastery despite provincial autonomy, while the latter are permitted to make a choice of the objects in regard to which they are prepared to federate. In the words of the report, the rulers 'have announced their willingness to consider federation with the provinces

of British India on certain terms; but whereas the powers of the new central Government in relation to the provinces will cover a wide field and will be identical in the case of each province, the princes have intimated that they are not prepared to agree to the exercise by a federal Government for the purpose of the federation of an identical range of powers in relation to themselves.' Therefore, the ruler of a state shall specify those matters which he has agreed to recognise as federal subjects in accordance with which power will be exercised by the federal authorities. Theoretically, there is no uniformity in the instruments of accession and in the federal subjects, though it is expected and desired that the former should, in all cases, be in the same form, but the latter need not be identical in the case of every state. The laxity conceded in the matter of choice of federal subjects may or may not in practice result in considerable variance but it is wrong in principle to permit deviations from the standard list in any particular case because that would leave loopholes which may stimulate any state into a demand of excessive claims. The

report no doubt says that such deviations should be regarded as exceptional and not be admitted as of course but the committee are sure that there are states 'which will be able to make out a good case for the exception or reservation of certain subjects, some by reason of existing treaty rights, others because they have long enjoyed special privileges (as, for example, in connection with postal arrangements and even currency or coinage).' Into these words, one can read an interpretation of half-heartedness on the part of the Joint Parliamentary Committee members to level all distinctions. Supplemented by the succeeding statement that 'there can be no obligation on the Crown to accept an accession where the exceptions or reservations sought to be made by the ruler are such as to make the accession illusory or merely colourable', it makes it abundantly clear to unwilling princes that they may resort to too many exceptions or reservations in order to evade a straight refusal.

In an appendix to the White Paper a list of subjects is given, classified as exclusively federal, exclusively provincial and concurrent. The number of the first class is 64, of the second 77 and of the third 23. Of the 64, the Joint Select Committee would be generally content with the first 48 in the

case of the states but add the reservation that it does not necessarily imply an acceptance of all of them. It means that even out of the 48 they would have no objection to the elimination of some which may be of great moment to the centre as well as the components. The 16 which may be regarded as optional in the case of the states and compulsory in the case of the provinces are no less important than the others. The latitude given to the states is very wide both independently and relatively to the British Indian provinces. The smaller the number of federal subjects recognised by the states, the larger the amount of internal independence they claim. If the British Indian provinces are given absolute autonomy, there is no reason why discrimination should be made between the states and them. The existing power of the states need not be taken away in order to bring them down to the level of the British Indian provinces, but why should not the latter be given the same position as the former? Either provincial autonomy in the case of the provinces becomes a misnomer or a recognition by the states of the superiority of the federal Government becomes nominal. It looks as if the idea is that the princes must be allowed to retain autocracy in some matters and affect a surrender in others in order to promote thereby

their own interests, and that the privileges of the provincial Governments should be curbed with the result of taking away the substance while retaining the shadow of provincial autonomy. Efficiency and impartiality require that the constituent units must be placed on the same ba-

sis and footing of equality. Otherwise, it is not a federation but a loosely knit combination where there will be constant friction between the constituents on the one side and the central Government and them on the other.

FEDERATION

Drastic Modifications Needed

Having shown so far the disadvantages and anomalies of the scheme sketched in the White Paper and supported by the Joint Parliamentary Committee's report, it is necessary to indicate the lines on which alterations, if made, will improve it decidedly. It is indisputable that, both in their own and India's interests, the princes should give up exclusiveness and share privilege and responsibility, honour and discredit with their brethren geographically separated from them, but temperamentally and ethnologically identical with them. A federation must therefore be created within the shortest possible time. But the princes must be asked to come in on equal terms with the other units. If they will not, no inducements must be held out to them which will intensify an obsession of self-importance, but moral persuasion and gentle pressure must be applied. They must be made to understand that the Government are not indifferent or reluctant to their federating but are enthusiastically desirous of it. Secondly, the heads of states' administrations must, in every

respect, be on a par with those of British Indian provinces. Either in local or in central matters there must be no vestige of inequality and differentiation. No question of treaty rights or paramountcy or existing privileges should be allowed to intrude into the deliberations. Thirdly, the list of federal subjects should be uniform in the case of all the states. Fourthly, there should be no difference in this respect between the autonomous provinces and the Indian states. Fifthly, the creation of a federation should not be conditional on entry by a minimum number of princes. Sixthly, a time limit should be specified within which the rulers of states should make up their mind whether to accede to or keep aloof from the federation. Seventhly, if they decide in favour of entry, their representation in the central legislature must not be such as to make them a dead weight on speedy and continuing progress. Eighthly, the test of the existence of 'financial and economic and political conditions necessary for the successful establishment of the

federation upon a sound and stable basis' must not be exacting and the authorities should, during the intervening period, refrain from following a policy that will drift India towards financial unsoundness or political unsettle-

ment. Finally, if, for any reason, federation will become impracticable or impossible, British India must be given a substantial measure of responsibility at the centre, and reform on such lines must be immediately taken in hand.

FEDERAL EXECUTIVE

Autocratic Head

The talk about the introduction of some responsibility at the centre is balanced by action that makes the central Government more unamenable to non-official influences than is the case at present. The Joint Parliamentary Committee's proposals will tighten the strings of official control, confer almost unlimited power on the head of the administration and introduce numerous and powerful elements of autocracy. The greater danger lies in the endeavour to conceal realities behind shadows and superficialities. It is necessary that Indians should see through the pretence of power and privilege which is the central feature of the scheme. Let us begin by an examination of the Federal Executive. At the top is the Viceroy and the Governor-General. In him vest the executive power and authority of the federation. He derives them partly from the Constitution Act and partly as being delegated by his Majesty. He has the absolute right to exercise constitutional functions as well as the prerogative of the Crown. There is no matter in which he has not got complete supremacy. He is master of British Indian as well as the Indian states' affairs. He has supreme

command of the military, naval and air forces in India, and, though a commander-in-chief may be appointed to exercise functions in these directions, he will be bossing over the whole show. In relation to a state which is a member of the federation, the executive authority will extend to the subjects which the ruler has agreed to treat as federal ones, and by virtue of the special responsibility devolving for the 'protection of the rights of any Indian state' the Governor-General can act in his capacity both as the executive head of the federation and as the representative of the Crown. As regards the departments of administration in the Central Government, in spite of their division into reserved and transferred, the latter being nominally entrusted to ministers, the Governor-General is the undisputed master. Really and nominally, in spirit and in letter, he is the sole power in the case of the departments of defence, foreign affairs and ecclesiastical affairs. In the case of the others, really and in spirit, his is the dominating voice while that of the ministers is nominal and only in letter—in so far as it is so. As if the power and privilege thus

granted will dilute his almightiness, the Governor-General is declared to have special responsibility in several directions. This mere enumeration will suffice to make it clear that nothing is left to constitute a mitigation of his autocracy. Far from making him

a constitutional Governor-General; the present scheme makes him an absolute autocrat who can truthfully and proudly exclaim,

'I am monarch of all I survey
My right there is none to dispute.'

FEDERAL EXECUTIVE

Special Responsibilities

The position today, so far as the special powers and responsibilities of the Governor-General are concerned, is bad. The proposals of the White Paper make it worse. And the recommendations of the Joint Parliamentary Committee make it worst. The present order of things may be roughly described by the statement that the Governor-General—as is the Governor of a province—is responsible for peace and tranquillity and has the right of veto and certificate in legislative and financial matters, subject, of course, to well-recognised principles. The White Paper defines the matters in which the Governor-General has special responsibility in the following terms:—

(a) The prevention of any grave menace to the peace or tranquillity of India, or any part thereof; (b) the safeguarding of the financial stability and credit of the federation; (c) the safeguarding of the legitimate interests of minorities; (d) the securing to the members of public services of any rights provided by the Constitution Act and the safeguarding of their legitimate interests; (e) the prevention of commercial discrimination; (f) the protection of the

rights of any Indian state; (g) any matter which affects the administration of any department under the direction and control of the Governor-General. Can any subject be imagined which does not fall within one or other of these seven categories? If more have not been enunciated obviously it is because the fertility of the intellect of the framers was exhausted and not because of the absence of the will to extend the latitude to the widest possible point and increase the despotism to the largest possible extent. The Joint Parliamentary Committee are modest and candid enough to realise this limitation of the human brain and the English language and, therefore, refrain from defining 'special responsibility.' 'It appears to us undesirable to seek to define them with meticulous accuracy.' Which shows that, in addition to inability there is unwillingness to draw the line of demarcation. Thus positively they encourage the exercise, by the head of the administration, of unrestricted powers, provided and unprovided for, defined and undefined by, included in and excluded from the provisions of the Constitution Act and the prerogative of the Crown.

Purposeful ambiguity that has shrouded the phraseology obviates the necessity of a detailed scrutiny. Besides, even the most superficial examination is sufficient to expose the inwardness of the affair. The first matter is 'the prevention of any grave menace to the peace or tranquillity of India or any part thereof.' Can any contingency be imagined that does not come under the clutches of this sweeping reservation? Be it a small drunken brawl, petty riot, communal collision or civil war, all alike can be treated as occasions that call for the exercise of the special power. No actual occurrence need arise. Even an overt action, political agitation, tension of feeling and even a recriminatory speech, will constitute a sufficient justification. Visualise a repetition of the civil disobedience activity, of the breaches of peace that followed the Simon Commission tours, of the era of lathi charges and police excesses. What will prevent the head of the administration from superseding the minister for law

and order and acting in any manner that he deems fit? No distinction may be drawn between legitimate agitation and revolutionary rowdyism. None but the Governor-General (or the Governor) is to decide the occasion on which and the circumstances in which 'a grave menace to the peace or tranquillity' is threatening the country. The Joint Parliamentary Committee do not mince matters. Lack of statesmanship and of liberalism is compensated for by almost stunning candour, which puts the question in a nutshell in the following words:— 'The Governor-General, as the authority in whom the exclusive responsibility for the defence of India is vested, must necessarily be free to act according to his own judgment where the peace or tranquillity of India or any part of India is threatened, even if he finds himself thereby compelled to dissent from the advice tendered to him by his ministers within their own sphere.' Eloquent words which need no annotation or comment.

RESPONSIBILITY RE MINORITIES

Potentialities For Trouble And Mischief

'The safeguarding of the legitimate interests of minorities' is another special responsibility cast upon the Governor-General. What is the meaning of 'minorities?' What are their legitimate interests? And how are they to be safeguarded? Momentous as are all these questions they are left to be judged by the mercy of the head of the administration—either at the centre or in the provinces. This is, as such others are, common to the Governor-General and the Governor and mention is made in a little detail in connection with the latter. To expect definition, enunciation or explanation would end in disappointment as the design of leaving contentious and consequential expressions as vague as possible runs throughout the report of the Joint Parliamentary Committee and no exception can be made in this matter. On the other hand, if a comparison of equal quantities is permissible, doubt and ambiguity characterise this subject more than others. Indians, specially members of the unlucky and majority community, have had unhappy experience and tasted the bitter fruit of the policy of the authorities to which they have been subjected

intentionally or unconsciously. There has been no rhyme nor reason, fairness nor broadmindedness underlying the various actions and declarations of the authorities. The communal decision and the communal representation accorded in the services by the recent Home Department resolution have left no shadow of doubt in the minds of the thinking people about our future fate. The country has been, as a result of the existing conditions, seething with communal dissensions which have obstructed progress. Educated men have been longing for the day when they will disappear or at least diminish. Having felt that even during the new era there should be a mitigation of acrimony, some of the delegates who attended the R.T.C. thought that a clarification and crystallisation of the position would, irrespective of the reactionariness of policy make for smoothness of working. In their joint memorandum the British-India delegation suggested that the phrase, 'legitimate interests' should be more clearly defined and that it should be laid down that the minorities referred to

are racial and religious minorities. This is a most reasonable contention which every impartial constitution maker ought to admit. The Joint Committee, however, seem to be cast in a different mould. A precise definition of 'legitimate interests' has evaded their combined intelligence. They have the goodness, however, to give out their intention. It is 'to secure some means by which minorities can be reasonably assured of fair treatment at the hands of majorities.' This elucidation of their intention and explanation of the expression are like the paraphrase by the high school student of change into 'metamorphosis.' Having enlightened us thus, the Joint Committee members would not give the other limbs of the Federal (or provincial) Government credit for deciding which sections constitute minorities, though they may be rigorously defined, but would leave it wholly to the head of the Government to place any that he likes in this category. The idea evidently is that the conjoint brain and heart of several members are inferior to the brain and the heart of one single individual. And the gentle hint is thrown to this supreme functionary that he should not be content to treat the existing 'five

or six well recognised and important 'minorities' as incapable of expansion or enlargement, for purposes of extending his special protection. He must be on the look out for the growth of 'other well-defined sections of the population who may from time to time require protection'. One stroke of the census official's pen can increase their number indefinitely. Did not some people vie with one another in their attempts to get themselves enlisted among the 'depressed classes when recently an analysis and grouping of them were set on foot in some provinces?.. How then can the authorities tie themselves down to a rigorous definition at this stage? Nevertheless the Committee deign to choose to 'prevent misunderstanding' and 'recommend that the Instrument of Instructions should make this plain, and further that this special responsibility is not intended to enable the Governor (or the Governor-General) to stand in the way of social or economic reform merely because it is resisted by a group of persons who might claim to be regarded as a minority.' More need not be said for making the readers realise fully the potentialities for trouble and mischief that this 'special responsibility' carries.

SAFEGUARDING OF SERVICE INTERESTS

Enormous Powers Conferred By J. P. C.

Another special responsibility of the Governor-General—as also of the Governor of a province—is ‘the securing to the members of the public services of any rights provided them by the Constitution Act and the safeguarding of their legitimate interests.’ To comprehend the scope of this it is necessary to have an idea of the powers and duties of the services in the normal state of affairs and the extent of control the Act vests in the ministers and other such officials over the members of the services who are expected to work in their departments. If the recommendations of the Joint Parliamentary Committee are accepted, the conditions of service that will be secured are the following:—(1) A right of complaint to the Governor or Governor-General against any order from an official superior affecting his conditions of service; (2) a right to the concurrence of the Governor or Governor-General to any order of posting or to any order affecting emoluments or pensions and any order of formal censure; (3) a right of appeal to the Secretary of State against orders passed by an authority in India—(a) of censure or punishment, (b) affecting

disadvantageously his conditions of service, and (c) terminating his employment before the age of superannuation; (4) regulation of his conditions of service (including the posts to be held) by the Secretary of State, who will be assisted in his task by a body of advisers, of whom at least one-half will have held office for at least ten years under the Crown in India; and (5) the exemption of all sums payable to him or to his dependants from the vote of either chamber of the legislature. These privileges are so wide that any case not falling within the purview of one or other of them is inconceivable. Still, the craze for thoroughness of the Joint Committee members not being satisfied thereby, they think that there may yet be contingencies not susceptible of statutory definition and therefore provision is made for them. ‘The special responsibility of the Governor-General and Governors, and the control which the Secretary of State and his advisers will exercise over the conditions of service of officers appointed by the Secretary of State will,’ in their opinion, ‘afford a sufficient and indeed the only possible protection.’

The White Paper deals specif-

cally with the Secretary of State's services, viz., the Indian Civil Service, the Indian Police and the Ecclesiastical Department. But it does not lay down the conditions of service to be applied to officers who are not appointed by the Secretary of State. Since 1926 the power to regulate them has been delegated to the Government of India in the case of the central services and to provincial Governments in the case of the provincial services. The Joint Committee make matters plain. That delegation of authority should no longer be responsible for the regulation of the conditions of the services. It should not be thought that the provincial services are services of the provincial Governments. Exaggerated importance should not be attached to the argument, frequently advanced and accepted in the past both by Indians and Englishmen, that provincial self-government necessarily entails control by the provincial Government over the appointment of their servants. Let it be noted that this is not the case. All the powers of the provincial Governments, including the power to recruit public servants and regulate their conditions of service will be derived no longer by devolution from the Government of India, but directly by delegation from the Crown. In other words the Secretary of State's services, the central services and the provincial services,

by whomsoever recruited directly and immediately, derive authority from the same source, viz., the Crown, and all of them will alike be essentially Crown services. The central and provincial legislatures should give general legal sanction to the status and rights of the central and provincial services. The executive Government as a whole should be authorised and required by law to give these services the necessary security. In passing Provincial Civil Service Acts for the purpose, the legislatures will have to concede to the two services, status and rights equal to those of the Secretary of State and have to ensure that two main points will be satisfied. Firstly protection against individual injury amounting to breach of contract and against individual unfair treatment through disciplinary action or refusal of promotion; and, secondly, protection against such arbitrary alterations in the organisation of the services themselves as might damage the professional prospects of their members generally, must be granted. Therefore the Provincial Service Acts could not determine in detail the rates of pay, allowances and pensions and the conditions of retirements of all civil servants, nor the procedure to be followed in considering their promotion on the one hand, or, on the other, their dismissal, removal, reduction or formal cen-

sure. Over and above all these the police service should be treated with special favour on the transference of law and order.

This mere narration of the facts is sufficient to demonstrate the endlessness of the powers chosen to be conferred by the Constitution Act. The designation as 'services', of groups of persons endowed with these powers is a misuse of language. They are masters to whose dictates others must bow in deference and submission. In support of such lavish generosity three arguments are advanced. One is that a similar system prevails in England. It is stated to be one of the accepted principles of the British constitution that civil servants are the servants of the Crown and that the legislature should have no control over their appointment or promotion and only a very general control over their conditions of service. 'Indeed', says the report of the committee, 'even the British Cabinet has come to exercise only a very limited control over the services, control being left very largely to the Prime Minister as, so to speak, the personal adviser of the Crown in regard to all service matters.' The analogy is most glaringly irrelevant. It would be a disparagement to the British constitution and British conditions that they should be deemed worthy of comparison with India and Indian conditions. The melancholy peculiarity furnished by

this country, of the foreignness of the administration and the services, of a clash of interest between them and those for whose benefit they are employed, and of the mutual lack of trust, demands a system different from that prevailing in self-governing countries where the administrators and the populace are identical in every respect. If India will be placed on a footing of equality with Britain constitutionally and politically, one might well consider the desirability of imitating the rules and regulations governing the services there. A second argument advanced is that, if the men who are now giving service to India will still be willing to put their abilities and experience at her disposal and to cooperate with those who may be called to guide her destinies hereafter, it is equally necessary that 'fair and just conditions should be secured to them.' This is not a fair way of putting the case. Members of the services have been here for a long time and have worked under varying sets of conditions. Neither they nor the authorities that are responsible for their appointment, status and emoluments could have expected them to be a permanent fixture. It is unjust and unthinkable that India should be saddled perpetually with foreign personnel who cannot have any interest in Indian progress and prosperity except in so far as they are of personal advantage. If Indians

could not manage their affairs satisfactorily there might be some reason for their guardians to make their own arrangements irrespective of the views of the wards. But the stage of tutelage passed long ago. She can dispense with the foreign element without derogation to efficiency. The question is not whether the men who are now giving service to India will still be willing to put their abilities and experience at her disposal, but what Indians themselves feel in the matter. There is no reason why men enjoying self and power should be unwilling to retain them as long as they could. To make them prescribe their own conditions for perpetuating domination would be to add insult to injury to Indians. If they wish to stay, Indians will welcome them, but it can be on terms dictated by the latter and not by the former. If better status and more power are made conditions precedent to their continuance, a fairer and wiser course would be not to accede to them and give them liberty to stay or to go. The contrary recommendations that are made by the Joint Committee would lead not to the introduction or the success of responsible government but to the organisation and perpetuation of constitutional autocracy. The third argument, though used in connection specially with the police service, is applicable to other services as

well. It must be admitted, though with a certain amount of regret, that Indians themselves are partly responsible for this attitude of suspicion. The constant attacks made against the police by a section of Indian politicians that they are 'agents of oppression acting on behalf of an alien power' have made the Britishers apprehensive that their reputation and efficiency will be in jeopardy when the critics become masters of the destiny of these officials. 'The qualities most essential in a police force, discipline, impartiality, and confidence in its officers', says the report, 'are precisely those which would be most quickly undermined by any suspicion of political influence or pressure exercised from above and it would indeed be disastrous if in any province the police force, to whose constancy and discipline in most difficult circumstances India owes a debt not easily to be repaid, were to be sacrificed to the exigencies of a party or to appease the political supporters of a minister.' There is much force in these observations. Disapprove as one might the attacks made against the police during the civil disobedience agitation, it must be remembered

that the officials themselves could have done much to avoid the blame hurled against them if their methods had been less objectionable and more moderate. The excesses com-

mitted by the police and the attacks to which they were subjected are interdependent; and neither would have come into being under a more indigenous administration.

SAFEGUARDING OF SERVICE INTERESTS

Loyalty Of Services

The Indian Civil Service and other non-provincial services have always exercised undisputed sway over administration and will continue to do so, as far as human vision extends, till doomsday. That the Joint Parliamentary Committee have not done anything to make them less but have done everything to make them more autocratic has not been unexpected and disappointing, however undesirable and uncertain the course of future events may be. But their recommendations about the provincial services and the explicit declaration that they are not the servants of the provincial Governments will tend to extend despotism into fresh fields, make provincial autonomy meaningless and give abundant room for friction. It was pointed out in the Joint Memorandum by the British-India delegation that future recruitment by the Secretary of State of officers who serve a provincial Government is incompatible with provincial autonomy and that the all India services ought henceforth to be organised on a provincial basis and recruited and controlled exclusively by the provincial Governments. The Committee are good enough to 'appreciate the force of this line of argument.' But, according to

them 'the loyalty with which officers of the all India services have served the local Government under whom they work notwithstanding that these services are under the control of the Government of India and the Secretary of State, has a long tradition behind it; nor has any local Government felt difficulty in regard to maintaining discipline and securing full obedience of the services on account of that control.' Moreover, it has been experienced that the services have maintained 'excellant relations' with the ministers. A brief commentary is needed to show how these statements are correct. Before the advent of the ministerial regime there was no difference between the Government and the Services. The former consisted of the latter. Both the server and the served belonged to the same fraternity. The two combined to govern others that had practically no voice in the Government and no influence in shaping their policy. The era of ministerial control, on the other hand, would have afforded a true test if the rules and regulations framed under the Government of India Act and the officials who were entrusted with the execution of policy had observed the spirit of the authors of

the Act. In theory a certain amount of power and control was vested in the ministers, but in practice it was found that not only the success of their administration but often their very existence depended on their adaptability to the heads of the departments in their charge and the secretaries concerned. This evil assumed such serious dimensions that even the members of the reserved half had to act likewise if they were Indians. The Indian Finance Member is at the mercy of the Finance Secretary; the Home Member, of the almighty Chief Secretary, the inspector-general of police and the inspector-general of prisons; the minister for education and industries, of the director of public instruction and the director of industries—specially if the latter is an I.C.S. gentleman and a Britisher; the ministers in charge of medical, agriculture, local self-government, excise and public works, of the inspector-general of the civil hospitals, of the director of agriculture, of the secretary for local self-government and the divisional commissioners; of the commissioner of excise, and of the chief engineer to the Government respectively. Have the Joint Committee cared to consider the fate of the minister in cases where he would differ from these officials and whether, if a reference be made to the Governor, he would support the minister or the service head?

For another thing, whether the minister or the member of the services would be sided, the result would be practically the same. In the former case it might be said that there was a tyrannical exercise of power which deserved to be curbed in the interests of the self-respect and efficiency of the hard-worked officials. In the latter case the ministers might be accused of over-interference, which should be checked by the introduction of a scheme which would make attempts at it impossible. Frequent differences between the ministers and the officials would, in any event, result in a castigation of the former, and it would be no wonder if some, having found discretion would be the better part of valour, yielded to the wishes of the services and the caprices of an illogical but incurable system. The testimony therefore of committees or commissions to the cooperation of the services with the Government is in reality one to the inequality of status and power between the two. As the ministers have reconciled themselves to a certain extent of domination by the stronger element why should they not be reduced to further submission and why should not the services be made stronger still? This is the undercurrent of thought of the members of the Joint Committee to make the ministers absolute nonentities.

SAFEGUARDING OF SERVICE INTERESTS

Further Accession Of Power

These preposterously excessive powers are found insufficient to make the services absolute despots. Something must be devised to bring about this consummation. The Governor-General and the provincial Governors are asked to hold themselves responsible for this. The Joint Memorandum wanted the scope of this responsibility to be defined and to be restricted to the rights and privileges guaranteed by the constitution. The Joint Committee cannot see their way to do so. 'The intention of the White Paper is to guarantee public servants not only their legal rights but also equitable treatment.' These, according to the Committee, are not capable of legal definition. 'Equitable treatment' is not an expression that presents much difficulty. It does not connote anything complex or varying in standard or character. The case is otherwise with 'legal rights', which may denote anything or nothing. 'Legal' is something which can and must be defined. The essential ingredient of a 'law' is certainty, precision and clearness and it is either bluff or incompetence that makes one say it is undefinable. When members of a body that is called upon to

legislate and of a profession whose very being moves round laws speak of their incapability to define 'legal rights' they make a poor show of themselves. There is also another point which they emphasise. The authors of the Joint Memorandum say that ministers can be entrusted to act in these matters in a reasonable way: and graciously the Committee are pleased not to doubt this is so. And, analogically, they would assume that provincial Governors—and the Governor-General—will not act unreasonably in discharging the special responsibilities. Here again they are strayed away, by passion or prejudice, into the incoherent. The discharge of daily duties specified, defined and prescribed by a piece of legislation, subject also to an autocrat's dictates from above, is to be distinguished from the exercise of power or the discharge of responsibility which is without limit, characterisation or check. The former is compulsorily circumscribed while the latter acts as an inducement to be unreasonable. The statement is, therefore, not convincing that, 'if ministers in fact act reasonably, . . . the occasions on which a Governor will find it necessary to

dissent from the advice which they tender to him may never in practice arise.' When the Governor wants to have his own way, he will discover inexhaustible op-

portunities for treating ministerial actions as unreasonable and driving him to the exercise of his special responsibility. It is the story of the wolf and the lamb.

FINANCIAL RESPONSIBILITIES

Governor-General's Unlimited Power

Finance is one of the subjects entrusted to the ministers under the promised scheme of reforms. Being the pivot of the administration and the chief factor conducting to the stability and success of the constitution, one would expect that, if Indian advancement is to be effected by indigenous talent, power would be given in this direction. The Joint Parliamentary Committee's proposals propound a peculiar system under which there will be dyarchy in the finance portfolio and which will throw the burden of responsibility, blame and discredit, if anything went wrong, on one man, while the privilege, honour and credit would be another's. It gives the purse to one while the key to open it is handed over to another. Reluctance to utilise the ability and the integrity of the Indian characterises the financial proposals from the beginning to the end. The finance minister is made a puppet in the hands of the Governor-General and the financial adviser and nothing but the subservience and subordination of his viewpoint to theirs will ensure harmony and the absence of deadlocks. An independent outlook and a genuine regard for India's welfare have been placed at

a discount while open encouragement is given to the promotion of British interests even at the expense of Indian when there is a conflict between the two. The Joint Committee's recommendations may be plainly read thus. Normally, the financial arrangements may be governed by a thought of India's needs, requirements and facilities; but there should also be a simultaneous undercurrent of the Britisher's standpoint. When the two are harmless parallels, well and good. But if the two clash, the former must give way to the latter. Where principles and policies are involved which are of international importance and affect Britain in her economic relations with the leading countries of the world, Indian action must be made to favour the latter though it will be detrimental to indigenous interests. Fiscally and financially Indian welfare must be subordinated to and, whenever necessary, sacrificed for not only Britain's welfare but for that of every other country in the world on which hang British trade and commerce, irrespective of their anti-Indian policy. If India feels any day that her financial condition needs borrowing, she cannot decide the terms of

the loan. The country from which it is to be had, the terms of repayment, the rates of interest are to be dictated not by the Finance Minister but by the Governor-General. If the loan adversely affects the money market, say, of America or France or even anti-Indian Canada or South Africa, the Governor-General can make the project infructuous by exercise of his special responsibility. It can be treated, besides, as a matter of currency and exchange inasmuch as the nature of the loan will have repercussions on national and international currencies. |When the tender susceptibilities of countries which are capable of deciding Britain's fate in the entry into and result of a world-war, are offended by a budgetary or borrowing arrangement which is a matter of life and death to India, the former consideration will have to prevail. Under cover of this special responsibility the Governor-General has power to nullify every act of the Finance Minister and to compel him to do whatever may be ordered by his Excellency. This explanation enables one to understand the gospel. It is necessary

'to reserve to the Governor-General,' says the Joint Committee's report, 'in regard to budgetary arrangements and borrowing such essential powers as would enable him to intervene if methods were being pursued which would in his opinion seriously prejudice the credit of India in the money markets of the world.' The subsequent remarks of the Committee show that our annotation errs on the side of liberal-mindedness. Who that reads the following will fail to observe the transparence of the motives of the framers of the scheme? The Committee make no secret of their opinion that, 'though the expression "budgetary arrangements and borrowing" indicates generally the sphere in which it is desirable that the Governor-General should have power, if necessary, to act, it would be unwise to attempt to define this special responsibility in more precise terms than are proposed in the White Paper.' If, despite this, the Governor-General will find that there is at least one item in which he is not competent to intervene, the fault is not that of the gentlemen who have made the reforms proposals.

FINANCIAL RESPONSIBILITIES

Almighty Financial Adviser

How is the Governor-General to exercise his power and responsibility? Not out of his free will, unfettered discretion, unbiassed judgment or inherent talent. But through an adviser, whose function is 'to assist him in the discharge of this special responsibility.' What are to be his qualifications? Naturally and firstly, he must possess expert financial knowledge such as will make him competent to advise the Governor-General. His services will be available to the ministers too who are expected to consult him. The committee 'hope' that this will be done. As a matter of fact it must be done. The financial adviser can always act as the fifth wheel in the coach and thus be a cause of perpetual obstruction. And being the right hand man of the Governor-General who himself is not expected to be an authority in finance, he will be more than his adviser. He will be his financial conscience-keeper and thus the superminister. No minister has any chance of his proposals and policies being accepted unless they have the blessings of the financial adviser in advance. The hope expressed by the Joint Committee converts itself in practice into an order that the minister must consult, or,

synonymously, obey this mighty God. It may be that such obedience will run counter to the will of the Assembly and the well-being of the country. If so, he will earn the disapprobation and forfeit the confidence of the members of the legislature. His retention of office being entirely dependent on his inspiring the confidence and commanding the support of the legislature, such obedience becomes embarrassing. Thus he is placed between Scylla and Charybdis. He has to obey two masters who may be at loggerheads with each other. He will obey either the more powerful one if the selfish instinct of continuing in power and office dominates, or the more appropriate one if the patriotic desire of serving the country at the cost of personal gain obtains the ascendancy. The British Indian element in the legislature has been rendered impotent in the matter of determining the life of a ministry, and the Finance Minister knows which side of the bread has to be buttered. Or, in the alternative, he will abandon office in favour of a more self-respecting position.

Besides his financial qualifications, the adviser has to

possess 'tact and common sense.' These two requisites cover the whole range of human action. They include diametrical opposites like slavish dependence and impetuous independence, hypocrisy and straightforwardness, selfishness and self-sacrifice. Therefore the value of his services would 'be no less diminished if he held himself aloof from ministers than if he sought to interfere in matters outside his proper functions.' At one end this prevents undesirable and undue meddling, while, at the other, it may encourage haughty and conceited exclusiveness. Much indeed lies in the personal qualities and qualifications of the financial adviser, but to leave everything in the air would not ensure the

'right selection' which is essential for avoiding deadlocks and effecting financial betterment. For that 'right selection' which should, in the words of the committee's report, 'prove of the greatest assistance both to the Governor-General and to ministers,' and for that success which minimises the likelihood of the 'necessity arising for the exercise by the Governor-General of his special power in the financial field,' the essentials are precision of definition, choice of the 'right' man from the Indian standpoint, and a rigid requirement that nothing but Indian welfare should be the criterion. As it is now proposed, neither the Finance Minister nor the Governor-General is the master, but the financial adviser.

COMMERCIAL SAFEGUARDS

Colonial Example

Two conflicting ideals are enunciated by the sayings 'Charity begins at home' and 'Necessity knows no law' on the one side, and 'परोपकारार्थमिदं शरीरम्' (doing good to others is the end of life) on the other. The first two are essentially western and the second truly Indian. To those who have imbibed the cultures of the west and the east a correct adjustment of the opposing conceptions becomes a hard job. Mahatma Gandhi himself could not successfully extricate himself from the embarrassment. What is to be done with the existing trade and business concerns and corporations in India which are non-Indian in the matter of capital and management? What will be their fate under a Swarajic Government? What will be the facilities granted to or disabilities imposed upon new ones that may likely be established? The selfish as well as the philanthropic will notice and advocate a reasonable distinction between past and present ones and those that are in the womb of the future. In the case of the firms and factories that were established some time ago there is a large school of thought which is keen on the protection of their interests in

whatever manner their prosperity has been brought about and whatever partial treatment they may have received at the hands of the Government. That they have sunk their money in expectation of future profit on the assumption that the present political and Governmental conditions continue for an immeasurably long time, ought, according to some, form a valid reason for assuring them of undisturbed enjoyment of privilege and prosperity. Though there is not much of binding force in their expectations or assumptions, the desire of retaining the *status quo* is natural and not unjust. At the same time, it would be too much to expect and ask Indians to forget the humiliating and insulting discrimination that is imposed on Indian subjects of his Majesty domiciled in another part of the Empire. People suffering from racial superiority complex cannot take a detached or unbiassed outlook. But how can people endowed with the smallest tinge of reason or fairmindedness be convinced that one set of human beings who have a right to be treated on a footing of equality with others on the same level deserve to be treated as two-legged

animals while their white compeers must be looked up to as God's own creatures? Why should not Indians follow towards outsiders in this country the example that is set up by the

authorities in regard to Indians in Zanzibar, British Guiana, Kenya, Tanganyika and South Africa? These are the questions that arise uppermost in the mind of everybody.

COMMERCIAL SAFEGUARDS

Mahatma Gandhi's Speeches At R. T. C.

It is said that the proposals adumbrated in the White Paper and amplified in the Joint Parliamentary Committee's report were the result very largely of the declarations of Mahatma Gandhi at the Round Table Conference. He succumbed to the outlandish notion that selfishness is the first law of nature. He indulged in chimeras which insulted the Britishers and injured the Indians. His enlightening description of the exploits of a national Government opened out to his British colleagues a vista of dangerous possibilities which stimulated them into preventive action at all costs. If his offensive observations on the propertied classes in India put their members alone in jeopardy, his heroic proposals invoked the wrath of the authorities on all his countrymen. If the most extravagant concessions granted to British interests in India owe themselves partly to the feeling of superiority bred of race consciousness, they are no less due to nervous apprehensions about the future. The former can never be got round. The latter ought to be minimised in view of counteracting features. Firstly, a leaf may be borrowed from the record of colonial history. The legitimacy of national aspi-

rations is an argument too formidable to be repudiated. [Lessons of their past dealings with other countries will convince them some day in the future, too late to repent or timely enough to be wise, that the suppression of indigenous talent by the dead weight of partiality and privilege, may succeed ephemerally but will burst with redoubled force sooner than later.] Secondly, it was made perfectly clear at the various sessions of the Round Table Conference that Mahatma Gandhi's onslaughts need not perturb anybody as the whole mass of enlightened Indian opinion was determined to do justice to existing interests. The White Paper ought to have recognised this fact and trusted to the earnestness and honesty of the intentions of Indians. Whether subsequent happenings in this country such as Congress successes and speeches at the elections have stiffened the attitude of the Britisher at home so as to induce the Joint Committee to give more favourable terms than were done by the White Paper, it is difficult to assert. It is, however, not unlikely that, if the latter document had approached this problem in a less anti-Indian spirit, the Joint Committee might have refrained from going to excessive lengths.

COMMERCIAL SAFEGUARDS

J. P. C.'s Originality

The way in which the Joint Parliamentary Committee have discussed 'commercial and other forms of discrimination' is almost original. The problem is divided into two separate issues — (1) administrative and legislative discrimination against British commercial interests and British trade in India; and (2) discrimination against British imports. The White Paper deals with the first question alone, while the Joint Committee introduce and discuss the second. On the first, the Committee make their position vulnerable. It is pointed out that the second Round Table Conference in 1931 adopted a resolution, undaunted by Mahatma Gandhi's tirades, to the effect that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India, and the rights of Indian-born subjects. Witnesses who appeared before the Committee spoke in the same sense and the British India delegation state, in their Joint Memorandum, that on the question of principle there has always been a substantial measure of agreement in India. It was also represented that the British commercial interests ask for no exceptional or preferential

treatment for British trade as against Indian trade, but their policy was one of a fair field and no favour. These evidences of agreement between the two affected parties ought to act as a deterrent to further action. But the Joint Committee have no hesitation in treating them as verbal falsehoods. They have not sufficient confidence in the integrity of our countrymen. The promises made and the assurances given at the Round Table Conference mean, in their eye, nothing: perhaps they believe Indians attach the same sanctity to pledges and promises as British politicians have done in the case of Indian political reform. Will almost nationwide feeling be nullified by the utterances of one single individual, whose dictatorship has been, in addition, on the wane? Representing the Congress Mahatma Gandhi's utterances are liable to be treated as weighty, but the Joint Committee have not been unaware of the fact that most Congressmen themselves did not approve and endorse his views. Any excuse is good enough for fettering Indian freedom. If Mahatma Gandhi's speeches furnish a handle, is there no reason why the fact

that they were made three years back, since which time the tendency in Indian politics has been wholly towards moderation, should be looked upon as redeeming? Utterances having 'been made which could not fail to give rise to suspicions and doubts', it is deemed 'necessary to deal with this matter' in the Constitution Act, and, therefore 'statutory provision by way of reassurance is an evident necessity!' In questioning our adherence to voluntarily made statements the Joint Committee have cut the ground from under their feet. They have furnished additional proof of the mental-

ity which, when determined to pursue a course of action, heeds no consideration whatever. Let Indians who are agitating for an agreed solution of the communal problem with a view to getting the award revoked, beware. Let them not lie under false hopes. If the British constitution-makers are determined that India should be divided into many disintegrating factors nothing will prevent them from introducing in the Constitution Act provisions which will satisfy their object. Any agreed solution can be brushed aside as one that will 'give rise to suspicions and doubts', and Indians must be prepared for this fate.

COMMERCIAL SAFEGUARDS

Legislative And Administrative Discrimination

The White Paper deals with one kind of discrimination—legislative and administrative. With regard to administrative discrimination the Joint Committee recognise that it would be impossible to regulate by any statute the exercise of its discrimination by the executive. Therefore they agree with the White Paper proposal that the Governor-General and Governors should have imposed upon them a special responsibility for the prevention of discrimination, thus enabling them, if action is proposed by their ministers which would have a discriminatory effect, to intervene and, if necessary, either to decline to accept their advice or (as the case may require) to exercise the special powers which flow from the possession of a special responsibility. The Constitution Act, however, is not to remain silent on the matter. It will make it clear that this special responsibility extends to the prevention of administrative discrimination in any of the matters in respect of which provision against legislative discrimination is made under the Act.

Legislative discrimination, however, does not present difficulties to the Committee. Un-

like other expressions including 'legal rights' and some other subjects, 'legislative discrimination' lends itself to precise definition, and in their judgment it is possible to enact provisions against it. This is specially because of their deference to the opinion of the Federal Structure Committee of the Round Table Conference, who saw no reason to doubt that an experienced parliamentary draftsman would be able to devise an adequate and workable formula, which it would not be beyond the competence of a court of law to interpret and make effective. Honoured are the members of the Federal Structure Committee. If their recommendation has been accepted in no important direction and if any opinions of any body of Indians have not been cared for, the Joint Committee condescend to respect at least one proposal. As the White Paper is not 'clear or precise', qualities which are in peculiar demand in this instance, the Committee remedy the defect and detail their views thus:—'No law restricting the right of entry into British India should apply to British subjects domiciled in the United Kingdom; but there should be a saving for the right of the authorities in India to

exercise any statutory powers which they may possess to exclude or remove undesirable persons whether domiciled in the United Kingdom or elsewhere. And no law relating to taxation, travel and residence, the holding of property, the holding of public office or the carrying on of any trade, business or profession in British India, should apply to British subjects domiciled in the United Kingdom, in so far as it imposes conditions or restrictions based upon domicile, residence or duration of residence, language, race, religion or place of birth.' That is to say, under the plea of freedom and absence of restriction, Indians are asked to tolerate, encourage, welcome and invite the contingency of the country being flooded by foreigners though it will sink them into the abysmal depths of financial ruin and industrial and commercial degradation. From this exuberance of personal solicitude, the Committee pass on to dictate the terms that must be observed in regard to companies incorporated in the United Kingdom and India. They are of opinion that a company incorporated now or hereafter in the United Kingdom, should, when trading in India, be deemed to have complied with the provisions of any Indian law relating to the place of incorporation of companies trading in India, or to the domicile, residence or duration of residence, language, race, religion, descent

or place of birth, of the directors, shareholders, or of the agents and servants of such companies. And British subjects domiciled in the United Kingdom who are directors, shareholders, servants or agents of a company incorporated now or hereafter should be regarded as specified above. Let it be noted that Indians are tied down to a state of affairs not merely in existence today but which may arise any day hereafter, in the near or distant future, even after the passing of the Constitution Act, after the grant of so-called provincial autonomy and central responsibility. If political progress and constitutional advancement are held back from us, need attempts be made to take away our self-respect and national honour? Let Indians be treated as slaves and as human cattle in some other parts of the Empire; let them be subjected to commercial disabilities and degradations of all kinds which human oppressiveness can invent. Yet if they have mere domicile in the United Kingdom, they should be allowed to add insult to injury by lording over Indians in this country. They may be shareholders, directors or in any manner connected with companies that have been started or will be started hereafter. Yet no Indian has any right to move his little finger against any destructive methods or processes that may be adopted to secure commercial dominance!

Is this fairness or impartiality or sympathy? Is this the answer to Indian agitation for the right to treat others as they treat Indians? Is Indian wealth to be deflected into non-British markets as well, as if the drain to England and our grinding poverty are not sufficient? How Christian is this new doctrine! Reciprocity, however, the Committee have not forgotten. They are graciously pleased to order that 'there should be reciprocity between India and the United Kingdom.' Accordingly, 'if a United Kingdom law imposes in the United Kingdom upon Indian subjects of his Majesty domiciled in India or upon companies incorporated in India conditions, restrictions or requirements in respect of any of the above matters from which in India British subjects domiciled in the United Kingdom and companies incorporated in the United Kingdom would otherwise be exempt, the exemption enjoyed by the latter would *pro tanto* cease to have effect indeed! Reciprocity between a giant and a dwarf, the all mighty and the most feeble, the master and the servant, the dictator and the crushed?

Certain exceptions are made. Great care is taken to see that they are not in favour of India but confer preferential rights on non-Indians. One point emphasised is that the statutory provisions which have been suggested so far ought not to affect any

laws in force at the commencement of the Constitution Act or laws which exempt from taxation persons not domiciled or resident in India. A second and more important exception is in case of bounties and subsidies. It is well known that grants, subsidies or bounties are made out of public funds to certain companies or firms, for the purpose of encouraging trade or industry in India. A distinction is drawn in this respect between companies already engaged in a branch of trade or industry receiving such amounts and those engaging in it at a subsequent date. This fact cannot cause any comfort to us because the advantage gained by India is a make-believe one. The Committee recommend that in the case of the latter it may be made a condition of eligibility that the company should be incorporated by or under Indian law, that a proportion of the directors, not exceeding half the total number, shall be Indians and that the company shall give reasonable facilities for the training of Indians. Experience shows that these conditions will not be of restrictive effect. Firstly the Indian directors will be in a minority. As the maximum is laid down but not the minimum, the minority may be considerably small. As between Indians and non-Indians the former will have little or no voice, and the comparative smallness of their number

will dwindle their influence into nothingness. Secondly, the choice of such Indians is determined by personal considerations. It is not the best but the most adaptable men that find a place. They are generally not representative of genuine Indian interests and where there is a clash between indigenous and foreign interests they are likely to be swayed by personal considerations. Thirdly, the demand that the company shall give reasonable facilities for the training of Indians is a practical futility. It is complied with rarely and, if at all, most unsatisfactorily. Indians are not given the chief places in any department where technical knowledge and skill or capacity for management are called for. Even apprenticeship is not permitted. A few Indians

are employed as office assistants or clerks or foremen or fitters or in some such inferior capacity. The spirit pervading in the factories and companies is one of intense distrust and of anxiety to shroud their affairs in secrecy, so far as Indian employees and apprentices are concerned. How the conditions enumerated by the Joint Committee can be rendered nugatory in practice is demonstrated, for instance, by the Swedish match factories established a few years ago at numerous places in India under different denominations, specially, say the Western India Match Company. Without mincing matters, the net result will be uniformity between old and new concerns in the matter of Government patronage.

COMMERCIAL SAFEGUARDS

Fiscal Convention

We have so far examined the proposals made by the White Paper purporting to prevent legislative and administrative discrimination in commercial matters, and the extension and enlargement of their scope by the Joint Parliamentary Committee. It was also stated that the latter introduced another element in the process of according the maximum partiality and preferment to their countrymen. The issue is of discrimination against British imports. It may be within the knowledge of Indians that, in pretended deference to Indian agitation for fiscal autonomy, there had been laid down what was subsequently described as the Fiscal Convention, which has been regulating for some thirteen years the relations between the United Kingdom and India. How it assigned to India a place of subordination and how, in spite of so-called fiscal autonomy, neither Indian voice nor Indian interests determined the chief actions and policies of the Government, have often been pointedly emphasised in the Legislative Assembly. But it must be said in fairness that, in spite of its limitations, reserva-

tions and defects, the little industrial advancement that has been noticeable during the last thirteen years is entirely the effect of the Fiscal Convention. The endeavour now made by the Committee to deprive us of even the scanty benefit that has accrued therefrom is most regrettable and objectionable. It has been deemed unsatisfactory, though from a different aspect, by the other party too, the Britishers, represented by the members of the Joint Committee, who find that 'the exact scope and effects of this Convention have afforded much ground for discussion and that the Convention has not succeeded in placing beyond controversy the rights and duties of the two parties.' The Constitution Act will abrogate it, and will, it is said, confer fiscal freedom on the Federal Legislature. The Committee view this contingency with dismay and want to avert it, whereas prudence and justice demand that India should be ungrudgingly given undiluted fiscal freedom. Whether they are genuinely apprehensive that even the reduction into impotence of the legislature and the minis-

try by a host of reactionary devices will not grant the desired extent of undue advantage to the Britishers or are determined to leave as little power as possible to Indians, it is not of much consequence. The Committee, however, see no foundation for the suggestion that his Majesty's Government are seeking to impose unreasonable fetters upon the future Indian legislature. This asseveration by the Committee is as natural as it is unacceptable to those who can understand the significance of the increasingly retrogressive attitude of British politicians and ministers during the last four years. The usual argument is adduced in favour of the new proposal that statements of a very disturbing character have been made from time to time by influential persons in India, which have 'aroused suspicions and doubts in the United Kingdom.' The Committee had been assured by the Indian delegates that there would be no desire in India to utilise any powers they might enjoy under the new constitution for a purpose 'so destructive of the conception of partnership upon which all the recommendations are based.' They are callously unwilling to recognise the value of our assurances and therefore invent a special responsibility, in addition to the numerous ones

enumerated in the White Paper, for being conferred on the Governor-General. It is defined as follows:—"The prevention of measures, legislative or administrative, which would subject British goods imported into India from the United Kingdom to discriminatory or penal treatment." No doubt is left as to the range within which this is to be exercised. It is not intended, we are told, to affect the competence of his Government and of the Indian legislature to develop their own fiscal and economic policy. They will possess complete freedom to negotiate agreements with the United Kingdom or other countries for the securing of mutual tariff concessions. It will be his duty to intervene in tariff policy or in the negotiation or variation of tariff agreements only if in his opinion the intention of the policy contemplated is to subject trade between the United Kingdom and India to restrictions conceived, not in the economic interests of India but with the object of injuring the interests of the United Kingdom. Direct and indirect discrimination, differential treatment, imposition of prohibitory tariffs or restrictions, and even the intentions of the legislators all come within the purview of this safeguard. Any measure conceived and proposed with the object of protecting

India's trade can be banned on the plea that it constitutes discrimination. What is the good of indulging in platitudes about reciprocity, complementariness of British and Indian needs and interests when the intentions of the members of the Committee to pander to selfish greed are too unsophisticated, undisguised and wanton to be mistaken? An instance may be given which will help in revealing their intentions in their true colours. In the memorandum submitted by the Manchester Chamber of Commerce a demand was made for the insertion of some safeguard in the constitution against the possibility of legislation 'unduly penalising the British export trade.' They were asked whether they had in mind action 'spitefully intended to do injury to British interests or which is political in its motives', and the following answer was given:—'We did not necessarily mean spitefully, sir, but we meant some legislative enactment such as the specific duty on plain grey goods, which is now 4 3/8 annas per pound, which entirely prevented our competing in those goods in the Indian market.' Obviously the

desire is to secure a position of advantage for Lancashire in the Indian market. This is typical of the mentality underlying the scheme. No Indian wishes injustice to be done to British interests, but we have a right to protest against the perpetration of measures which will kill Indian enterprise and retard her industrial and commercial advancement. We resent the calculated affront that is done to Indian feeling by subjecting her to indignities on the pretext that some irresponsible utterances which have roused British suspicions, demand the erection of insurmountable barriers to her prosperity. Indefensible as every safeguard is, the commercial safeguards are liable to lead to political and economic consequences that will militate against the harmonious and hearty cooperation of Indian and British enterprise which will be the bedrock of imperial safety and solidarity. The recommendations made by the Joint Committee speak well neither of their foresight nor of their impartiality, and will be harmful in the long run both to India and to Britain.

J. P. C. AND DEFENCE

Defence Governing The Whole Scheme

Under the White Paper and the Joint Parliamentary Committee's schemes the executive power and authority of the Federation would vest in the Governor-General. The departments of the federal Government will be divided into two classes—reserved, and transferred or ministerial. In the administration of the latter he is to be aided and advised by a council of ministers chosen and summoned by himself. In the former category are placed three—defence, external affairs and ecclesiastical affairs. Even the most superficial perusal of the White Paper and the Joint Committee's Report will reveal that the greatest importance is attached to the problem of defence. Every other subject is regarded as secondary and subordinate and has to subserve to the needs and interests of this department. The place given to it may be described as one of an all devouring character. If any measure or policy is supposed to pertain to the defence of the country, real or imaginary, necessary or superfluous, advantageous or detrimental, the Governor-General need only order that a particular thing should be done or avoided, and it must be

implicitly obeyed. If he wants that a certain amount of money should be expended for some reason or other, normal or out of the way, the Finance Minister must humbly obey the superior dictates, and the legislature will have no help but to grant it. If the construction, maintenance or destruction of a railway bridge or a railway line is declared to be essential for carrying out the defence policy of the Governor-General, the railway authority must not demur. If communications falling within the jurisdiction of the minister in charge are involved, he must take such action as may be prescribed by the Governor-General. Nor are the provinces permitted to have any voice in regulating their affairs if it be thought that defence considerations must be taken into account. For instance, if questions arise with regard to the control of lands, buildings or equipment maintained or required by the department of defence, or with regard to such matters as facilities for manoeuvres or the efficiency and well-being of defence personnel stationed in provincial areas, or in times of emergency, with regard to the guarding of railways and bridges, and the like, the pro-

vincial minister must bow to the defence authorities. Even personal freedom and liberty of action can be restricted and taken away at the sweet will and pleasure of the Government on the ground that some people are regarded as a danger to the safety of the country. In the words of the report, 'in frontier areas, and especially in the North-West Frontier Province, special measures may have to be

taken in certain circumstances to control the movement of persons and goods.' There is no department of the Government, central or provincial, that is not intertwined in this way, and whenever there is a difference of opinion between the Governor-General and other authorities, the final responsibility for a decision rests with the former and his views must prevail.

J. P. C. AND DEFENCE

Deadlocks Facilitated

If thus defence is elevated to unrivalled supremacy, have the constitution makers created an atmosphere of harmony and good will? What is the place which the Governor-General will occupy? What is the extent to which Indian co-operation and participation have been desired, secured or rendered possible? The first obstacle that may thrust itself into prominence any day will be the division of function and responsibilities between the two heads of the department of defence—the Governor-General and the Commander-in-Chief. However comprehensive the former's powers are, it would be astounding to think of the possibility of the disappearance of the latter dignitary. The Joint Committee declare it unequivocally. They are assured—and assure others—that there is no intention in the mind of his Majesty's Government of abolishing the office of Commander-in-Chief in India. But they have done nothing to prevent deadlocks which are the inevitable result of an overlapping, conflict or ambiguity of authority. 'Although the executive authority of the federation vested in the Governor-General as the

King's representative', the report says, 'includes the superintendence, direction and control of the military in the sense in which these words are used in section 33 (1) of the Government of India Act, the command of the Forces in India will be exercised by a Commander-in-Chief to be appointed by his Majesty'. At another place it is stated that the Governor-General exercises certain prerogative powers of the Crown which include the supreme command of the military, naval and air forces in India but it is proposed that power should be reserved to his Majesty to appoint a Commander-in-Chief to exercise in relation to these forces such powers and functions as may be assigned to him. Let an analysis be made. The Governor-General is responsible for and has power over everything. As such he has an upper hand over the Commander-in-Chief. The latter is thus subordinate and inferior to the former. But the two officials are appointed by his Majesty; both owe their power and authority to delegation of the prerogatives of the Crown; and both of them are answerable for the safety of the country and can command the

services of the army and can control over the policy in order to ensure safety. Thus the power, authority and responsibility of the two are almost co-ordinate and co-extensive and the relation between them appears to be one of equality. There is a third aspect, too. The Governor-General is, more often than not, a non-military man, while the Commander-in-Chief is a military expert. On technical questions the latter will over-ride the former. Matters of policy cannot be isolated from but have oftentimes to be shaped by those of technique. The Commander-in-Chief, though appointed by his Majesty, will be the nominee of the British army authorities, and, as such, constantly commands their confidence and favour. The Governor-General is, on the other hand, generally a politician if he is not actually a dark horse. In view of the war mentality of the world today the army occupies a domineering position. Conditioned thus, whenever there is a difference of opinion between the Governor-General and the Commander-in-Chief which merits a reference to the authorities in England, it is almost a foregone conclusion that the military man will be backed up in preference to the civilian. The Commander-in-Chief then becomes a greater functionary

than the Governor-General. The relation between the two is therefore, at once one of superiority, equality and inferiority. Can anything be more absurd?

It should not be said that clashes between the Governor-General and the Commander-in-Chief will be imaginary. It may be assumed that they will not arise during the initial stages of the federation or as long as the two remain united in obstructing or opposing Indian constitutional progress. But in the political evolution of the country and as a result of the strengthening will of the people, the Governor-General will be driven to the necessity of respecting public opinion, which will seek, with increasing furiousness, to free itself from the trammels of military might. On the other hand, the portents of an impending war will tend more and more to encourage, develop and aggravate the martial spirit of the Governments in the world, to which India must necessarily form an exception because in the Empire she is allotted a place that does not fill her with pride or pleasure. It would not be wrong to visualise a future that will be active with fight between the ministers on one side and the Governor-General and the Commander-in-Chief on the other, or between the ministers and the Governor-General against the Com-

mander-in-Chief. There will be either a magnified Curzon-Kitchener controversy or perpetually bitter official-non-official feud. This would be a blessing in disguise, specially if a crisis

is precipitated. And if a European war will break out in the meanwhile, as it may any day, the best calculated plans of men will go astray.

J. P. C. AND DEFENCE

Indian Opinion Spurned

In charge of every reserved department there is to be a counsellor who is to help the Governor-General in the discharge of his responsibilities. The subject of defence will therefore be under a Counsellor. He may not be a member of the legislature, except that, for oratorical purposes, he will be an additional member of both chambers of the Legislature. He will be appointed by the Governor-General. His salaries and conditions of service will be prescribed by Order in Council. He will not owe his allegiance to the Assembly or the Council of State, to Indians directly or indirectly. His responsibility will not be to the people whose money he will be paid but will be, as is the Governor-General's, to the Secretary of State and to Parliament. He may be a civilian or a military man, an Indian or an Englishman. This general description of his position will admirably serve to give one a correct understanding of the currents at work in British political circles. It has always been the persistent demand of Indians that army matters should be entrusted to a civilian member of the Governor-General's Council. Today it would correspond with that for

the administration of the portfolio of defence by a minister. With the Governor-General endowed with unlimited powers and a Commander-in-Chief to reign over army affairs there is no reason why Indian opinion should have been flouted. The combination of the autocracy of power and the tyranny of the expert would need to be tempered, in the interests of the Indian tax payer, by a certain amount of responsibility. There is none to look after his interests as every one of the three officials will be concerned more with their brethren and masters at home than with strangers and inferiors in India. The question was dealt with in the Joint Memorandum of the British Indian delegation, though to meet with the same fate as the other numerous recommendations made by them. The memorandum observes that, since the Governor-General in council exercises superintendence, direction and control over the military as well as the civil government in India, the reservation of the department of defence would have the effect of depriving ministers of the influence over army policy which at the present time Indian members of the Governor-General's council are able to exert. The delegation there-

fore urged (1) that the Governor-General's counsellor in charge of the department of defence should always be a non-official Indian, and preferably an elected member of the legislature or a representative of one of the states; (2) that the control now exercised by the Finance Member and the Finance Department should be continued; and (3) that all questions relating to army policy and the annual army budget should be considered by the entire ministry, including both ministers and counsellors; though it is admitted that in cases of difference the decision of the Governor-General must prevail. Of course all the proposals were superciliously rejected by the Joint Committee. No arguments are advanced therefor. Sheer dogmatism and a dogged determination to despise Indian opinion, sentiment, reason and interest, were responsible for it. A reference to the committee's observations will make it clear. In refutation of the first point they 'do not think that the Governor-General's choice ought to be fettered in any way and he must be free to select the man best fitted in his opinion for the post.' The answer of the Joint Committee to the second is that the little of good in the existing arrangement must be taken away so as to devise a method that makes defence matters as unamenable

to popular voice as possible. Hence it is recommended that the military finance and military accounts department which are now subordinate to the Finance Department of the Government of India must be transferred to the control of the department of defence. As to the third point, the Committee say that 'so long as nothing is done to blur the responsibility of the Governor-General it seems not only desirable in principle but inevitable in practice that the Federal Ministry, and, in particular, the Finance Minister should be brought into consultation before the proposals for defence expenditure are finally settled.' The cautious and patronising nature of the observations must not be lost sight of. All that is provided for is a possible consultation of the ministry by the counsellor. There is no obligation on the part of the latter 'to do so or to abide by the wishes of the former after doing so. Thus in every matter, including policy, finance and dispensation of troops, the defence authorities are to be the sole masters.

An illustration is given as to what is meant by the Governor-General's special responsibility. There is the crucial question of lending Indian personnel of the defence forces for service outside India. Is Indian feeling to be ascertained at all? How far is it to exert any influence on

the ultimate decision and action of the authorities?. The Joint Committee divide the question into two issues—(1) whether the occasion involves the defence of India in its widest sense; and (2) whether the troops can be spared 'having regard to all the circumstances of the time.' Both these decisions would fall within the exclusive sphere of his responsibility. The Federal Ministry or the legislature will come in nowhere. Whether the purpose for which the forces are proposed to be employed would be conducive or detrimental to the welfare of this country is not a matter on which Indians are to have a say. The Governor-General, as does every Britisher, lives in a land of imperialism. He thinks, speaks and acts in terms of the empire. The empire means, in theory, practice and conception, everything else but India. Most frequently what is good for the self-governing units is poison for subject India. To deprive Indians of the right even to ex-

press their views on what may be regarded as a life and death struggle would be intolerable injustice. If the Governor-General, in his discretion, unaided or aided by brother imperialists, decides that the defence of India in the broadest sense is involved, it can be carried into effect immediately and without reference to the federal legislature or ministry. But if he decides in the negative, he should not agree to lend without *consultation* with the Federal Ministry and it is supposed that he will give the greatest weight to the *advice* of the ministry. If he will not, none can question him. On the financial side, there are more ramifications. If and after it is decided not to send any contingent, the question of making a financial contribution arises, and at this stage the Federal Legislature is given the opportunity to express its views, and its ratification is needed—unless the department of external affairs comes in, when this would take precedence over the legislature.

J. P. C. AND DEFENCE

Indianisation

On the subject of the Indianisation of the army the Joint Committee have been most unjust and insulting to Indians. Based as the whole set of recommendations of this body are on distrust of Indians, those dealing with this question are disgustingly so. 'Indianisation is a problem,' says the report, 'which admits of no facile solution, and least of all one based upon the automatic application of a timetable; and if we should seem to emphasise its difficulties it is because we are anxious that Indian political leaders should be realists in this matter, and not because it is either our desire or our intention to derogate from or to evade the pledges which have been given by successive Governments in this country.' If realism consists in an understanding of things in their true nature without passion or prejudice, Indians are realists because they are vividly cognisant of the antipathy of the average Britisher to Indian advancement or to Indian self-defence. But if, as the Committee seem to desire, under the pretext of realism one should allow oneself to be deluded into an acceptance of the unreal because it would please persons in power, it may be candidly and creditably confessed

that Indians could not and should not be realists. What is the reality of the situation? It is an indisputable and melancholy fact that, since the reorganisation of the army after 1857 Indians have considerably lost ground. While in the civil services there has been an advance, slow, unsatisfactory and halting as it may have been, in the army they have received a great set back. It is not due to our incapacity or want of character but is the result of a wilfully designed policy of the Government. Eminent Englishmen have admitted this. In answer to a question by Mr. Fawcett at the Select Committee on East India Finance in 1873 Lord Lawrence stated that the non-appointment of Indians as King's commissioned officers notwithstanding the Queen's Proclamation, was due not 'to any want of ability or education in them but to *the pride of race of the English officers*' (our italics). To a question whether in that case he could say that the promise of equality made in the Proclamation of Queen Victoria was being translated into practice, he gave the following answer:—'I say that it is not, but then I think that the responsibility of that must be upon those who put forward the Proclamation, I think

it would never do for those who are in authority in the present day and who see that there are serious objections to carrying out certain promises absolutely, to shut their eyes and say, "Well, it has been once laid down, and no matter what happens, it must be enforced." The wiser way (I say in all humility), it seems to me, is not to carry out such promises, to do as much in that way as you can do safely and securely and do it with a liberal and kind spirit but still not to do what you think politically evil. I think our hold in India and our position in India is a very peculiar one, and a very little, one way or the other, might do a great deal of harm.' Lord Roberts expressed himself in no less clear language. When Sir George Chesney, military member of the Viceroy's Executive Council, pleaded for the admission of Indians to the higher grades in the army, Lord Roberts strongly opposed him and said, 'I would resist the beginnings on however small a scale.' These are statements and sentiments which realists must take into account. Let the members of the Joint Committee follow the advice which they preach and realise that Indians cannot be bluffed by platitudes in the face of stern realities such as are embodied herein.

Another significant assertion by the Joint Committee has to be

noted. They express the opinion that there is no essential relation between the problem of Indianisation and the constitutional issues with which they are concerned. This is a mistake. It is surprising that a responsible body consisting of several members of Parliament who had the benefit of the views of past and present Indian administrators should have hazarded a proposition which has been repudiated by some of their own countrymen themselves. Too much should not be made of colonial conditions at the time they were granted self-government. So far as India is concerned the question cannot be whether self-defence is an ingredient of autonomy but is whether perpetual exclusion of the indigenous element from the Indian army and an eternal monopolisation by foreigners of the privileges and responsibilities of defending our country should be the centre of our political and constitutional future. In India the question of self-defence assumes unique importance. It has always been the taunt of Britishers that inability to defend ourselves is a hindrance to the grant of self-government and that the practical absence of the British personnel from the Indian army is a condition precedent. We for our part are willing to demonstrate our ability to stand on our legs. But

political reasons do not induce men in authority to create an environment in which we can prove the correctness of our attitude. It has been the deliberate policy of the Britishers to shut us

out from the higher ranks and it does not therefore lie in their mouths to say that there is no connection between Indianisation and constitutional advance.

FEDERAL MINISTERS

Impotent Figure-Heads

The unrestricted powers of the Governor-General conferred ordinarily and under guise of special responsibilities, the dominating position of the services and the engrossing importance of 'defence' which are among the more important features of the Joint Parliamentary Committee's report, ought to scatter to the winds the talk of responsibility at the centre. Add to it the dwarfishness of the ministers of the Federal Government, and you have a complete picture of central autocracy and irresponsibility. What are the functions of the ministers and what is the position assigned to them under the scheme? Here is an extract from the report. 'There shall be a council of ministers chosen and summoned by the Governor-General and holding office during his pleasure, to aid and advice him in the exercise of the powers conferred on him by the Constitution Act other than his powers relating to (1) defence, external affairs and ecclesiastical affairs, (2) the administration of British Baluchistan, and (3) matters left by the Act to the Governor-General's discretion.' The Instrument of Instructions will direct him to appoint as his ministers those persons who will 'best be in a position collectively to command

the confidence of the legislature.' Under the White Paper proposals the Governor-General is to be directed by his Instrument of Instructions to include, so far as possible, in his ministry not only members of important minority communities but also representatives of the states which accede to the Federation.

As if to testify to the unimportance of this portion and the insignificance of the ministers, this subject has been disposed of by the Committee in a few sentences. The introduction, at the centre, of diarchy which stands discredited in the provinces is not the most objectionable feature. Worse than the proposal itself is the impotence to which the ministers are reduced and the danger of creating for a positively undesirable thing a glamour which imparts to it an air of truthfulness which is more harmful than falsehood. Firstly, all subjects are not entrusted to the ministers. The most vital ones are kept back from them. Of those which are supposed to be in their charge the inherent importance is taken away by the numerous fetters curbing their freedom. The minister in charge of law and order, for instance, is to bend low before the special res-

possibility conferred on the Governor-General for the maintenance of peace and tranquillity. The Finance Minister must accommodate himself to the whims and caprices of the Financial Adviser, the gallant Commander-in-Chief and the Counsellor for Defence besides the Governor-General. The Minister for Transport and Communications must subserve to the will of the statutory railway board and obey the dictates of the Defence Counsellor, over and above the two big guns at the top. Turn to any minister and you will find that he has stumbling blocks in his way at every step. Secondly, have the ministers any hand in shaping the policy of the Federal Government? In matters that relate to the department corresponding to the Home Department of the Government of India, they are a huge futility. The highest police official is their superior and the Governor-General's will be the prevailing voice. In respect of fiscal and financial policy the minister is a nonentity. Questions like the stability and success of the federation and a tangled mass of complexity over discrimination, trade and commercial interests, tariffs and preferences, international markets and policies make him a figure-head. The defence of India's frontiers, the policy and personnel of the Indian army, and military expenditure are subjects over which the Indian ministers have

to remain mum. The regulation of policy regarding appointments and dispensing patronage of other kinds are studiously denied to them. Thirdly, the constitution of the ministry will tend to act as a deterrent to British Indian progress. In appointing the ministers the Governor-General will, under the scheme, place a premium on communal considerations. The method of indirect election will aggravate the communal and class canker in the legislature, and it is to extend into the executive as well. The claims of the states that have federated have also to be respected, and ministers must be their nominees or confidants. Between them and the British Indian representatives there will always be a tug of war or perpetual bargaining, with the result that the country's welfare will occupy a secondary place. Fourthly, assuming, however, that harm in the above mentioned respects will be reduced to a minimum, what is the exact function of the ministers in the administration? They are only to *advise* the Governor-General on specified matters. Even this liberty to advise is expressly denied in other matters. The Committee 'assume', to use their own words, 'that they will not be entitled to advise him in the exercise of any prerogative powers of the Crown which may be delegated to him.' Ministers should not, for example, have the right to advise on the exercise of

such a prerogative of his Majesty as the grant of Honours, if his Majesty should be pleased to delegate a limited power for that purpose.' Even where the ministers competently tender advice, the Governor-General 'will be at liberty to act in such manner as he judges requisite for the fulfilment of special responsibility,' when in his opinion the latter is involved, 'even though this may be contrary to the advice which his ministers have tendered.' And, as has been shown, there is no sphere in which the

special responsibility does not come in. Where then is the independence, freedom or the liberty of the ministers? The whole scheme makes ministerial responsibility absolutely farcical. Yet these are the proposals on which adulation has been lavished and, which, we are asked to believe, will take us towards the goal of self-government. A dispassionate study of the scheme will convince every one that it will enhance irresponsibility and perfect autocracy.

'PROVINCIAL AUTONOMY'

First Item of Retrogression

Of the subjects dealt with in the White Paper and the Joint Parliamentary Committee's report, provincial autonomy is the most boomed up. This is held up by the authorities as the direction in which the greatest constitutional advance is embodied. They say that good wine needs no bush. Bad wine, however, needs much advertisement. Development in the provincial sphere on the lines indicated by the constitution-makers without a simultaneous or preceding introduction of responsibility at the centre has been regarded as so valueless by Indian politicians that, on the admission of the Joint Committee themselves, the question has evoked little enthusiasm. It is no doubt natural that the attention of political opinion in India, write the Committee, should, at the time of the enquiry, be concentrated rather upon the question of responsibility at the centre. They, therefore, think it all the more important that they should emphasise the magnitude of the constitutional advance which is contemplated in the provinces and emphasise the extent of the opportunity thus presented to Indians to justify in the service of their respective provinces their claim for self-government. The

latter part of this statement need not be taken seriously. Indians have always justified, by proofs of their ability and eligibility, their demands for self-government. The obstacle, which is becoming increasingly insurmountable is the unflinching determination of the authorities to restrict and circumscribe opportunity while pretending to expand and widen it. There can be no more eloquent testimony to this than the spirit in which the provincial proposals are adumbrated. Under colour of granting almost unfettered power to the ministers, the little that they have been wielding since the Montagu-Chelmsford reforms came into existence has been neutralised. At present a provincial Governor is required to be 'guided by' the advice of his ministers in relation to transferred subjects, 'unless he sees sufficient cause to dissent, in which case he may require action to be taken otherwise than in accordance with that advice.' In several provinces where the Governors have followed the spirit of the Government of India Act and have not permitted themselves to be inveigled into the meshes of the excessive claims of the permanent officials, they have displayed an unmistakable desire

to adhere to and give effect invariably to the opinions of the legislature as represented by ministerial recommendation. Whether this has been right or wrong, the advice of the minister has not been departed from as long as he has demonstrated his hold on the members of the council and thus managed to retain power. In such action there is at least statesmanship and a respect for constitutional law and usage. Delinquents, too, there are, and their example is to be discarded rather than followed. Generally speaking, therefore, the position today is that in the subjects that have been transferred to them, the ministers have had almost a free hand and their discretion has not been interfered with. Under the new dispensation the situation will change for the worse. It is said that diarchy will be abolished and almost all the subjects—with a few exceptions to which reference will be made later—will be entrusted to ministers. But in what circumstances and at what price? Let the White Paper and the Joint Parliamentary scheme answer. It vests the whole executive power and authority of the province in the Governor himself as the representative of the King and it provides the Governor with a council of ministers to

'aid and advise' him in the exercise of any powers conferred on him by the Constitution Act, except in relation to such matters as will be left by that Act to the Governor's discretion. It must be noted that the activity of the ministers is confined to mere 'aid and advice'. 'Aid' is an expression of meaningless vagueness. Advice, however, has a distinct and definite connotation, and is passive, jejune and often repugnant. Having heard or read all that the minister has to say by way of 'advice', the Governor is quite at liberty to reject it as mercilessly as if it had never been tendered at all. If contrary advice is given by a member of the services working under him nothing will prevent him from favouring the latter at the expense of the former, specially because blood is thicker than water. In present conditions also a service secretary has the right to approach the Governor direct and express on any subject views different from those of the minister, but a constitutional Governor will make note of the requirement to be 'guided by' the minister. The first item of retrogression in the provincial sphere is thus a deterioration of the ministerial voice from 'guidance' to 'advice.'

'PROVINCIAL AUTONOMY'

Not Responsible Government

On the scope and implications of the expression 'provincial autonomy' the Joint Parliamentary Committee create no illusions. They make it clear that it is not synonymous with or inclusive of responsible government. The two are treated as entirely different things. In the words of the Committee, 'provincial autonomy does not necessarily imply a system of government of this kind, and the two should not be confused.' The former is inferior to the latter. As this cannot be granted immediately, that is a stepping stone to responsible government, provided, of course, the new system is adored in a way to please the gods that sit enshrined in the temple of authority. If, for any reason, they are displeased, the aspirants for further advance will be hurled down like undesirables trying for a place in the abode of angels. If the political ingenuity of Lord Reading used the eloquence of Sir Malcolm Hailey as a medium for whittling down the significance of the Parliamentary declaration which formed the axis of the Government of India Act, we are indebted to the statesmanship, sagacity and sympathy of thirty-two members of Parliament for a further lessening of the modicum of power entrusted

to the people. If provincial autonomy does not connote or cover responsibility, what else is it? It is not autonomy either. It has nothing to do with the right and authority of the province as meaning the residents thereof. It stands for the independence of the Governor and freedom from all control, whether it be by the legislature representing the people or the Federal Government. This is how the Committee understand the scheme of provincial autonomy. It is 'one whereby each of the Governor's provinces will possess an executive and a legislature having exclusive authority within the province in a precisely defined sphere and in that exclusively provincial sphere broadly free from control by the central Government and legislature.' The Committee elucidate the position by pointing out the 'fundamental departure from the present system' under which the provincial Governments exercise a devolved authority while the new one contemplates an original one. The Act of 1919 and the devolution rules made under it by earmarking certain subjects as 'provincial subjects', proceeds the report, 'created a sphere within which responsibility for the functions of Government rests primarily

upon the provincial authorities, but that responsibility is not an exclusive one, since the Governor-General in Council and the Central Legislature still exercise an exclusive authority throughout the whole of the provinces. Under the proposals in the White Paper the central Government and legislatures would generally speaking, cease to possess in the Governor's provinces any legal power or authority with respect to any matter falling within the exclusive provincial sphere, though the Governor-General, in virtue of his power of supervising the Governors', will have authority to secure compliance in certain respects with directions which he may find it necessary to give. The change proposed to be effected, if understood correctly, will show the baselessness of the claim that an improvement has been made. Firstly, the control from the centre still continues. The Governor-General will have the right to issue commands to the Governor on provincial subjects. What could be done at present by a combination of the Governor-General and the executive councillors and of the Government of India, the Legislative Assembly and the Council of State, will in future be done solely by, at the instance of and on the responsibility of the Governor-General. Thus, a constitutional and democratic method will be replaced by an autocratic and a personal one.

Secondly, if the provincial Governments—whatever they may be—will be completely exempt from the jurisdiction and interference of the Federal Government officials, the logical requirement would be the abolition of some of the Imperial appointments. What will be the role, for instance, of the educational commissioner with the Government of India, of the director-general of Indian Medical Services—to mention only two? Will not the former be bossing over the educational minister and the latter over the medical minister in the provinces? Of late the tendency has been growing of creating fresh appointments of this nature, far from reducing or abolishing existing ones. Thirdly, who are the 'provincial authorities' referred to in grandiloquent terms by the apologists of the White Paper and Joint Committee proposals? The plural is a euphemism for the singular—the Governor. Reading carefully every line and between every line of the report, there is nothing which one is more glaringly struck with than the despotic power of the Governor. There is no realm of provincial administration in which he has not got unmitigated power. The explicit declaration that the whole executive power and authority of the province are vested in the Governor himself, which he derives not as a result of delegation by the central Government but possesses in his in-

dependent capacity as a representative of the King, and the analogy drawn between the position of the Crown in England and of the Governor in an Indian province, leave no doubt in the most wavering mind. Endowed with limitless power in matters of ordinary administration, his special responsibilities—which are almost on a par with the Governor-General's—fill in whatever gaps there may remain otherwise in order to make him a thoroughgoing autocrat. Among these latter there is one which may look very peculiar but is of unique significance in demonstrating the camouflage of provincial autonomy. 'Securing the execution of orders lawfully issued by the Governor-General' is the seventh and last special responsibility. Its *raison d'être* is explained thus. The Governor-General exercises a wide range of powers in responsibility to the Secretary of State and through him to Parliament. The exercise of some of these powers may from time to time require the cooperation of provincial administrations, and a Governor must be in a position to give effect to any directions or orders of the Governor-General designed to se-

cure this object even if their execution may not be acceptable to his own ministers. A heap of reasoning is wasted by the Committee on this subject. Analysing it, the position can be expressed in a few words. If there is difference between a provincial ministry and the Federal, the former must obey the latter. The Governor-General must issue orders to the Governor. Though head of the administration the latter must recognise his subordination to the former by implicit obedience. He must exercise his authority over the ministers by acting in opposition to their wishes and thrusting on the province something which the people have disapproved. Where the Governor feels he is acting conscientiously in such circumstances it is well and good. If he agrees with his ministers and disagrees with his superior at Delhi and Simla, what will he do? He must either over-ride truth and conscience in order to obey the higher authorities or respect his scruples and disobey the latter. How pleasant would either of these courses of conduct be? What constant friction and conflict would not this system lead to? How pregnant with possibilities of deadlocks!

'PROVINCIAL AUTONOMY'

Selection of Ministers

If it was the anxiety of constitution-makers to retard ordered and peaceful progress they could not have done better than the members of the Joint Parliamentary Committee have done in respect to the provincial ministry. As if the numerous features—already pointed out—which make provincial autonomy a practical joke are not sufficient, they have not refrained from tapping for this purpose the selection of ministers. The White Paper proposes that the Instrument of Instructions shall direct the Governor to select his ministers in consultation with the person who, in his judgment, is likely to command the largest following in the legislature and to appoint those persons, including so far as possible of important minority communities, who will best be in a position collectively to command the confidence of the legislature. It is also proposed that ministers must become within a stated period—by which the Joint Committee understand a period of six or twelve months—members of the legislature. The extent of reactionariness comprised in these statements does not need much exposition. Firstly, it must be noted that the Constitution Act

itself will be silent but the Instrument of Instructions will be the gospel authority. The latter is inferior in status and consequence to the former, and is mandatory in character while the other is permissive. Thus, ministers would have no constitutional right under the Act to tender advice upon a matter declared by the Act to be within the Governor's discretion. Convention, however, assumes that the Governor will consult them. If, as a result of years' working, the authorities are satisfied that the ministers have behaved well enough to deserve better treatment, their conduct will be rewarded by a consideration at some future time whether the consultation would be elevated from the present permissive nature to a mandatory one. Again, the Instrument of Instructions, though purporting to emanate from the Crown, is not invested with the sanctity that is generally associated with it. Parliament's should be the initiative and the final say; the Crown will be only a nominal medium. An opportunity, says the report, shall be given to Parliament of expressing an opinion on it before it is finally issued by the Crown. The initiative in proposing any change in the Instru-

ment must, we are told, rest with the Crown's advisers, that is to say, with the Government that is in power for the time being. Any successive Governments may make any alterations they deem best in the Instrument in the interests of the party in the ascendant. As this involves important questions of policy, it follows that there will be no continuity, unless it is contended that all British parties and Governments are united in their anti-Indianism whatever differences may separate them on domestic affairs. The grounds on which this course is to be adopted are that the consequences of any action taken may be so far-reaching and so difficult to foresee that Parliament, if denied a prior right of intervention, may find itself compromised in the discharge of the responsibilities which it has assumed towards India, and yet powerless to do anything save to protest. Therefore the Committee feel that it is with Parliament that the final word should rest. Here is the answer which the British politicians and administrators give to India's demand for self-determination. India is to have no voice in framing her own constitution. She is to have no voice in matters involving political and constitutional principles and policies. She is to have no voice even in subsidiary matters of detail such as will form the subject matter of the Instrument of Instructions,

Let it also be borne in mind that all these processes of double and treble distillation will not ensure that the Governors will punctiliously adhere to the letter and the spirit of the document. Several Instruments of Instructions have been issued within living memory but it is saddening to think that the current of Indian administration has persistently flown such that the documents might never have been in existence. Those that may be propounded henceforward do not promise better reception, specially where, if at all, any points may be in favour of Indian progress. Secondly, the final responsibility for the choice of the ministers will be the Governor's but the direct and immediate one will be that of the person who in his judgment is likely to command the largest following in the legislature. This presupposes the existence of a Chief Minister and some other ministers who will be in his good books. From the standpoint of constitutional theory this is a system that may be hailed with gratification. Its usefulness, however, will be considerably counteracted by the heterogeneity of the legislature. Under the rules governing the elections, such a diversity of interests, classes and communities will be introduced in the councils as to mar harmony, jeopardise unity and hinder progress. The legislative council will not necessarily represent the large volume

of public opinion of the province, while the ministry may not invariably reflect the feelings of the council. The Chief Minister who seems to the Governor to command the confidence of a majority of the legislature may satisfy the requirement ostensibly and technically, while the ministers that may be recommended by him will probably tend to form a compact body, the bond of affinity being a common desire to promote every one's self-interest uninterfered with by the others rather than the welfare of the people and the province at large. The ultimate result will be that genuine progress will go to the wall. Thirdly, as if obsessed by the fear that the Communal Award does not sow enough seeds of disunity and foster adequate communal-mindedness, the Governor will be asked to include, so far as possible, 'members of important minority communities.' Fourthly, it is not enjoined that the ministers should, at the time of appointment, be members of the Legislative Council. The Chief Minister is made no exception. How can the Governor know whether a non-member can command the confidence of the members? Who can say that the Governor's presumption may not lead him astray? Within a reasonable period—which is put at six or twelve months—he must get himself elected to validate his office. If he will succeed, it is all right.

If he will not, it must be taken that he is not wanted by the electors. Logically, the measures for which he had made himself responsible all along should be understood to have met with their disapprobation. What right have the Government to saddle the people with such actions? Or, in the alternative will the minister's department remain in suspended animation till his election fate is decided? The difficulty becomes magnified by the excessive length of the period permitted. Six months itself is too long; twelve months is unreasonably so. Contingencies have no doubt to be prepared for when, owing to some accident or other, one does not happen to be a member in the beginning but possesses such uncommon ability, commands such universal respect and influence that one is indispensable for the success of the ministry. Such persons should not be banned on the trumpery ground that they are not in the legislature. In such cases care should be taken to shorten as much as possible the non-membership term. We would request the readers to take the above-mentioned facts into account and decide whether their cumulative weight would be in favour of or against the opinion that the existing system is on the whole better than the proposed one. Provincial autonomy, forsooth!

'PROVINCIAL AUTONOMY'

Ministers and 'Services'

Provincial autonomy, as has been shown, confers no autonomy on the people of the province. If it makes the Governor a confirmed autocrat, the ministers on whom ought to devolve power and authority are reduced to impotence by the enormous superiority of the position of the services. As secretaries and heads of departments, members of the Indian Civil, Police and other services are expected to play a role of subordination to the members of the Government in charge of the corresponding portfolios. But the ministers have no hand in their appointment. They have no right of taking disciplinary action against them howsoever strongly it is deserved. They have no power even over their transfers and postings. What is worst, they have no control over even what have been termed the provincial services. How enviable would be the state of the ministers in such circumstances? How many independent and self-respecting gentlemen would care to hold an office which is beset with difficulties and responsibilities and is singularly devoid of right, privilege and power? Are the ministers or the members of the services the masters? What co-operation can there be between

those whose function is to lay down policy and those who are called upon to execute it? If the incongruity is strikingly revealing in every department of administration and in every branch of the public services, it is raised to the height of absurdity so far as the police force is concerned. Members of the police service are the centre of law and order and on them depend the peace and tranquillity of the province. This is a truism which every one would most readily concede. If the official side of the responsibility for the preservation of law and order were confined to them, unshared by others, it would be one matter. If, for any reason or other, the authorities were keen on retaining sole power in the hands of the police and were unwilling to let the ministers, the legislature and the people have anything to do with the maintenance of the discipline of the force, nothing could prevent them from saying so openly without resorting to clever subterfuges. If it was the belief of the constitution makers that Indians' sense of responsibility, integrity and ability was not yet adequate to preserve peace and tranquillity in their own country and when their own life and property were involved, an arrangement that

would have at least the recommendation of frankness might have been made, as it is about the case at present, albeit it would constitute a self-made indictment against the results of a century of British administration. But the mighty thought otherwise. When the question of the transfer of law and order was discussed strong opinions were expressed. On the one hand, as the Joint Committee point out, it was urged that the grant of responsible government to an autonomous province would be a mockery, if the administration of law and order were withheld. On the other, it was objected that the maintenance of law and order is in India so vital a function of the executive that it would be incurring too great a risk to transfer it to Indian ministers until they had proved their capacity in other and less dangerous fields; that the morale of the police would be imperilled by political pressure upon ministers which they might not have the strength or courage to resist; and that the impartiality of the force in the event of communal disturbances might become suspect. The members of the Joint Committee, having weighed the 'pros' and 'cons' of the question, find they cannot conceive a government to which the quality of responsibility could be attributed if it had no responsibility for public order. From one point of view the transfer of these functions to an Indian minister may

be, they say, in the interests of the police themselves, whom it will no longer be possible to attack, as they have been attacked in the past, as agents of oppression acting on behalf of an alien power. Nevertheless they believe a certain amount of risk is implicit in the course they advocate, and partially recognise the force of the arguments advanced against the transfer. A *via media* has, therefore, to be chosen and the Committee hence propose that law and order should be protected against the consequent risks. The first device adopted for the purpose is the entrusting of special responsibility for peace and tranquillity to the Governor. The vast potentialities for curbing the power of the minister while fastening him with responsibility that becomes impossible of being discharged, have already been dealt with. The recommendations made for the 'specific protection' of the police force itself are of no less serious a magnitude in whittling down the ministerial functions. The chief of them relates to the 'body of regulations known as the "police rules," promulgated from time to time under powers given by the various Police Acts. The ministers or the legislature have no right to touch them: the Governor alone can do so. No amendment can be made without the Governor's consent. Similar is the case with the Acts themselves which form the statutory basis

of the Rules. The Committee recommended that the prior consent of the Governor given in his discretion should be required for any legislation which would amend or repeal the Acts in force. The possibility is not overlooked of the Governor assuming any day an attitude of partisanship towards the minister for Law and Order and ignoring the susceptibilities of the police officers. Therefore, as a safeguard it is provided that the Governor-General should have an eagle eye over this matter. It will, therefore, be open to him in his discretion to give directions to the provincial Governor as to the making, maintenance, abrogation or amendment of all such rules. Another direction in which the ministers are relegated into insignificance is the Special Branch or the Intelligence Department. The proposals made on this subject are positively insulting to the minister. The work of this branch, opine the Joint Committee, involves the employment of confidential informants and agents and it is obvious that these sources of information would at once dry up if their identity became known or were liable to become known, outside the particular circle of police officers concerned. Hence the ministers must not know the sources of such information. If the head of that

branch of the police says certain things must be done because he has received information of a certain kind, his word must be implicitly obeyed. Without question or demur, action of any punitive nature must be taken on the mere word of a police official. Fancy the member of the Government in charge of law and order, held answerable for peace and tranquillity, being withheld, by his subordinates, information on subjects falling within his jurisdiction. Can anything be more preposterous than to say that the portfolio of 'law and order' has been entrusted to a popular minister? The members of the Joint Committee have, however, a logic and a mentality of their own. They, therefore, recommend that the Instrument of Instructions of the Governors should specifically require them to give directions that no records relating to intelligence about terrorism should be disclosed to any one other than such persons within the provincial police force as the inspector-general may direct, or such other public officers outside that force as the Governor may direct. It is further recommended that the Constitution Act should contain provisions giving legal sanction for directions to this effect in the Instrument of Instructions. Who can say that the 'Services' are services and not masters?

SUCCESS OF A CONSTITUTION

Psychology of Almightyness

Among the many truisms that have been uttered during the discussion of the reforms question is the one that, whatever their nature be, their success or failure depends on the spirit in which they are worked and approached both by the Governor and the ministers. 'The success of a constitution depends, indeed, far more upon the manner, and spirit,' says the Joint Parliamentary Committee's report, 'in which it is worked than upon its formal provisions. It is impossible to foresee, so strange and perplexing are the conditions of the problem, the exact lines which constitutional development will eventually follow, and it is, therefore, the more desirable that those upon whom responsibility will rest should have all reasonable scope for working out their own salvation by the method of trial and error.' It is contended, therefore, that Indians must submit to any extraordinary measure of power that may be vested in the Governor and to any amount of circumscription of the privilege of the legislature. The spirit that governs the working of constitutional as other legislation is chiefly that of the head of the administration. That of the ministers and the legislatures is

both immaterial and undecisive. If power is given, responsibility can be properly discharged. Wavering, halting and suspicion kill responsibility and breed irresponsibility. At the one end there is this aspect of the problem. This is most applicable in the case of non-officials and those who are not free agents. At the other end is the psychology of almightyness. Make a man the mightiest that you can in the circumstances; let there be no restraints, except nominal and trivial ones, on his exercise of the excess of power heaped upon him; and the result is that he is obsessed with his unlimited greatness. This is true of officials generally all over the world, and specially of those who are at the helm of affairs. It will be futile to tell him not to use the power he has got unless emergencies and abnormalities arise. Human beings have not got that divine self-control which demonstrates the modesty of the mightiest and the simplicity of the exalted. Men are inclined in their daily dealings, whether with equals or with inferiors, to display their superiority. When one who is entrusted with the administration of a whole province is told that he has got undefined and undefinable powers of inter-

ference with the policies and actions of ministers and of subordinate officials, one will be in quest of 'extraordinary' occasions. The ordinary and the normal appear to him to be extraordinary and abnormal. Experience of Indian conditions of the last few years makes this conclusion irresistible. When a series of repressive measures were placed on the statute book in contempt of unanimous opinion, the taunt was levelled against the most loyal and law-abiding citizen that none need fear the most rigorous legislation, provided he did not break the law. And yet how was the undertaking respected in practice? Was not every one of those exceptional measures applied indiscriminately and unreservedly to the most insignificant action which could have been dealt with by the provisions of the ordinary law? When it is remembered that the help and cooperation of members of the legislature were secured on the understanding that the promises were made in the spirit in which the non-official legislators understood them, the universal and incessant use of those powers constituted a distinct breach of faith. From 'emergencies' and 'abnormalities,' we may go down to conditions which are ordinary and normal and are on all fours with those under reference. What happened with the Government of India Act based on the Mon-

tagu-Chelmsford reforms? The conversations which leading politicians had with Mr. Montagu, the utterances of responsible British ministers made in and outside Parliament, and the pledges made from time to time, evidenced, to the less fastidious Indians, a spirit of honourable conformity and broad-minded handling which were regarded as a guarantee of success. Ignoring accordingly the wrath and calumny that were poured upon their heads by the extremist politicians who refused to have anything to do with the reforms as they were 'unsatisfactory, disappointing and inadequate' the 'moderates' began to work them. Hardly had a short time elapsed when they began to feel that the initial commendable spirit of the provincial Governors vanished. The executive, in whose hands lay the observance of the rules and instructions issued in accordance with the Act, so conducted themselves that the drawbacks were brought into prominence. The ministerial voice was rendered too faint to be heard. The Finance Department proved an inveterate enemy to the development of transferred departments. The ministers came to occupy a position which drove the late Mr. Madhu Sudan Das, an ex-minister of the local Government, to describe them as 'owls' and which induced Mr. Chintamani, an ex-minister of the United Provinces, to characterise

them constantly as occupants of the outhouses of the Government. And the net result of the reforms was to saddle the taxpayer with heavy financial burdens. The unwholesomeness of the spirit of the Governors became so patent that the Muddiman Enquiry Committee had to be instituted. The report of a minority of the members of that body is a scathing exposure of the manner in which the intentions of the framers of the scheme had been violated and of the illiberalism and narrow-mindedness to which the permanent officials in this country fall an unavoidable victim when they find tinges of progress being imparted into the administration. No better proof is needed than the failure of the

Montagu-Chelmsford scheme, of the unwisdom of relying on the spirit of the Governors to make beneficial schemes any kind of success. The Joint Parliamentary Committee fall into the same trap. If it is desired that ministerial powers should be real and the responsibility of the executive to the legislature genuine, there is no use of building up tottering devices. The only way in which that end can be achieved would be to divest the Governor of all special powers and to make him a constitutional head and not an autocratic ruler. Till this is done provincial autonomy is a mere expression, which will have the only effect of garbing the autocracy of the Governor.

